

ARTICLE II. COLLECTION*

*Annotations--Where an ordinance regulating garbage removal does not directly affect a party, he will not ordinarily be permitted to challenge its constitutionality on the ground that it may operate to deprive other persons of their constitutional rights.*Urbach v. Omaha* , 101 Neb 314, 163 NW 307 (1917).

Garbage lacks in a sufficient value to form the basis of a vested property right so as to authorize a court of equity to enjoin the enforcement of a penal ordinance regulating its disposal.*Urbach v. Omaha* , ibid.

Ordinance prohibiting the sale of garbage for health reasons is not taking of property without just compensation.*Urbach v. Omaha* , ibid.

DIVISION 1. GENERALLY

Sec. 33-21. Collection and disposal required; applicability of article.

The collection, removal and disposal of solid waste within this city under the provisions of this article is hereby made compulsory and universal for the maintenance of the health and sanitation of the city.

(Code 1980, § 33-21; Ord. No. 33156, § 1(33-21), 2-1-94)

Sec. 33-22. Supervision of collection and disposal.

The public works director shall have supervision over the collection of solid waste within the city and shall have supervision and control of the manner of solid waste disposal which may be established by the city.

(Code 1980, § 33-22; Ord. No. 33156, § 1(33-22), 2-1-94)

Sec. 33-23. Authority of city to provide for removal and disposal.

The city shall have the power to buy, maintain or lease and operate equipment for the removal and disposal of solid waste within the city and/or to enter into contracts or require individuals and businesses to provide for such services.

(Code 1980, § 33-23; Ord. No. 33156, § 1(33-23), 2-1-94)

Sec. 33-24. Duty to provide refuse containers; use of containers.

It shall be the duty of every person in possession, charge or control of any premises whatsoever

within the city where solid waste is created or accumulated, at all times, to keep or cause to be kept containers conforming to the provisions of this division for the deposit therein of solid waste and to deposit or cause to be deposited the same therein.

(Code 1980, § 33-24; Ord. No. 33156, § 1(33-24), 2-1-94)

Sec. 33-25. Frequency of service.

Except as otherwise provided in this article and other ordinances, and except in the case of emergency arising from an act of God or under circumstances over which the public works director has or had no control, solid waste shall be collected, removed, and disposed of at least once a week.

(Code 1980, § 33-25; Ord. No. 33156, § 1(33-25), 2-1-94)

Sec. 33-26. Disposal of industrial wastes.

(a) Industrial waste shall be collected, removed, and disposed of by the operator of the factory, plant, or enterprise creating or causing the same in accordance with applicable ordinances, and with regulations not in conflict therewith to be promulgated by the public works director and approved by the city council.

(b) Industrial waste shall be transported by and at the expense of the owner thereof to the point of disposal designated by the public works director.

(Code 1980, § 33-26; Ord. No. 33156, § 1(33-26), 2-1-94)

Cross references: Use of public sewers, § 31-51 et seq.

Sec. 33-27. Disposal of building rubble and demolition debris.

Building rubble and demolition debris shall be collected, removed and disposed of by the contractor or builder, or, in the event of their failure, by the owner of the property, in accordance with applicable ordinances and with regulations not in conflict herewith to be promulgated by the public works director and approved by the city council. It shall be unlawful to place building rubble or demolition debris on land in a manner which conforms to the definitions of filling, bank stabilization or salvage material storage without first notifying the health director and receiving the written authorization of the health director, planning director and public works director or their authorized representatives. If such authorization is denied, the authorization may be granted by resolution of the city council at the request of the party seeking such authorization. Building rubble and demolition debris placed on land in a manner not constituting filling, bank stabilization or salvage material storage shall be done in conformity with section 33-101 et seq. Any placement improperly made shall be immediately removed at the direction of the health director.

(Code 1980, § 33-27)

Cross references: Building, ch. 43.

Sec. 33-28. Violations.

It shall be unlawful to place solid waste at times, places, in containers or in amounts not conforming to the specifications of this chapter. In addition to any other lawful remedy for such violations, the city may

refuse collection of such solid waste and collect excess amounts as litter subject to special assessment.

(Ord. No. 33156, § 1(33-28), 2-1-94)

Sec. 33-29. Prohibitions on collection of recyclables.

All recyclables placed on city right-of-way at the curb area are the property of the city or its authorized agent. It shall be a violation of this section for any person unauthorized by the city to collect or pick up, or cause to be collected or picked up, any such recyclables or recycling receptacles.

(Code 1980, § 33-29; Ord. No. 33738, § 2, 12-12-95)

Sec. 33-30. Collection by city.

The city collector of solid waste may, as directed by the city, collect, as specifically provided below in this article, solid waste, including yard waste and separated recyclables, from residential units. The city collector of solid waste may, as directed by the city, collect only solid waste and separated recyclables, as specifically provided below in this article, from group dwelling units, but only when such group dwelling units have the special collection permit provided for below. The city collector of solid waste shall not collect solid waste from commercial establishments as defined in this article.

Collection of solid waste from group dwelling units will occur only where there has been granted, following application, a special collection permit for such group dwelling unit. The permit will be granted only where it is established that conditions set by the city have been met.

(Ord. No. 33738, § 3, 12-12-95)

Secs. 33-31--33-40. Reserved.

DIVISION 2. CONTAINERS*

***Cross references:** Rubbish storage facilities for dwellings, § 48-96.

Sec. 33-41. Required.

Every person producing or having solid waste within the city shall provide and keep on the premises or property occupied or used by such person a sufficient number of solid waste containers to handle all the accumulation of solid waste on such premises or property in the interval between private collections or collections by the city, subject to the limitations contained in this division.

(Code 1980, § 33-41; Ord. No. 33156, § 1(33-41), 2-1-94)

Sec. 33-42. Specifications generally.

(a) Containers for the collection of solid waste shall:

- (1) Be of galvanized metal or rigid plastic of a substantial construction, watertight, with tight-fitting metal or plastic covers, and kept in good, serviceable condition, and covered at all times, and easily handled by one man; and
- (2) Have a capacity of not less than ten and not more than 32 gallons, and shall be provided with handles sufficient for safe and convenient emptying; and
- (3) Not exceed the total weight of 45 pounds each when full; or
- (4) Be plastic bags made of clear or see-through capability polyethylene, securely tied, a minimum of 13 gallons in capacity and a minimum of 1.0 mil thick, with a total weight not to exceed 30 pounds; or
- (5) Be special composite bags used with mechanical household compactors for the purpose of densifying solid waste, with a total weight when full not to exceed 45 pounds.

(b) Containers for collection of recyclables shall be bins supplied by the city collector of solid waste.

(c) Containers for private collection may be larger and heavier than specified above. Pursuant to R.R.S. 1943, §§ 71-1501--71-1511, inclusive, the public works director is authorized to approve the collection of solid waste from multifamily housing facilities of the housing authority of the city by the use of containers which are larger and heavier than specified above, provided the city collector of solid waste approves and the weight for each single-family unit does not exceed 600 pounds per week.

(d) A solid waste container for private collection with capacity of five cubic yards or more shall not be used or maintained on a property for more than 30 days in any one-year period; provided, that such prohibition shall not apply to the following exceptions:

- (1) Such prohibition shall not apply to lawful solid waste containers permanently used or maintained for regular weekly solid waste collection on the property.
- (2) A solid waste container with capacity of five cubic yards or more shall be allowed on a construction site during the period in which a building permit for such site is active.
- (3) A solid waste container with capacity of five cubic yards or more may be used or maintained on a property for a period of more than 30 days in any one-year period if the planning director, upon receipt of a written request from the property owner setting forth a hardship or difficulty justifying an extension of time, consents in writing to such extension of time.

(Code 1980, § 33-42; Ord. No. 33738, § 4, 12-12-95; Ord. No. 37505, § 1, 10-17-06)

Sec. 33-43. Nonconforming or dangerous containers.

Any solid waste container that does not conform to the provisions of this division, or that may have ragged or sharp edges or any other defect liable to hamper or injure the persons collecting the contents thereof, must be promptly replaced by a proper container, and any nonconforming or defective container may be collected and disposed of by the city as solid waste, after reasonable effort has been made to provide written notice to the person in question.

(Code 1980, § 33-43; Ord. No. 33156, § 1(33-43), 2-1-94)

Sec. 33-44. Yard waste containers generally.

Containers for collection of yard wastes shall be only:

- (a) Paper bags with a wet strength of 50 pounds or greater; or
- (b) Rigid containers, meeting the specifications of this division for solid waste containers, but with a total weight not exceeding 45 pounds when full, and marked on opposing sides with "YW" with a minimum height of four inches, or marked with a removable tag, placed and constructed so as to not constitute a hazard to the person collecting the refuse, attached to the container and bearing the same "YW" of the same minimum size; provided that no solid waste is commingled with yard waste in such container.

(Code 1980, § 33-44; Ord. No. 33381, § 1, 9-20-94)

Sec. 33-45. Yard waste bags.

Paper bags to be used for yard waste collection under the provisions of this article shall be of durable construction, closed without the use of plastic or metal ties, and a minimum of 20 gallons and maximum of 35 gallons in capacity, with a total weight, when full, not to exceed 40 pounds.

(Code 1980, § 33-45; Ord. No. 33738, § 5, 12-12-95)

Sec. 33-46. Maximum amount of waste set out for collection.

- (a) Each residential unit shall be limited to a maximum of five rigid containers or bags meeting the specifications for solid waste containers for collection by the city.
- (b) Where solid waste exceeds the amount established by this section, and such excess is not due to the failure of the city to make collections as provided herein, the public works director may require the tenant of such property or the owner or operator of the same to collect, remove and dispose of such excess; provided that such regulation shall be applicable to all such tenants, owner or operators without discrimination. However, each single unit with eight or more permanent inhabitants will be allowed to exceed the solid waste limit established herein upon presentation to the city public works director of reasonable proof of the number of inhabitants actually residing at such residence. Such requests for the use of extra containers will be granted or denied in writing, and all granted requests shall state the exact number of solid waste containers allowed. A written statement by at least one responsible resident at the specific location, signed and notarized, shall create a rebuttable presumption that such residence is entitled to the exemption provided for herein. Such exemption shall be revoked upon evidence of a failure to properly place recyclables in bins as provided in this article.
- (c) An unlimited amount of properly prepared recyclables may be set out for collection.
- (d) An unlimited number of paper bags or properly marked containers holding yard waste may be set out for yard waste collection.

(Code 1980, § 33-46; Ord. No. 33738, § 6, 12-12-95)

Sec. 33-47. Reserved.

Sec. 33-48. Solid waste may not be commingled.

Yard waste and other materials banned from landfills by state law shall not be placed in the same container with solid waste nor shall they be collected in the same truck unless the truck is equipped with separate compartments for such banned materials.

(Code 1980, § 33-48; Ord. No. 33156, § 1(33-48), 2-1-94)

Sec. 33-49. Location for collection.

(a) For collection by the city collector of solid waste, bags and containers, including those containing recyclables, shall be placed by 6:00 a.m. on the regularly scheduled collection day as follows:

(1) In the case of a residential unit which does not abut a paved or approved alley, outdoors within five feet of the curb or apparent traveled way of the street, but not on the traveled way or pavement. In the case of a residential unit which does abut a paved or approved alley, bags or containers shall be placed outdoors within five feet of the curb or apparent traveled way of the alley, but not on the traveled way or pavement. Bags or containers shall not be placed in such a way as to obstruct the sidewalk. Where it is impractical due to the physical condition of the site to place the bags and containers within such five-foot area, they shall be placed as close as practical to such five-foot area.

(2) Disabled persons, as approved by the city, may place bags and containers near the front door or back door (but within 25 feet of the back door), or near an alley if paved or approved.

(b) Except on the regularly scheduled collection day, 5:00 p.m. on the day preceding it and the period up to 10:00 a.m. of the day following such collection day, bags and containers shall not be located on public right-of-way.

(c) Solid waste containers for private collection shall not be kept on the public right-of-way at any time unless access to them is impractical when kept off the public right-of-way. Such containers shall never be located in a way which will obstruct the traveled portion of public right-of-way.

(d) As used in this article, the following words and expressions shall have the following meanings:

Approved alley: An alley which meets or exceeds the following minimum standards:

- (1) The alley shall have four inches of 1 1/2-inch size crushed rock graded surfacing or an equivalent thickness.
- (2) The alley must have a ten-foot minimum width clearance.
- (3) The alley must drain properly.
- (4) The alley must have a 13-foot overhead clearance.

Commercial establishments: Shall be defined as commercial businesses, industrial establishments, schools, hospitals, city facilities and charitable institutions, or as designated by the public works director.

Disabled: Shall mean any person who, by advanced age or otherwise, lacks competent power, strength, or physical or mental ability to move solid waste containers of the type specified in this article, and who resides with no other person able to move such containers. Such disability shall be established by

application to the public works department directly or in care of the city collector of solid waste. If the public works department determines the applicant does not meet the definition of disabled, the applicant may prove the same by the written statement of a licensed physician.

Easily accessible: Shall mean that the city collector of solid waste must be able to park the collection vehicle within 20 feet of a single location, and the collector must be provided with a minimum four-foot-wide unobstructed walkway to the containers and bags.

Group dwelling unit: Hotels, motels, boardinghouses or lodginghouses, or apartment complexes, all of which have living quarters for five or more family units.

Paved alley: Any alley covered with concrete, bricks or asphalt and having a minimum overhead clearance of 13 feet and a minimum ten-foot width clearance.

Recyclable or recyclable material: Any material that has been identified as part of the recycling program by the city.

Residential unit: Shall mean a building or portion thereof, including a house, townhouse, as defined in chapter 55, trailer or mobile home used as a living quarters for one family unit, but not including group dwelling units.

Solid waste: Garbage and rubbish, except yard waste, sewage, dirt, and manure, from all public and private establishments and residences.

Yard wastes: Accumulations of grass or shrubbery cuttings, leaves, and other organic materials generated as a result of care of lawns, shrubbery, vines, and gardens; including but not limited to grass clippings, leaves, and tree branches and parts with diameters less than two inches.

(Code 1980, § 33-49; Ord. No. 33738, § 7, 12-12-95)

Secs. 33-50--33-60. Reserved.