

AN ORDINANCE TO AMEND CHAPTER 22, SOLID WASTE, OF THE CODE OF THE CITY OF BROOKHAVEN

WHEREAS, Section 1.03(b)(35) of the Charter of the City of Brookhaven grants the City of Brookhaven the power to provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items; and

WHEREAS, the Mayor and City Council find that amendments to certain sections of the solid waste ordinance are necessary at this time.

BE IT ORDAINED by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

SECTION I:

The identified sections of Chapter 22, Solid Waste, is amended to read as shown in the attached mark-up.

SECTION II:

Severability: Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION III:

Repeal of Conflicting Provisions: All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

SECTION IV:

Effective Date: This ordinance shall be effective immediately upon adoption.

SO ORDAINED, this _____ day of _____, 2020.

Approved by:

Approved as to Form and Content

John Arthur Ernst Jr., Mayor

Christopher Balch, City Attorney

Attest:

Susan Hiott, City Clerk

SEAL

Chapter 22 - SOLID WASTE

ARTICLE I. - IN GENERAL

Sec. 22-1. - Definitions.

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

Approved receptacle for residential solid waste means a container approved by the collector. Oil or grease drums, paint cans and similar salvaged containers shall not be acceptable.

Approved receptacle for yard debris trimmings means a biodegradable paper bag, empty card board box, clean galvanized metal container or durable plastic container with a capacity of not less than 20 gallons and no more than 40 gallons. Containers shall have two durable handles on the sides thereof or a bail by which it may be lifted. Oil or grease drums, paint cans and similar salvaged containers shall not constitute an approved receptacle for yard debris trimmings.

Collector means a person who, under agreements, verbal or written, with or without compensation, does the work of collecting and/or transporting solid waste from industries, offices, retail outlets, businesses, institutions and/or similar locations or from residential dwellings; provided, however, that this definition shall not include an individual collecting and/or transporting waste from the individual's own single-family dwelling unit.

Commercial container means a manufactured container suitable for emptying by mechanical equipment and approved by the director. The following general standards are prescribed for commercial containers:

- (1) All containers must be steel, continuous welded and properly reinforced.
- (2) All lids will be flanged and reinforced for strength.
- (3) Pickup side of container shall be reinforced inside or outside at point of torque tub contact.
- (4) Inside reinforcement shall be pressed steel angle.
- (5) Bottoms shall be reinforced with 1.5 drain plug installed flush to bottom.
- (6) All containers shall be primed and finished with enamel and epoxy paint.
- (7) Body dimensions as to length and height of container can vary with the size of container; however, all container widths will be 70 inches. Minimum gauges of steel shall be as follows:

Walls	12 gauge
Ends	12 gauge
Bottoms	12 gauge for 4 cu. ft. and below
	10 gauge for all over 4 cu. ft.
Lids	16 gauge
Doors	14 gauge

Commercial establishment means any hotel, motel, apartment house, roominghouse, business, industrial, public or semipublic establishment of any nature or kind whatsoever other than a single dwelling unit/residential unit and condominiums.

Commercial front loader container means a manufactured container suitable for emptying by mechanical equipment and approved by the director.

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Commercial/industrial solid waste means solid waste from commercial establishments that includes but is not limited to material from industrial processes, manufacturing canneries, slaughterhouses, packing plants, poultry processing plants or similar industries, and food waste.

Compactor container means a manufactured commercial container of any size with a self-contained compacting mechanism or an external compactor which is designed to be used in conjunction with the individual home appliance.

Compactor front loader container means a manufactured commercial container of any size with an external mechanical compacting system that detaches in order to be serviced by driving forward to the container using a commercial front loader vehicle.

Compactor roll-off container means a manufactured commercial container of any size with an internal or external mechanical compacting system that either detaches or is fully self-contained and is serviced by backing up to the container and hoisting it onto a commercial roll-off container vehicle.

Condominium means individual ownership units in a multifamily structure with a front and back entrance to each unit on the ground level.

Construction and demolition solid waste means solid waste from construction and demolition projects that include but is not limited to remodeling, repair operations on houses, commercial buildings, multiple dwellings and other structures such as concrete, bricks, plaster, stone, earth, lumber, roofing materials, gutters, shavings and sawdust.

Construction debris or construction waste means discarded building materials, concrete truck washout (liquid and solid portions), chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

Construction site operator means the person(s) generally recognized as the individual(s) having authority over site construction activities and is responsible for the management of solid waste, including construction generated waste.

Conveyance means any automobile, plane, train, bus, bicycle, motorcycle or other method of transporting persons from one place to another.

Department means the public works department or its successor.

Director means the director of the public works department or designee.

Discard means to throw, abandon, place, deposit, discharge, dump, bury, burn or dispose of a substance.

Disposal facility means any facility or location where any treatment, utilization, processing or deposition of solid waste occurs.

Garbage means waste including but not limited to food waste, including waste accumulation of animal or vegetable matter used or intended for use as food, or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.

Hazardous waste means solid or liquid waste that does not meet the toxic characteristic leachate procedure requirements and includes but is not limited to highly flammable or explosive wastes; toxic wastes; industrial sludge; and other waste material that the director determines to be a likely hazard to the public health, safety or environment, except radioactive waste materials.

Incinerator means the high temperature waste combustion unit designed to dispose of pathological matter.

Landfill means a method of disposing of solid wastes, other than putrescible wastes or hazardous wastes, on land by placing an earth cover thereon.

Litter means, but is not limited to, any organic or inorganic waste material, rubbish, refuse, garbage, trash, yard debris, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description but the term "litter" does not include "waste" as that term is defined in O.C.G.A. § 16-7-51(6), as amended.

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Multiple dwelling means a building designed for and containing two or more dwelling units.

Municipal solid waste means, but is not limited to, any solid waste derived from households, including garbage, trash and solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term "municipal solid waste" includes yard debris not separated for recycling and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

Noncombustible trash means, but is not limited to, materials which are unburnable in the incinerator or at incinerator temperature of 800 to 1,800 degrees Fahrenheit such as mineral water, metal furniture, large metal scraps and wires, auto bodies or parts, and other similar materials.

Owner means any person or entity that generates solid waste on real property in the city and who is designated by the records of the office of tax commissioner as the owner of such real property within the city.

Plastic bag means a polyethylene or other heavy-duty plastic bag meeting the National Sanitation Foundation standard of at least 1.5 mils and not exceeding a 32-gallon capacity.

Public or private property means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and land used for business, residential, commercial, industrial, or farm purposes.

Putrescible waste means wastes that are capable of being decomposed by microorganisms. Examples of putrescible wastes include but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, and garbage.

Recycle means any process by which materials that would otherwise become solid waste are collected, separated or processed and reused or returned to use in the form of raw materials or products.

Refuse means garbage, rubbish or commercial refuse.

Residential unit means any freestanding structure or shelter or any part thereof used or constructed for use as a residence for one family.

Sanitary landfill means a method of disposing of putrescible waste on land for final disposition and/or management.

Sanitation or sanitary district means designated service areas established by this Code or by a contract with a municipality.

Scavenge means uncontrolled picking from discarded solid waste materials.

Solid waste means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded materials including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operation materials; solid or dissolved matters in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject under 33 USC 1342; or source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended and as defined by O.C.G.A. § 12-8-22(33).

Special industrial waste container means any container such as a metal box, bucket, an open bed container or special container used for transporting chemicals, paint, metals, glass, oil products, plastics or any type of material that requires special handling and cannot be incinerated.

Stationary compactor means an object of refuse container system which compacts refuse at the site of generation into a pull-on detachable container.

Tax commissioner means the constitutional officer charged with collecting both state, county and special taxes.

Yard debris means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.
(Ord. No. O2013-01-54, § 22-1, 1-15-2013)

ARTICLE V. - LITTER CONTROL

Sec. 22-108. - Purpose and objectives.

The purpose of this article is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this article are:

- (1) To provide for uniform prohibition of littering on public or private property throughout the city;
- (2) To prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter; and
- (3) To preserve the value of the many unique natural resources in the city and enhance the beauty and quality of life enjoyed by the citizens of the city.

(Ord. No. O2013-01-54, § 22-71, 1-15-2013)

Sec. 22-109. - Applicability.

This article shall apply to all public and private property within the city.

(Ord. No. O2013-01-54, § 22-72, 1-15-2013)

Sec. 22-110. - Compatibility with other regulations.

This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence and shall control.

(Ord. No. O2013-01-54, § 22-73, 1-15-2013)

Sec. 22-111. - Prohibition against littering public or private property or waters.

- (a) It shall be unlawful for any operator of a conveyance or any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or in any waters within the city unless:
 - (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to leave or deposit litter on such property; or
 - (2) The litter is placed into an approved receptacle or container installed on such property.
- (b) It shall be unlawful for any operator of a conveyance to allow any person to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing litter out of any conveyance onto any public or private property or in any waters within the city unless:
 - (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to leave or deposit litter on such property; or
 - (2) The litter is placed into an approved receptacle or container installed on such property.

(Ord. No. O2013-01-54, § 22-74, 1-15-2013)

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Sec. 22-112. - Litter control responsibilities.

Owners must place all of their residential solid waste within durable plastic bags and securely tie the plastic bag prior to placing it in an approved receptacle for residential solid waste.

(c) It shall be unlawful for any construction site operator to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of construction site debris or construction site waste on any public or private property or in waters within the city unless:

- (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to leave or deposit litter on such property; or
- (2) The litter is placed into an approved receptacle or container installed on such property.

(Ord. No. O2013-01-54, § 22-75, 1-15-2013)

Sec. 22-113. - Vehicle loads causing litter; commercial front loader containers.

(a) No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

(b) All commercial front loader containers must meet all of the following requirements:

- (1) Containers must be steel, continuously welded and properly reinforced according to manufacturer's specifications;
- (2) Lids must be constructed of durable plastic and reinforced for strength;
- (3) The pickup side of the container shall be reinforced inside or outside at the point of torque tub contact;
- (4) The inside reinforcement of the container shall be pressed steel angle;
- (5) The bottoms of the containers shall be reinforced with a 1.5-inch drain plug installed flush to the bottom;
- (6) All containers shall be primed and finished with enamel and epoxy paint;
- (7) Body dimensions as to length and height of container can vary with the size of container; however, all container widths shall be 70 inches; and
- (8) Minimum gauges of steel for such containers shall be as follows:

Walls	12 gauge
Ends	12 gauge
Bottoms	12 gauge for 4 cu. ft. and below
	10 gauge for all over 4 cu. ft.
Lids	16 gauge
Doors	14 gauge

(Ord. No. O2013-01-54, § 22-76, 1-15-2013)

Sec. 22-114. - Evidence.

(a) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be a rebuttable presumption that the operator of the conveyance has violated this article.

(b) Except as provided in subsection (a) of this section, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this article is discovered to

contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this article.

(Ord. No. O2013-01-54, § 22-78, 1-15-2013)

Sec. 22-115. - Violations, enforcement and penalties.

- (a) Any person that does anything prohibited or fails to do anything required by this article, upon conviction of the violation in a court of competent jurisdiction, shall be subject to fine and/or imprisonment in accordance with section 1-11. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) Upon conviction of any violation of this article, the court shall impose a fine of not less than \$200.00 in addition to any other penalty or punishment imposed by the court.
- (c) Upon conviction, the court may order the convicted person to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one mile any litter the convicted person has deposited and any and all litter deposited thereon by anyone else prior to the date of the sentence.
- (d) Upon conviction, the court may order the convicted person to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of the sentence.
- (e) Upon conviction, the court may publish the names of persons convicted of violating this article in the legal organ of the county.
- (f) All city law enforcement agencies and officers are hereby authorized, empowered and directed to enforce compliance with this article. Primary enforcement responsibilities for litter control are shared by the officers of the code enforcement division and the city police department.

(Ord. No. O2013-01-54, § 22-79, 1-15-2013; Ord. No. 2019-02-08 , § 1(Attch.), 2-26-2019)