

ORDINANCE NO. 2023-08

**AN ORDINANCE AMENDING SECTION 58
THE CITY OF BREVARD CODE OF ORDINANCE**

WHEREAS, a public hearing was conducted on January 17, 2023, by Brevard City Council, and after review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Section 58 Solid Waste Management of the Brevard City Code of Ordinance be amended as outlined below; and

WHEREAS, the amendments are intended to increase safety, clarify unclear language, remove dated references, and give the Public Works Director additional legal tools to use in exceptional circumstances;

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

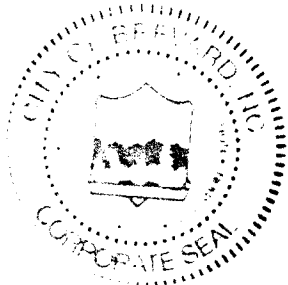
SECTION 01. The City of Brevard Code of Ordinance is hereby amended as set forth in Exhibit A which is attached and incorporated herein.

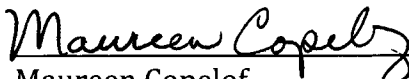
SECTION 02. The City Clerk of the City of Brevard is hereby authorized and directed to revise and amend the official records and the Code of Ordinance to reflect the amendments.

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 on the 6th day of February, 2023.




Maureen Copelof
Mayor

ATTEST:


Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

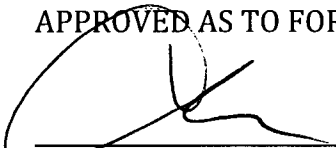

Mack McKeller, Attorney at Law
City Attorney

EXHIBIT A

Sec. 58-4. Separation of different types of refuse.

Garbage and rubbish shall each be placed and maintained in separate containers. Rubble, wood, tree trimmings, hedge clippings and similar material shall not be placed with other refuse for routine or regular collection.

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. 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 four-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 installed of steel or polyethylene construction for private hauler service and maintenance; 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 four standard small containers per dwelling unit or business per collection. If more than four 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.
- (b) *Use.* No person shall place any refuse in any street, alley or other public place, or upon any private property, whether or not owned by such person, within the city except in proper containers for collection or under express approval granted by the director; nor shall any person throw or deposit any refuse in any stream or other body of water.

(c) *Placement.* Refuse containers shall be placed for collection at ground level and directly accessible from the street or alley from which collection is made. Residential refuse containers shall be placed at curbside prior to collection, no later than 7:30 AM and shall be removed within reasonable time thereafter. A suitable permanent location, satisfactory to the director, may be established for containers of commercial customers.

Sec. 58-6. Frequency of collection.

- (a) Refuse shall be collected once each week under normal circumstances.
- (b) Hotels, restaurants and such other businesses and institutions as deem it necessary may enter into an agreement for a greater frequency of collection.
- (c) Where necessary to protect the public health, the director shall have the authority to require that more frequent collection be made. If necessary, an extra city-wide collection shall not affect fees. Individual collections made according to this section shall be charged on a pro-rata basis to the affected fee payer.

Sec. 58-8. Special refuse problems.

- (a) *Contagious disease refuse.* The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the county health department. Such refuse shall not be placed in containers for regular collection.
- (b) *Construction debris; tree limbs, trunks, etc.* Rubbish resulting from any construction, remodeling, wrecking or repair of any building or other real estate improvement shall be removed by the producer of such rubbish, or by the owner of the premises upon which rubbish has accumulated, at his own expense, subject to the provisions of section 58-9. These restrictions shall apply to the removal of limbs, trunks, stumps, etc., of any trees or shrubs removed or trimmed by landscape gardeners, tree surgeons or other parties engaged to carry on such work.
- (c) *Inflammable or explosive refuse.* Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the director at the expense of the owner or possessor thereof.
- (d) *Free curbside pickup service.* Rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property may be placed at curbside for collection. The director shall collect a reasonable amount of such rubbish at no charge, but he shall have the authority to refuse to collect heavy or bulky items that cannot be handled readily by two adult persons. It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery trimmings on any street or sidewalk so as to obstruct the free passage of vehicles or pedestrians.
- (e) *Parking of pickup vehicles at private residences.* The city manager or his designee may authorize city vehicles to be parked at private residences to facilitate the collection of brush and other refuse that would otherwise be collected under other provisions of this section. The city manager is directed to develop a written policy to provide for the implementation of this subsection. The policy is to be kept on file in the office of the city clerk and at the public works department. The fee for this service shall be adopted in the city's annual schedule of fees.

Sec. 58-10. Refuse to become property of city.

Ownership of refuse material set out for collection and delivery to the county landfill shall be vested in the city, and such material shall not be removed from a city collection vehicle except by special permit approved by the city council and issued by the city clerk.