



ORDINANCE NO. 3360

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH, CHAPTER 66 “SOLID WASTE,” BY AMENDING SECTION 66-1 “DEFINITIONS” TO AMEND THE DEFINITIONS OF “GARBAGE” AND “TRASH” AND ADD DEFINITIONS FOR THE PHRASES “DISPOSABLE REFUSE CONTAINER,” “RECYCLABLE MATERIALS,” AND “RECYCLING CONTAINER;” SECTION 66-3 “DEPOSITING GARBAGE, TRASH AND OTHER MATTER ON STREETS, VACANT LOTS AND OTHER PUBLIC OR PRIVATE PREMISES” TO INCLUDE PLACEMENT OF MATERIALS IN A DISPOSABLE CONTAINER AS A DEFENSE; SECTION 66-4 “DEPOSITING TRASH, GARBAGE, OTHER WASTE MATERIALS OR RECYCLABLE MATERIALS ON OR IN A COMMERCIAL OR BUSINESS CONTAINER” AND SUBSECTION (a) OF SECTION 66-6 “APPLICATION FOR PERMIT” TO INCLUDE RECYCLABLE MATERIALS; SUBSECTION (B) OF SECTION 66-7 “ANNUAL FEE” TO DELETE OUTDATED LANGUAGE; AMENDING IN ITS ENTIRETY ARTICLE II “COLLECTION AND DISPOSAL” RELATING TO THE REGULATIONS FOR COLLECTION AND DISPOSAL OF GARBAGE AND TRASH; AND AMENDING SAID CHAPTER 66 BY ADDING A NEW ARTICLE III TITLED “COLLECTION OF RECYCLABLE MATERIALS” PROVIDING REGULATIONS FOR THE COLLECTION OF RECYCLABLE MATERIALS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR PENALTY OF FINE UP TO \$500.00; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined it to be in the public interest to provide for the collection of recyclable materials and to establish specific requirements for the use of disposable refuse containers with respect to the collection and disposal of garbage and trash for residences within the City; and

WHEREAS, the City Council of the City of Farmers Branch finds it to be in the public interest and necessary for the preservation of public health and safety within the City of Farmers Branch to amend the Code of Ordinances to provide for regulations of the above referenced activities.

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

SECTION 1. Chapter 66 “Solid Waste”, Article I “In General” of the Code of Ordinances of the City of Farmers Branch is amended as follows:

- A. Section 66-1 “Definitions” is amended by amending the definition of the words “Garbage” and “Trash” to read as follows:

Garbage means 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.

Trash means rubbish such as paper, boxes, grass, shrubs, yard cleanings, yard clippings, leaves, tree trimmings, weeds, hedge trimmings, and tree trunks and tree limbs cut in lengths not exceeding ten feet, and any other nonputrescible material or object which is discarded or thrown away.

- B. Section 66-1 “Definitions” is amended by adding definitions for the phrases “disposable refuse container,” “recyclable materials,” and “recycling container” to read as follows:

Disposable refuse container means plastic or paper bags with a volumetric capacity of not less than 13 gallons nor greater than 39 gallons or cardboard boxes with closed lids which are intended to be removed from the right of way and placed into the collection vehicle and not returned to the location where collected.

Recyclable materials means materials that have been recovered or diverted from the nonhazardous waste stream for purposes of reuse, recycling, or reclamation. Recyclable materials are not solid waste; however, a recyclable material may become solid waste if abandoned or disposed of rather than recycled, at which time the material will become solid waste only with respect to the party actually abandoning or disposing of the material.

Recycling container means a 65 gallon or 95 gallon rollout cart with functional wheels and closable lid provided by the City or its franchisee.

- C. Section 66-3 “Depositing Garbage, Trash and Other Matter on Streets, Vacant Lots and Other Public or Private Premises” to read as follows:

Section 66-3 Depositing garbage, trash, recyclable materials and other matter on streets, vacant lots and other public or private premises

It is unlawful for any person to sweep, throw or deposit any garbage, trash, dirt, concrete, rocks, stagnant water or dead animals into, upon or along any drain, gutter, alley, sidewalk, street or vacant lot, or upon any public or private premises within the corporate limits of the city. It shall be a defense to a violation of this section if the described materials are deposited into a recycling container or disposable refuse container or in a manner as authorized by Section 66-41.

- D. Section 66-4 “Depositing Trash, Garbage, and Other Waste Materials on or in a Commercial or Business Container” is recaptioned and amended to read as follows:

Sec. 66-4. Depositing recyclable material, trash, garbage, or other waste materials on or in a commercial or business container.

It is unlawful for any recyclable material, garbage, trash, other waste material, or any injured or dead animal to be deposited, thrown or swept into, on, in or alongside a trash container which is provided for a business or establishment, by any person who is not the owner, operator, occupier, person in control, agent or employee of such business or establishment for which the container is provided.

- E. Subsection (a) of Section 66-6 “Application for Permit; Expiration” is amended to read as follows:

- (a) To obtain a solid waste and/or recyclable materials collection permit, a person must submit an application on a form provided by the director of finance or designee. The applicant must be the person who will own, control, or operate the proposed collection service.

- F. Subsection (b) of Section 66-7 “Annual Fee” is amended to read as follows:

- (b) The permit holder shall remit the annual fee quarterly to the city's finance department, on or before the 30th day of April, July, October, and January, based upon the revenues collected during the previous calendar quarter.

SECTION 2. Chapter 66 “Solid Waste”, Article II “Collection and Disposal” of the Code of Ordinances of the City of Farmers Branch, Texas, is amended in its entirety to read as follows:

Article II. Collection and Disposal

Sec. 66-36. - Duty of owner or occupant to provide containers.

Each owner, occupant, tenant or lessee using or occupying any building, house or structure within the corporate limits of the city, for residences, churches, schools, colleges, lodges, commercial businesses and other purposes shall provide and maintain containers of sufficient number and type, as specified in this article, to hold the garbage and trash that will normally accumulate on the premises.

Sec. 66-37. - Use of Disposable Containers for Garbage and Trash Collection; exception.

Each owner, occupant, tenant and lessee of each dwelling designed for occupancy by either one or two families shall provide or cause to be provided for each dwelling unit or residence disposable refuse containers. Only disposable refuse

containers may be used for the disposal and collection of garbage and trash, except in those cases where commercial containers are designated by the Director of Public Works or designee for use in apartment, commercial and other areas.

Sec. 66-38. - Use of Disposable Containers for Garbage and Trash Collection; exception.

Each owner, occupant, tenant and lessee of each dwelling designed for occupancy by either one or two families shall provide or cause to be provided for each dwelling unit or residence disposable refuse containers. Only disposable containers as defined by Sec. 66-1 may be used as garbage containers, except in those cases where commercial containers are designated by the Director of Public Works or his or her designee for use in apartment, commercial and other areas.

Sec. 66-39. - Residences to use approved disposable containers

The City will not collect garbage from any dwelling unit designed for use of either one or two families unless garbage is contained in disposable containers.

Sec. 66-40. - Use of disposable containers by churches, schools, offices or other establishments.

Disposable containers may be used by churches, schools, offices or any other establishment if the City Manager and/or the Director of Public Works or his or her designee shall find such use to be practicable, sanitary and not detrimental to the collection of such waste by the city.

Sec. 66-41. - Trash containers; weight; size of piles.

- (a) If trash is of such nature that it cannot be placed in disposable containers, it shall be placed in bundles or piles. The combined weight of the trash and bundle or container shall not be more than 50 pounds, and, on the day of trash collection, it shall be placed on the curb if pickup is made from the front of the building, or alongside the alley, or easement, wherever the garbage pickup is regularly made from the alley or alley easement. Tree limbs, tree trunks and hedge cuttings shall not exceed ten (10) feet in length and must be placed at the curb. If the weight of the tree limb(s) or tree stumps are greater than the operational capacity of the collection vehicle or the weight, size, or nature of the material creates an unsafe working condition, the Director of Public Works or his or her designee will request the material be reduced in size, weight, or reconfigured before collection of such materials occurs. Trash, garbage, or other waste materials which exceed the weight and/or size authorized by this section must be transported by the owner or resident to an appropriate facility for recycling or disposal.

- (b) It shall be unlawful to place out for collection by the City or any party authorized to collect trash or garbage for the City any trash or garbage which is not in compliance with this article.
- (c) If wastes or trash is collected by someone other than the City or a person or entity with whom the City has granted a franchise to provide solid waste or recycling collection, such collection shall occur using only containers approved by the Director of Public Works or his or her designee which are designed to prevent water from entering, wind from dispersing the wastes inside, any leakage, the escape of odors, and the entry of rodents and other animals.

Sec. 66-42. - Placing containers for collection

- (a) If the house, building or premises from which garbage is to be collected and removed is adjacent to an alley or easement designated for garbage collection, the owner, occupant, tenant or lessee of such premises shall place the disposable containers containing garbage or trash adjacent to the alley or easement so designated in a manner that provides easy accessibility to the collector from the outside of any fence or hedge that may surround the premises. If it is not practicable to collect and remove the garbage from an alley or easement, or if there is no alley or easement adjacent to the premises, the owner, occupant, tenant or lessee of the premises shall place the disposable container at the curblin, at the houselin so as to be visible from the street, or at such point on the premises that the Director of Public Works or his or her designee shall find and designate as being the most accessible for collecting and removing.
- (b) Disposable containers of garbage shall not be placed for pickup, excluding alley pickup, earlier than 6:00 p.m. on the day immediately preceding the day of collection. Residents with special considerations or physical limitations may be allowed individual exceptions to the time or location garbage is placed for pickup by the City, with prior written approval obtained from the Director of Public Works.

Sec. 66-43. - Waste from building operations.

Rock, waste, building materials and other trash resulting from building and remodeling operations will not be removed from a dwelling by the City's authorized solid waste collector, unless the material is placed in a container of sufficient size and strength to allow for bulky vehicle pickup. Otherwise, such waste shall be removed by the builder, owner or occupant of the building at his own expense.

Sec. 66-44. - Disposal of dead animals.

Dogs, cats or other dead animals shall not be placed in disposable containers.

Sec. 66-47. - Denial or delay of service.

The collection of a disposable container or other container the contents of which includes any corrosive, flammable, explosive, medical or other toxic or hazardous wastes may be delayed or denied until such items or materials are removed.

SECTION 3. Chapter 66 “Solid Waste” of the Code of Ordinances of the City of Farmers Branch, Texas shall be amended by adding a new Article III titled “Collection of Recyclable Materials” to read as follows:

Article III. - Collection of Recyclable Materials

Sec. 66-50. - Duty of owner or occupant to maintain recycling containers.

Each owner, occupant, tenant or lessee using or occupying any building, house or structure within the corporate limits of the city, who elects to place for collection recyclable materials shall maintain recycling container(s) of sufficient number to contain all recyclable materials (other than materials that are bundled and set out for collection pursuant to Section 66-53) that are placed for collection in accordance with this article.

Sec. 66-51. - Use of Recycling Containers for Garbage; exception.

Except as allowed pursuant to Section 66-53, each owner, occupant, tenant and lessee of each dwelling designed for occupancy by either one or two families who elects to use curbside or alley collection of recyclable materials shall place all recyclable materials in recycling containers. Only recycling containers as defined by Sec. 66-1 may be used, except in those cases where commercial containers are designated by the Director of Public Works or his or her designee for use in apartment, commercial and other areas.

Sec. 66-52. - Residences to use approved recycling containers.

No collection of recyclable materials by the City or anyone authorized by the City to collect recyclable materials from any dwelling unit designed for use of either one or two families shall occur unless such recyclable materials are contained in recycling containers as defined by Sec. 66-1.

Sec. 66-53. - Recycling containers; weight; size of piles.

Recyclable materials that are of such volume they cannot be placed in recycling containers shall be placed in bundles. On the day of recyclable material collection,

the bundled recyclable material(s) shall be placed next to the recycling container on the curb if pickup is made from the front of the building, or alongside the alley, or easement, wherever the recyclable material collection is regularly made from the alley or alley easement. Recyclable materials such as large cardboard boxes shall be broken down and/or cut up to a size where such materials are capable of being placed in a recycling container.

Sec. 66-54. - Placing recycling containers for collection.

- (a) If the house, building or premises from which the recyclable materials are to be collected and removed is adjacent to an alley or easement designated for garbage collection, the owner, occupant, tenant or lessee of such premises shall place the recycling container(s) containing recyclable materials adjacent to the alley or easement so designated in a manner that provides easy accessibility to the collector from the outside of any fence or hedge that may surround the premises. If it is not practicable to collect and remove the recycling container(s) from an alley or easement, or if there is no alley or easement adjacent to the premises, the owner, occupant, tenant or lessee of the premises shall place the recycling container(s) at the curblineline, at the houseline so as to be visible from the street or at such point on the premises that the director of public works or his or her designee shall find and designate as being the most accessible for collecting and removing.
- (b) Recycling containers shall not be placed for pickup earlier than 6:00 p.m. on the day immediately preceding the day of collection. Recycling containers shall be promptly removed from the point of collection, but no later than 9:00 a.m. on the day after service. Residents with special considerations or physical limitations may be allowed individual exceptions to the time or location recyclable materials are placed for pickup with prior written approval obtained from the Director of Public Works.
- (c) Except when placed for collection during the days and times authorized by subsection (b) of this section, for residences with curb side collection, recycling containers shall be stored in a manner where the recycling container is not visible from the street by placement of the recycling container (i) within an enclosed portion of the residence, (ii) behind a privacy fence, or (iii) behind a screening panel located no closer to the street than the farthest portion of the front façade from the street. Such screening panel shall consist of two (2) panels or walls not less than four feet (4.0') wide and four feet (4.0') tall connected in an L-shape and constructed of wood panels or pickets, masonry materials (e.g. stone, brick, or other material consistent with the existing materials of the residence), or other similar opaque materials, but which may not include lattice panels of any material or chain link fencing with plastic or vinyl

slat inserts.. For residences with alley collection, recycling containers shall be removed to a location that is closer to the house than the alley line.

Sec. 66-55. – Ownership of Recycling Containers

Title to and ownership of recycling containers provided to Residential Customers by the City or City’s authorized contractor shall not pass to any Residential Customer.

Sec. 66-56. - Damage or destruction of recycling container.

It shall be unlawful for a person to damage or destroy a recycling container.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. All provisions of the ordinances of the City of Farmers Branch reconcilably in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 7. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Five Hundred (\$500) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 8. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 15TH OF MARCH, 2016.

ATTEST:

APPROVED:

Amy Piukana, City Secretary

Bob Phelps, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:3/9/16:75160)