



ORDINANCE NO. 3589

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE FARMERS BRANCH CODE OF ORDINANCES CHAPTER 56 “PROPERTY MAINTENANCE CODE”, BY AMENDING ARTICLE II, DIVISION 1, 2, 3, AND ARTICLE III, DIVISION 1; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmers Branch previously enacted Chapter 56 “Property Maintenance Code” to provide minimum standards and regulations to help safeguard and preserve life or limb, property and public welfare by regulating the use, occupancy and maintenance of all structures, buildings and properties within the city; and

WHEREAS, the City Council of the City of Farmers Branch finds it to be in the public interest to amend various sections of Chapter 56 “Property Maintenance Code”;

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

SECTION 1. Chapter 56 “Property Maintenance”, Article II “Health and Safety Requirements” of the Code of Ordinances of the City of Farmers Branch is amended as follows:

A. Section 56-25 “Penalty for violation of article” is amended by amending section (b) to read as follows:

(b) Civil penalties may be assessed by Municipal Court of Record No. 1 for failure to comply with a lawful order of the Municipal Court of Record No. 1 as established in division 2 of this article. Civil penalties shall be assessed in an amount not to exceed \$1,000.00 a day for a violation of an ordinance.

B. Section 56-44 “Enforcement procedures; notice, appeal and recovery of costs” is amended by amending subsections (b), (d), (e), and (f) to read as follows:

(b) Appeals of any determination of the enforcement authority shall be to Municipal Court of Record No. 1 in accordance with the procedure for appeal under the provisions of the minimum housing code.

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(d) Enforcement of the orders issued by the enforcement authority shall be in accordance with the provisions of the minimum housing code, and the enforcement authority shall have, exercise and perform the powers, duties and functions of the building official and enforcement authority therein set forth.

(e) Except for vacation orders, enforcement of any notice and order of the enforcement authority under this article shall be stayed during the pendency of an appeal therefrom

which is properly and timely filed. The decision of the Municipal Court of Record No. 1 is final.

- (f) The enforcement authority may bring forward, for a hearing before Municipal Court of Record No.1, any single-family detached or single-family attached property that meet the requirements provided for in section 22-452 of this Code and one or more of the following conditions exist:
- (1) The property or structure has been declared dangerous.
 - (2) The property or structure has been declared uninhabitable.
 - (3) More than six correction notices have been issued for the property in a calendar year and the property remains out of compliance.
 - (4) More than four citations have been issued for the property in a calendar year and the property remains out of compliance.
 - (5) The city has abated the same violation more than once in a calendar year for the property.
 - (6) The city has had to file more than one lien for the same violation in a calendar year against the property.
 - (7) The owner or occupant of the property has requested more than three extensions to correct a violation in a calendar year.

- C. Section 56-45 “Enforcement of order and cost recovery” is amended by amending subsection (c) to read as follows and removing subsection (d) in its entirety:

- (c) All such costs shall include costs for mailing of a notice and filing of a statement with the county clerk and interest shall be levied, assessed and collected against such property for which any such final order was granted. If any owner of such property shall fail to pay the costs so assessed within 30 days after being notified of such costs, the city shall file with the county clerk a statement of such costs. The city shall have a privileged lien on the premises and the personal obligation of the owner of such property, second only to tax liens and liens for street improvements, to receive the costs so made and ten percent interest on the amount from the date the payment is due. For any such costs and interest, suit may be instituted in the name of the city, and the statement of costs, as provided previously in this article, shall be prima facie proof of the costs expended in such work.

- D. Section 56-46 “Authority of the building and standards commission” is amended by amending the title to read “Authority of the Municipal Court of Record No. 1” and by amending the section to read as follows:

The Municipal Court of Record No. 1 shall have jurisdiction to:

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- E. Section 56-81 “Exterior grounds” is amended by removing subsections (i) and (n) in their entirety and amending subsections (f), (h), (j), (l), (m), (p), (q), and (r) to read as follows:

(f) *Trees, shrubs and plants.* Standards for trees, shrubs and plants are as follows:

- (1) Trees, shrubs and plants shall not obstruct the access to or from any door or window of any structure which is used, or is required by city codes and ordinances to be used, for ingress and egress.
- (2) Trees, shrubs or plants shall not create a hazard or an obstruction and shall be maintained within the following minimum clearances:
 - a. Overhead clearance of public sidewalks and other public pathways, seven feet vertical clearance.
 - b. Lateral clearance of public sidewalks and other public pathways, six inches from each edge of sidewalk or pathway.
 - c. Overhead clearance of streets, tree limbs and other projections over the street shall be maintained at a minimum of 14 feet vertical clearance above the street pavement.
 - d. Lateral clearance of streets, no encroachment over or above the back of the curb or the edge of paving.
 - e. Sight clearance at intersections of city streets, unobstructed sight distance of 200 feet.
 - f. Sight clearance for signs erected by the city, unobstructed sight distance of 100 feet.
 - g. Overhead clearance of public alleys and easements which have been dedicated and improved for vehicular use, tree limbs and other projections shall be maintained at a minimum of 14 feet vertical clearance above the alley pavement.
 - h. Lateral clearance along alleys and easements which have been dedicated and improved for vehicular use, trees, shrubs and plants (other than groundcover) shall be maintained a minimum of 18 inches horizontal clearance from the edge of the alley pavement or to the property line which ever dimension is smaller.
- (3) Trees, shrubs or plants which are hazardous to persons or property shall be removed. Any tree, shrub or plant that appears to have lost more than 75 percent of its living foliage shall be considered dead. Any tree that is removed in accordance with this section, shall include removal of the tree stump by grinding the stump to grade level. This requirement shall only apply to trees stumps located in the front yard of a residence.

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(h) *Weeds, grass and other groundcover.* Standards for weeds and grass are as follows:

- (1) Weeds, grass and brush shall be maintained at a height not exceeding eight inches.

- (2) All cut weeds, grass, shrubs or brush shall not be kept or allowed to accumulate on any public street, sidewalk or other public way.
- (3) Weeds, grass, shrubs or brush shall not be deposited in any inlet, manhole or storm sewer or sanitary sewer system.
- (4) The unpaved areas of the front yard shall be maintained with a grass, ground cover, or other type of landscaping to such an extent that the soil when wet will not be picked up and spread to sidewalks or adjacent private or public property and is not subject to erosion during rains. The landscaping occupying the unpaved areas of the front yard shall be provided with adequate water to sustain the landscape material, unless landscape watering is prohibited by mandatory water conservation regulations.
- (5) All groundcover, including but not limited to grass, weeds, ivy, monkey grass, Mondo grass, Maiden grass, fountain grass, or any other variation of ornamental grass that can be used as a border or edging, and decorative groundcovers, shall be maintained by mowing, trimming, and/or edging so as to be in conformance with subsection (1) of this section and shall be maintained so as not to encroach over the edge of sidewalks, pedestrian ways, driveway, flatwork, curbs, and street pavement. This shall not preclude the use of permeable pavement or permeable flatwork techniques that incorporate groundcover in their design provided the areas are maintained in accordance with this chapter.

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- (j) Accumulation of firewood. Any firewood which may be used as a harborage by rats, rodents or other vermin, or in which evidence of rats, rodents or other vermin is found shall be placed or stored on open racks and elevated with a clear intervening space of not less than six inches of clear space.

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(l) *Fences.* Standards for fences are as follows:

- (1) All fences shall be maintained reasonably plumb and structurally sound (+/- 10° of center). Each structural and decorative member of a fence shall be free of deterioration and be compatible in size, material and appearance with the remainder of the fence.
 - (2) A fence that has deteriorated to a condition that it is likely to fall shall be repaired or replaced. Deteriorated fences may include any one, or a combination of, leaning fences, fences with missing/broken, and rotted pickets, and fences with posts that are bent, broken, rotted, or have loosened from the ground.
 - (3) Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members.
- (m) *Accessory structures.* Carports, awnings, patio covers, garages, sheds, storage buildings and other accessory structures shall be maintained structurally sound, and free of deterioration. All accessory structures shall be protected from the elements by painting, staining or other weatherproofing or surface protection.

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(p) *Permitted items in the front yard.* In the R-1, R-2, R-3, R-4, R-5, R-6, D-1, D-2 and residential planned development zoning districts, no building, structure, fence, accessory object or other appurtenances, improved parking area or driveway shall be constructed, erected, placed or located in the front yard unless specifically listed in this section. Accessory objects and appurtenances not listed herein shall not be permitted in the front yards by exclusion. For purposes of this section, the term "height" shall mean that vertical dimension at any point measured from the average natural grade of the area within two feet of such point. Permitted items are as follows:

- (1) Any edging for flower or hedge beds that does not exceed 12 inches in height and is constructed of brick, stone, treated lumber or other material approved by the enforcement authority.
- (2) Freestanding statuary, columns, bird baths and pedestals not exceeding 72 inches in height.
- (3) Lawn furniture, including benches, tables, and stools which do not exceed 42 inches in height and are designed and constructed for outdoor use.
- (4) Masonry, brick, concrete or stone retaining walls not exceeding 24 inches in height, provided that all requirements of the building code are met.
- (5) The building official, or his designee, may issue a permit for decorative metal or wooden banisters and handrails for uncovered steps or a ramp that may project a maximum of six feet into the required front yard provided the design and construction is consistent with the architectural design and style of the residence. Handrails and guardrails shall be constructed as required by the building code.
- (6) Earth berms for landscaping and screening purposes may be installed in the required front yard provided that the height of the berm shall not exceed one foot of height for each three feet of horizontal distance. Furthermore, the crown of the berm shall not exceed three feet, six inches in height.
- (7) Landscaping, such as trees, bushes, shrubs, plants and ground cover, cultivated and maintained in conformance with all other provisions of the comprehensive zoning ordinance, the minimum housing code, the property maintenance code and all other applicable state and local laws. For the purpose of this subsection, the term "landscaping" shall not include hardscape.
- (8) Driveways, circular drives, and improved parking areas may be permitted in the required front yard provided they are constructed, placed or located in compliance with the comprehensive zoning ordinance, vehicle parking code and all other applicable ordinances.
- (9) Address plates and security protection signs not exceeding two square feet in area.
- (10) Flag poles may be erected in the required front yard provided the height of the flag pole does not exceed the permitted structure height in the district in which it is located and the pole is set back a distance equal to its height from all property lines.

- (11) Temporary signs as permitted by the sign regulations of the city.
- (12) Landscape lighting which does not create an offensive glare to occupants of surrounding properties.
- (13) Freestanding lampposts which do not exceed ten feet in height and are set back a distance equal to their height from all property lines and does not create an offensive glare to occupants of surrounding properties.
- (14) Single pole basketball goals, provided they are set back a minimum of 15 feet from the front property line.
- (15) Sidewalks and other hardscape in conformance with the comprehensive zoning ordinance.
- (16) Trash and refuse containers or other personal property placed in the front of the main building for pick up by the sanitation department as addressed in other ordinances of the city.
- (17) Landscape receptacles in good condition containing cultivated living plant material, provided the receptacle does not create a nuisance as defined by this chapter.

The maximum number of objects or items of either lawn furniture or freestanding statuary permitted in residential front yards at any one time shall not exceed five, and that the total area such objects may occupy shall be limited to a maximum of 100 square feet.

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- (r) *Easements.* Utility and/or drainage easements and all alleys shall be maintained clear and unobstructed, for the entire width of the easement or alley, of any brush, bushes, trees, structures or other objects that would prohibit access and maintenance of the utilities. Drainage easements having surface draining shall be maintained such that surface water is transported to the appropriate locations. Easements shall not be enclosed with a fence or by other means unless all entities having a right to the easement allow the obstruction of the easement by providing written documentation to the enforcement authority.

F. Section 56-83 "Interior of structure" is amended by adding subsection (n) to read as follows:

(n) *Heating and cooling.*

- (1) Every residential unit shall be provided with heating facilities capable of maintaining a room temperature of at least 70 degrees Fahrenheit at a point three feet above the floor at all times in all habitable rooms.
- (2) An owner shall maintain in operating condition, any cooling and/or air conditioning equipment that is provided by the owner, so that the room temperature is maintained at a level which is at least 15° cooler than the outside temperature, but in no event higher than 85° Fahrenheit, in all habitable rooms.

- (3) All heating, cooling and air conditioning equipment shall be operable, and shall be installed and maintained in a safe condition in accordance with the codes and ordinances of the city. No unvented fuel-burning heater as defined in Chapter 22 shall be permitted. All heating and cooling devices or appliances shall be of an approved type as outlined in Chapter 22.

SECTION 2. Chapter 56 “Property Maintenance”, Article III “Parking of Vehicles” of the Code of Ordinances of the City of Farmers Branch is amended as follows:

- A. Section 56-112 “Definitions” is amended by amending the definition of “Improved surface” to read as follows:

Improved surface means a continuous area used for the movement, parking or storage of a vehicle that is overlaid or otherwise paved with Portland cement concrete, paving stones, brick pavers installed on an approved base course or other hard surfaced durable material designed to support vehicular weight and approved by the building official. The building official shall establish and maintain a set of standard construction details for improved parking surfaces and improved driveway surfaces. The city’s minimum standards are as follows: a concrete pad poured to a nominal depth of 4 inches, at a minimum of 3000 psi, using no. 3 rebar and set at 18” on center each way.

- B. Section 56-141 “General vehicle parking; parking surfaces” is amended by amending subsection (k) to read as follows:

(k) Where parking surfaces are located parallel and adjacent to a side street property line, a minimum of five feet shall be provided between the surface and the property line.

- C. Section 56-142 “Special vehicle parking” is amended by removing subsections (d) and (e) in their entirety and by amending subsections (b) and (c) to read as follows:

(b) Regulations for special vehicles parked or stored in the side or rear yards not adjacent to a street are as follows:

(1) The parking or storage of any special vehicle in the side or rear yard shall be screened from view from the streets that abut the lot by the following:

- a. A solid opaque fence or wall at least five feet in height;
- b. Vegetation consisting of a solid hedgerow or evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum height of five feet;
- c. Any combination of subsections (b)(1)a. and b. of this section that effectively conceals the vehicle from view and accomplishes the required screening height; or
- d. Any other form of compatible and appropriate screening as determined by the building official.

- (2) Exception: Special vehicles are not required to be screened if they are parked in the side or rear yard on a driveway which provides access to the required parking and where the driveway is not located in a yard that is adjacent to a street.
 - a. See subsection (c) of this section for special vehicles parked in yards adjacent to a street.
 - b. See section 56-146(b), special exceptions, for lots that have unique or unusual property constraints.
 - (3) Access to special vehicle parking surfaces located in the side or rear yard is not required to be an improved driveway surface, provided the occasional use of the special vehicle does not disrupt the ground covering over which the vehicle must travel. If it is found that the ground covering is repeatedly damaged due to the movement of the special vehicle, a continuous improved driveway surface to a public way must be installed to provide access to the parking surface.
 - (4) Gravel or crushed rock may be used in the rear ½ of the rear yard as an improved parking surface for special vehicle parking provided the gravel or crushed rock parking area is constructed as per the improved parking surface standards and is maintained in conformance with such standards.
- (c) Regulations for special vehicles parked or stored in the yards adjacent to a street shall be as follows:
- (1) On lots with one street frontage, one special vehicle may be stored in the front yard, provided:
 - a. Access to the side and/or rear yard is prohibitive due to physical restrictions, as determined by the building official at the time of the issuance of the first permit, such as retaining walls, trees greater than two-inch caliper, air conditioning equipment, pool equipment and/or other permanent obstructions.
 - (2) On lots with two or more street frontages, one special vehicle may be stored unscreened on the property in the yards adjacent to the street frontages provided:
 - a. Access to the side and/or rear yard is prohibitive due to physical restrictions, as determined by the building official at the time of the issuance of the first permit, such as retaining walls, trees greater than two-inch caliper, air conditioning equipment, pool equipment and/or other permanent obstructions;
 - b. A screening fence is prohibited in the yard by the zoning ordinance or the property maintenance code.
 - (3) On lots where a special vehicle can be stored in the side or rear yard and a screening fence is not prohibited by the zoning ordinance or the property maintenance code, all special vehicles shall be screened from view from the street as described in subsection (b)(1) of this section.

D. Section 56-144 “Driveway requirements” is amended by removing subsections (a) and (b) and amending subsections (c) and (f) to read as follows:

- (c) Driveways shall be designed and constructed as per the improved driveway standards of the city. The city's minimum standards are as follows: a concrete pad poured to a nominal depth of 4 inches at a minimum of 3000 psi, using no.3 rebar and set 18" on center each way.

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- (f) Where driveways are located parallel and adjacent to a side street property line, a minimum of five feet shall be provided between the surface and the property line.

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E. Section 56-146 "Special exceptions" is amended by amending subsection (b) and (c) to read as follows:

- (b) *Special exceptions to the screening requirements.* Requests for special exceptions to the screening requirements shall be received by the building official and forwarded to the director of community services. The special exception process shall be administered by the director of community services. The building official shall make available an application form and the director of community services may authorize a permit to be issued with the following special considerations:

- (1) The director of community services may grant a special exception if the director determines that the special exception will not have a negative impact on the adjoining property or the neighborhood. Special exceptions may be granted by the director of community services for vehicles and the property that meet all of the following:
 - a. The ability to access the side or rear yard, the side yard is less than three feet larger than the vehicle.
 - b. A screening fence or wall would hinder navigation of a vehicle in the side or rear yard.
 - c. The size of the vehicle.
 1. The width of the special vehicle or utility trailer does not exceed 102 inches.
 2. The height of the special vehicle does not exceed 12 feet, six inches or the height of the utility trailer does not exceed six feet.
 - d. The visual appearance of the vehicle.
 1. The vehicle must be in operable condition as defined in chapter 34, article IV (inoperable, abandoned and derelict motor vehicles).
 2. All equipment or attachments necessary to operate the vehicle must be in place and operational on the vehicle.
 - e. The visual appearance and impact on the neighborhood.
 1. A special vehicle stored in a side yard without the prescribed screening must be stored a minimum of five feet behind the front corner of the building. A lesser setback may be appropriate to reduce negative impact on adjacent property such as obstructing a view from a neighbor's window.

2. No portion of the vehicle shall project above the roof of the house on the front of the house.
 - f. All property owners within 200 feet will be notified and requested to comment on the requested special exception. Comments will be considered by the director of community services in evaluating the exception request.
 - g. Special exceptions to the screening height requirements for rear or side yard screening may be granted by the director of community services when the existing screening meets with the intent of this article.
 - h. No exit doors or emergency rescue windows on the house shall be blocked by the vehicle.
- (2) A permit may be issued in accordance with subsection 56-142(d) with the following additional special conditions:
- a. A special exception shall not carry over to new occupants, different vehicles, or different locations.
 - b. Reasonable special conditions may be placed on the approval of a permit if deemed necessary by the director of community services. The resident shall be required to sign a document that addresses conditions required as a part of the special exception to mitigate negative impact on the neighbors or neighborhood.
 - c. No special exception shall be granted when a special vehicle or utility trailer has access to a garage on the property that is large enough to house the vehicle, but is being used for other purposes such as storage, hobby area, etc.
 - d. No utility trailer shall be stored unscreened adjacent to a side street.
 - e. For utility trailers, the special exception permit shall be applied for prior to December 15, 1998, and obtained prior to February 1, 1999.
- (c) Special exceptions to the number of vehicles that may be parked or stored. Appeals to subsection 56-141(b) shall be heard by the Zoning Board of Adjustment.
- (1) The members and procedures of the Zoning Board of Adjustment shall be established by an administrative policy, promulgated by the city manager or his/her designee, filed with the city secretary.
 - (2) The Zoning Board of Adjustment shall have the authority to grant special exceptions to the terms of subsection 56-141(b) provided:
 - a. That all property owners owning property within 200 feet of the subject property be notified of the requested special exception by regular mail to the last address reflected on the current tax roll of Dallas County 15 days prior to the administrative board hearing.
 - b. That the board considers any comments received from the surrounding property owners during its deliberation.
 - c. That the board determines that the granting of the special exception would not be injurious or detrimental to surrounding residents or their property.

- d. That the board determines that the granting of the special exception would not detract from the neighborhood appearance.
- e. That the board determines that the granting of the special exception would not hamper emergency response in the area.
- f. That the board determines that the granting of the special exception would be in the best interest of the community. The board may impose additional requirements deemed necessary.

SECTION 3. All provisions of the ordinances of the City of Farmers Branch 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 Code of Ordinances as a whole.

SECTION 5. 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 6. 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 two thousand dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. This Ordinance shall take effect on October 1, 2019, and the publication of the caption, as the law and charter in such cases provide.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THIS THE ____ DAY OF _____ 2019.

ATTEST:

APPROVED:

Amy Piukana, City Secretary

Robert C. Dye, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney