

## **ORDINANCE 19-14**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE; MAKING FINDINGS; AMENDING SECTION 30-1012 OF THE LAND DEVELOPMENT CODE RELATING TO SOLID WASTE DISPOSAL; ALLOWING FOR INDIVIDUAL CONTAINERS UP TO 96 GALLONS; REQUIRING A BULK CONTAINER ENCLOSURE; REVISING SCREENING, FORM, AND LOCATIONAL STANDARDS; REQUIRING MAINTENANCE OF SOLID WASTE ENCLOSURES AND CONTAINERS; REQUIRING GARBAGE AND RECYCLING CONTAINERS TO BE CLOSED; AMENDING SECTION 30-10 OF THE LAND DEVELOPMENT CODE RELATING TO DEFINITIONS BY ADDING A DEFINITION; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR SEVERABILITY / INTERPRETATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 30-62(c)(3)d., the Planning Board finds that the need and justification for this Ordinance is based on the fact that this Ordinance is driven by citizen input and discussions at Planning Board and City Council regarding the requirement of bulk container enclosures at existing and new buildings; the fact that certain residential uses do not generate the trash volume for a typical bulk container; and that some businesses would like to use hand roll out containers for trash and recycling with individual curb side service; and

**WHEREAS**, the City Council has determined that having bulk containers sitting in the open and not inside an enclosure detracts from the beauty and aesthetics of the City; and

**WHEREAS**, open solid waste containers attract birds and animals which have been known to prey on burrowing owl hatchlings; and

**WHEREAS**, the goal of the Future Land Use Element of the Comprehensive Plan states:

TO ENHANCE MARCO ISLAND'S QUALITY OF LIFE, ENVIRONMENTAL QUALITY, AND TROPICAL SMALL TOWN AND RESORT CHARACTER BY MANAGING GROWTH AND ASSURING A STABLE RESIDENTIAL COMMUNITY WITH SUFFICIENT BUSINESSES TO SERVE THE NEEDS OF RESIDENTS AND VISITORS; and

**WHEREAS**, Policy 1.7.1 of the Future Land Use Element of the Comprehensive Plan states:

Policy 1.7.1: The City will continue to enforce adopted architectural and site design regulations in the adopted Land Development Code; and

**WHEREAS**, the Planning Board, pursuant to Section 30-62(c)(3)d. of the Land Development Code, having reviewed the City's Comprehensive Plan and finding that this proposed Ordinance is generally consistent with the Comprehensive Plan and in particular the Goal and Policy 1.7.1 of the Future Land Use Element of the Comprehensive Plan, hereby recommends approval by the City Council; and

**WHEREAS**, City Council finds that some provisions of Section 30-1012 are in need of clarification and adopts the findings of the Planning Board as its own.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:**

**SECTION 1. Recitals.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct, and reflective of the legislative intent underlying this Ordinance.

**SECTION 2. City Code Amended.** That Section 30-10, "Definitions" subsection (c) "*Definitions enumerated*" of the Land Development Code of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to add the following:

**Sec. 30-10. - Definitions.**

**Container** – Receptacle for waste and recycling with a maximum capacity of 96 gallons, commonly known as a rollout cart. Bulk containers exceed 96 gallons in capacity and are commonly referred to as a "dumpster."

**SECTION 3. City Code Amended.** That Section 30-1012 of the Land Development Code of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

**Sec. 30-1012. – Solid Waste Disposal and Recycling**

(a) *Form required.* ~~Pursuant to Collier County Ordinance No. 90-30, as amended, solid~~ Solid waste disposal and recycling shall be required in the form of bulk container service (garbage, recycling, grease waste, dumpsters) for all commercial, institutional, residential tourist, and multifamily developments not receiving curbside garbage and recycling pickup. All containers shall be maintained in good serviceable condition. Defective containers shall be promptly replaced upon notice from the City Manager or his/her designee. All garbage and recycling containers shall be kept tightly covered at all times to prevent access by birds or animals.

(b) Screening. All trash or recycle containers ~~receptacles~~ shall be located so as to be easily accessible to the residents, workforce, and the ~~solid waste~~ hauler. No screening shall be required for roll out containers which hold up to 96 gallons of waste or recycling. ~~And~~

(1) Containers Receptacles, other than roll out containers which hold under 96 gallons of waste or recycling, shall be 100 percent screened on all three sides by opaque materials and have vision obscuring gates on the fourth side to prevent visibility of containers by neighboring property occupants owners and from adjacent streets at the first-floor level. No screening shall be required for roll out containers which hold up to 96 gallons of waste or recycling. Screening materials shall be consistent with design treatments of primary building facades, landscape plan, and in accordance with sections 30-621 through 30-670 article VIII. ~~be used for screening as required above:~~

~~(1) — Wood, plastic, or fences of similar material.~~

(2) The following materials and structures may be used for screening as required above: Concrete block and stucco wall, brick wall, masonry wall, or walls of similar material, wood, vinyl, or plastic. Material for screening shall be of a compatible color of the primary structure. Vegetation may be used in meeting the opaque screen requirements. Chain link is prohibited, except for chain link gates with visual blocking or opaque screening. Adjacent commercial properties may share dumpsters; provided, that sufficient capacity is provided.

~~(3) — Vegetative screening in conjunction with a. and b. above~~

(3) Screening, as required above, shall be maintained by the property owner and and/or shall be installed such that no container, or any part thereof, may be seen from the first floor of any building at a minimum of six feet in heights and a maximum of eight feet in height; provided that there is no obstruction of motorists' vision of adjacent streets, right-of-way or within sight distance triangles. Opaque gates shall be installed on the front of the dumpster enclosure.

(4) No screening of containers shall be required for commercially zoned properties that abut only commercially zoned properties with an alley; provided that all containers must be neat and clean. No garbage, trash, waste, or recycling shall be permitted to be placed alongside the container. All containers when storing garbage, trash, waste, or recycling shall be required to have the lid tightly closed so that container contents shall not be permitted to leave the container. Containers may not occupy designated parking or landscape areas, except as provided in paragraph (c)(6) below.

(c) Minimum requirements and locational restrictions. ~~In the case of multifamily developments, at least one standard size bulk container (dumpster) per every ten dwelling units shall be required. All such containers are subject to the following locational restrictions:~~

(1) All developments shall be required to keep and maintain a minimum of one (1) solid waste disposal container and one (1) recycle container on their respective properties. Sizes and quantities of containers, and frequency of pickup by waste haulers shall be enough to ensure that trash or recyclable materials do not overflow from containers, nor is there storage of these materials allowed outside of containers.

(2) (4) Solid waste bulk containers may be located within a required yard; provided that the container(s) and associated enclosure does not encroach into a required landscape area, and further provided that there be no blockage of the view of motorists or pedestrians so as to constitute a safety hazard.

(3) (2) In the case of multifamily developments containing more than one structure, no No solid waste or recycling bulk container (garbage dumpster) and associated enclosure shall be located more than 200 feet from the structure that it is intended to serve, except for existing developments approved prior to July 1, 2019.

(4) The City Manager or his/her designee may allow for internal or external self recycling programs, when it is deemed that the intent of this code can be met. For developments that may provide for these programs, the documented plan shall be on file with the City Manager or designee. At a minimum, the location for storage of materials, methods of disposal, and frequency of disposal shall be included in the documentation.

(5) No roll out container shall have a capacity greater than 96 gallons for waste and recycling storage.

(6) In the case of nonconforming commercial or residential developments lawfully permitted prior to November 4, 2002, the City Manager or his/her designee may approve the use of one required parking space or an encroachment into the required landscape areas for a bulk container as an administrative variance assuming all other requirements of this code can be met. Administrative variances approved pursuant to the above do not run with the land in perpetuity and remain subject to the provisions of this Land Development Code regarding nonconforming structures.

(d) Exceptions. The community development City Manager or his/her designee, may allow the following exceptions to the above requirements. Solid waste Bulk containers for garbage and recycling (dumpsters) may be substituted by individual solid waste disposal service (unit by unit curbside pick-up) subject to the following:

(1) In the case of individually owned multifamily dwelling units (condominiums), individual (curbside) solid waste disposal service may be substituted for the required bulk containers (dumpsters) upon documentation that the subject unit or condominium association, having been turned over from the developer to the residents, has voted in the majority to eliminate the use of dumpsters in favor of individual curbside service for all or part of a particular development, subject to

acceptance from both the ~~community development~~ City Manager or designee and the waste hauler. Additionally, the association shall demonstrate that there is adequate access to facilitate curbside pickup and that all individual units have an enclosed location other than the residential structure, such as a carport, garage, or similar screened structure, for the storage of individual solid waste containers.

(2) Multi-tenant commercial establishments generating 96 gallons of waste or less per tenant may be permitted to substitute bulk container service with individual curbside/alley solid waste and recycling disposal (one waste and one recycling container per tenant) service subject to acceptance from both the City Manager or designee and the hauler. Additionally, the commercial establishment shall submit to the City Manager or designee, documentation of the plan with an accurate site plan showing waste location and that there is adequate access to facilitate curbside/alley pickup.

**SECTION 3. Intent.** In an effort to afford time for education of the general public, it is the intent of the City Council that this Ordinance shall not be enforced until ninety (90) days after final adoption.

**SECTION 4. Codification.** It is the intention of the City Council that the amendments to the City of Marco Island Code of Ordinances made by this Ordinance shall constitute a revised Section 30-1012 of the City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and re-lettered as necessary, and that the word "Ordinance" may be changed to "Section", "Article" or other appropriate word, by the codifier.

**SECTION 5. Severability/Interpretation.**

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences or phrases of this Ordinance, and this Ordinance shall be read and applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence or section did not exist.

(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (\* \* \*) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

**SECTION 6. Effective Date.** This Ordinance shall become effective upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND THIS 19<sup>TH</sup>  
DAY OF AUGUST 2019.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

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Laura M. Litzan, City Clerk

By: \_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

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Alan L. Gabriel, City Attorney