

CITY OF BALCH SPRINGS, TEXAS

ORDINANCE NO. 3232-21

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, REPEALING AND REPLACING SECTIONS 62-1 “DEFINITIONS”, 62-3 “RESIDENTIAL SERVICE”, 62-5 “POLYCARBON CONTAINERS”, 62-7 “BRUSH AND OTHER LARGE TRASH OBJECTS; RESIDENTIAL PICK UP” AND 62-10 “COLLECTION OF RECYCLABLES” OF DIVISION 1 “IN GENERAL” AND DIVISION 2 “SOLID WASTE SERVICE” OF ARTICLE I “GENERALLY” OF CHAPTER 62 “SOLID WASTE” OF THE CITY’S CODE OF ORDINANCES; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Balch Springs, Texas (the “City”) is a Home Rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council approved the City entering into a contract with a new service provider, effective August 15, 2020, for the collection, hauling, recycling and disposal of municipal solid waste, construction and demolition waste, and recyclable materials (the “Contract”); and

WHEREAS, the changes contained within this Ordinance are necessary for consistency between the Code of Ordinances and the terms of the Contract.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, THAT:

SECTION 1. All of the above premises are found and determined to be true and correct and are hereby incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Sections 62-1 “Definitions”, 62-3 “Residential Service”, 62-5 “Polycarbonate Containers”, 62-7 “Brush and Other Large Trash Objects; Residential Pick Up” and 62-10 “Collection of Recyclables” of Division 1 “In General” and Division 2 “Solid Waste Service” of Article I “Generally” of Chapter 62 “Solid Waste” of the City’s Code of Ordinances are hereby repealed in their entirety and replaced, as amended, in Exhibit A attached hereto.

SECTION 3. All provisions of the ordinances of the City in conflict with the provisions of this ordinance are hereby repealed to the extent they are in conflict; all other provisions of the ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. Should any section, subsection, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this ordinance shall remain in full force and effect.

SECTION 5. This ordinance shall take effect immediately from and after its passage and the publication of the caption hereof as the law and Charter of the City in such cases provides.

DULY PASSED AND ADOPTED by the City Council of the City of Balch Springs, Texas, on the 24th day of May, 2021.

APPROVED:

Carrie F. Gordon, Ph.D, Mayor

ATTEST:

Cindy Gross, City Secretary

EXHIBIT A

DIVISION 1. - IN GENERAL

Sec. 62-1. - Definitions.

Bags. Plastic sacks (with a thickness of a minimum of 1.5 mill), designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 50 pounds. Such bags should be collected in addition to or/instead of any polycart(s) containers placed at curbside by the residential customer.

Base rate. The total approved solid waste collection and disposal rates for residential and commercial/industrial front load customers, excluding sales taxes, franchise fees and recycling fees.

Bin (commercial/industrial). Metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.

Bulky wastes. This service will include items easily managed by two men and does not exceed four-foot × four-foot × eight-foot.

Bundles. Limbs, brush, and leaves bundled together that are no longer than seventy-two (72) inches in length and forty pounds or less in weight.

City. City of Balch Springs, TX.

City service area. Any area inside or outside the boundaries of the city which is served by the city.

Commercial and industrial refuse. All bulky waste, construction debris, garbage, rubbish and stable matter generated by a customer at a commercial and industrial unit.

Commercial and industrial unit. All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the city, not a residential unit.

Commercial hand collect unit. A retail or light commercial type of business, which generates no more than one cubic yard of refuse per week.

Commodity. Material that can be sold in a spot or future market for processing and use or reuse.

Commodity buyer. A buyer or processor, selected by contractor pursuant to the contract documents, of recyclable materials delivered by contractor.

Construction debris. Waste building materials resulting from construction, remodeling, repair, or demolition operations. Materials must be containerized as indicated by City Code.

Container. Any receptacle, including, but not limited to, dumpsters, Roll offs, roll outs and recycling containers, provided to the City by the Service Provider and utilized by a commercial, Industrial, or residential unit for collecting Municipal Solid Waste. Containers are designed to hold between sixty gallons and forty cubic yards of Solid Waste.

Consumer Price Index (CPI-U-DFW). The revised Consumer Price Index for the Dallas/Fort Worth Metropolitan Area, 12-month average for all items as published by the United States Department of Labor, Bureau of Labor Statistics, Region 6. In the event the U.S. Department of

Labor Statistics ceases to publish the CPI, the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may then be available so as to carry out the intent of this provision.

Contract documents. The request for proposals, instruction to contractors, contractor's proposal, general specifications, the contract performance bond, and any addenda or changes to the foregoing document agreed to by the city and contractor, and contract signed by contractor and city.

Contractor. Such private firm designated by the city for the collection, transportation, and/or disposal of the solid waste and recyclable materials collection and processing. The contractor referred to herein is the waste conveyor with whom the city is currently in contract.

Customer. An occupant of a residential, commercial hand collect, commercial or industrial unit who generates refuse.

Dead animals. Animals or portions thereof equal to or greater than ten pounds in weight that have expired from any cause except those slaughtered or killed for human use.

Disaster. A sudden and grave occurrence causing destruction or damage to property for which a state of emergency is declared by the city under its emergency management plan. Disaster shall include both natural and manmade disasters, including but not limited to, windstorms, lightning strikes, tornados, hurricanes, flooding, hail, earthquakes, fire, plane crashes, riots and explosions.

Disposal facility. A depository for garbage, rubbish and bulky items, including but not limited to, sanitary landfills, transfer stations, incinerators, and waste processing/separation centers licensed and permitted by all governmental bodies and agencies having jurisdiction.

Disposal rates. The posted gate rates for municipal solid waste disposal at the disposal facility.

Disposal site. All waste collected for disposal by the contractor shall be hauled to a state-approved disposal site. The selection of the disposal site will be at the discretion of the contractor.

Garbage. Any and all dead animals of less than ten pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

Hazardous waste. Solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C. Section 1002 et seq., or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C.A. Section 2601 et seq., regulations promulgated hereunder or applicable state law concerning the regulation of hazardous or toxic wastes.

Household hazardous waste. Any chemical, compound, mixture, substance, or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State of Texas to be "hazardous" as that term is defined by or pursuant to federal or state law, which is generated by households and similar generators. Types of household hazardous waste

include, household cleaning products, automotive products, paints and solvents, pesticides and other products such as pool chemicals, ammunition, dry cell and disc batteries, etc.

Landfill (sanitary). A Texas Class I landfill duly permitted. The real property site for disposal.

Loose brush. All brush set out for collection must be tied and bundled and be no more than six feet long and weigh no more than forty pounds.

Medical waste. Waste generated by healthcare related facilities and associated with healthcare activities.

Municipal solid waste. Includes any solid waste, except for sludge, resulting from the operation of residential, commercial, industrial, governmental, or institutional establishment that would normally be collected, processed, and disposed of through a public or private solid waste management service.

Parkway. The area ordinarily located between the curb line of a street and the property line of real estate nearest the street.

Polycart. A rubber-wheeled receptacle with a maximum capacity of 65 to 100 gallons constructed of plastic, metal and/or fiberglass, designed for automated or semi-automated solid waste collection systems, and having a tight-fitting lid capable of preventing entrance into the container by small animals. The weight of a polycart and its contents shall not exceed 175 pounds. Polycarts will be provided to each residential unit and commercial hand collect unit, with ownership retained by contractor.

Premises. All public and private establishments, including individual residences, all multifamily dwellings, residential care facilities, hospitals, schools, businesses, other buildings, and all vacant lots.

Producer. An occupant of a residential or commercial unit who generates refuse.

Recyclable materials. Commodities collected by the contractor pursuant to the contract documents, which can be sold in a spot or future market for processing and use or reuse including, but not limited to, newsprint, magazines, plastic bottles, aluminum cans and metal (tin) cans.

Recycling container. A plastic receptacle, designed for the purpose of curbside collection of recycling commodities.

Red tag. All loose brush or bulky waste as defined in this article which is outside the scope will be considered to be red tag, to include, but not limited, to commercial and industrial, move-outs, etc.

Refuse. Residential refuse and bulky waste, construction debris and stable matter generated at a residential unit, unless the context otherwise requires, and commercial and industrial refuse.

Residential garbage. All garbage and rubbish generated by a customer at a residential unit.

Residential unit. A dwelling within the corporate limits of the city occupied by a person or group of persons comprising not more than four families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four units, shall be treated as a residential unit, except that each single-family dwelling within any such

residential unit shall be billed separately as a residential unit. Condominium units are treated as residential units and are billed individually.

Roll-off container. Any size open top container that can be loaded onto a specialized truck constructed to haul such roll-off container.

Roll out. A container with sixty-five (65) to ninety-five (95) gallons of capacity. Also referred to as a polycart.

Rubbish. Non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, used or scrap tires, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and the like materials which will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit). All waste wood, wood products, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products used for packaging or wrapping, crockery and glass, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of construction debris, dead animals, garbage, hazardous waste, or stable matter.

Solid waste. All nonhazardous (as defined by CERCLA and other applicable laws) and nonspecial (see special waste definition) solid waste material including unwanted or discarded waste material in a solid or semi-solid waste, including but not limited to, garbage, ashes, refuse, rubbish, yard waste (including brush, tree trimmings and Christmas trees), discarded appliances, home furniture and furnishings, provided that such material must be of the type and consistency to be lawfully accepted at the sanitary landfill under the applicable federal, state and local laws, regulations and permits governing each.

Special service. Garbage and trash for elderly and disabled residential customers certified by the city may be picked up at or behind the building line as opposed to being picked up at the curbside. Contractor shall provide this additional service to those who are physically impaired at rates set forth in the chart of charges. Contractor shall be responsible for determining who is eligible for this service. In cases of dispute, the final determination shall be made by the city manager. Pick up location will be agreed to by customer and contractor.

Special waste. Type A or Type B Special Wastes as defined below:

Type A Special Waste. Any waste, from a commercial or industrial activity, meeting any of the following descriptions:

- (1) A containerized waste (e.g., a drum, portable tank, lugger box, roll-off, pail, bulk tanker, etc.) listed in paragraphs (2) through (7) below.
- (2) A waste containing free liquid.
- (3) A sludge waste.
- (4) A waste from an industrial process.
- (5) A waste from a pollution control process.
- (6) Residue and debris from the cleanup of a spill of a chemical substance or commercial product or a waste listed in paragraphs (1) through (3) or (7).

- (7) Contaminated material from cleanup of a facility generating, storing, treating, recycling, or disposing of wastes listed in paragraphs (1) through (6) above.

Incidental amounts of special waste. The contractor recognizes that many customers will produce some "Type B Special Waste," as defined below. Incidental quantities of "Type B Special Waste" do not require a generator's Type B Special Waste profile sheet to be signed by the customer. However, the customer must identify the type and amount of Type B Special Wastes which will be provided to the contractor in incidental amounts.

Type B special waste. Any waste from a commercial or industrial activity meeting any of the following descriptions:

- (1) Friable asbestos waste from building demolition or cleaning: wall board, wall spray coverings, pipe insulation, etc. Non-friable asbestos is not a special waste unless it has been processed, handled or used in such a way that asbestos fibers may be freely released. Asbestos-bearing industrial process waste is a "Type A Special Waste."
- (2) Commercial products or chemicals which are off-specification, outdated, unused or banned. Out-dated or off-specification, uncontaminated food or beverage products in original consumer containers are not included in this category; however, containers which once held commercial products or chemicals are included unless the container is empty. A container is empty when: all waste has been removed that can be removed using the practices commonly employed to remove materials from type of container, e.g., pouring, pumping or aspirating, and an end has been removed (for containers in excess of 25 gallons), and no more than one inch (2.54 centimeters) of residue remains on the bottom of the container or inner liner, or no more than three percent by weight of the total capacity of the container remains in the container (containers - 110 gallons), or no more than 0-.3 percent by weight of the total capacity of the container remains in the container (containers 110 gallons). Containers which once held acutely hazardous wastes must be triple rinsed with an appropriate solvent or cleaned by an equivalent method. Containers which once held substances regulated under the Federal Insecticide, Fungicide and Rodenticide Act must be empty according to label instructions or triple rinsed.
- (3) Untreated bio-medical waste. Any waste capable of inducing infection due to contamination with infectious agents from a bio-medical source, including but not limited to, a medical practitioner, hospital, medical clinic, nursing home, university medical laboratory, mortuary, taxidermist, veterinary hospital, or animal testing laboratory. Sharps from these sources must be rendered harmless or placed in needle puncture-proof containers. Residue from incineration of infectious wastes is a "Type A Special Waste."
- (4) Treated bio-medical wastes. Any wastes from a bio-medical source, including but not limited to, a hospital, medical clinic, nursing home, medical practitioner, mortuary, taxidermist, veterinarian, hospital, animal testing laboratory, or university medical laboratory which has been autoclaved or otherwise heat treated or sterilized so that it is no longer capable of inducing infection. Any sharps from these sources must be rendered harmless or placed in needle puncture-proof containers.
- (5) Liquids and sludges from septic tanks, food service grease traps, or wash water and wastewaters from commercial laundries, laundromats and car washes unless these wastes are managed at commercial or public treatment works.

- (6) Chemical-containing equipment removed from service. Examples: filters, cathode ray tubes, lab equipment, acetylene tanks, fluorescent light tubes, etc.
- (7) Waste produced from the demolition or dismantling of industrial process equipment or facilities contaminated with chemicals from the industrial process. Chemicals or wastes removed or drained from such equipment or facilities are "Type A Special Wastes."

Stable matter. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

Street. Any public thoroughfare for the passage of vehicular and pedestrian traffic.

Take all service. Provides for the collection of all items placed on the curb as long as the items are containerized in a polycart or in a bag. Construction materials from repairs and remodeling must be containerized. Loose brush and limbs must be bundled. Bulky items including stoves, furniture, water heaters, dishwashers, etc., when placed on the curb will be picked up on a city-approved day. Stockade-type fence panels must be cut into four-by-six sections or smaller and loose pickets or slats must be tied and bundled.

Unacceptable waste. All waste, including but not limited to, hazardous waste and special waste (except as expressly provided in this chapter), the acceptance and handling of which by contractor would cause a violation of any permit, condition, legal, or regulatory requirement, substantial damage to contractor's equipment or facilities, or present a substantial danger to the health or safety or public of contractor's employees. Unacceptable waste shall also include construction debris, medical waste and friable asbestos, dead animals, stable matter, auto parts, rocks, concrete, sand, gravel and dirt.

Waste. Garbage, rubbish, and other municipal solid waste generated at a residential unit or a commercial or industrial unit, but specifically excluding unacceptable waste and any other solid waste specifically excluded under this chapter. Waste may include residential waste and commercial industrial waste.

White Good. Any item not measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bathtub, water heater, refrigerator, sink, washer or dryer. Appliances containing freon must have the freon removed by a qualified technician and tagged before collection and disposal will be allowed.

DIVISION 2. - SOLID WASTE SERVICE

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Sec. 62-3. - Residential service.

- (a) All residences within the city service area with a water service connection are required to subscribe to the residential waste collection service. This service provides for collection of waste stored in authorized receptacles as stated herein and pickup of loose brush and bulky

waste as stated herein. It shall be unlawful to deposit garbage, solid waste, debris, etc., in the parkway or in front of any residence without an active solid waste account.

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Sec. 62-5. - Polycart containers.

- (a) The residential customers must use the polycarts provided by the contractor.
- (b) Commercial customers may use the polycarts provided by the contractor.
- (c) It shall be the responsibility of the contractor to provide one 96-gallon polycart. Additional polycarts can be purchased for a monthly fee at the current city price. Refer to Master Fee Schedule for current price.
- (d) If the polycart is damaged, the polycart customer needs to contact the contractor in order to obtain a new polycart. Refer to Master Fee Schedule for current price.
- (e) The contractor will replace a polycart that is damaged by normal wear and tear. If the polycart is intentionally and/or negligently damaged by the polycart customer, the polycart customer must purchase another polycart from the contractor at the current city price.
- (f) The contractor will determine if the polycart is damaged from normal wear and tear or if it is damaged from the intentional and/or negligent acts of the polycart customer.
- (g) Contractor shall also provide each residential unit with one 65 gallon roll out for recyclables.

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Sec. 62-7. - Brush and other large trash objects; residential pick up.

- (a) Contractor shall collect and haul brush and bulky waste as part of its regular residential service as specified in definitions and placed at a location so that access is not obstructed by overhanging tree limbs, wires, or other obstacles which would interfere with collection. Limbs, and brush shall be bundled together in amounts not to exceed seventy-two (72) inches in length and no more than forty (40) pounds in weight.
- (b) Collection of l brush shall be limited to ten cubic yards per residential biweekly. Amounts in excess of ten cubic yards will be picked up by the city. Loose brush pickup will be on an on-call basis. Contractor shall provide service for bulky waste piles of four cubic yard or less bi weekly. Amounts in excess of four cubic yard will be picked up by the city. brush will be collected on the second service day of the week. Bulky waste piles of four cubic yards or less will be picked up on the second service days of week.
- (c) Loose brush piles larger than ten cubic yards and bulky waste piles larger than four cubic yards will be removed by the city at rates set forth in the Master Fee Schedule.

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Sec. 62-10. - Collection of recyclables.

- (a) The contractor will pick up recyclables once per week. Any recyclables not contained inside the recyclable container will not be picked up by the contractor.
- (b) The following are items that can be recycled and placed in the recyclable containers: all colors of unbroken glass bottles; tin and steel cans rinsed; dry newspapers, magazines and catalogues; phone books; broken down cardboard; cereal boxes or other chipboard; junk mail and office paper; plastic bottles and containers #1 through #7 (excluding #6); and aluminum cans.