

ORDINANCE NO. 1484

AN ORDINANCE AMENDING CHAPTER 9 OF THE JENKS CITY CODE “GARBAGE AND OTHER SOLID WASTE”; AMENDING SECTION 9-1-3 “DEFINITIONS” TO ADD AND REVISE DEFINITIONS; AMENDING SECTION 9-1-7, “REQUIRING ACCUMULATION OF SOLID WASTE IN APPROVED CONTAINERS” TO DELETE SPECIAL PERMITS FOR UNACCEPTABLE SOLID WASTE, UPDATING CART REQUIREMENTS, TO ADD A SUBSECTION ON USING THE RECYCLING CART, AND UPDATE REQUIREMENTS FOR CART PLACEMENT; AMENDING SECTION 9-1-8, “CATEGORIES OF SERVICE BY TYPE, FREQUENCY AND COST,” TO REMOVE THE PROCESS FOR TRANSITION TO USING CARTS, TO REMOVE THE OPTION OF TWICE-WEEKLY CURBSIDE TRASH SERVICE, TO DELETE DEFINITIONS OF WASTE SERVICES, AND REMOVE THE FEE SCHEDULE; AMENDING SECTION 9-1-13, “UNCOLLECTED SOLID WASTE AND TRASH DECLARED A NUISANCE,” TO CLARIFY WHEN A NUISANCE EXISTS FOR UNCOLLECTED WASTE; AMENDING SECTION 9-2-4, “APPROVAL FOR LICENSE ISSUANCE; INSURANCE REQUIRED,” SUBSECTION C TO UPDATE INSURANCE REQUIREMENTS; AMENDING SECTION 9-2-7, “LICENSE EXPIRATION,” TO STATE THAT A WASTE COLLECTOR’S LICENSE MAY BE EXTENDED BY AGREEMENT; AMENDING SECTION 9-2-11, “WASTE MANAGEMENT RESTRICTIONS,” TO UPDATE REFERENCES TO CARTS AND CONTAINERS AND CLARIFY INFORMATION TO BE PROVIDED ON EACH; ADDING SECTION 9-3-5, “SCAVENGING PROHIBITED”; REPEALING SECTION 9-5-1, “APPROVAL BY STATE AGENCIES”; REPEALING SECTION 9-6-1, “EFFECTIVE DATES”; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JENKS, OKLAHOMA:

SECTION I. Section 9-1-3, “Definitions,” shall be amended to add the following definitions for carry-out service, cart, commercial waste container, elderly/disabled service, extra waste service, recycling cart, solid waste cart, and weekly curbside cart service; to amend the definition of recyclable material to read as follows; and to delete the definition of suitable container:

“*Carry-out Service* means any other category of collection service carried by the licensee more than four (4) feet, as allowed under Section 9-1-7(H), but not more than one hundred (100) feet from an accessible street or alley designated by the licensee. The fee for such service shall be charged at a multiple of one and a half (1.5) times the normal rate. Such carry-out fee multiplier may be waived for disabled customers in accordance with the provisions of the Elderly/Disabled Service, below.”

“*Cart* means a receptacle of sturdy construction provided by the City, or its licensee, equipped with wheels, a bar and a tightly-fitted cover and specifically designed for an automated or semi-automated collection system. Carts have a capacity of ninety (90) to one hundred (100) gallons and are capable of supporting a carry weight of one hundred fifty (150) pounds and of holding impervious material.”

“Commercial Waste Container means any receptacle from which or in which commercial solid waste is collected by commercial waste collectors.”

“Elderly/Disabled Service means weekly curbside cart service (yard waste included in cart) and carry-out services combined. Application for elderly/disabled waiver must be made on a form supplied by the City Manager and according to criteria established by Administrative Rule which shall include but not be limited to significant physical mobility impairment and/or income level established at the poverty level by the U.S. Government and where the youngest person in the household shall be at least sixty-five (65) years of age, unless otherwise disabled. The City Manager is authorized and directed to use such available sources, such as but not limited to, governmental agencies and volunteer groups in order to verify the information contained on the application form.”

“Extra Waste Service (non-food waste outside of cart) means an additional collection in excess of the contents of the cart consisting of bags or bundles of yard wastes or other non-food waste in the amount of three plastic bags or bundles of waste per collection.”

“Recyclable Material means components of solid waste that can be collected, separated, or processed and returned to the economic mainstream in the form of materials or products including, but not limited to the following:

- (1) Cardboard, newspaper, magazines, graded paper, mixed office paper, wood;
- (2) Clear and brown- or green-colored glass bottles and jars;
- (3) Durable and non-durable plastics, including plastic polyethylene terephthalate #1 (PET) and high-density polyethylene #2 (HDPE); #5 (PP)
- (4) Metals, including aluminum, copper, steel, bi-metals and ferrous metals; and
- (5) Any other materials or substances identified as recyclable by the City Manager.

Recyclable Material does not include styrofoam; garbage; batteries; light bulbs; yard waste; ceramics; window glass; drinking glasses; plastic bags; toys; garden hoses; electronics; clothing; paint; lubricants; hazardous waste, as defined by federal and state regulations to include waste that poses substantial or potential threat to public health or the environment or any solid waste item the City’s recycler does not accept as recyclable.”

“Recycling Cart means a cart with a yellow lid in which only recyclable material may be placed.”

“Solid Waste Cart means a cart with in which only acceptable, residential solid waste material may be placed.”

“Weekly Curbside Cart Service (yard waste included in cart) means curbside collection service one time per week per household utilizing a cart not to exceed one hundred (100) gallons of trash and yard waste. An approved cart will be provided by the licensee. *Yard Wastes* means yard clippings and trimmings originating from the premises either bundled with dimensions not exceeding twenty-four (24) inches by forty-eight (48) inches when secured with twine, in bags not to exceed thirty (30) gallons in volume or fifty (50) pounds, or contained in an approved cart; bags or a bundle shall not exceed fifty (50) pounds in weight.”

SECTION II. Section 9-1-7, “Requiring Accumulation of Solid Waste in Approved Containers,” shall be amended to read as follows:

“Sec. 9-1-7. - Requiring Accumulation of Solid Waste in Approved Carts or Commercial Waste Containers.

- (A) No person shall deposit or place any solid waste or trash in an alley, street or other public place within the City of Jenks, Oklahoma, nor shall any person deposit or place it upon private property, whether owned by such person or not, within the limits of the City of Jenks, unless the same shall be enclosed in a suitable cart or commercial waste container.
- (B) Carts and commercial waste containers shall be located at a single place on each premises, which place shall be easily accessible to the street or alley from which the collections are made. All carts and commercial waste containers not accessible from the alley and that have to be reached from the street must be set back at least twenty-five (25) feet from the curb except on days of collection. The city reserves the right to refuse to collect solid waste and recyclable material from carts and commercial waste containers which are not easily accessible or do not meet the requirements of this chapter.
- (C) Carts and commercial waste containers shall not be located directly under downspouts or eaves where they will be deluged with water during storms.
- (D) The lid on carts and commercial waste containers shall be in a fully closed position. No unacceptable solid waste or hazardous waste shall be placed in any carts or commercial waste containers.
- (E) Only recyclable materials may be placed in the recycling cart. Recyclable materials shall be placed loosely in recycling carts in a manner that does not impede the free flow of materials from the cart when it is being emptied. Program recyclable materials placed outside of the recycling cart will not be serviced. Placing any item or substance that is not a program recyclable material in a recycling cart is prohibited. The collector will not collect anything from a recycling cart in which a non-recyclable material has been placed. Recycling carts that are continuously or repeatedly contaminated by items or substances that are not recyclable materials will be removed as provided in this chapter.
- (F) Yard waste originating from the premises shall be contained within a thirty (30) gallon plastic bag or twenty-four (24) inch by forty-eight (48) inch secured bundle unless placed in a solid waste cart. The weight of a bag or bundle shall not exceed fifty (50) pounds.
- (G) All solid waste originating from commercial establishments and institutions shall be placed in a metal dumpster type container with lid unless at the customer’s option three solid waste carts are sufficient to hold the quantity of solid waste accumulated between collections, in which case the customer shall be classified as residential.
- (H) On the day of collection, plastic bags, bundles or carts shall be placed within four (4) feet of the curb of the street with arrows on lids pointing toward the street.”

SECTION III. Section 9-1-8, “Categories of Service by Type, Frequency and Cost,” shall be amended to remove subsection B, which described the process residents needed to follow when the City began using carts; delete a provision stating a deposit will be reimbursed; remove the option of twice-weekly curbside trash service; delete definitions of waste services which were moved to the definitions section; and remove the solid waste and recycling charges, taxes, and fee schedule (which shall be set by resolution going forward). It shall be amended to read as follows:

“Sec. 9-1-8. - Categories of Service by Type, Frequency and Cost.

- (A) The City Council may prescribe suitable and proper arrangements for the collection and disposal of all solid waste at regular intervals of not less than once each week.
- (B) The City Council shall fix and publish a schedule of fees to be charged for the collection and disposition of solid waste, and upon the fixing thereof, the fee shall be paid at regular intervals of once each month, included on the JPWA utility bill for residential water users. Non-JPWA residential water customers and apartment residents with individual solid waste service but who do not have individual water meters, shall be sent a separate billing statement and, in addition to their regular monthly billing, shall be required to pay a \$20.00 deposit (to be assessed at \$2.00 per month on their regular billing until such deposit is collected in full). Such deposit shall be used to offset nonpayment or as a credit on the close out of an account. Upon such non-JPWA water user commencing water service from JPWA, any deposit funds shall be credited to the customer's future billings.

The City Council may, at any time, by a majority vote, revise and change the schedule of fees, if at any time, in their opinion, the need warrants and justifies, provided that the revised schedule of fees shall not take effect until 30 days after the same shall have been approved. All fees as herein provided shall be paid to the Jenks Public Works Authority and payment so made shall be to the City Clerk or other designated representative(s) of the JPWA.

The following categories of residential solid waste collection shall be available:

- (1) Weekly Curbside Cart Service.
 - (2) Extra Waste Service.
 - (3) Carry-out Service.
 - (4) Elderly/Disabled Service.
- (C) A penalty fee of one dollar (\$1.00) shall be assessed for each bag or bundle of solid waste left outside a roll-out cart in excess of the amount allotted to a customer pursuant to their service agreement and for each time a roll-out cart is improperly loaded (i.e. excess weight or improper substances in roll-out cart), placed beyond service distance or disposing of food items outside the roll-out cart. Each category is a separate penalty and shall be subject to a penalty fee of one dollar (\$1.00).

In the event of such excess waste or improper loading or improper placement of the roll-out cart, the solid waste collector may leave a notice with the customer. The form of the notice to be approved by the City Manager. The collector shall provide a copy of such notice to the Jenks Public Works Authority for its monthly billing purposes. The City Manager is authorized to require a collector to take photographs of such alleged violations to verify violations. If the violations are confirmed by the City Manager or his/her designee, the customer violating the terms of this article shall be assessed one dollar (\$1.00) for each photo taken, to be reimbursed by the collector.

In the event a customer or collector is dissatisfied with a ruling by the City Manager or designee of the existence or non-existence of a violation, such party shall have the right to appeal such decision to the Jenks City Council by giving written notice of such request to the Jenks City Clerk within ten days after notification of such decision.”

SECTION IV. Section 9-1-13, "Uncollected Solid Waste and Trash Declared a Nuisance," shall be amended to read as follows:

"Sec. 9-1-13. - Uncollected Solid Waste and Trash Declared a Nuisance.

(A) It is unlawful for any owner, occupant or other person in charge of any lot, tract of ground or other premises in the city to allow any solid waste to accumulate thereon or to permit water or other substances susceptible to putrefaction, whether animal, fruit or vegetable or other organic material, to so accumulate as to cause an offensive odor to be emitted therefrom or to cause a condition dangerous to the health of any person. The accumulation of solid waste in carts or commercial waste containers uncollected or dumped in the open shall be declared a nuisance."

SECTION V. Section 9-2-4, "Approval for License Issuance; Insurance Required," subsection C shall be amended to reference State statutory guidelines for insurance for waste collectors and shall read as follows:

"Sec. 9-2-4. - Approval for License Issuance; Insurance Required.

...

- (C) Waste collectors shall procure and maintain in full force and effect an insurance policy or policies under a comprehensive form to insure all vehicular liability as well as operations other than vehicular, as follows:
- (1) The amounts of insurance shall be no less than the minimum amount of liability specified in State law for government agencies, municipalities and public trusts, to wit: Title 51 O.S. Section 154 as the same may be amended from time to time.
 - (2) This policy or policies shall also protect the City of Jenks and the JPWA and their respective officers, agents and employees, as additional insured; provided, however, that this shall not create or be deemed to create any liability on the part of the City of Jenks or the JPWA.
 - (3) At the time of payment of the fee for a waste collector's license, the approved applicant shall present to the City of Jenks a certificate of insurance on a form approved by the city and issued by an insurance company licensed to do business in the state of Oklahoma.
 - (4) The license holder shall maintain the above described types and amounts of insurance in force throughout the license period.
 - (5) All certificates of insurance shall contain a statement that at least ten (10) days advance written notice of cancellation shall be given by the insurer to the City Clerk.
 - (6) If any licensed waste collector, within ten (10) days of notice of cancellation of insurance, shall fail to provide another policy of like kind, then the waste collector's license shall be revoked immediately."

SECTION VI. Section 9-2-7, "License Expiration," shall be amended to add a provision stating a waste collector's license may extend longer than five years, as previously stated, if agreed in writing between JPWA and the residential waste collector. It shall be amended to read as follows:

"Sec. 9-2-7. - License Expiration.

(A) Every residential or residential-commercial waste collector's license shall be issued for a period not to exceed five years unless otherwise agreed in writing between JPWA and

residential collector; and commercial-only waste collector's license shall be issued for a period not to exceed one year. Each license may be renewable upon application and the payment of the application fees as are required for any initial issuance. Application for renewal shall be made at least 180 days prior to renewal for five-year licenses, and at least 30 days prior to renewal for one-year licenses. The City of Jenks shall act on applications for the issuance of a license within 30 calendar days of the date of application.”

SECTION VII. Section 9-2-11, “Waste Management Restrictions,” shall be amended to update references to carts and containers and clarify information to be provided on each. It shall be amended to read as follows:

“Sec. 9-2-11. - Waste Management Restrictions.

(A) *Cart or Commercial Waste Container Identification.* A waste collector shall display on each cart or commercial waste container provided by the licensee, a business name, trade name or license number and serial number which shall sufficiently identify the licensee providing waste collection services to the establishment using or owning the waste cart or commercial waste container. Characters, letters and numbers displaying the foregoing information shall be applied in such a way so as to become permanent.

...

(D) *Waste spills.* No person shall collect, remove or transport any solid waste, including hazardous waste, in a manner so as to scatter or spill such waste, either at the point of collection or while transporting the same for disposal. Any solid waste which is scattered or spilled at any location other than the disposal site shall be immediately retrieved and removed in its entirety. Immediately after collection, carts or commercial waste containers which had been used to store solid waste shall be closed, and each lid or cover shall be reasonably secured.”

SECTION VIII. Section 9-3-5, “Scavenging Prohibited,” shall be added and shall read as follows:

“Sec. 9-3-5. – Scavenging prohibited.

(A) It shall be unlawful for any person not authorized by the City or the authority to remove, collect or disturb the solid waste or program recyclable materials set out for collection and disposal. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.”

SECTION IX. Section 9-5-1, “Approval by State Agencies,” shall be repealed.

SECTION X. Section 9-6-1, “Effective Dates,” shall be repealed

SECTION XI. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

SECTION XII. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby expressly repealed.

Approved this 6th day of May 2019.

CITY OF JENKS, OKLAHOMA



MAYOR

SECTION XIV. Since the immediate operation of the provisions of the Ordinance is necessary for the preservation of public health, welfare and safety, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage by the City Council.

Emergency Clause approved separately this 6th day of May 2019.

CITY OF JENKS, OKLAHOMA



MAYOR

Attest:



CITY CLERK

Approved as to form:



CITY ATTORNEY