

Introduced by: Ms. Durham, Mr. Hollins,
Mr. Carter, Mr. Sheldon
Date of introduction: April 13, 2021

ORDINANCE NO. 21-049

AMENDING NEW CASTLE COUNTY CODE CHAPTER 6 (“BUILDING CODE”), SECTION 6.04.002. (“AMENDMENTS TO THE INTERNATIONAL BUILDING CODE”) AND SECTION 6.05.002. (“AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE”), AND CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), APPENDIX 1 (“APPLICATION AND PLAN REQUIREMENTS”) RELATING TO CONSTRUCTION AND RECYCLING OF CERTAIN RELATED MATERIALS

WHEREAS, pursuant to 7 *Del. C.* Ch. 60, Subchapter III, the Department of Natural Resources & Environmental Control (“DNREC”) has enacted regulations relating to, among other things, waste management and universal recycling; and

WHEREAS, in particular DNREC enacted Section 1305 Universal Recycling Regulations, the purpose of which is to ensure:

- The proper collection services for recyclable materials are implemented, maintained, and are consistent with 7 *Del. C.* Ch. 60, Subchapter III;
- Recyclables enter the market place;
- Every residence has access to, and the commercial sector participates in, recycling programs that are both convenient and cost effective, through a comprehensive statewide system of resource recovery in which recycling is maximized and the necessary economies of scale are realized; and

WHEREAS, DNREC’s Universal Recycling Regulations, at 4.0 (“General Provisions”), also provide that the commercial sector shall participate in a comprehensive recycling program. To accomplish this, all commercial sector persons shall:

- Perform an annual review of the solid waste generated and maintain records of the review for three years;
- Identify recyclables in the solid waste;
- Subsequently keep recyclables separate from the solid waste stream; and
- Ensure the recyclables enter the marketplace or are collected for recycling; and

WHEREAS, DNREC’s Universal Recycling Regulations further provide that if a commercial sector entity has no recycling program or if they regularly have a significant portion of recyclables in their waste stream that are not source separated, they are not participating in a comprehensive recycling program and are subject to enforcement and penalties pursuant to Title 7, Ch. 60 of the *Delaware Code* (see 4.4 of the General Provisions); and

WHEREAS, currently, new development projects typically use only one dumpster for all commingled construction waste, trash, debris, and recyclables, which is then sorted by a third party; and

WHEREAS, gypsum (wallboard or drywall) becomes contaminated and can be missed in the sorting and end up in a landfill; and

WHEREAS, the Delaware Solid Waste Authority (“DSWA”) has expressed the goal of minimizing the amount of gypsum that is disposed of in a landfill because, upon decomposition, gypsum contributes to the sulfur content in the naturally forming landfill gas; and

WHEREAS, minimizing the sulfur content in a landfill gas allows for more efficient reuse of the landfill gas for energy generation, helps to reduce the overall odor potential of the landfill, and decreases costs associated with the removal of sulfur from the gas; and

WHEREAS, DSWA has agreed, coinciding with the adoption of this ordinance, to eliminate tipping fees for clean, pre-sorted gypsum board in order to incentivize pre-sorted board as a valuable recyclable material and to reduce contamination.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 6 (“Building Code”), Section 6.04.002 (“Amendments to the International Building Code”) is hereby amended by adding the language that is underscored and deleting the material that is stricken, as set forth below.

Sec. 6.04.002. - Amendments to the International Building Code.

CHAPTER 33. SAFEGUARDS DURING CONSTRUCTION

Section B3302, Construction safeguards, is amended by adding the following subsections:

Section B3302.4, Storage of construction and demolition waste. Construction and demolition waste may be stored upon the land where actual construction or demolition is in progress; provided, however, that such waste shall not be stored for a period exceeding one hundred and twenty (120) days and all other waste not stored in a dumpster shall not be stored for periods exceeding thirty (30) days.

Section B3302.5, Handling and storage of construction and demolition waste, trash, ~~and~~ litter, and recyclables. During all construction activities, the lot(s) shall be kept neat of trash and building materials. All construction sites shall be required to obtain and maintain on the site a container(s) of suitable size and design to hold and confine recyclable materials, trash, scraps, and other construction and demolition waste created or accumulated on the site, ~~which might be blown from the site.~~

Except as may be exempted elsewhere in this section, all new construction sites shall be required to obtain and maintain on the site container(s) of suitable size and design to separately hold and confine: 1) drywall scraps (gypsum board), and 2) trash and other construction and demolition waste including materials designated as recyclable by the Delaware Solid Waste Authority such as metal, cardboard, wood, and certain plastics (unless further sorted on site). Recyclable material other than gypsum shall either be sorted on site, or if comingled with trash and debris, shall be taken to a facility which

can sort recyclable materials from landfill remnants prior to landfilling. Contractors may apply to the Department for a waiver on the requirement for a separate gypsum container for projects which do not anticipate generating significant amounts of gypsum due to a small project square footage or minimal use of gypsum in construction.

All such construction refuse shall be maintained in ~~a~~-closed containers, or ~~a~~-containers of sufficient depth to prevent construction and demolition waste from blowing out of the container, at all times, until transferred to a landfill or recycling facility. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists and thereby create traffic hazards. Construction plans shall show each designated area proposed for the containers as applicable. ~~It~~ ~~is~~ shall be a violation to permit accumulated debris, litter, or trash attributable to the construction site and the construction activity to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, ~~or~~ ~~in~~ transit to a landfill, ~~or~~ dump, or recycling facility. The owner or contractor shall service the container as frequently as needed to prevent trash and recyclables from over-flowing.

Section B3302.6, Final Inspection. A final cleanup is required, including the removal of all building debris, stumps, portable toilets, etc. before ~~within five (5) days after~~ the final inspection on that parcel.

Exception: Stumps located outside of the limit of disturbance that are not required to be removed by any plan approved by the Department are not subject to this section.

Section B3302.7, Enforcement. Any person who fails to comply with the requirements found in this section shall be subject to the penalty and enforcement provisions provided in this Chapter.

Section 2. *New Castle County Code Chapter 6 (“Building Code”), Section 6.05.002 (“Amendments to the International Residential Code”)* is hereby amended by adding the language that is underscored and deleting the material that is stricken, as set forth below.

Sec. 6.05.002. - Amendments to the International Residential Code.

Section R328, Construction Sanitation, is added as a new section as follows:

Section R328, Construction sanitation.

Section R328.1, Facilities Required. Sanitary facilities shall be provided during construction, remodeling or demolition activities in accordance with the Statewide Plumbing Code.

Section R328.2, Storage of construction and demolition waste. Construction and demolition waste may be stored upon the land where actual construction or demolition is in progress; provided, however, that such waste shall not be stored for a period exceeding ninety (90) days and all other waste not stored in a dumpster shall not be stored for periods exceeding thirty (30) days.

Section R328.3, Handling and storage of construction and demolition waste, trash, ~~and~~ litter, and recyclables. During all construction activities, the lot(s) shall be kept neat of

trash and building materials. All construction sites shall be required to obtain and maintain on the site a container(s) of suitable size and design to hold and confine recyclable materials, trash, scraps, and other construction and demolition waste created or accumulated on the construction site, which might be blown from the site.

Except as may be exempted elsewhere in this section, all new construction sites shall be required to obtain and maintain on the site container(s) of suitable size and design to separately hold and confine: 1) drywall scraps (gypsum board), and 2) trash and other construction and demolition waste including materials designated as recyclable by the Delaware Solid Waste Authority such as metal, cardboard, wood, and certain plastics (unless further sorted on site). Recyclable material other than gypsum shall either be sorted on site, or if comingled with trash and debris, shall be taken to a facility which can sort recyclable materials from landfill remnants prior to landfilling. Contractors may apply to the Department for a waiver on the requirement for a separate gypsum container for projects which do not anticipate generating significant amounts of gypsum due to a small project square footage or minimal use of gypsum in construction.

All such construction refuse shall be maintained in ~~a~~-closed containers, or ~~a~~-container(s) of sufficient depth to prevent construction and demolition waste from blowing out of the container, at all times, until transferred to a landfill or recycling facility. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists and thereby create traffic hazards. Construction plans shall show each designated area proposed for the containers as applicable. ~~If~~ It shall be a violation to permit accumulated debris, litter, or trash attributable to the construction site and the construction activity to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, ~~or~~ in transit to a landfill, or dump, or recycling facility. The owner or contractor shall service the container as frequently as needed to prevent trash and recyclables from over-flowing.

Section R328.4, Final Inspection. A final clean-up is required, including the removal of all building debris, stumps, portable toilets, etc. within five (5) days after the final inspection on that parcel.

Exception: Stumps located outside of the limit of disturbance that are not required to be removed by any plan approved by the Department are not subject to this section.

Section R328.5, Enforcement. Any person who fails to comply with the requirements found in this section shall be subject to the penalty and enforcement provisions provided in this Chapter.

Section 3. *New Castle County Code* Chapter 40 (“Unified Development Code”), Appendix 1 (“Application and Plan Requirements”) is hereby amended by adding the language that is underscored and deleting the material that is stricken, as set forth below.

Chapter 40 - UNIFIED DEVELOPMENT CODE

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APPENDIX 1. - APPLICATION AND PLAN REQUIREMENTS

1. Land development application submission requirements.

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D. Record plans (planning).

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2. Land development plan requirements. The purpose of this Section is to specify the format, data, notes, graphics and information required for subdivision and land development plans submitted in accordance with the Unified Development Code. The level of detail depicted and noted on plans shall be that which is necessary to convey compliance with design details and purpose of the proposed land use action.

Any of the notes and information listed below may be modified as necessary to apply to specific projects. Any notes which are not applicable to the particular plan need not appear on the plan. Additional notes may be required by any regulatory reviewing agency or as proposed by an applicant and approved by the Department of Land Use. Notes, data and/or graphic details should be added to plans whenever necessary to explain or clarify features of the project which are not otherwise self-explanatory.

A. Plan requirements.

Land Development

EX - Exploratory plan

RE - Record plan

Other

S - Site plan

P - Parking plan

“X” - Required

EX	RE	S	P	Specifications and/or Notes
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X	X	-	X	50. Dumpsters, shopping cart corrals and other similar stationary accessory features.
X	X	-	-	51. Reserved <u>Construction trash/debris/recycling container(s), and gypsum container(s), if applicable.</u>

Section 4. This ordinance shall become effective as of July 1, 2021 following adoption by New Castle County Council and approval of the County Executive, or as otherwise provided in 9 *Del. C. Section 1156.*

Adopted by the County Council
of New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
of New Castle County

SYNOPSIS: This Ordinance, among other things, promotes a goal of Delaware Solid Waste Authority (“DSWA”) of minimizing the amount of gypsum board produced as the result of construction that is disposed of in a landfill. This goal is important because, upon decomposition, gypsum contributes to the sulfur content in the naturally forming landfill gas. Minimizing the sulfur content in a landfill gas allows for more efficient reuse of the landfill gas for energy generation, helps to reduce the overall odor potential of the landfill, and decreases costs associated with the removal of sulfur from the gas.

Finally, upon passage of this ordinance, DSWA has committed to eliminating tipping fees for clean, pre-sorted gypsum board in order to incentivize pre-sorted board as a valuable recyclable material and to reduce contamination.

FISCAL NOTE: There will be no discernable fiscal impact to New Castle County upon the adoption of this legislation.