

Chapter 7.36 TRASH STORAGE AND DISPOSAL

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7.36.010 Definitions.

Repealed.

(History: Ord. SW-1714 §2, 91; SW-872 §1, 76)

7.36.020 Solid Waste Storage.

Repealed.

(History: Ord. SW-1714 §2, 91; SW-1523 §1, 88; SW-872 §2, 76)

7.36.030 Solid Waste Collection.

Repealed.

(History: Ord. SW-1714 §2, 91; SW-921 §1, 77; SW-872 §3, 76)

7.36.040 Penalty.

Repealed.

(History: Ord. SW-1714 §2, 91; SW-872 §4, 76)

7.36.050 Severability.

Repealed.

(History: Ord. SW-1714 §2, 91; SW-872 §5, 76)

COMPREHENSIVE SOLID WASTE REGULATIONS FOR THE CITY OF OVERLAND PARK, KANSAS.

7.36.090 Incorporation.

There is incorporated by reference, for the purpose of regulating solid waste within the City, a comprehensive reorganization of the City's solid waste regulations, titled "Comprehensive Solid Waste Regulations for the City of Overland Park, Kansas," prepared by the Community Services Department and Law Department of the City and approved by the Community Development Committee of the City Council on September 2, 1992. Not less than three (3) copies of said ordinance shall be marked "official copy as adopted by Ordinance No. SW-1760," to which shall be attached a copy of the ordinance codified herein, and filed with the City Clerk to be opened to inspection and available to the public at all reasonable business hours. The Municipal Court and all administrative departments of the City charged with the enforcement of the ordinance shall be supplied at the cost of the City such number of official copies of such ordinance as may be deemed expedient.

(History: Ord. SW-1760 §1, 92; SW-1714 §1, 91)

REGULATIONS

7.36.100.100 Definitions.

Where a word or term is not defined in these regulations but is defined elsewhere in the code, such definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate. Where a word or term is defined in these regulations and also defined elsewhere in

this code, the definition contained in these regulations shall be generally applicable unless the context clearly indicates otherwise.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.110 "Administrator."

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

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.120 "Bulky Rubbish."

"Bulky rubbish" means non-putrescible waste items too large to be placed in solid waste containers including, but not limited to appliances, furniture, tires, large auto parts, motor vehicles and so forth, and which are not collected as part of the routine trash service.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.130 "City."

"City" means the City of Overland Park, Kansas.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.140 "Collection."

"Collection" means the removal and transportation of solid waste from its place of storage to its place of processing or disposal.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.150 "Construction and Demolition Waste."

"Construction and Demolition Waste" means waste materials from the construction, remodeling, repair or demolition of residential, industrial, commercial or other structures.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.160 "Disposal."

"Disposal" means depositing solid waste in or at a facility approved for disposal of said wastes by the appropriate agencies.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.170 "Dwelling Unit."

"Dwelling Unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used for living, sleeping, cooking, and eating.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.180 "Hazardous Wastes."

"Hazardous Wastes" means those materials which are corrosive/caustic, flammable, explosive/reactive, toxic/poisonous or radioactive.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.190 "Homes Association."

"Homes Association" means an incorporated association of landowners having the legal power to provide or contract for solid waste services.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.200 "Open burning"

"Open Burning" means the burning of any materials in which contaminants resulting from combustion are emitted directly into the ambient air without passing through an enclosed chamber that meets all applicable state and federal air pollution regulations, but shall not include "smoking" as that term is defined in Section 11.52.150.

(History: Ord. POC-2632 §8, 2008; SW-1760, 92; SW-1714, 91)

7.36.100.210 "Owner."

"Owner" means any person who, alone or jointly or severally with others, has legal title to, or sufficient proprietary interest in, or has charge, care or control of any dwelling unit or of any other improved real property, as title holder, as employee or agent of the title holder, or as landlord or manager or as trustee or guardian of the estate or person of the title holder.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.220 "Person."

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, organization of any kind, or their legal representative, agent or assigns.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.230 "Residential District."

"Residential Districts" means any place or area where the property is zoned for residential occupancy including single-family, and multi-family dwellings.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.240 "Solid Waste."

"Solid Waste" means any unwanted or discarded waste materials in a solid or semi-liquid or liquid state.

- A. "Commercial Solid Waste" means solid waste resulting from the operation of any commercial, industrial, institutional, agricultural or other non-residential establishment or use. Waste produced by a grouping of dwelling units where solid waste collection service is not offered to each dwelling unit on an individual basis is also to be defined as commercial solid waste.

B. "Residential Solid Waste" means solid waste resulting from the maintenance and operation of dwelling units where solid waste collection service is offered to each dwelling unit on an individual basis.

(History: Ord. SW-1760, 92; SW-1714, 91)

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.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.260 "Storage."

"Storage" means the keeping, maintaining, or storing of solid waste from the time of its production until the time of its collection, and shall include the containment of solid waste in a manner that shall not constitute collection, disposal or processing.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.100.270 "Yard Wastes."

"Yard Wastes" means grass clippings, leaves, and tree trimmings, and other organic yard materials.

(History: Ord. SW-1760, 92; SW-1714, 91)

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 7 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.

(History: Ord. SW-1760, 92; SW-1714, 91)

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 also provide curbside recycling on the same day as trash collection to all of their customers. Collectors may, with the approval of the Administrator, sub-contract 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. All residential solid waste and recyclables which meet the collectors 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.
4. 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. Collectors may not charge any additional fee or premium for building line collection service.
5. 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 residents' request.
6. 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.
7. 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.
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 collection.
3. Collectors must maintain containers which may contain putrescible waste as to be leak proof and to be bird and rodent resistant.

7.36.120 Permit Requirements-

Application for permit shall include the following:

~~A. The applicant shall file with the Administrator a certificate of insurance demonstrating evidence of satisfactory comprehensive general and automobile liability insurance. Such policies shall be maintained in full force and effect during the permit period. No permit shall be issued until and unless the applicant, in addition to all other requirements, shall file the proper evidence of insurance with the City.~~

~~General Liability - This insurance shall protect the solid waste collector against all claims arising from injuries to members of the public or damage to property of others arising out of the operation of the solid waste collector or his agents or employees.~~

~~General Liability Insurance shall be provided including the following:~~

- ~~1. Comprehensive General or Commercial General Form;~~
- ~~2. Premises & Operations~~
- ~~3. Products & Completed Operations~~
- ~~4. Personal Injury~~
- ~~5. Independent Contractors~~

~~Minimum Liability Limits Required:~~

~~Bodily Injury and Property Damage, Combined Single Limits:
\$ 500,000 Each Occurrence
\$ 500,000 Aggregate~~

Automobile Liability

~~Policy shall protect the solid waste collector against claims for bodily injury and/or property damage arising from the ownership or use of all owned, hired and/or non-owned vehicles and must include protection for either:~~

- ~~1. Any Auto or;~~
- ~~2. All Owned Autos
Hired Autos
Non-Owned Autos~~

~~Minimum Automobile Liability Limits Required:~~

~~Bodily Injury and Property Damage, Combined Single Limits:
\$ 500,000 Each Occurrence~~

~~The City will only accept coverage from an insurance carrier who offers proof that it:~~

- ~~1. is licensed to do business in the State of Kansas;~~
- ~~2. carries a Best's policyholder rating of B+ or better; and~~
- ~~3. carries at least a Class VIII financial rating; or is a company mutually agreed upon by the City and the solid waste collector.~~

~~The Administrator shall be notified by the insurance carrier in writing not less than 30 days prior to cancellation or material modification of any provision of the policy.~~

- ~~B. The applicant shall provide at least the minimum level of collection service as set forth in these regulations for any such residential area or commercial establishment served within the City.~~
- ~~C. The applicant shall provide that minimum level of service as set forth in these regulations to any residential dwelling unit so requested by the resident provided such residence is within an area served or intended to be served by the applicant. The collector must provide these minimum services at rates that are equally applied to all customers, except for homes association contracts where the fees may vary from the standard charges. The collector may not charge any additional fee or premium for building line collection service, either in the standard fee for all regular customers or in homes association contracts. Nothing contained herein shall grant an exclusive right to any one solid waste collector or interfere in any way with the free spirit of competition for any given area or prevent any other collector from declaring service availability and providing service to residents and commercial establishments in that same general area except as hereinafter provided for homes association contracts. Further, nothing contained in these regulations shall be deemed to require the collection of any solid waste not prepared, stored and placed in compliance with the requirements of these regulations, nor shall the collector be required to collect from a residence or commercial establishment for which proper payment has not been made to the collector.~~
- ~~D. The applicant shall provide to the Administrator an inventory and description of the collection equipment to be utilized within the City.~~
- ~~E. The applicant shall be responsible for collection of any and all service fees from customers serviced by their company.~~
- ~~F. The applicant shall notify, in writing, all new residential and commercial customers of the City ordinances regarding storage and placement of solid waste.~~
- ~~G. The applicant shall notify, in writing, all residential and commercial customers on a yearly basis of the City ordinances regarding storage and placement of solid waste. A detailed plan for notifying residents of City ordinances regarding storage and placement of solid waste must be submitted with application for Solid Waste Collection Permit, and must be approved by the City. The applicant is required to comply with that plan or any modification approved by the City.~~

(History: Ord. SW-1760, 92; SW-1714, 91)

~~7.36.130 Solid Waste Collection:~~

- ~~B. All solid waste collectors operating within the City shall provide as a minimum complete collection services as hereinafter specified for their customers:~~
- ~~1. Minimum Residential Collection Requirements:~~
 - ~~1. All residential solid waste which is properly placed for collection by the resident shall be collected at least weekly. Bulky rubbish is to be exempted as specified in these regulations.~~

- ~~2.—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.~~
- ~~3.—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 residents' request.~~

~~2.—Minimum Commercial Collection Requirements:~~

- ~~1.—Solid Waste shall be removed from commercial properties as often as necessary to prevent health and nuisance conditions. Solid waste free of putrescible material shall be removed as often as is necessary to prevent overfilling of the storage facilities, but at least once every six months.~~
- ~~2.—It shall be the responsibility of each commercial establishment to make arrangements for and otherwise provide for collection of all solid waste produced upon any such premises.~~

~~C.—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.~~

~~D.—All solid wastes collected pursuant to these regulations shall, upon being loaded into collection equipment, become the property of the collection company.~~

(History: Ord. SW-1760, 92; SW-1714, 91)

~~**7.36.140 Minimum Standards for the Transportation of Solid Waste.**~~

~~A.—The minimum standards for the collection and transportation of solid waste in the City shall be as set forth hereinafter and shall be applicable to all solid waste collectors operating within the City.~~

~~B.—No person shall engage in the business of collecting or transporting solid waste within the City without first obtaining a permit from the City as required in these regulations.~~

~~C.—All collection vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with water-tight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting waste, or as an alternative the entire body thereof may be enclosed, with only loading hoppers exposed. No material shall be transported in the loading hoppers.~~

~~D.—All motor vehicles operating under any permit required by these regulations shall clearly display the City permit on each side of said vehicle.~~

~~E. Collection of solid waste within the City shall be limited to the hours of 7 a.m. through 10 p.m.; provided, however, that different hours for the collection of commercial solid waste may be allowed within a specific geographical area designated by the Administrator. This designation may be denied, modified or revoked by the Administrator if, in his/her sole discretion, the additional collection hours cause any disturbance, annoyance, hazard or other difficulty.~~

~~(History: Ord. SW-1760, 92; SW-1714, 91)~~

7.36.150 Permit Fees.

~~The Solid Waste Collection Permit fee schedule shall be as approved by the Governing Body, and those fees shall be paid in full upon application.~~

~~(History: Ord. SW-1760, 92; SW-1714, 91)~~

7.36.160 Homes Association Contract Areas.

~~Homes Associations may provide for exclusive collection services within their respective boundary limits providing the service satisfies the minimum standards of these regulations. Collection services may be provided to a homes association contract area at a rate other than that charged to individual customers.~~

~~(History: Ord. SW-1760, 92; SW-1714, 91)~~

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 therefore 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;
5. the production of offensive odors is minimized; and
6. it does not infiltrate or pollute any natural streamway or enclosed stormwater system.

~~(History: Ord. SW-1760, 92; SW-1714, 91)~~

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 ~~waterproof~~ rainproof. 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.
- E. 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:
1. Tree 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.
 - ~~2. The placement of recyclable materials, as specified in Chapter 7.45, shall be governed by the provisions of that Chapter.~~
- F. Commercial solid waste shall be stored in containers that are ~~waterproof~~ rainproof, 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 well drained, and maintained in a clean and sanitary condition.
- G. 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.

I. 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.

(History: Ord. SW-1760, 92; SW-1714, 91)

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, 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.
4. 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 city or those of a solid waste collection agency operating under permit by the City.
5. Dispose of solid waste at a facility which is not licensed and approved by the appropriate regulatory authority.
6. 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.
7. 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.

(History: Ord. SW-2465 §1, 2004; ROCR-2245 §12, 2001; SW-1760, 92; SW-1726 §1,92; SW-1714, 91)

7.36.200 Additional Exceptions.

1. The burning of wood, paper or other materials commonly used in a residential fireplace shall be permitted in an enclosed fireplace, located entirely within an occupied structure and meeting all applicable building and fire code regulations.
2. The burning of debris resulting from a declared disaster or emergency is allowed by City personnel or their designates on City-owned public property when authorized by the City Council.

3. The setting of fires for purposes related to the training of government or industrial personnel in fire fighting procedures when such activity is approved by the Fire Department.

(History: Ord. SW-1760, 92; SW-1714, 91)

7.36.210 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in these regulations or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portion of these regulations or any part thereof.

(History: Ord. SW-1760, 92; SW-1714, 91)

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 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. 8.08.160.

(History: Ord. SW-1760, 92; SW-1714, 91)