
ORDINANCE NO. 1647

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JACKSONVILLE, TEXAS AMENDING TO DELETE CHAPTER 9, "GARBAGE, TRASH, WEEDS AND ABANDONED PERSONAL PROPERTY" OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE, TEXAS IN ITS ENTIRETY AND ADOPT IN ITS STEAD THE FOLLOWING AS A NEW CHAPTER 9, "GARBAGE, TRASH, WEEDS AND ABANDONED PERSONAL PROPERTY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Chapter 9 of the Code of Ordinances governs garbage, trash, weeds and abandoned personal property; and

WHEREAS, Chapter 9 of the Code of Ordinances of the City of Jacksonville, Texas is in need of modification; and

WHEREAS, the City of Jacksonville desires to protect the health, safety and welfare of its residents;

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

Section I.

Chapter 9, Garbage, Trash, Weeds and Abandoned Personal Property of the Code of Ordinances of the City of Jacksonville, Texas, is revoked and deleted and the following new Chapter 9 is substituted therefor:

Chapter 9 GARBAGE, TRASH, WEEDS AND ABANDONED PERSONAL PROPERTY1

ARTICLE I. IN GENERAL

Sec. 9-1. Definitions.

For the purpose of this article, the following terms, phrases, words and derivations shall have the meaning set forth herein. When not inconsistent with the context, words used in the present tense shall include the future; words used in the plural number include the singular

number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Brush. Brush, dense undergrowth, tree trimmings, weeds, large hedge trimmings and trees not exceeding eight (8) inches in diameter and cut into lengths not exceeding three (3) feet and tied in bundles for collection.

Carrion. The dead and putrefying flesh of any animal, fowl or fish.

Garbage. Any and all waste food, swill, carrion, slop and all wastes from the preparation, cooking and consumption of food and from the handling, storage and sale of farm produce.

Impure or unwholesome matters. Any putrescible or no putrescible condition, object or matter that may, could or tends to cause injury, death of disease to human beings.

Junk. All worn out, worthless or discarded material, including but not limited to any of the following materials, or parts of said materials or any combination thereof: new or used iron, steel or nonferrous metallic scrap, brass or waste materials; used and/or inoperative household appliances, household electrical or plumbing fixtures, floor coverings and/or window coverings not currently in use; used lumber, brick, cement block, wire, tubing and pipe, tubs, drums, barrels and/or roofing material not currently in use; air conditioning and heating equipment not currently in use; used vehicle components and parts not currently in use; used furniture other than that designed for outdoor use or that which would normally be considered as antique furniture; used and/or inoperative residential lawn care equipment and machinery not currently in use; used pallets, windows or doors not currently in use; new or used sheet metal, structural steel and/or chain not currently in use; used and/or inoperable vending machines, radios and/or televisions not currently in use; and any other type of used and/or inoperable machinery or equipment not currently in use.

Large rubbish. All rubbish that cannot, because of its size, be stored in metal containers and shall include, but not be limited to, such items as tree branches, discarded furniture, old magazines, yard trimmings, extracted tree trunks, roots and building material.

Person. All natural human beings and organized entities including, but not limited to, corporations, limited liability companies, partnerships, limited partnerships, foundations, trusts, churches and commercial establishments.

Putrescible. The decompositions of organic matters with the formation of foul-smelling, incompletely oxidized products.

Nuisance. Any condition, object, material or matter that is dangerous or detrimental to human life or health; or that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health; or that is offensive to the senses; or that threatens to become detrimental to the public health; and shall include but not be limited to: any abandoned or uncovered (including unsecured covered) wells, shafts or basements, abandoned refrigerators, stagnant or unwholesome water, sinks, privies, filth, carrion, rubbish, junk, trash, debris or refuse, impure or unwholesome matter of any kind, and any objectionable, unsightly, or unsanitary matter of whatever nature.

Refuse. Both garbage and rubbish.

Rubbish. All waste of a disposable nature including, but not by way of exclusion, such items as metal and non-metal containers, paper, paper cartons, tree branches, yard trimmings,

discarded furniture, tin cans, dirt, ashes, bottles and all other refuse not included in the terms "garbage", junk, trash, debris, rubble, stone, useless fragments of building materials, and other miscellaneous, useless waste or rejected matter.

Small rubbish. All rubbish other than large rubbish.

Trash. Garbage, rubbish and refuse.

Trash and debris. All manner of refuse, including but not limited to: piles of leaves, grass and weed clippings, paper trash, useless fragments of building materials, rubble, furniture other than furniture designed for outside use, useless household items and appliances, items of salvage, such as scrap metal and wood, old barrels, old tires, objects that hold water for an extended period of time, tree and brush trimmings, dead standing or fallen trees, and other miscellaneous wastes or rejected matter.

Weeds. Any vegetation that because of its height is objectionable, unsightly or unsanitary, excluding: shrubs, bushes, trees, cultivated flowers and cultivated crops.

Sec. 9-2. Nuisance declared.

The accumulation of junk, abandoned personal property, carrion, brush, garbage, weeds, impure or unwholesome matters, large rubbish, refuse, small rubbish, trash and debris, weeds, discarded furniture, discarded household appliances or any other unsanitary, unwholesome or unsightly matter upon any property, occupied or unoccupied, within the corporate limits of the city, shall constitute a nuisance as a public health and/or fire hazard and shall be subject to the provisions of this article.

Sec. 9-3. Unlawful to permit trash, rubbish, etc., to accumulate.

It shall be unlawful for any person, firm or corporation owning, claiming, occupying or having supervision or control of the surface of any real property, occupied or unoccupied, within the corporate limits of the city, to permit junk, abandoned personal property, carrion, brush, garbage, weeds, impure or unwholesome matter, rubbish, large rubbish, refuse, small rubbish, trash and debris, discarded furniture, discarded household appliances or any other unsanitary, unwholesome or unsightly matter, or any objectionable, unsightly or unsanitary matter to accumulate. It shall be the duty of such person, firm, or corporation to keep such property free and clear of the matter referred to above.

Sec. 9-4. Unlawful to permit weeds or grass to grow in excess of twelve inches.

It shall be unlawful for any person, firm or corporation owning, claiming, occupying or having supervision or control of the surface of any real property, occupied or unoccupied, within the corporate limits of the city, to permit weeds or grass to grow to a height greater than twelve (12) inches upon such real property. Any such property upon which weeds or grass are permitted to grow to a height greater than twelve (12) inches shall be deemed a nuisance as a fire hazard and as dangerous to public health. It shall be unlawful for any person or persons in control of any such real property within the city to leave grass or weeds on such premises after they have been cut that is a nuisance. It shall be the duty of the owner or the person in control of such real

property within the city to remove such weeds or grass from such premises after they have been cut.

Sec. 9-5. Duty of owner or person in charge to remove trash, objectionable matter, etc.

It shall be the duty of any owner or person, firm or corporation owning, claiming, occupying or having supervision or control of the surface of any real property to remove all junk, abandoned personal property, carrion, brush, garbage, weeds, impure or unwholesome matter rubbish, large rubbish, refuse, small rubbish, trash and debris, discarded furniture, discarded household appliances or any other unsanitary, unwholesome or unsightly matter, or any objectionable, unsightly or unsanitary matter from the premises and properly dispose of said items. It shall be the duty of any owner or person in control of any occupied or unoccupied premises to cut and remove all weeds and grass growing to a height greater than twelve (12) inches upon said property. The removing and cutting of weeds or grass at least once in every thirty (30) days shall be deemed a compliance with this article; and the owner or person in charge shall use every precaution to prevent the same growing on such premises so as to become a nuisance as herein defined.

Sec. 9-6. Inspections.

- (a) For purposes of ascertaining whether violations of this article exist, the city manager or any designee of the city manager, is authorized to inspect any premises, including the exterior of any structure built thereon.
- (b) If entry onto the property is refused, the city manager or any designee of the city manager, or his/her designee, shall have every recourse provided by law, including but not limited to search warrants or injunctive relief. If the owner, occupant, or person in control cannot be identified or located, the city manager or any designee of the city manager, or his/her designee, shall be authorized to enter the property in pursuit of the city manager or any designee of the city manager's duties to the extent allowed by law.

Sec. 9-7. Real property used for agricultural purposes or intended for development or investment; crops, weeds, or grass in right-of-way of street or easement.

It shall be unlawful for any owner or person in control of real property dedicated to an agricultural use to allow cultivated crops to grow within the right-of-way of any public street or easement, but same shall be kept mowed as provided above. Real property not used for agricultural purposes intended for development or investment purposes shall be maintained in accordance with sections 9-3, 9-4 and 9-5 of this article. Cutting or mowing of weeds and grass growing to a height greater than twelve (12) inches and the removal of trash, rubbish, discarded furniture, household appliances, or objectionable, unsightly and unsanitary matter once within every thirty (30) days and within one hundred fifty (150) feet of any property line shall be deemed a compliance with this article; and the owner or person in charge shall use every precaution to prevent same growing or accumulating on such premises so as to become a nuisance as herein defined.

Sec. 9-8. Notice to owner or person in control of premises not dedicated for agricultural purposes; failure to abate.

The city manager or any designee of the city manager of the city is authorized to notify the owner at the owner's address as recorded in the records of the Cherokee County Appraisal District of any premises within the city, not dedicated to an agricultural use, on which junk, abandoned personal property, carrion, brush, garbage, weeds, impure or unwholesome matter, rubbish, large rubbish, refuse, small rubbish, trash and debris, discarded furniture, discarded household appliances or any other unsanitary, unwholesome or unsightly matter, or any objectionable, unsightly or unsanitary matter, or any weeds that have grown to a height greater than twelve (12) inches, to abate said nuisance within ten (10) days. The notice shall be in writing, issued only one (1) time, and may be served on the owner or person in control of the premises by handing it to him in person or by United States Post Office First-Class Mail. If personal service cannot be obtained, notice may be had by publication at least one (1) time in a newspaper readily available in the City of Jacksonville, Texas or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates. Failure of the owner or person in control to abate the said nuisance within ten (10) days of such notice will constitute prima facie evidence of violation of this article.

Sec. 9-9. Citation; work or improvements by the city; charges against the owner.

If the owner fails or refuses to comply with the demand for compliance in the notice provided for in 9-8 above, within ten (10) days of such notice, the city may issue citation to such person or persons owning or controlling such real property which is not in compliance with this article.

Sec. 9-10. Punishment for failure to abate after notice.

Any person, firm, corporation, partnership, association of persons, owner, agent, occupant, or anyone having supervision or control of any lot, tract, or parcel of land or portion thereof, occupied or unoccupied, in the city who shall fail, refuse or neglect to remove, cut or destroy any such weeds, grass, vines, brush, shrubs or other plants, not cultivated, as defined in this article growing to a height greater than twelve (12) inches, or any trash, garbage, refuse, junk or other such debris as defined in this article, prohibited by section 9-3, section 9-4, and section 9-5 of this article within the city limits within ten (10) days after being notified as provided in section 9-8 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined for each offense and each time such person, firm, corporation, partnership, association of persons, owner, agent, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, fails, refuses, or neglects to cut or destroy such weeds, grass, vines, brush, shrubs or other plant not cultivated as defined by this article, or shall fail to remove any tract, garbage, refuse, junk or other such debris as defined in this article, after receiving notice as herein provided shall be a separate and distinct offense. Each day of non-compliance shall be deemed a separate offense.

Sec. 9-11. Enforcement.

The provisions of this article shall be enforced by the city manager or any designee of the city manager, and it shall be unlawful for any person to interfere with or hinder the city manager or any designee of the city manager, in the exercise of their duties under this article.

Notwithstanding any provisions contained herein to the contrary, Jacksonville Police Department, the city manager or any designee of the city manager, are hereby granted the authority to issue citations to person violating any provision of this article in their presence.

Sec. 9-12. City manager to abate; when.

Prior to the abatement of the nuisance by the city manager or any designee of the city manager, effort shall be made to obtain compliance with this article by the owner or person in control of the premises. If after twenty (20) days after receipt of the notice set forth in section 9-8 of this article by the owner or person in control, the owner or person in control has failed to comply with this article, and no notice has been received in accordance with Section 54.00S(b) and (c) of the Local Government Code of the State of Texas or any amendment or successor thereto, the city manager or any designee of the city manager shall initiate action to abate the nuisance. Upon the failure of the owner or person in control to comply with the notice, as set forth in section 9-8 of this article, or upon the written request and authorization of such owner or person in control so notified, the city manager or any designee of the city manager of the city is authorized to abate said nuisance. All costs involved with the abatement of the nuisance will be the responsibility of the property owner or person in control.

Sec. 9-13. When weeds, grass, shrubs, trees, etc., declared nuisance; abatement.

It shall be unlawful for any person, firm or corporation owning, claiming, occupying, or having supervision or control of, any real property, occupied or unoccupied, within the corporate limits of the city, to permit weeds, grass, bushes, trees, shrubs, plant substance(s), or any part(s) thereof, whether living or not, that originate or have their roots on said real property, to hang over, overhang, grow into, or grow over any public place within the city, if said growth is overhanging below twelve (12) feet from a vertical line with the starting point of the horizontal plane of the public place. When such above prohibited conduct occurs, such growth and premises shall be deemed a nuisance and as dangerous to public health. It shall be the duty of person(s), firm or corporation named to abate the nuisance so that the overhang is not below the twelve-foot point. It likewise shall be unlawful for the person(s), firm or corporation named to leave said growth on such public place after they have cut or trimmed such growth. The city shall have the authority to abate the described nuisance by the city manager or any designee of the city manager of the city sending notice to such described person in accordance with applicable sections of this article upon the failure of the owner or person in control to comply with the notice, as set forth in section 9-7 and other applicable sections of this article.

Sec. 9-14. Cost to be levied and assessed against property, etc.

The actual cost involved in the abatement of the nuisance by the city shall be levied, assessed and collected against property each time such abatement shall be performed. In the

event that there are obstructions such as trees, shrubs, bushes, brush, excavations, foundations, demolished structures, or any other similar obstruction, an additional charge shall be levied, assessed and collected against such premises for the actual additional costs, resulting from the handling of these obstructions. The charges provided herein shall be levied, assessed and collected by the director of revenue and taxation of the city. If any person shall fail to pay the charges so assessed within thirty (30) days after being so notified, the director of revenue and taxation shall file with the County Clerk of Cherokee County, Texas, a statement by the mayor of such expenses. The city shall have a privileged lien on the premises, second only to tax liens and liens for street improvements, to secure the expenditures so made and ten (10) per cent per annum interest on the amount from the date payment is due. for any such expenditures and interest, suit may be instituted and foreclosure had in the name of the city; and the statement so made by the mayor, or a certified copy of the statement, shall be prima facie proof of the amount expended in such work or improvements.

Sec. 9-15. Reserved.

Sec. 9-16. Penalty.

Any person, firm or corporation violating any provisions of this article shall be subject to a fine, upon conviction in the municipal court, as provided in Section 1-5 of the Code of Ordinances.

Secs. 9-17. Reserved.

ARTICLE II. COLLECTION SERVICE

DIVISION I. GENERALLY

Sec. 9-18. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEFINITIONS

Bags. Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty-five (35) pounds.

Bulky waste. Stoves, refrigerators (with all CFC removed), water tanks, washing machines, furniture and other similar items, and materials other than construction debris, large dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for bins or containers, as the case may be.

Bundle. Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four (4) feet in length or thirty-five (35) pounds in weight.

City. City of Jacksonville, Texas.

Container for garbage, rubbish and yard waste collection. A cart or other container designed for solid waste management and supplied by the City's provider of Solid Waste collection services.

Construction debris. Waste building materials resulting from construction, remodeling, repair or demolition operations at a residential unit, municipal facility or large commercial and industrial unit.

Disposal site. A waste material depository designated by city or its agent, including, but not limited to sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of waste material and small dead animals.

Excluded waste. Excluded waste is all hazardous waste, offal waste, stable matter, vegetable waste, yard waste, and special waste.

Garbage. Any and all small dead animals; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used in tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of excluded waste.

Hazardous waste. A form of excluded waste and is defined as any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by federal, state, provincial or local law or any otherwise regulated waste. Hazardous waste shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other applicable federal, state or local laws or regulations.

Institutional solid waste. Solid waste originating from education, health care and research facilities such as schools, hospitals, nursing homes, laboratories and other similar establishments.

Large dead animals. Animals or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Multi-family. The term multi-family shall refer to all residential dwelling units of more than one (1) unit considered to be condominiums, apartment houses or grouped housing.

Offal waste. Waste animal (land or marine) matter from establishments such as butcher shops, slaughterhouses, food processing and packing plants, rendering plants and fertilizer plants.

Producer. An operator or occupant of a commercial or industrial facility or a residential unit who generates garbage, rubbish, yard waste or recyclable materials.

Recyclable materials. No recycle in this contract.

Residential unit. A dwelling within the corporate limits of the city where a person or group of people live. Each unit in a multi-family dwelling (e.g. condominium, apartment or other grouped housing structure) shall be treated as a separate Residential unit and shall be deemed occupied when either water or power services are being supplied thereto.

Rubbish. All waste wood, wood chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of excluded waste.

Small dead animals. Animals or portions thereof less than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Solid waste. Useless, unwanted or discarded materials with insufficient liquid content to be free-flowing, that result from domestic, industrial, commercial, agricultural, governmental and community operations which require proper storage, collection, transportation and disposal to prevent environmental pollution inimical to public health, safety and welfare. Solid waste does not include sewage, earth or material used to fill land in accordance with construction codes, mining residues, slag, dissolved or suspended solids in industrial waste water effluents which are not acceptable for disposal in sanitary sewage treatment system or any material included in the definition of excluded waste.

Special waste. Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special waste includes, but is not limited to:

- (1) Waste generated by an industrial process or a pollution control process;
- (2) Waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals;
- (3) Waste which is nonhazardous as a result of proper treatment pursuant to subtitle C of the Resource Conservation and Recovery Act of 1976 ("RCRA");
- (4) Waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes;
- (5) Waste which may contain free liquids and requires liquid waste solidification;
- (6) Containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are "empty" as defined by RCRA;
- (7) Asbestos containing or asbestos bearing material that has been property secured under existing applicable law;

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- (8) Waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA);
 - (9) Waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and
 - (10) Municipal or commercial solid waste that may have come into contact with any of the foregoing.

Stable matter. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Waste material. All nonhazardous, solid waste (including garbage and rubbish) generated at residential units that is not excluded by this contract. Waste material shall not include any excluded waste.

Vegetable waste. Putrescible solid waste resulting from the processing of plants for food by commercial establishments such as canneries. This definition does not include waste products resulting from the preparation and consumption of food in places such as cafeterias and restaurants.

Yard waste. Grass, leaves, flowers, stalks, stems, tree trimmings, branches, and tree trunks.

Sec. 9-19. Accumulation, collection generally.

The emptying or disposing of any garbage, trash, refuse or rubbish or the accumulation of such matter in any place within the city is prohibited, and no one except the duly authorized agents and employees of the city shall collect garbage and refuse or shall empty cans containing garbage or refuse substances or convey or transport garbage or refuse substance on the streets, alleys and public thoroughfares of the city, except a person who may be transporting his or her own garbage or rubbish to a proper and authorized place of disposition for the same or a person collecting litter for proper disposal.

Sec. 9-20. Duty of persons.

- (a) It shall be unlawful for any person within the city to permit garbage, trash, refuse or rubbish to accumulate on any premises in the city without suitable provisions being made to keep the same collected in receptacles or containers and without collecting the same to be removed and disposed of as provided in this chapter.
- (b) It shall be unlawful for any person to dispose of any garbage, trash, refuse or rubbish in any receptacle or commercial container belonging to or leased by another person without the permission of the owner or lessee of the receptacle or commercial container.
- (c) Every person owning, leasing, managing, operating, using or occupying any building, apartment, house, structure, grounds or premises within the city shall keep each building, apartment, house, structure, grounds or premises clean, free and clear of all garbage, refuse, trash, rubbish; manure from lots, stables and poultry yards; all wastes, oils and greases of

garages and tilling stations; and all other articles and accumulations that may cause such premises to become unsanitary or unsightly.

Sec. 9-21. Containers required; specifications.

- (a) All residents and commercial establishments that are not provided with commercial container service shall hereafter use only carts supplied by the City's solid waste provider. No Waste Material will be collected by the City's contractor providing Solid Waste management services that is not fully within such carts.
- (b) Every garbage container required by this subchapter shall be maintained in as sanitary condition as possible in view of the use to which it is put and shall be thoroughly cleaned as needed by washing.
- (c) One 95-gallon cart will be provided for solid waste to each residential and small commercial customer.
- (d) Additional carts are available for an extra cost as determined by the Solid Waste management contractor.
- (e) Broken and damaged carts must be reported to the Solid Waste provider and may be replaced as determined by the Solid Waste provider.
- (f) Lids or covers of all carts shall at all times be kept secure so that flies and other insects may not have access to the contents thereof, and such lids may only be removed while such receptacles are being filled or emptied.
- (g) Commercial establishments producing two yards or more of Solid Waste per week will be considered large commercial or industrial customers and must use commercial dumpsters/rolloffs supplied by the City's Solid Waste management provider.

Sec. 9-22. Placement of containers for collection.

At Residential Units, carts are to be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. For safety reasons, carts must be placed at least three feet away any objects including but not limited to mailboxes, parked cars, meters, fire hydrants and utility poles. Carts shall be placed at curbside no earlier than 6:00 pm on the day prior to service and removed from the curbside no later than 8:00 am on the day following collection. Commercial hand carts are to be placed in the same location as that designated for residential carts unless such commercial service is to be provided in designated alleys, in which case such commercial customers are to follow the direction of the City's Solid Waste management contractor for placement.

Sec. 9-25. Periodic inspection; enforcing compliance.

The police chief or his/her designee may make inspection trips at regular intervals to determine whether garbage is being properly collected, removed and disposed of as required by

the provisions of this chapter or any other applicable health ordinance, and in the event it is found that there is a violation, appropriate and timely action shall be taken to ensure a full compliance with this chapter.

Sec. 9-26. Compulsory garbage pickup for all residential and commercial users of water within the corporate city limits.

From and after the effective date of this ordinance [January 10, 2012], all residences, churches and commercial operations within the city limits of the City of Jacksonville, Texas, shall be required to have their garbage picked up by the garbage collection service operated by the City of Jacksonville, or its authorized contractor, paying therefor the rates as heretofore established.

Sec. 9-28. Reserved.

Sec. 9-29. Inspection requirements for vehicles.

Minimum requirements of all vehicles shall be covered tops, sides and doors on all parts of the vehicle utilized for refuse hauling. The cover may be metal, secured tarpaulin or wire mesh with a gauge and size equivalent to nineteen-gauge, one-half-inch hardware cloth.

Sec. 9-30. Reserved.

DIVISION 2. FEES AND CHARGES GENERALLY

Sec. 9-31. Residential.

Effective January 1, 2023, the following rate shall apply for collection and removal of certain waste materials from residential units. The rate shall be twenty-three dollars and nineteen cents (23.19) per month per residential unit for collection of Waste Material from no more than four 95-gallon containers, with collection occurring twice per week from residential curbside.

Sec. 9-32. Commercial.

- (a) *Commercial hand pick-up.* Collection of hand pick-up waste materials shall be by contract only with the city. Commercial hand pick-up shall be limited to those commercial customers who generate no more than two (2) cubic yards of refuse per week. The rate for such service shall be fifty-one dollars and seventy-one cents (\$51.71) per month.
- (b) *Commercial non-hand pick-up.* Collection of non-hand pick-up shall be by contract only with the city. The charge for commercial containers (dumpsters) shall be as follows:

SIZE	1X	2X	3X	4X	5X	6X	Extra Lift
2 Yard	69.46	120.17	161.48	208.10	239.53	260.94	28.61

3 Yard	85.53	143.38	202.73	256.96	317.66	435.08	40.07
4 Yard	98.41	177.99	247.08	320.06	394.92	501.58	51.52
6 Yard	114.81	215.88	319.88	423.04	512.37	709.26	57.25
8 Yard	127.02	240.12	384.26	519.29	632.86	698.60	62.98

*McDonalds 6-yard Vertipak 3× week \$992.98

*Locks \$5.00 per month extra

- (c) *Industrial, non-hand pick-up (roll-off containerized)*. Collection of industrial, non-hand pick-up (roll-off containerized) shall be by contract with the city only. The charge for industrial, non-hand pick-up (roll-off container) shall be as follows:

SIZE	DELIVERY FEE	RENTAL/MONTH	PER HAUL
20 YD	\$75.00	\$110.00	362.01
30 YD	\$75.00	\$110.00	440.16
40 YD	\$75.00	\$110.00	519.15
30 / 35 YD COMPACTOR		NEGOTIABLE	656.14
40 / 42 YD COMPACTOR		NEGOTIABLE	675.26

Sec. 9-33. Churches, etc.

The rate for collecting and removing solid waste from churches and appurtenant buildings generating less than two (2) cubic yards of solid waste weekly shall be the same as for residences; the rate for collecting and removing solid waste from churches and appurtenant buildings generating more than two (2) cubic yards of solid waste weekly shall be the same as commercial operations.

Sec. 9-34. Utility deposit for residential and commercial solid waste collection.

A deposit for solid waste collections shall be required per account where no deposit has been imposed for water usage. The deposit shall be one-twelfth (1/12) of one (1) year's total utility billing or fifty dollars (\$50.00) whichever is greater.

Secs. 9-35, 9-36. Reserved.

Sec. 9-37. Monthly minimum.

The charges fixed herein shall constitute a minimum monthly charge, and there shall be no prorating of charges for services rendered for a period of less than one (1) month.

Sec. 9-38. Collection; suspension of service for nonpayment.

- (a) The charges fixed herein for the removal and disposal of all garbage shall be entered by the city against such owner, occupant, tenant or lessee using or occupying any building, house or structure receiving such service; and said charges shall be collected as similar charges are collected.
- (b) Any person who shall fail or refuse to pay the charges herein specified within fifteen (15) days from the date same shall become due and payable shall have his service suspended, and the City's collection contractor shall be notified immediately for appropriate action in accordance with the provisions of this article.

DIVISION 3. FEES AND CHARGES FOR SPECIAL PICKUP

Sec. 9-39. Residential brush, residential and commercial bulky waste collection and special pickup service.

- (a) The City operates a bulky truck. Residents may contract with the City to arrange for bulky waste service as a part of their waste services with the City. The monthly fee for bulky service shall be \$5.00 per month. Any residents who do not opt to include bulky waste service as a part of their monthly bill may request special collection; however the following charges will be assessed:

SPECIAL PICK-UP	
Pick-up Truck Load (R1)	\$45.00
Dump Truck Load (R2)	\$65.00
Only Tree and Vegetation (RR)	\$35.00

Residents will be required to follow the rules listed below regarding placement and allowable items for pickup.

- 1. Bulky waste items shall be placed at the curb for collection no earlier than 7:00 a.m. on Monday of the scheduled bulky waste collection week for that service unit and no later than 7:00 a.m. on the date for scheduled bulky waste collection for that service unit.
- 2. No more than ten (10) cubic yards of bulky waste per service unit may be placed out for collection per scheduled bulky waste collection week.

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3. To facilitate loading, materials shall be placed neatly and in as tight a stack as possible at a point adjacent to the front curb. Materials shall be stacked away from utility poles, water and gas meters, fences, mail boxes, fire hydrants, trees, parked cars, power lines and other obstructions to prevent damage by collection equipment and to allow the safe collection of the materials.
 4. Materials shall not be placed in the street, in an alley, on the sidewalk or on a vacant lot.
 5. Refrigerators, freezers, dehumidifiers, air-conditioning units and other appliances must be free of CFCs/HCFCs. These items shall not be collected until the service unit has provided proof to the collector that CFCs/HCFCs have been removed from the appliance by a licensed technician.

(b) Bulky Service for commercial customers. Commercial customers may request bulky waste service from the City. Bulky waste service to commercial customers is subject to availability and the following charges will be assessed:

Base Trip Fee: \$150.00;

Hourly Fee: \$100.00; and

Commercial customers shall be responsible for any gate and dumping fees.

(c) A person commits an offense if a person:

1. Places bulky waste for collection in violation of this section; or
2. Allows bulky waste placed for collection on property under his or her control in violation of this section to remain on such property.
3. A person is subject to a service charge for collection of a bulky waste pile that is greater than ten (10) cubic yards. Such charge shall be assessed on the service unit's water bill pursuant to the fee schedule adopted by the city council for special pickup. Nothing herein shall prevent the city from issuing a citation for a violation described in this section.
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4. A person is subject to a service charge for collection of a bulky waste pile that is placed for collection during a time other than that service unit's set-out period described in subsection (a) above. Such charge shall be assessed on the service unit's water bill pursuant to the fee schedule adopted by the city council for special pickup. Nothing herein shall prevent the city from issuing a citation for a violation described in this section.

Sec. 9-40. Reserved

Sec. 9-41. Penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any provision of this division shall be punished, upon conviction, by a fine as provided in Section 1-5 of the code of ordinances.

Secs. 9-42—9-48. Reserved.

ARTICLE III. ABANDONED PERSONAL PROPERTY

DIVISION 1. GENERALLY

Sec. 9-49. Declaration of nuisance; impounding.

Any personal property other than a motor vehicle or animal placed, left standing, parked, erected or lying in violation of any ordinance of the city or left unattended more than forty-eight (48) continuous hours in or on any public street, alley, sidewalk, park, or other public place of the city is declared to be a nuisance, and any such property when so found shall be removed summarily by any police officer of the city and taken to the police pound and shall be kept there until redeemed or sold as herein provided.

State law reference(s)—See Vernon's Ann. Civ. St. art. 6701(d), § 94 for authority of city as to removal of illegally parked vehicles; offense of dumping junk near highway, P.C. art. 696a.

Sec. 9-50. Lien on impounded property.

The city shall have a lien on such impounded personal property for all costs incurred in impounding, storing, and advertising such property and such lien shall be prior and superior to all other liens of every kind, save and except liens for ad valorem taxes, and the city may retain possession thereof until all costs are paid and may sell the same as herein provided.

Sec. 9-51. Redemption—Procedure.

The owner or any person legally entitled to possession of such impounded personal property may redeem the same as follows:

- (1) *Before sale:* By paying to the chief of police the impounding fee and any other actual expenses incurred by the city in impounding and keeping the impounded property, as determined by the chief of police.
- (2) *After sale:* By paying to the buyer at the auction sale double the amount paid by him for such personal property and any reasonable expenses incurred by him for keeping

same; provided, the property must be redeemed from the auction buyer within thirty (30) days after the date of the auction sale, excluding the date of sale; otherwise, title to said property shall become absolute in the auction buyer.

Sec. 9-52. Records.

The chief of police shall keep a record book which shall contain a description of all property impounded, the date and time of such impounding, the date notices of sale were posted and advertised and mailed to owners and lienholders, the return of receipts of registered notices, the date of the sale at auction, the amount realized for each article at such sale, the name and address of the owner and lienholders, if known, the name and address of the auction buyer, and any such other information as he may deem necessary.

Sec. 9-53. Fees.

The following fees shall be charged under this article and shall be paid into the city treasury:

- (1) For taking and impounding any personal property\$3.00
- (2) For preparing advertisements of sale for each article0.50
- (3) For selling each article0.50
- (4) For posting notices of sale relating to any one (1) article0.50

Secs. 9-55—9-59. Reserved.

DIVISION 2. SALE

Sec. 9-64. Property other than motor vehicles or animals; service of notice.

Before selling such personal property, the chief of police or designee shall post two (2) notices thereof, one (1) on the bulletin board located near the north entrance of the courthouse door of Cherokee County, Texas, and one (1) on the bulletin board outside the front entrance to City Hall, and shall cause a copy thereof to be published in a daily newspaper circulated in the city, once a week for two (2) consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the day of the auction sale. The notice of sale shall describe the impounded property, state that the same is unredeemed, state that the same will be sold at public auction, designate the place of sale, and state a time and date of sale which shall not be less than fourteen (14) days from the date of posting such notices as herein required.

Sec. 9-65. Conducting sale generally.

When any impounded property, is not redeemed by the date and time designated in said notice of sale, the chief of police or designee shall sell such property at public auction, and, as city auctioneer, shall execute bill of sale of said property to the purchaser thereof; provided, he or she shall not execute or deliver any but a conditional bill of sale unless and until the title of said buyer has become absolute by an expiration of thirty (30) days in time, exclusive of the day of sale, without being redeemed by the owner of the impounded property.

Sec. 9-66. Disposition of proceeds.

After deducting the impounding fee and all other actual expenses incurred by the city in impounding, storing and selling of said property, as determined by the chief of police or designee, not to exceed a reasonable amount for each impounded article, he or she shall pay the balance of the proceeds of such sale, if any, to the owner of the property. If the owner fails to call for such proceeds they shall be paid into the city treasury. Within six (6) months after such auction sale, the owner may apply in writing to the chief of police, and upon satisfactory proof of ownership, shall be entitled to receive the amount of the proceeds delivered to the city treasury.

Sec. 9-67. Unsold property disposed of as junk.

Impounded property which is offered for sale at public auction in accordance with the procedure herein prescribed and upon which no person bids, shall thereafter be sold or otherwise disposed of as junk. Money received for junk property shall be disposed of in the same manner as proceeds from an auction sale under this article.

Secs. 9-68—9-80. Reserved.

Secs. 9-86—9-90. Reserved.

ARTICLE V. MISCELLANEOUS PROVISIONS

Sec. 9-91. Dumpsters for construction debris.

- (a) Notwithstanding anything in this chapter to the contrary, for purposes of this section, the following definitions shall apply:

Construction debris. Waste building materials generally considered not to be water soluble, including, but not limited to steel, glass, brick, concrete, roofing material, gypsum wallboard and lumber from the construction or destruction of a structure, as part of a construction, remodeling, repair or demolition project.

Dumpster. Rigid or soft solid waste receptacle designed to be lifted and emptied mechanically for use primarily at commercial, industrial and construction sites. The term

"dumpster" includes a "roll-off" or "roll-off dumpster," but excludes a dump truck or utility trailer.

- (b) Any person creating or in possession of construction debris and who deposits any such debris into a dumpster shall use a dumpster supplied by the City of Jacksonville or its exclusive contractor providing for the collection, transportation and disposal of solid waste within the city limits.
- (c) Any person found to be in violation of this article is guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-5 of the Code of Ordinances. Further, violation of this article may result in revocation of any building permit issued for the location of the prohibited dumpster.

Section II.

Severability Clause

If any section, subsection, sentence, clause or phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this Ordinance.

Section III.

Effective Date

This Ordinance shall take effect from and after its passage by the Jacksonville City Council and publication. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in a local newspaper of general circulation.

Section IV.

Compliance

A notice was posted and this ordinance was passed in accordance with the Texas Open Meetings Act.

Passed and adopted the 13th day of December, 2022.

Randy Gorham, Mayor

ATTEST:

Greg Lowe, City Clerk

APPROVED AS TO FORM:

D. Brett Brewer, City Attorney