

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 22, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Chapter 22, Solid Waste, is amended by deleting the same in its entirety and substituting with the following:

PART II - CODE OF ORDINANCES

CHAPTER 22 - SOLID WASTE

Article I. - In General

Sec. 22-1. General Policy of City.

It is the policy of the City to provide efficient, equitable, safe, and sanitary removal of Solid Waste, Bulk Waste, Yard Waste, Small Limb Waste, Large Limb Waste, Household Construction Debris, and Recyclables, as defined herein, from all areas of the City within the corporate limits, to afford the service to all users on as nearly an equitable basis as possible and to charge a fair and reasonable fee to those service users who require extra and disproportionately large amounts of Waste removal service. The City shall further promote, protect, and preserve the general welfare of the people of the City, through enforcement of this Chapter and shall perform this service in such a manner as to protect the environment and preserve our natural resources.

Sec. 22-2. Authority.

- a. The City Manager or designee may make such rules and regulations not inconsistent with this Chapter as she/he deems advisable to safeguard the health and welfare of the citizens of the City in the removal Waste and Recyclables.
- b. It is the intention of this Chapter that the City Manager or designee, shall be primarily responsible for the enforcement of the provisions of this Chapter. However, the County health officer shall, in any case where she/he deems it advisable to act, have all the authority conferred by this Chapter upon the City Manager or designee, and any notice served for the purpose of this Chapter by, or by authority of, the County health officer and any charge made by the County health officer in accordance with the provisions of this Chapter shall be as valid as if made by the City Manager or designee.

Sec. 22-3. Definitions.

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

Ashes means residue resulting from the burning of wood, coal, coke, or other combustible material.

Backdoor Service means the Collection of Household Waste and Recyclables at Units from a location next to or near outside the user's backdoor as a result of qualifying for such services due to Physical Disability.

Bulk Waste means items too large to fit into a Rollout Cart, such as large household furnishings, mattresses, box springs, dismantled swing sets with concrete removed, clothesline poles with concrete removed, lawn equipment (e.g., mowers, wheelbarrows), appliances and similar large household items.

City means the political subdivision of the City of Fayetteville, North Carolina.

City Manager means the person designated by the City Council to perform duties and responsibilities as chief executive officer for the City.

Collection means the act of removing Household Waste, Recyclables, Yard Waste, Bulk Waste, Household Construction Debris, Small Limb Waste and/or Large Limb Waste from an acceptable Curbside placement or Backdoor Service to an approved processing and/or disposal site.

Collection on Private Property means the act of removing Waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the City Manager or designee for manual and/or automated Collection.

Compliant Load means a load of collectable items or materials that is in accordance with this Chapter and the standards for Collection as determined by the City or contracted vendor.

Curbside means the area between the street and the private property line.

Fee Schedule means the list of fees approved by the City Council.

Foul Odors means offensive odors emanating from, but not limited to Waste.

Household Waste means the accumulation of any non-recyclable articles from households such as garbage, trash, discarded clothing, toys, small appliances, sweepings, rags, packaging materials, animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto. Household Waste does not mean waste that is associated with the production, distribution, warehousing, construction or manufacturing of a product. Household Waste may be collected from Residential Units and Single Business Units.

Hazardous Waste means potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes, but is not limited to, ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal) and explosives. For the purposes of this Chapter, this definition has been condensed from the definition as published in the North Carolina Hazardous Waste Management Law, adopted for the Federal Environmental Protection Agency (EPA). The terms defined are not inclusive of all items specified by Environmental Protection Agency regulations.

Household Construction Debris means lumber, carpet, plumbing materials, floor coverings, pool liners, roofing material, gutters, and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing residential structures or accessory structures, or demolition of such.

Industrial Waste means all waste, including solids, semisolids, sludge and liquids created by factories, processing plants or other manufacturing enterprises.

Large Limb Waste means limbs longer than three (3) feet in length, greater than three (3) inches in diameter, or greater than 50 pounds in weight but less than five (5) feet in length, and less than six (6) inches in diameter.

Litter means any discarded materials not properly containerized or prepared for Collection and disposal.

Multifamily Community means any community that is not subject to a Solid Waste User Fee and that is not designated by the Cumberland County Tax Office as a single-family residence, including but not limited to, apartments, townhouses, condominiums, public housing communities and mobile home parks with more than seven (7) units per parcel.

Non-Compliant Load means a load of materials that is not properly set out for Collection in accordance with Section 22-10 of this Chapter.

Physical Disability means a medical condition, hardship or age, verified by a registered physician, that makes an individual physically unable to bring a Rollout Cart to the Curbside for Collection, and there is no one else residing in the household capable of taking the Rollout Cart to the Curbside.

Private Street means a street not open to public use, on private property, not accepted by the City, and not maintained by any governmental agency.

Private Property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, Curbside or rights-of-way up to the edge of the pavement of any public street or body of water.

Properly Containerized means stored in accordance with the provisions of this Chapter.

Properly Disposed means disposed of in accordance with the provisions of this Chapter.

Public Right-of-Way means land that is dedicated or otherwise legally established for public use.

Public Services Department means the department and personnel responsible for the administration, operation and daily activities encompassing the collection of all Household Waste, Yard Waste, Bulk Waste, Small Limb Waste, Large Limb Waste, and Household Construction Debris, and may include other materials that result from a Non-Compliant Load.

Recyclables means items included in the City's approved recycling programs including but not limited to, selected glass, newsprint and accompanying inserts, magazines, aluminum, corrugated

cardboard boxes, plastic containers with recycle triangle markings 1 through 5 (or other approved recycling based on the Material Recovery Facility (MRF) and other items determined to be recyclable by the City Manager or designee.

Residential Unit means a parcel of land with seven (7) or less residential properties, that is subject to the Solid Waste User Fee.

Rollout Cart means any City-provided green, brown or blue cart with wheels, of an approximate capacity of 96 gallons, and constructed so that the cart can be emptied mechanically by means of an automated loading device as equipped on a Solid Waste Division Collection vehicles for the purpose of Collection of Household Waste, Recyclables and/or Yard Waste.

Single Business Unit means a Residential Unit in which a business is operated, that generates no more Household Waste per week than can be placed or stored in a maximum of two (2) Rollout Carts totaling a combined capacity of no more than 192 gallons when accumulated between Collections, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Small Limb Waste means limbs that can fit into a City-issued brown or green Rollout Cart, a 32-gallon trash can, plastic bag or any bundled small limbs that, when combined in a pile or stack, is not longer than three (3) feet in length, not greater than three (3) feet in width, not greater than three (3) inches in diameter, and not greater than 50 pounds in weight.

Solid Waste Division means the Division and personnel within the Public Services Department responsible for the administration, operation and daily activities encompassing the collection of all Household Waste, Recyclables, Yard Waste, Bulk Waste, Small Limb Waste, Large Limb Waste, Household Construction Debris and other materials as provided in this Chapter, on behalf of the City.

Solid Waste Fee Schedule means the current list of Solid Waste Division fees and penalties as adopted by the City Council.

Solid Waste User Fee means the fee that the City includes on County tax bills for the services the Solid Waste Division provides to Residential Units and Single Business Units.

Stationary Waste Container means any City-approved non-moving dumpster of a minimum capacity of two (2) cubic yards and having a maximum capacity of eight (8) cubic yards, made of watertight construction, and constructed so that the container can be emptied mechanically by means of a front loading vehicle used for the purpose of collection.

Stationary Recycling Container means any City-approved non-moving dumpster, which may contain a packing mechanism and an internal or external power unit used for the purpose of collection of Recyclables as defined in the local approved recycling program.

Undeveloped Lot means a lot with no buildings or not otherwise developed for residential, commercial, recreational or governmental use.

Unit means a Residential Unit and a Single Business Unit.

Verified Violation means a violation of any section of this Chapter as determined by the City Manager or designee.

Waste means all useless, unwanted or discarded materials resulting from industrial, commercial, agricultural and residential activities.

Yard Waste means grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, Small Limb Waste and such other similar materials which are generated in the maintenance of yards and gardens, and which are collected separately from other Household Waste and Recyclables, and placed at the Curbside for Collection.

Sec. 22-4. Ownership of Materials.

All Household Waste, Recyclables, Yard Waste, Bulk Waste, Large Limb Waste, Small Limb Waste, Household Construction Debris and similar items, that are properly containerized and placed by an owner or occupant of a property at Curbside for Collection, are deemed to be the property of such person until such time that the City or its authorized agent collects the materials.

Sec. 22-5. Rollout Carts, Cans and Containers Generally.

- a. *Requirements.* All Rollout Carts must meet all design and capacity requirements as defined in this Section. Any variations of Rollout Carts or Stationary Containers, in types, styles, designs, etc., must be reviewed and approved by the City Manager or designee. All eligible Residential Units and Single Business Units shall use only City-provided Rollout Carts for all Household Waste removal by the City. Recyclables shall be collected only from City-provided approximately 96-gallon Rollout Carts for Collection of Recyclables. No Recyclables shall be collected from Rollout Carts designated for the disposal of Household Waste or Yard Waste. The following provisions shall be complied with:
1. *Automated Rollout Cart Collection System.* The City shall provide two (2) 96-gallon (approximate) Rollout Carts, one for Household Waste and one for Recyclables, where the automated system is in use for the Collection. Should this not be sufficient storage between Collections, the user may purchase one (1) Yard Waste Rollout Cart from the City that may be used for Yard Waste as well as Household Waste. Until such time as the City obtains and delivers such Rollout Carts, such persons shall cause all Household Waste, to be placed in watertight containers manufactured for Household Waste containerization. Household Waste cans shall not weigh more than 50 pounds.
 2. *Excess Amounts.* Single Business Units generating in excess of 192 gallons per week of Household Waste, must provide a Stationary Waste Container for service by a private hauler. Variations must be approved by the Public Services Department Director or designee. Rollout Carts for Yard Waste may be purchased by the user from the Solid Waste Division.
 3. *Yard Waste Non-Automated Collection System.* All Residential Units and Single Business Units that have not purchased a City-issued Yard Waste Rollout Cart shall provide an alternative City-approved can for all Yard Waste for removal by the City. The can shall have a capacity of no more than 32 gallons. The following provisions apply:

- a. Cans shall be made substantially of metal or plastic. Cans shall have tight-fitting covers and strong handles, and the covers shall be kept on at all times except when cans are being filled or emptied.
 - b. Plastic bags used to containerize Yard Waste shall be constructed from film made from high quality polyethylene or a similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed.
 - c. Cans provided by the user for Yard Waste shall not weigh more than 50 pounds.
- b. *Identification.* Where Rollout Carts have been provided, the Rollout Cart shall be numbered by the Solid Waste Division so as to indicate the assigned dwelling using the particular Rollout Cart. When the Rollout Cart is so identified, it may be used only by the person whose assigned dwelling is shown thereon.
 - c. *Ownership of Rollout Carts.* The City shall retain ownership of Rollout Carts which are initially provided for Collection services to the user. Such Rollout Carts shall not be removed from the original assigned property. Rollout Carts which require replacement as a result of user abuse and/or negligence will result in the user being charged a replacement fee as set forth in the Solid Waste Fee Schedule. Any Rollout Carts purchased by a user, for purposes other than replacement of the City-issued container, shall become the property of the user.
 - d. *Lost or Stolen Rollout Carts.* Any Rollout Cart provided by the City which becomes lost or stolen through no fault of the user shall be replaced by the City at no cost to the user.
 - e. *Unserviceable Rollout Carts.* Any Rollout Cart provided to the user at the City's expense that becomes unserviceable due to normal usage shall be replaced at the expense of the City, and ownership shall be retained by the City.
 - f. *City-Owned Waste Receptacles.* City-owned waste receptacles placed adjacent to City streets and in public places are for the exclusive use of the transient public, pedestrians and motorists, and City Solid Waste Division sweeper collectors. City-owned receptacles shall not be used by adjacent business enterprises or other privately owned establishments in lieu of the privately owned Stationary Containers they are required to furnish in accordance with this Chapter.
 - g. *Missing or Damaged Rollout Carts.* The City is not responsible for replacing missing or damaged non-City-owned and provided Rollout Carts. The City will only repair City-issued Rollout Carts that have been damaged by the City. Any Rollout Cart damaged by the placing of hot ashes or other toxic chemicals therein by the user, shall be replaced at the cost of the user, ownership shall be retained by the City.
 - h. *Cleaning.* No Rollout Cart or Stationary Container shall be cleaned on public property except under the supervision of the City Manager or designee, and no residual materials or Waste from the cleaning of Rollout Carts or Stationary Containers shall be allowed to drain into a public gutter, street, sidewalk, storm sewer, or into a constant flowing or intermittent flowing stream or stream bed.

Sec. 22-5.1. Public or Private Cans/Receptacles.

No person shall cause or permit the contents of a public or private receptacle designed for the deposit of Waste, Litter or Recyclables, to be deposited or strewn in or upon public or private property.

Sec. 22-6. Containers Used for Apartment Buildings, Public Housing Complexes and Multi-Story Condominiums.

- a. In any Multifamily Community where the total number of living units is eight (8) or more per parcel, each building and/or group of buildings shall be furnished by the developer with a sufficient number of commercial centralized Stationary Containers to adequately contain the Waste disposal at such locations. The City Manager or designee shall review and approve the type of centralized Stationary Container and the locations of those containers where overhead or lateral restrictions may pose collection service problems.
- b. The location of such containers shall be subject to the approval of the City Manager or designee, and in no case shall a centralized Stationary Container be located closer than 25 feet to a structure, automobile parking space, or any other permanent fixture on the property. In addition, a 15-foot overhead clearance for the centralized Stationary Container shall be provided and maintained at all times.
- c. In any Multifamily Community where the total number of living units is more than 16 within the development, each building and/or group of buildings shall have a centralized Stationary Container system. This type of Waste collection system shall be provided and maintained by the developer. Screens or other devices with the intended purpose of blocking the view of Stationary Containers shall be aesthetically pleasing. The type of centralized Stationary Container and, where applicable, the design of the enclosures to screen the Containers, is subject to the approval of the City Manager or designee. Where centralized Stationary Containers are used, locations to permit safe and convenient access are required. The location of the Stationary Container shall be placed in a manner as to allow the service vehicle operator to service the container, backup, and depart without having to exit the vehicle or make unnecessary maneuvers, or require disproportionate time. Excessive walking distances for tenants and occupants should be reasonably minimized. If safe and reasonable access is denied due to gates, fixed objects, low hanging wires or other obstructions, the Stationary Container will not be approved.
- d. In the case of any Multifamily Community, as previously described, where the total number of living units is 16 or fewer within the development and each living unit has a separate ground level entrance, each living unit shall be provided, by the private hauler, a can/receptacle similar to a Rollout Cart for Waste collection service.
- e. Any variations from the above standards requires approval from the City Manager or designee.
- f. Any Stationary Containers, placed into service after the effective date of the ordinance from which this Chapter is derived, which have side openings shall be equipped at the property owner's expense with locking devices for such side openings.

Sec. 22-7. Commercial, Industrial, Professional and Governmental Establishments.

The owner, operator, proprietor, on-site supervisor of any buildings, structures or areas in the City used or occupied as commercial, industrial, professional, governmental or private establishments to

include, but not necessarily limited to, restaurants, hotels, motels, trailers, shopping centers, stores, shops, drive-in facilities, theaters, recreation or amusement enterprises and multiple or single dwelling places of all types and any governmental buildings or offices, yards, grounds or industrial type sites wherein Waste accumulates, shall provide and maintain Stationary Containers, as required by the Solid Waste Division, of sufficient capacity, to accommodate the user in some convenient place so as to be easily and readily emptied or removed. The location of such Containers shall be subject to the approval of the City Manager or designee. Stationary Containers shall be located in such a manner as to be available for pickup at any time during the 24-hour day. All Waste accumulated on the property shall be deposited into such Containers daily.

Sec. 22-8. Exemption.

The owner, operator, proprietor or on-site supervisor of any buildings, structures or areas in the City that is required by this Chapter to provide the Stationary Containers may apply to the City Manager or designee for an exemption from these requirements. An exemption shall be granted by the City Manager or designee if the environmental conditions for the serviceable area for the removal of Waste is not conducive for Stationary Containers, or is unsafe. Upon this finding, the City Manager or designee is authorized to provide the applicant with Curbside or other suitable arrangements for the removal of Waste.

Sec. 22-9. Reserved.

Sec. 22-10. Collection Routes, Schedules and Pickup of Household Waste and Other Materials by City.

The City Manager or designee shall establish Collection routes and schedules and may alter these routes and schedules from time to time. The City Manager or designee may also establish, and revise from time to time, a policy relating to the number of times per week the City will collect Household Waste from Residential Units and the maximum number of Rollout Carts the City will service on any parcel. No owner or occupant of any property shall prohibit or prevent the City from providing services at the property at the prescribed periodic Collection rate. When scheduling a pickup service for Non-Compliant Loads, Household Construction Debris, and move-outs, etc., the user should contact the Solid Waste Division.

1. City-served Curbside Collection services will be provided to Units, on a day designated for Collection by the City Manager or designee. Household Waste shall be placed at the Curbside no earlier than the day before the scheduled Collection.

2. Special Collection services for users with a Physical Disability shall be available as outlined under the Solid Waste Division policy. Anyone who is unable, because of a Physical Disability, hardship, age, or handicap, to roll a Rollout Cart to the Curbside may receive Backdoor Service at no cost, upon approval by the City Manager or designee, who may require additional documentation including, but not limited to, a doctor's certificate as proof thereof; provided there is no one else living in the home that can push the Rollout Carts to the Curbside.
3. [Reserved.]
4. For the Collection of Household Waste, the owner or occupant of each Unit shall place all Household Waste in up to two (2) approved Rollout Carts and place such Rollout Carts within one foot of the Curbside or edge of the pavement on the day scheduled for Collection prior to 6:00 a.m. If more than one (1) Rollout Cart is placed at the Curbside, the owner or occupant shall ensure a spacing of at least four (4) feet from other Rollout Carts and objects.

Public notice shall be given of any change of Collection day. City Collection personnel shall not provide service if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions. The following rules shall apply for the removal of Household Waste:

- a. No wooden boxes, barrels, or any other wooden receptacle, or any other receptacles except approved receptacles shall be used for Collection of Household Waste, Yard Waste, or Recyclables.
 - b. For the purpose of Collection, placement of Rollout Carts will be at ground level, and the use of underground receptacles will not be permitted.
5. Collection of Household Waste and other materials begins at 6:00 a.m. and containers not available for Collection on the scheduled day will not be collected until the next regularly scheduled day. Rollout Carts shall be removed from the Curbside the day that they are serviced and shall not be stored in front of a dwelling or commercial establishment, or otherwise in front of the building, closest to the street. Any variations from these requirements requires the approval of the City Manager or designee. Failure to remove the Rollout Cart from the Curbside the day that it is serviced is a violation of this Section, which shall result in the following:
- a. As a result of a first and second violation, written warning of such violation shall be issued to the owner, occupant, lessor, lessee, or person in charge of the property where the Rollout Cart is located, with no monetary penalty being imposed;
 - b. Any third or subsequent violations shall subject the offender to a citation and civil penalty based on the Solid Waste Fee Schedule. Such civil penalty shall be recovered by the City in a civil action in the nature of a debt if the offender does not pay the penalty within the time prescribed in the citation notice.
 - c. Once a citation is issued, each and every day's violation of the cited offense shall constitute a separate and distinct offense.
6. The City Manager or designee shall determine that area considered to be the Curbside as it relates to the Waste Collection pickup point.
7. Spilled materials or overflow not caused by City Collection crews shall be cleaned up immediately after such spillage or overflow by the property owner or occupant. Spilled Household Waste materials caused by City Collection crews shall be cleaned up immediately after such spillage occurs by such crew.
8. Recyclables containerization requirements and Collection services.
- a. The City Manager or designee shall have the authority to determine the location, manner, method, and timeframe for Collection of Recyclables. Collection of Recyclables shall be provided to all eligible Units.
 - b. The Solid Waste Division will supply one (1) blue, 96-gallon Rollout Cart to provide the user with the ability to store Recyclables for a bi-weekly Collection service at the Curbside. The Recyclables Rollout Cart shall be set out before 6:00

a.m. on the scheduled day of pickup and removed from the Curbside per the requirements of other Rollout Carts.

- c. Users are encouraged to place clean and dry Recyclables into the Rollout Cart and to break down corrugated containers before placing them in the Rollout Cart.
 - d. Recyclables must be inside the Rollout Cart. If the user has oversized corrugated boxes that do not fit in the Rollout Cart, those corrugated boxes, also broken down tied or taped, may be placed next to the Rollout Cart for Collection by the City or its designated contractor.
 - e. Approved Recyclables are subject to change based on the Material Recovery Facility contracted by the City to receive Recyclables from the City.
9. Yard Waste containerization requirements and Collection.
- a. Yard Waste Collection shall be provided only to Units as approved by the City Manager or designee.
 - b. Yard Waste shall be separated from all other Waste prior to Collection. The City shall collect Yard Waste that is customarily and reasonably associated with the Unit served so long as it is properly prepared or containerized and in compliance with these regulations. Yard Waste shall be placed within four (4) feet of the Curbside for Collection by the City.
 - 1. Grass clippings, small shrubbery clippings, leaves, and other small lawn and Yard Waste debris shall be collected at the Curbside provided that they are placed in plastic bags, an approved can for Collection, or a Rollout Cart that is purchased from or provided by the City. If plastic bags are used, such bags shall be in good condition, and of such size and weight that, when full, do not weigh more than 50 pounds each, and are such that one individual can pick up each bag one at a time for disposal. The plastic bags shall be secured at the top when placed at Curbside for Collection. For each Collection day, a maximum combination of ten (10) Rollout Carts, plastic bags, and approved cans in total can be set out at the Curbside for weekly Collection.
 - 2. Loose Yard Waste comprised of branches and twigs are to be tied into bundles weighing no more than 50 pounds, be no longer than three (3) feet in length, three (3) feet in width, and the branches must not be larger than three (3) inches in diameter.
 - 3. Other approved cans used for Yard Waste that are provided by the user shall be made of metal or plastic, have tight-fitting lids, be made for Waste disposal, equipped with strong handles, and shall not exceed 32 gallons in size or 50 pounds in weight when lifted by one person.
 - 4. The Parks & Recreation Department is responsible for the collection of un-containerized leaves and pine straw placed at the Curbside. One free collection is scheduled by the Parks & Recreation Department between

November and January according to the street's zip code. Additional un-containerized leaves and pine straw can also be collected at different times by making arrangements with the Parks & Recreation Department and paying the fees pursuant to a fee schedule approved and authorized by the City Council.

10. Large Limb Waste Collection requirements.

- a. *Large Limb Collection.* Collection of un-containerized Large Limb Waste shall be provided to Units. The City Manager or designee shall have the authority to determine the location, manner, method, and timeframe for Collection of Large Limb Waste. Large Limb Waste to be collected by the City shall contain limbs no longer than five (5) feet in length and not greater than six (6) inches in diameter, and in a pile no more than 10 cubic yards and must be placed in an orderly manner at the Curbside at least four (4) feet away from all other objects. Scheduled arrangements must be made with the Solid Waste Division for special pickup of materials over 10 cubic yards. A fee as provided in the Solid Waste Fee Schedule will be charged for this service as approved by the City Council. Payment must be made in advance of having the service provided. Any non-scheduled Curbside placement of Large Limb Waste piles over 10 cubic yards will be considered a Non-Compliant Load and subject to abatement in accordance with this Chapter.
- b. Additional requirements for Large Limb Waste Collection:
 1. Those properties participating in the "farm use program" as listed by the Cumberland County Tax Administrator's Office shall not qualify for bulky tree and Large Limb Waste Collection;
 2. The Solid Waste Division shall in no case collect Yard Waste and or Large Limb Waste generated by a contractor or person other than the owner or occupant of a Unit;
 3. The City shall not provide Collection services for vacant lots (this is considered land clearing);
 4. It shall be unlawful for any person to place Large Limb Waste and tree debris in a manner that obstructs traffic or is piled over three (3) feet high.
 5. It shall be unlawful for any person to place tree and Large Limb Waste under trees, near mailboxes and utility boxes, or other objects;
 6. It shall be unlawful for any person to place tree and Large Limb Waste in a place that would obstruct overhead power lines;
 7. The Solid Waste Division shall have the authority to take several days to collect excessive loads, based upon other work commitments.
 8. Items are to be placed at the Curbside the day before the scheduled Collection day.

11. Bulk Waste Collection requirements.
 - a. Collection of Bulk Waste shall be provided to Units. The Public Services Department Director or designee shall have the authority to determine the location, manner, method, and timeframe for Collection of Bulk Waste. Each Compliant Bulk Waste load cannot contain more than five (5) items. Requests for the Collection of more than five (5) items will be subject to a service fee in accordance with the current Solid Waste Fee Schedule. Payment must be made in advance of having the service provided. Items are to be placed at the Curbside the day before the scheduled Collection day for that week. Items at the Curbside that are not scheduled and paid for are considered a Non-Compliant Load and subject to abatement in accordance with this Chapter.
 - b. Additional requirements for Bulk Waste Collection:
 1. Notification and payment must be made to the Solid Waste Division in order to schedule a Collection of Non-Compliant Loads of Bulk Waste.
 2. Appliances shall be emptied of their contents.
 3. Refrigerator and freezer doors must be removed or secured to prevent entry by small children.
 4. City Collection personnel shall not provide services if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions.
 5. Appliances shall not be collected from any Unit engaged in the repair or resale of appliances.
 6. Bulk Waste shall be placed at the Curbside by 6:00 a.m. on the Collection day of the week to ensure Collection.
 7. Bulk Waste must be separated from all other Waste prior to Collection.
 8. All glass in windows, doors, mirrors and other items with large expanses of glass must have the glass removed and where practicable placed in a City-approved Rollout Cart for Collection.
 9. All gasoline/fuel must be removed from all lawn equipment prior to Collection.
 10. Oxygen tanks and other medical equipment, propane tanks, large oil tanks used for household purposes or batteries from any residentially used property, etc., shall not be collected by the City.
 11. Furniture and/or mattresses shall be limited to five (5) pieces per Collection.
 12. Any Bulk Waste or other items not properly prepared for disposal as provided in this Section, and any items that exceed the size indicated by this

Chapter, are considered a Non-Compliant Load and subject to abatement in accordance with this Chapter.

12. Household Construction Debris Collection.
 - a. The Solid Waste Division can collect Household Construction Debris generated by the owners or renters of Residential Units.
 - b. Collection services need to be scheduled seven (7) days in advance of the requested Collection date unless otherwise approved by the Solid Waste Division.
 - c. For non-contracted renovations and additional Collections, the Residential Unit will be charged in accordance with the Solid Waste Fee Schedule.
 - d. Items are to be placed at the Curbside the day before the scheduled Collection day. Items at the Curbside that have not been scheduled for Collection are considered a Non-Compliant Load and subject to abatement in accordance with this Chapter.
13. The City Manager or designee shall have the authority to require that items be prepared for ease of Collection and to assure the safety and health of the employees performing the Collection tasks.
14. The City Manager or designee can designate different Collection locations for Units that are located on private streets or driveways.
 - a. The determination of whether a private street or driveway creates a safety and operational hazard will be made by the Solid Waste Division.
 - b. When such a determination is made, the Solid Waste Division will inform the owner and/or occupant of an alternative location for Collection services for Rollout Carts and other City-approved cans.
 - c. In the event that the Solid Waste Division determines it can provide service on the private street or driveway, the Unit owner will be required to sign a waiver limiting the City's liability for damages that may occur while providing Curbside Collection adjacent to the Unit.

Sec. 22-11. Proper Placement of Trash.

It shall be unlawful to sweep or cause to be swept, thrown, placed, poured, dumped or drained any Litter, empty cartons, paper, packing boxes, packing material, sweeping compound or cleaning waste from any real estate, building or enterprise into any public street, drain, gutter or storm sewer. All trash, paper or Litter shall be immediately placed in approved containers as prescribed by this Chapter, if dry and nonperishable, it shall be bundled, packaged, stacked, boxed, crated, barreled or otherwise bound, tied or secured into one-person loads and shall be so placed or located with reference to the streets and alleys as to provide for convenient Collection. Plastic or metal binding materials will not be allowed. Placement for Collection shall be in a manner to prevent wind blowing or scattering of any Litter. All empty crates, boxes, cartons and similar containers in preparation for removal by the Solid Waste Division shall be crushed or otherwise broken down flat and bundled, tied, packaged or stacked by the service user.

Sec. 22-12. Accumulations of Solid Waste Liable to Spontaneous Combustion.

It shall be unlawful for any person to allow to accumulate on any property occupied by him any Litter, trash, rubbish or other Waste which is liable to spontaneous combustion.

Sec. 22-13. Transporting Garbage, Organic Wastes or Similar Materials; Vehicles.

- a. It shall be unlawful for any person to privately haul or have hauled, carried or transported any Waste or wet or perishable or malodorous matter of organic origin on any City thoroughfare except in metal containers, covered vessels, or liquid-tight containers with tight-fitting covers; all of which shall be devoid of any drain tubes, or drainage pipes or other features which will release draining, Waste, seepage, or washing from the container onto public roads, streets or property over which the transport is being moved.
- b. It shall be unlawful to commercially collect, handle, haul or transport on any of the streets, public ways/alleys, or other places of the City any waste without obtaining the necessary approvals, permits and licenses to do work in the City.
- c. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load contents or Litter from being blown, deposited or spilled upon any street, alley or any other public place. No person shall allow to be spilled from any truck or any other vehicle any abrasive materials, such as sand, rocks or gravel, but not limited thereto, which might harm or do damage to the streets or the paint markings thereon.

Sec. 22-14. Littering by Operators and Occupants of Motor Vehicles.

- a. No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit Litter from any motor vehicle in operation upon any street, road, highway or public vehicular area, except into a Litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- b. No operator of a motor vehicle in operation upon any street, road, highway or public vehicular area shall allow Litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a Litter receptacle in a manner that prevents its being carried away or being deposited by the elements.

Sec. 22-15. Noxious, Toxic, Flammable or Dangerous Materials.

It shall be unlawful for any person to place in any Waste Stationary Container, Rollout Cart, approved can/receptacle any noxious, toxic or flammable chemical or gasoline, kerosene, motor oil or other petroleum based products. Hypodermic needles shall be bent and placed in clearly marked containers specifically designed for the removal and disposal of hypodermic needles. Pressurized canisters of more than a one-quart capacity shall be sawed or punctured so as to eliminate the danger of explosion.

Sec. 22-16. Illegal Dumping; Owners and Occupants Required to Keep Property Free from Public Health and Safety Nuisances.

- a. Every person owning or occupying any property in the City shall keep such property free from the following enumerated and described conditions which are hereby found, deemed and declared to constitute a hazard or detriment to the health and safety of the inhabitants of the City:
 1. Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects or other pests;
 2. Open wells and open basements or structures where construction of such structure has been abandoned or the structure has been razed by fire, demolition or other casualty;
 3. An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, Waste, brush, old clothes, rags, or any other combustible material or object of a like nature;
 4. An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind which is subject to decay or shall otherwise be a menace to health or cleanliness;
 5. Hides, dried or green, provided such hides may be kept when thoroughly cured and odorless; or
 6. Any furniture, appliances or other metal products of any kind or nature openly kept which have jagged edges of metal or glass where such furniture, appliances or other metal products poses a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside.
- b. The creation, maintenance or failure of the owner or occupant to abate any of the conditions enumerated in subsection (a) of this section is hereby declared unlawful. An owner remains liable for violations of duties imposed upon him by this chapter even though:
 1. An obligation is also imposed on the occupants;
 2. The owner has, by agreement, imposed on the occupant the duty of complying with this chapter.
- c. Except as permitted in this Chapter, no owner, lessor, lessee, person, firm or corporation shall be permitted to illegally dump, leave or dispose in any manner upon their property or the property of another, whether public or privately owned, within the City limits the following items:
 1. Mixed household, metal and yard waste;
 2. Tires or automotive parts to include engines, axles, batteries, transmissions, etc.;
 3. Hazardous materials, e.g. oils, cleaning fluids, paints and household chemicals;
 4. Furniture or mattresses;

5. Carpet;
 6. Building materials, e.g. bricks, drywall, gutters, shingles, wooden fencing, pool liners, lumber, boards, toilets, sinks and tubs;
 7. Household garbage and related materials;
 8. Trees cut down by residents or contractors to include land clearing debris;
 9. Yard debris and related materials not removed by the generator of this waste within one (1) week except as allowed in Section 22-10.
- d. Any person, firm or corporation that is found to have dumped, left or disposed of in any manner, or whose personal items are identified within any items as enumerated in subsection (c)(1) through (c)(8) of this Section, upon the property of another, without the consent of that property owner or other persons in lawful control of the property, shall be subject to a civil penalty of \$500.00 and shall be responsible for the City's cost of removal of such items.
- e. An undeveloped lot is hereby declared a nuisance lot when there are two (2) or more verified violations within a one (1) year period.
1. Upon the declaration of an undeveloped lot as a nuisance lot, the Development Services Director or designee may prepare a property maintenance plan for such lot. The property maintenance plan shall specify corrective actions to be taken by the owner to detour illegal dumping on the nuisance lot. Such corrective actions may include, but are not limited to, installation of fencing, lighting, and signage. The property maintenance plan shall include a date by which the corrective actions are to be completed.
 2. The property maintenance plan and any subsequent appeal documents shall be served on the owner as set forth in Section 22-18.
 3. An owner may appeal the property maintenance plan to the Board of Appeals. A request for an appeal hearing by the board of appeals must be filed in writing with the City Clerk's office within 10 business days of the date the property maintenance plan is mailed to the property owner. The property owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this article. The request must state the reason for the appeal. The Board of Appeals, after a hearing, may modify or reverse the application of any corrective action provisions stipulated in the property maintenance plan when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this Chapter or public interest, or when, in its opinion, the corrective action provisions should be modified or reversed. A decision of the Board to modify the corrective action provisions shall specify in what manner such modification is made, the conditions upon which it is made, and the reasons therefore. Every decision of the Board of Appeals shall be in writing, and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the Development Services Director or designee. The Board of Appeals shall in every case reach a decision without unreasonable or unnecessary delay. If a decision of the Board of Appeals reverses or modifies any corrective action provisions stipulated in the property maintenance plan,

Development Services Director or designee shall immediately take action in accordance with such decision. The owner shall have the right to seek judicial review of the Board of Appeals decision in a proceeding in the nature of certiorari instituted in the Superior Court of the County within 30 days after the Board of Appeals decision.

Sec. 22-16.1. Placement and Maintenance of Litter Receptacles.

- a. It is the intent of this Section to ensure that public areas are kept clean and free from Litter.
- b. Any person, firm or corporation operating a grocery store, convenience store or an establishment selling food or beverages for consumption off the premises, shall place and maintain a Litter receptacle outside of each exit from said premises for the use of the patrons thereof during business hours.
- c. The receptacle shall be emptied when full and at the close of business each day. Each receptacle shall be maintained in a clean and sanitary condition.
- d. If any person or firm or corporation should violate the provision of section 22-16.1, it shall be the duty of the City Manager or designee to give notice to the owner or to any person in possession of the subject property in accordance with sections 22-17, 22-18 and 22-20 of this Chapter.

Sec. 22-17. Notice to Abate Unlawful Conditions; Abatement by City.

- a. If any person shall violate the provisions of this Chapter, it shall be the duty of the City Manager or designee to give notice to the owner or to any person in possession of the subject property, in accordance with section 22-18 of this Chapter, as follows:
 1. That an unlawful condition exists thereupon and that the unlawful condition shall be abated by the owner and if the unlawful condition is not abated, that the owner will be subject to a civil penalty as set forth in Section 22-26; and
 2. That if the property owner does not abate the unlawful condition within 10 business days:
 - a. The property owner will be charged an administrative fee in accordance with the Fee Schedule as approved by City Council regardless of who abates the unlawful condition; and
 - b. The City Manager or designee, may proceed without notice to abate the unlawful condition and charge the actual cost of abatement to the property owner; and
 - c. In addition to any other penalty imposed, the administrative fee, the actual cost of abatement or both shall be collected in the manner as provided for delinquent taxes, pursuant to G.S. 160A-193; and
 - d. Upon the completion of any removal and abatement by the City, in accordance with section 22-18 of this Chapter, the City Manager or designee shall give notice to the property owner of their right to appeal the City caused abatement and the appeal process thereof; and

- e. Upon the completion of any removal and abatement by the City, the property owner may request an appeal hearing of the City caused abatement to the City administrative hearing officer. Such request for an appeal hearing shall be in writing and submitted to the City Attorney's Office within ten business days of the receipt of the notification of the right of appeal. The request for an appeal hearing shall state the reason(s) why the property owner should not be assessed for the cost of the City caused abatement. The appeal hearing shall be held within 14 business days of the receipt of the request. Failure of the property owner to file a written request for an appeal hearing within the time prescribed by this Section will result in the waiver of the opportunity to file a request for an appeal hearing and the property owner being responsible for all costs associated with the abatement as otherwise provided in this Chapter.
- b. Upon the completion of any removal and abatement by the City, the City Manager or designee or his designated representative, shall deliver to the deputy tax collector a statement showing the actual cost of the abatement of the unlawful condition, in which statement, in addition to the cost of labor, hauling, and other necessary items of expense, shall be included as an administrative fee in accordance with the fee and penalty schedule as approved by City Council. The deputy tax collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon such property and, if not paid within 30 days, shall be collected as in the manner provided for the collection of delinquent taxes.
- c. If the same person, corporation, or other property owner or occupant has failed to abate a violation within the ten-day period allowed in this Section for the same or different parcels of property at least twice in the same 24-month period, then if the same person, corporation, or other property owner or occupant fails to abate a third or subsequent unlawful condition within the 10-day period allowed in this Section and within the same 24-month period of the first two (2) violations as specified in this Section, the person, corporation, or other property owner or occupant shall be subject to a \$1,000.00 civil penalty, collectible as set forth in Subsection (a) of this Section, in addition to any other fee imposed by this Chapter for a continuation of the violation after the 10-day period allowed in this Section.
- d. In the event that the City Manager or designee, determines that an unlawful condition constitutes an imminent danger to the public health or safety, such that notice to the property owner could not be provided without endangering the public, the City Manager or designee, may take immediate action to remove or abate the unlawful condition, and the property owner shall be subject to the costs and administrative fee of such abatement as provided in this Section and in accordance with the Fee Schedule adopted by the City Council. As soon as is practicable after the abatement of the unlawful condition, the property owner who has been assessed the costs for such abatement under this Subsection shall be given notice as prescribed by this Section.

Sec. 22-18. Service of Notice.

- a. The notice required by this Chapter shall be served upon the owner of the subject property either personally or by first-class mail and by posting the notice on the subject property. If the whereabouts of such owner is unknown and the owner cannot be ascertained by the City in the exercise of reasonable diligence, and the City shall make an affidavit to that effect, then the serving

of such notice upon such owner may be made by serving any person in possession of the subject property, or, if there is no person in possession of it, by posting the notice on the subject property.

- b. Any such notice may be served by any authorized representative of the City or by any police officer of the City when so authorized through the City Manager's Office.

Sec. 22-19. Defect in Notice Not to Affect Lien.

Any defect in the method of giving the notice required by Section 22-17, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the City, in any case where the working of abating an unlawful condition upon any property is caused by the City, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.

Sec. 22-20. Reserved.

Sec. 22-21. Reserved.

Sec. 22-22. Collection Service for Establishments Having a Front Door Only.

Owners of establishments, stores or other enterprises which are housed in buildings having only a front door opening onto a public sidewalk shall not place any Household Waste, other Waste or rubbish on or adjacent to any public sidewalk overnight or over the weekend. Cans/receptacles for debris shall be kept in the owner's establishment and moved outside to the Curbside only to meet the Collection schedule of the City Solid Waste Division. Empty cans/receptacles shall be removed by the owner from the public area to the inside of the establishment as soon as scheduled Collection has been completed.

Sec. 22-23. Schedule of Fees for Extra Solid Waste Division Services.

- a. A fee shall be collected by the City for all extra services which are requested and furnished to users in excess of those provided without cost or patrons otherwise authorized under this Chapter. The fees for extra services are set forth in a separate Solid Waste Fee Schedule as approved by the City Council.
- b. The charge for any extra service not covered by fees within the Solid Waste Fee Schedule as approved by the City Council shall be determined by the City Manager or designee, using these fees as guidelines and exercising judgment to establish a fee to cover only the actual cost of the specific service, plus the 10 percent surcharge, less any funds generated from a disposal action related to the service.
- c. Heavy debris including, but not limited to, items in excess of one-person loads which require a special loading crew, front-end loader and/or special vehicle shall not be collected or removed by the Solid Waste Division except for a fee charged to the service user under the terms of this Chapter.

Sec. 22-24. Accounting Procedures.

- a. Funds generated by charges for City Solid Waste Division services and materials shall be accounted for through the use of sound business principles to include as a minimum a system of serially numbered permits, tickets and duplicate receipt forms.

- b. The City Manager or designee is authorized to enter into a contractual service agreement on a monthly basis whenever such an agreement best serves the convenience of both the City and the service user.

Sec. 22-25. Construction/Demolition Debris.

Removal of Construction/Demolition Debris shall be the responsibility of the property owner, and failure to remove the Construction/Demolition Debris shall be considered the creation of an unlawful condition upon the property subject to abatement under the provisions of this Chapter.

Sec. 22-26. Enforcement and Penalties for Violations.

- a. The City Manager or designee is hereby authorized to enforce the provisions of this Chapter.
- b. In addition to the remedies and sanctions set forth in Section 22-17, any person who, after having received the notice set forth in Section 22-17, fails to abate the unlawful condition set forth in the notice shall subject the violator to civil penalties in accordance with the Fee Schedule as approved by City Council. The amount of the civil penalty shall be due and payable as outlined in such notice. Payments shall be made to the Finance Department, City Hall, 433 Hay Street, Fayetteville, North Carolina 28301-5537. Failure to pay the civil penalty within the prescribed period of time shall subject the offender to a civil action in the nature of a debt to recover the civil penalty due, plus the cost of the action. Each and every day's continued violation shall be a separate and distinct offense. This Section is enacted pursuant to G.S. 160A-175(c), and is intended to be a civil penalty and not a criminal sanction.
- c. The civil penalty shall be imposed by citation served personally upon the violator by those individuals authorized under this Chapter, or delivered by first class mail followed by delivery confirmation if the first notice is returned within 10 business days. The citation shall set forth the specific violation, the amount of the penalty, that each and every day's violation is a separately punishable offense, and that if the penalty is not paid within 10 business days of the issuance date of the citation, the penalty shall be collected by civil action in the nature of a debt. The citation shall also set forth any appeal rights.

Sec. 22-27. Effective Date.

This Chapter shall become effective on January 9, 2023.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

ADOPTED this the _____ day of _____, 2023.

CITY OF FAYETTEVILLE

MITCH COLVIN, Mayor

ATTEST:

PAMELA J. MEGILL, City Clerk