

ORDINANCE NO. 2021-35

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES CHAPTER 58
& UNIFIED DEVELOPMENT ORDINANCE CHAPTERS 4 and 8**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Code of Ordinances Chapter 58 and Unified Development Ordinance Chapters 4 and 8, be amended to regulate the installation of sub-grade dumpsters; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan, specifically the following sections:

ELEMENT 3: ENVIRONMENTAL HEALTH

OBJECTIVE 3.2: Reduction of the City's carbon and ecological footprint.

POLICY 3.2.F: Continue to improve the City's residential and commercial recycling programs.

and,

WHEREAS, a legislative public hearing was conducted on Monday, August 16, 2021, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

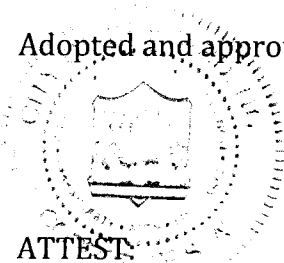
SECTION 01. Brevard City Code, Code of Ordinances Chapter 58 and Unified Development Ordinance Chapters 4 and 8 are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

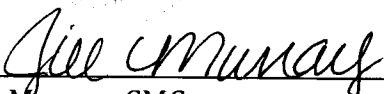
SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 16th day of August, 2021.



ATTEST:



Jill Murray, CMC
City Clerk



Jimmy Harris
Mayor

APPROVED AS TO FORM:



Mack McKeller
City Attorney

City of Brevard Code of Ordinances

Sec. 58-5. - Containers.

- (a) *Required; maintenance; specifications.* Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises served and shall be of a type approved by the public works director. Containers shall be maintained in good condition and shall be kept in a clean, neat and sanitary condition at all times. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The public works director shall have the authority to refuse collection services for failure to comply herewith. City collection personnel shall exercise due care in the handling of containers and the city shall not be liable for any damage to containers resulting from handling the containers unless it can be shown that the personnel were negligent or careless in the handling thereof, and in such cases the liability of the city shall extend only to replacement of the container with one in good condition of like material and capacity. The following types and numbers of containers are prescribed for use in the collection of waste material:
- (1) *Residential containers.* The standard small container, normally used at residences, shall be made of metal or substantial plastic equipped with suitable handles and tight-fitting covers, shall be watertight and shall have a capacity of not more than 32 gallons. These containers may be used for any waste material, except that ashes may only be placed in metal containers. Care shall be taken to ensure that the weight of the contents shall be such that the container, with contents, can readily be handled by one adult person.
 - (2) *Dumpsters.* Commercial dumpster containers shall be of steel construction, of up to 4-cubic-yard capacity and of such design and construction as to facilitate mechanical unloading by collection equipment operated by the city. Sub-grade dumpsters may be of steel or polyethylene construction and have a capacity up to 8 cubic yards; the public works director may require the customer use a private hauler to collect the waste in such dumpsters due to city collection capabilities. Dumpsters may be used for garbage, refuse or rubbish.
 - (3) *Disposable containers.* Disposable containers shall be made of either metal, plastic, wood, cardboard or paper, all of which shall be removed with the contents thereof. These containers together with the contents thereof shall be of such weight that they can readily be handled by one adult person and shall be of sufficient strength to withstand failure when being picked up and placed in the collection vehicle.
 - (4) *Number of containers.* Residential and noncommercial business customers shall be limited to two standard small containers per dwelling unit or business per collection. If more than two containers are used on a regular basis, the collection fee shall be doubled. For multifamily residential buildings having more than four units, a commercial dumpster container shall be provided in lieu of the standard small containers. Commercial customers requiring more than four standard small containers on a regular basis shall be required to use a commercial dumpster container.

Unified Development Ordinance

4.6. - Containment areas for trash and recyclables.

All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. Sub-grade dumpsters shall be exempt from the provisions of this section. All containment areas shall meet the following standards:

- A. All containment areas shall be enclosed to contain windblown litter.
- B. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
- C. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall, or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
- D. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support, allows for positive drainage, and conforms to the Transylvania County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.
- E. Enclosures shall contain gates to allow for access and security.
- F. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
- G. Enclosures shall be landscaped in accordance with Chapter 8 of this ordinance.

8.6. - Parking lot screening.

- A. *Applicability:* Perimeter yard of all parking areas visible from the street. (Except one and two family homes)
- B. *Minimum planting:* Semi-opaque screen from the ground to at least a height of three feet for screening of car lights and glare. (Minimum width: Ten feet).
- C. *Performance standard:* This type functions as a semi-opaque screen around the parameter of a parking lot from the ground to at least three feet for the screening of car lights and glare. This shall only be required along the parking area that fronts the public right-of-way or any side of a parking lot that is not protected by a required buffer yard. The location of such yards shall be determined by the administrator upon review. Effective screening devices may include solid decorative brick walls, wood fences, earth berms, tight evergreen hedges which shall reach the required height within two years of planting, or any combination of the above. Plantings which can achieve a mature height exceeding 30 inches shall not be planted in the sight triangle on each side of drives or streets.
- D. *Screening of open storage, above ground utilities, and dumpsters:* Any open storage of merchandise, equipment, materials or goods other than those on display for retail sales, above ground utilities, and dumpsters areas shall be screened from view from any street right-of-way in accordance with the ratios (but not necessarily the minimum dimension) prescribed for type C buffer yards. Sub-grade dumpsters shall be exempt from the provisions of this section.