



ORDINANCE NO. 3572

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH BY AMENDING IN ITS ENTIRETY CHAPTER 66 “SOLID WASTE” RELATING TO REGULATION OF THE COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIALS WITHIN THE CITY; 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 amend certain regulations relating to the collection of solid waste and recyclable materials for residences within the City.

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

SECTION 1. The Code of Ordinances of the City of Farmers Branch is amended by amending Chapter 66 “Solid Waste” to read in their entirety as follows:

CHAPTER 66 – SOLID WASTE

ARTICLE I. – IN GENERAL

Sec. 66-1.- Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Brush means yard waste that is generally too large or otherwise impractical to place in the residential container and includes, but is not limited to, tree and/or bush branches, marsh plants such as cattails and tropical grasses such as bamboo and all other similar plant life, twigs and trimmings.

Bulk waste means large rubbish items including but not limited to household appliance, bicycles, furniture, rugs, mattresses, televisions, tree limbs, fence material and other similar items.

Director means the City Manager or designee.

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.

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.

Hotel, inn, motel, rooming houses and boarding houses mean places where the purpose is to furnish food and lodging, or either, to all who apply and pay therefor.

Premises means business houses, rooming houses, boarding houses, offices, theaters, hotels, motels, inns, restaurants, cafes, eating houses, trailer courts, tourist courts, tourist camps, apartments, hospitals, schools, private residences, vacant lots and all other places within the city where garbage, trash or rubbish accumulates in ordinary quantities.

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.

Regular collection day means the day(s) of the week established by the Director in conjunction with the City's contracted solid waste collector for the collection of garbage, rubbish, trash, brush, bulk waste, and/or yard waste.

Rollout container means 65 gallon or 95 gallon cart with functional wheels and closable lid provided by the city or its franchisee.

Rubbish means non-putrescible solid waste, such as waste wood products, tree trimmings, grass cuttings, leaves, paper, discarded mattresses, wire, glass, and scraps of metal.

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 non-putrescible material or object which is discarded or thrown away.

Yard waste means cut grass, leaves, small brush and tree trimmings.

Sec. 66-2. - Solid waste division—Created.

There is hereby created a solid waste division of the city which is hereby charged with the responsibility for the collection of recyclable materials and garbage, refuse and other waste matter from all dwellings and establishments within the limits of the city.

Sec. 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 recyclable materials, 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 cart or rollout container or in a manner as authorized by Section 66-41.

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.

Sec. 66-5. - Franchise for commercial collection required.

No person, firm, corporation, or other entity, excluding the city, may use the public streets, alleys, or thoroughfares within the corporate limits of the city for the purpose of engaging in the business of collecting or transporting garbage, solid waste, trash, or recyclable materials from commercial and industrial premises within the city without first having obtained a collection permit from the city.

Sec. 66-6. - Application for permit; expiration.

- (a) To obtain a solid waste and/or recyclable materials collection permit, a person must submit an application on a form provided by the City Manager. The applicant must be the person who will own, control, or operate the proposed collection service.
- (b) The permit application shall include the following information:
 - (1) The applicant's name, address and verified signature.
 - (2) The form of business of the applicant, and, if the business is a corporation or association, evidence of the authority of the person signing the application to represent the business.
- (c) Application for the permit shall be accompanied by a \$50.00 non-refundable processing fee.

- (d) The collection permit expires October 1 of each year and may be renewed by making application as provided in this section.

Sec. 66-7. - Annual fee.

- (a) The annual fee for the collection permit is an amount equal to ten percent of the gross receipts on all revenues and income collected from any source derived from the operation of the collection of garbage, solid waste, trash, or recyclable materials from commercial or industrial premises within the corporate limits of the city.
- (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.
- (c) The quarterly payment shall be accompanied by an income statement certified by the permit holder acknowledging compliance with this section.
- (d) Fee payments received after the due date shall be subject to interest at the rate of ten percent per annum until the fees are paid in full. In addition, delinquent fees shall be subject to a late payment penalty of five percent for each month or portion thereof that the fees are outstanding. In no event, however, shall the penalties exceed 25 percent of the total delinquent fees nor shall interest charged exceed the maximum rate allowed by law.

Sec. 66-8. - Requirement to furnish information.

The books and records of the permit holder shall be open at reasonable times for inspection by the City Manager in accordance with the terms of the ordinance from which this section derives.

Sec. 66-9. - Revocation of permit.

The Director may revoke a collection permit for the failure of the holder to provide required information, failure to pay fees or for making false statements on the application or quarterly report.

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 66-35 – Frequency and schedule of collection by the city and city contractors.

The frequency and schedule of residential collection of solid waste and recyclable materials shall be determined by the Director. The Director has the authority to revise the collection schedule as deemed necessary for holidays or other reasons determined to be in the best interest of the City.

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

- (a) 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.
- (b) Rollout containers provided to a residence by the city or the city's franchisee shall satisfy the requirements of Section 66-36(a). The rollout container provided by the city or the city's franchisee shall remain the property of the city or its franchisee and shall not be removed from the property to where the rollout container was originally delivered without the written consent of the city.

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

- (a) Except as provided in Sec. 66-37(b), 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 at least one disposable refuse container or rollout container.
- (b) Each owner, occupant, tenant and lessee of each dwelling designed for occupancy by either one or two families on property located within the boundaries of the Planned Development No. 99 Zoning District as described in Exhibits "A" and "B" of Ordinance No. 3429 as enacted on March 7, 2017, shall only use rollout containers for the placement of garbage for collection.
- (c) Except when placed for collection during the days and times authorized by this article for residences with curb side collection, rollout containers shall be stored in a manner where the rollout container is not visible from the street by placement of the rollout 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 facade from the street, such screening panel to consist of two panels or walls not less than four feet wide and four feet 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, rollout containers shall be removed to a location that is closer to the house than the alley line.

- (d) Subject to Section 66-37(b), all garbage placed for collection must be placed in a disposal refuse container or rollout container at the curb for collection.
- (e) Disposable refuse containers, rollout containers for garbage, and bulk waste shall not be placed for pickup earlier than 6:00 p.m. on the day immediately preceding the regular collection day. Rollout containers shall be removed from the point of collection not later than 9:00 a.m. on the day after the regular collection day. Residents with special considerations or physical limitations may be allowed individual exceptions to the time or location materials are placed for pickup with prior written approval obtained from the Director.
- (f) Garbage placed in rollout containers must be contained in disposable refuse containers to prevent the contents from falling out of the container while the container is awaiting collection or when picked up and emptied.
- (g) Any rollout container containing solid waste and weighing more than 200 pounds will not be serviced.
- (h) Rollout containers set out for collection shall be placed at least 12 inches from any fence, tree, gas or electric meter, utility pole, rollout container, other large object. Vehicles or trailers shall not be parked in a manner that prevents access to rollout containers, brush piles, or bulk piles.
- (i) Disposable refuse containers shall be closed and its contents secured to prevent the contents from falling out of the container while the container is awaiting collection or when picked up for collection.

Sec 66-38. – Accumulation of garbage.

No owner, lessee, or occupant of any residential unit shall permit the accumulation of any garbage on his or her premises, except in a disposable refuse container or rollout container as defined in Section 66-1.

Sec. 66-39. - Use of rollout carts by churches, schools, offices or other establishments.

Disposable refuse containers and rollout containers may be used by churches, schools, offices or any other establishment if the Director finds such use to be practicable, sanitary and not detrimental to the collection of such waste by the city or its franchisee.

Sec. 66-40. - Trash containers; weight; size of piles.

- (a) If trash is of such nature that it cannot be placed in disposable refuse containers or rollout 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 in front of the building. Tree limbs, tree trunks and hedge cuttings shall not exceed ten 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 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 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.
- (d) Rock, waste, building materials and other trash resulting from building and remodeling operations will not be removed from a dwelling by the City or 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. 66-41. - Disposal of dead animals.

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

Sec. 66-42. - Denial or delay of service.

The collection of a rollout cart 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.

Sec 66-43. Placing garbage refuse in another's rollout cart.

A person commits an offense if he places refuse in a rollout cart which he neither owns nor was provided by the city or its franchisee, when he does not have the permission of the owner or lessee of said rollout cart.

ARTICLE III. - COLLECTION OF RECYCLABLE MATERIALS

Sec. 66-50. - Duty of owner or occupant to maintain rollout carts for recycling.

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 rollout cart(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 rollout carts 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 rollout carts. Only recycling rollout carts as defined by Section 66-1 may be used, except in those cases where commercial containers are designated by the City Manager for use in apartment, commercial and other areas.

Sec. 66-52. - Residences to use approved recycling rollout carts.

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 rollout carts as defined by Section 66-1.

Sec. 66-53. - Recycling rollout carts; weight; size of piles.

Recyclable materials that are of such volume they cannot be placed in recycling rollout cart shall be placed in bundles. On the day of recyclable material collection, the bundled recyclable material(s) shall be placed next to the recycling rollout cart 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, flattened, and/or cut up to a size where such materials are capable of being placed in a recycling rollout cart.

Sec. 66-54. - Placing recycling rollout carts 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 rollout carts(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 rollout cart(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 rollout carts(s) at the curblines, at the houseline so as to be visible from the street or at such point on the premises that the City Manager shall find and designate as being the most accessible for collecting and removing.
- (b) Recycling rollout carts shall not be placed for pickup earlier than 6:00 p.m. on the day immediately preceding the day of collection. Recycling rollout carts 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 City Manager.
- (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 no closer to the street than the farthest portion of the front facade from the street. For residences with alley collection, recycling containers shall be removed to a location that is closer to the house than the alley line.

SECTION 2. 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 3. 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 4. 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 5. 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.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 4TH DAY OF JUNE 2019.

ATTEST:

APPROVED:

Amy Piukana, City Secretary

Robert C. Dye, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:5/29/19:102752)