

ORDINANCE NO. 10781-2019

AN ORDINANCE OF THE CITY OF GRAND PRAIRIE, TEXAS, AMENDING CHAPTER 26, "UTILITIES AND SERVICES" OF THE CODE OF ORDINANCES OF THE CITY OF GRAND PRAIRIE, TEXAS, BY THE AMENDMENT OF SECTIONS 26-100 AND 26-115 THROUGH 26-117 OF ARTICLE VI, "GARBAGE COLLECTION AND DISPOSAL," MAKING THIS AMENDMENT CUMULATIVE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE, PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE, AFTER PUBLICATION, OF JANUARY 6, 2020

WHEREAS, the City has an interest in protecting public health through the proper collection and disposal of solid waste;

WHEREAS, the City has the authority to regulate residential and commercial solid waste collection rates;

WHEREAS, many parcels of land on Main Street and Jefferson Street are not of sufficient size for commercial type containers;

WHEREAS, commercial cart collection service provides a more environmentally friendly alternative to commercial bag service;

WHEREAS, a high concentration of the City's commercial bag service customers are located on Main Street and Jefferson Street; and

WHEREAS, the high concentration of commercial bag services customers allows for creation of a commercial cart service route on Main Street and Jefferson Street which the City's franchise hauler has agreed to provide;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS THAT:

SECTION 1. Sections 26-100 and 26-115 through 26-117 of Chapter 26, Article VI, "Garbage Collection and Disposal" is hereby amended to read as follows:

ARTICLE VI. - GARBAGE COLLECTION AND DISPOSAL^[4]

Cross reference- Littering, cleanliness of premises, § 13-30 et seq.

State Law reference- Solid Waste Disposal Act, V.A.C.S. art. 4477-7.

Sec. 26-100. - Definitions.

The following terms, when used in this article, shall have the meanings respectively ascribed to them:

Approved residential container: An opaque plastic bag of a color other than blue or red.

Brush: Tree and shrub trimmings which are not susceptible to placement in approved containers.

Bulky waste: Garbage, refuse or trash, which is determined by the city not to be collectable with residential collection equipment, and containerized in a method acceptable to the city, is designated as bulky.

City landfill: means the controlled area of land owned or operated by the city upon which municipal solid waste is placed for disposal in accordance with standards, rules, regulations or orders established by federal, state and local governmental agencies.

Commercial Bag Service: Collection service for small commercial customers in which garbage and trash are placed in approved 96 gallon rolling carts provided by an approved contractor or franchise hauler for collection.

Commercial Cart Service: Collection service for small commercial customers in which garbage and trash are placed in disposable plastic bags for collection.

Commercial type container: Any approved container provided by an approved contract or franchised hauler for the removal of garbage/refuse. These containers typically range from two (2)-forty (40) cubic yards and are serviced by front load, side load, or roll-off style vehicles. this term does not include a 96-gallon rolling cart.

Customer: Any owner, occupant, tenant or person otherwise in control of any premises in the city on which garbage and trash are accumulated and from which the same is removed or required to be removed pursuant to the terms of this article.

Debris: Dirt, concrete, rocks, bricks or other waste building materials.

Enclosures: A manmade structure built for the specific purposes of shielding a refuse container. These enclosures must be built so that the refuse collection vehicles have access to the container. If enclosures are built with doors, these shall be opened by the tenants on the day of collection. Doors shall be made with anchor devices that will keep the doors from inadvertently closing on the collection vehicles. Enclosures shall be at least twelve (12) feet wide and twelve (12) feet deep for ease of collection. Approaches to containers must be of sufficient (12) feet wide and twelve (12) feet deep for ease of collection. Approaches to containers must be of sufficient strength to support the weight of collection vehicles.

Garbage: Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Hazardous waste: solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6903, et seq., or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C.A. Section 2601 et seq., regulations promulgated there under or applicable state law concerning the regulation of hazardous or toxic wastes.

Local regulatory authority: Any municipal officer or department of the city appointed by the city manager to administer this article.

Primary residence: The single dwelling home in which each person or family resides. This does not include secondary homes or rental properties owned by the resident.

Recyclables: Materials that are diverted from the waste stream, processed and treated so that they can be used again. Commonly recycled materials include aluminum, paper, steel, plastics and glass.

Recycling: Processing and treating discarded materials so that they can be used again.

Residential: Pertaining to any structure or premises used for permanent living quarters of whatever type, including conventional one-family residences, duplexes, multifamily residences, apartments or mobile homes.

Small Commercial Customer: A business which has been designated by the City, in writing, as a small commercial customer. Small commercial customers are generally retail or light commercial type of businesses which generate an average of no more than one cubic yard of garbage or trash per week.

Special waste: Any solid waste or combination of solid waste that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment.

State environmental regulatory authority: The state's agencies that have the authority to adopt and enforce any environmental rules necessary to carry out its powers and duties under the laws of Texas.

Trash: All refuse other than garbage, recyclables, debris and brush as herein defined, and including any household trash and yard waste. (Grass clippings, leaves, etc.)

Sec. 26-115. - Commercial fees.

(a) *Charges-Commercial Cart Service.* Commercial cart service is available to small commercial customers whose service address is located on Main Street or Jefferson Street. The fair and reasonable monthly charges for small commercial rolling carts are determined to be as follows:

Number of rolling carts emptied twice per week (maximum 2):

One cart	\$29.19
Two carts	\$39.41

(b) *Charges Commercial Bag Service.* Commercial bag service is available to small commercial customers who do not qualify for commercial cart service. Fair and reasonable charges for commercial bag service are hereby determined to be twenty-four dollars and nineteen cents (\$24.19) for the first cubic yard or portion thereof and twelve dollars and twenty-eight cents (\$12.28) for each additional cubic yard per month.

(c) *Charges-Commercial-type containers.* As an alternative to the collection methods and charges provided in subsection (a) above, commercial, institutional and industrial customers may dispose of garbage and trash by means of approved commercial-type containers. Additionally, multifamily residential complexes may employ commercial-type containers for garbage and trash collection in the same manner as commercial, institutional and industrial customers. For the purposes of this section only, town homes organized as nonprofit homeowner associations and consisting of a minimum of four hundred (400) dwelling units may be considered multifamily residential complexes when such nonprofit status has been verified by the city attorney and the finance director upon submittal by the nonprofit homeowners association of a full financial disclosure statement showing detailed revenues and expenses to demonstrate the nonprofit status of the association. "Town homes" means two (2) or more adjoining single-family attached dwellings in which there is a separate, real property interest in each dwelling unit and the common areas are owned by the nonprofit homeowners association or by each dwelling unit owner through an undivided interest in common with all other dwelling unit owners.

(d) The fair and reasonable charges for commercial service are determined to be as following:

All charges provided are monthly charges unless specified otherwise.

Two (2) cubic yards-Dumps per week:	Extra \$ 23.18	6 \$ 517.60
		Extra \$ 32.57
1 \$ 80.64	Four (4) cubic yards:	
2 \$ 124.33	1 \$ 124.33	Eight (8) cubic yards:
3 \$ 171.15	2 \$ 184.30	1 \$ 184.30
4 \$ 196.52	3 \$ 253.41	2 \$ 310.36
5 \$ 274.00	4 \$ 324.11	3 \$ 381.23
6 \$ 356.10	5 \$ 396.36	4 \$ 495.07

5	\$ 625.68	Extra \$ 54.44
6	\$ 791.62	

Front loader packers:

Four (4) cubic yards:	Six (6) cubic yards:	Eight (8) cubic yards:
1 \$ 161.72	1 \$ 241.79	1 \$ 319.91
2 \$ 323.42	2 \$ 485.20	2 \$ 642.96
3 \$ 483.62	3 \$ 730.04	3 \$ 961.36
4 \$ 649.94	4 \$ 971.85	4 \$ 1,283.42
5 \$ 810.14	5 \$ 1,215.25	5 \$ 1,605.92
6 \$ 971.85	6 \$ 1,458.57	6 \$ 1,924.34
Extra \$ 35.28	Extra \$ 53.02	Extra \$ 74.38

Roll-offs:

Twenty (20) cubic yards, roll-off:

Per pickup \$ 131.35

Lease charge, per month \$ 139.66

Thirty (30) cubic yards, roll-off (open top):

Per pickup \$ 131.35

Lease charge, per month \$ 175.61

Thirty (30) cubic yards, roll-off (closed top):

Per pickup \$ 131.35

Lease charge, per month \$ 298.06

Thirty (30) cubic yards-Compactor:

Per pickup \$ 131.35

Lease charge, per month Variable

Forty (40) cubic yards, roll-off (open top):

Per pickup \$ 131.35

Lease charge, per month \$ 215.43

Forty-two (42) cubic yards-Compactor:

Per pickup \$ 131.35

Lease charge, per month Variable

Additional charges:

Container with casters, per month \$ 4.61

Container inside fence/container-pickup \$ 1.53

Additional Yardage Fee \$ 14.62 per yard for overflowing dumpster

South of I-20 Charge - Front loaders \$ 15.29 per month

South of I-20 Roll-off \$ 16.21 per trip

Placement or Relocation Fee \$ 67.29

Obstruction Charge - Front load- Equal to extra dump fee for customers' container

Obstruction Charge - Roll Off \$ 71.63

Containers that have been burned:

Yards	Fee	Yards	Fee
2	\$67.04	30	\$229.39
4	\$88.74	40	\$310.45
8	\$113.17		
20	\$155.95		

(e) *Obstruction charge.* The charge for an extra pickup will be assessed to all commercial accounts that have obstructions in front of containers on the day of pickup that result in return-trips, and also the same charge shall apply for containers being picked up for past-due billings.

(f) *Placement charge-Commercial-type containers.* There shall be a charge of sixty-seven dollars and twenty-nine cents (\$67.29) for the original placement of a container and such charges shall apply if the container must be removed and replaced as result of nonpayment of the customer's bill.

(g) *Deposit.* There shall be a customer deposit for service in the amount of one (1) month's bill for service as determined by the agreement between customer and collector to provide service pursuant to this chapter.

(h) *Landfill fees.* Landfill fees for roll-off containers shall be thirty-seven dollars and thirty cents (\$37.30) per ton, unless modified by a contract with the city.

(i) *Refund policy.* Household and commercial customers who have been charged by the City of Grand Prairie for the incorrect collection services rate may be credited for up to six (6) months of overcharges. The credit given will be the difference between the correct month rate and monthly rate actually charged and paid, multiplied by the number of months involved to a maximum of six (6) months. No credit will be given for overcharges that are more than twelve (12) months old.

Sec. 26-116. - Commercial, institutional and industrial collection-location of containers; maintenance; capacity.

(a) *Approved containers.* It shall be the duty of the owner or person otherwise in control of the commercial, institutional or industrial premises within the city to cause all garbage and trash accumulated on said premises to be placed in approved containers. Commercial bag or commercial cart service customers shall place their bags or carts at a location on the premises which is readily accessible to the collector and approved by the city or its agent. Commercial cart service customers shall remove the cart from the designated collection location no later than 7:00 p.m. Commercial-type containers shall be placed at a location on the premises arranged by the customer and collector.

(b) *Containers in enclosures.* If containers are located within a gated enclosure, the customer shall ensure a device is installed to hold the gate open during collection. Screening fences shall be installed and maintained in accordance with the Unified Development Code.

(c) *Damage to containers.* The customer shall be liable for any damage to containers located on the customer's premises except for damage caused by the collector.

(d) *Containers with casters.* All containers with casters shall be moved to the appropriate location for service by the customer on the day of pickup.

(e) *Enclosure requirements.* Mechanical garbage and trash packers or compactors which are located on any property used for residential purposes (regardless of zoning) shall be completely enclosed in a fence at least six (6) feet in height, unless completely enclosed in a building. Such fence shall have a self-closing, self-latching gate.

(f) *Compactor security.* Any such compactor shall be equipped with a key-activated "on and off" switch. The compactor shall be maintained in the off position at all times, except when the person in charge of the key is operating the packing device.

Sec. 26-117. - Hauling by individual; permit.

(a) *Permit required:* This article shall not be construed to prohibit any person from disposing of such person's own garbage, trash or refuse from within the city or to prohibit any such person from utilizing the landfill facilities maintained by the city; provided, however, that before engaging in such activity, any such person shall make application to the city for a permit to do so; and, provided further, however, that such permit shall not be necessary in order for any regular customer of the city garbage department or its garbage disposal contractor/franchisee to dispose of such person's own garbage in order to expedite or facilitate the maintenance and the cleanliness of such Commercial cart service customers shall remove the cart from the designated collection location no later than 7:00pm. person's own premises. Such permit, if issued, shall be effective from January 31 to January 31, and each permit issued after that date will be prorated for the balance of the year.

(b) *Conditions of issuance:* Such permit shall not be issued unless:

(1) *Fee:* The applicant thereof pays a fee commensurate with the amount that would be charged for one (1) month's garbage collection service for the amount of garbage or rubbish proposed to be hauled or disposed of by the applicant as based on the charges hereinafter set out. The determination of the amount of the garbage to be hauled by the applicant shall be stated on the application, and shall be subject to the approval and/or revision upon inspection by the local regulatory authority at any time during the time such permit shall be in force.

(2) *Insurance:* The applicant has in force and effect a policy of public liability insurance, with the city named as coinsured, in an amount of not less than twenty thousand dollars (\$20,000.00) for injury to one (1) person, twenty thousand dollars (\$20,000.00) for injuries in any one (1) accident, and property damage insurance in an amount of not less than five thousand dollars (\$5,000.00) for injuries or damages to any person arising from the use by applicant of the aforesaid dump ground facilities. The applicant shall furnish a certificate evidencing such insurance coverage, which shall provide that it shall not be cancelled except on ten (10) days' notice in writing to the city.

(3) *Hold harmless and indemnify:* The applicant shall sign an agreement to save and hold the city harmless from any and all claims, demands, causes of action or suits which may arise out of his operation of hauling his own garbage, trash and debris and shall indemnify the city for any loss which it may suffer from its activities hereunder, and it shall be no defense to this indemnity to contend or plead that the fault is that of the city, its agents or employees.

(c) *Independent school district exception:* Any independent school district located within the city which wishes to haul its own garbage shall comply with all conditions and requirements of this section and the city's ordinance related to the use of its landfill except for subsection (b)(2) requiring the provision of insurance.

(d) *Cancellation:* Any permit issued under the terms hereof shall be cancelled by the solid waste manager upon violation by the holder thereof of any of the terms of this section or of any other section of this Code relating to the hauling of garbage and trash.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision and such holding shall not affect validity of the remaining portions thereof.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Grand Prairie, Texas, in the discharge of his duties, shall not thereby render himself personally liable, and he is hereby relieved from all personal liability for damage that may accrue to person or property as a result of any act required or permitted in the discharge of said duties.

SECTION 5. Chapter 26, "Utilities and Services," of the Code of Ordinances of the City of Grand Prairie, Texas, as amended shall be and remain in full force and effect save and except as amended by this Ordinance.

SECTION 6. A violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Section 1-8 of the Code of Ordinances of the City of Grand Prairie, Texas.

SECTION 7. This ordinance shall be effective, after publication, on January 6, 2020.

SECOND READING OF THE ORDINANCE IS PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS, ON THIS THE 17TH DAY OF DECEMBER 2019.

APPROVED:

A handwritten signature in black ink, appearing to read 'Ron Jensen', is written over a horizontal line.

Ron Jensen, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney