



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

10/22/2019

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### **Subject:**

Public Hearing, Re: Code Revision to Chapter 62, Article VI, Division 1, Providing for Cargo Shipping Containers as Residential Storage Sheds. (Second Reading)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider revisions to Chapter 62, Article VI, Division 1, Section 62-1102, Definitions and Rules of Construction, regarding cargo shipping containers used as a residential accessory storage structure/shed.

### **Summary Explanation and Background:**

The Board of County Commissioners, in regular session on October 8, 2019 approved revisions to Chapter 62, Article VI, Zoning Regulations, and directed staff to revise the code to allow intermodal cargo shipping containers for use as residential accessory storage buildings in residential and residential agricultural zoning classifications.

The Board directed staff to prepare an ordinance that would include the conditions, that a cargo shipping container is allowed as an accessory storage building/shed with the requirement of a building permit and in the same locations as a shed, and the provision that no stacking of containers is allowed. Since Brevard County currently has provisions for shed locations and permit requirements, these stipulations are not included in this code amendment.

### **Clerk to the Board Instructions:**

Please return a certified copy of the ordinance to Planning and Development.

Brevard County Attorney  
Ordinance Approval Sheet

**SECTION I**

The following information must be completed on all ordinances submitted to the Board:

Ordinance Name: Temporary Use Agreements		Ordinance Author: Rebecca Ragain	
Division Name: Planning & Development Dept. (Zoning Office)	Mail Stop: 81	Review Deadline:	
Sent by P&ZO: Rebecca Ragain			
Dept./Office Director: Tad Calkins			
Meeting Date: (LPA) 7/22/2019	(BCC) 8/06/2019	Advertising Deadline: 7/8/2019	

**SECTION II**

COUNTY OFFICE

APPROVAL  
Yes    No

INITIALS    DATE

County Attorney's Office

AMB    6/26/19

**SECTION III**

**Sent for Review**

Land Dev.                    \_\_\_ Y \_\_\_ N \_\_\_ N/A

ONRM                            \_\_\_ Y \_\_\_ N \_\_\_ N/A

Other Dept./Office            \_\_\_ Y \_\_\_ N \_\_\_ N/A

Comments:

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## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

October 25, 2019

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2019-21, which was filed in this office on October 24, 2019.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

October 23, 2019

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item H.1., Ordinance for Code Revisions to Chapter 62, Article VI, Division 1, Providing for Cargo Shipping Containers as Residential Storage Sheds

The Board of County Commissioners, in regular session on October 22, 2019, conducted the second public hearing and adopted Ordinance No. 19-21, revising Chapter 62, Article VI, Division 1, Section 62-1102, Definitions and Rules of Construction, regarding cargo shipping containers used as a residential accessory storage structure/shed. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

Encl. (1)

**ORDINANCE NO. 2019- 21**

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, ZONING REGULATIONS, DIVISION 1, SPECIFICALLY AMENDING SECTION 62-1102. DEFINITIONS AND RULES OF CONSTRUCTION, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA FOR ADDITIONAL PROVISIONS FOR RESIDENTIAL ACCESSORY BUILDINGS; PROVIDING FOR CARGO SHIPPING CONTAINERS FOR USE AS RESIDENTIAL STORAGE BUILDINGS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board desires that an individual new or decommissioned cargo shipping container be allowed as a storage unit on developed residential zoning classifications; and

WHEREAS, the Board wishes to require the permitting of an individual cargo shipping container as required for any other accessory building on residential zoned lots; and

WHEREAS, the Board of County Commissioners, on April 10, 2019 approved legislative intent and permission to advertise an amendment to land development regulations regarding cargo shipping containers as a type of residential storage structures; and

WHEREAS, the Building Construction Advisory Committee, July 10, 2019, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on July 22, 2019, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Section 62-1102. Definitions and rules of construction, Code of Ordinances of Brevard County, Florida, "Accessory building or use" definition is hereby amended as follows:

**Sec. 62-1102. Definitions and rules of construction.**

For the purpose of this article, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Accessory building or use means a building, structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, provided the building, structure or use shall be constructed after or concurrently with the principal structure.

- (1) Accessory buildings or structures include but are not limited to private garages, storage sheds, carports, greenhouses, gazebos, cabanas, utility buildings/rooms, verandas, glass rooms, porches, screened porches or awnings, swimming pools and screened enclosures, and private residential boat docks with up to two slips for use of the occupants of the principal residential structure. Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. Accessory buildings or structures may have a full or half bath; but may not have living quarters or a kitchen, unless such structure is a guesthouse consistent with section 62-1932.
  - a. A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no stacking of containers shall be allowed.
- (2) Accessory uses include a child or adult day care center accessory to a church, a golf driving range accessory to a golf course, and the package sales of alcoholic beverages accessory to a convenience store. Pursuant to subsection 62-2100.5(1)(f), one single-family garage apartment is accessory to a single-family residence in multi-family zoning classifications. Pursuant to subsection 62-2100.5(2), horses and agricultural pursuits are accessory to a principal residence.
- (3) Except where otherwise provided in this section, an addition which is attached to a principal structure shall not be considered an accessory building, but shall be considered part of the principal structure. "Attached" for the purpose of this regulation means that the addition is integrated visually, structurally and architecturally with the principal structure, contains a common roof with similar design to the principal structure, and permits access between the principal structure and the addition either internally or under the common roof. If there is a connection between the addition and the principal structure which is not enclosed but is comprised solely of the common roof, then the addition shall be considered part of the principal structure if the length of the connection does not exceed the length of the addition by more than 50 percent (or 20 feet, whichever is less). Otherwise, the addition shall be considered a detached accessory structure. "Enclosed" for the purpose of this regulation means an area under a roof which

has solid walls at least four feet in height around its entire circumference, or which is 100 percent screened from floor to ceiling, such that the enclosed inside space is clearly separated from the outside space.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session,  
this 22 day of October, 2019.

Attest:

  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
Kristine Isnardi, Chair

(Approved by the Board on 10/22/, 2019)

(S E A L)

Reviewed for legal form and content by: \_\_\_\_\_



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

April 10, 2019

**MEMORANDUM**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item I.1., Legislative Intent and Permission to Advertise Amendment to Chapter 62, Article VI, Zoning Regulations, Regarding Allowing or Prohibiting Shipping Containers as Residential Accessory Storage Structures

The Board of County Commissioners, in regular session on April 9, 2019, approved Option 3, to approve legislative intent and permission to advertise an amendment to Chapter 62, Article VI, Zoning Regulations, to allow intermodal shipping containers for use as residential accessory storage buildings in residential and residential/agricultural zoning classifications with certain restrictions or conditions, and require permitting as required for any other accessory buildings; and directed staff to prepare necessary ordinance amendments, with the possible list of restrictions or conditions as follows:

- Limit the maximum size of containers.
- Provide minimum lot size requirements.
- Limit to one single-unit shipping container used as a storage building.
- Prohibit stacking of containers.
- Allow for residential storage use only, and no other use, i.e., cannot be used for living space, playhouse, studio, office, or other non-storage use.
- Prohibit advertisement or labels on the exterior.
- Require containers to be behind the principal building and shielded from view by six-foot high opaque fencing, screening, or landscaping.
- Require siding and roof material architecturally and aesthetically consistent with the primary residential building, i.e., exterior finish, color, roof slope, and roof material.

Your continued cooperation is always appreciated.

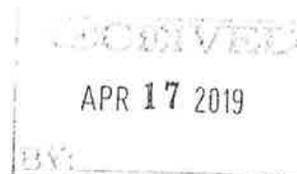
Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

cc: County Manager  
County Attorney



Strike  
thru  
copy

**ORDINANCE NO. 2019-\_\_\_\_\_**

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, ZONING REGULATIONS, DIVISION 1, SPECIFICALLY AMENDING SECTION 62-1102. DEFINITIONS AND RULES OF CONSTRUCTION, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA FOR ADDITIONAL PROVISIONS FOR RESIDENTIAL ACCESSORY BUILDINGS; PROVIDING FOR CARGO SHIPPING CONTAINERS FOR USE AS RESIDENTIAL STORAGE BUILDINGS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board desires that an individual new or decommissioned cargo shipping container be allowed as a storage unit on developed residential zoning classifications; and

WHEREAS, the Board wishes to require the permitting of an individual cargo shipping container as required for any other accessory building on residential zoned lots; and

WHEREAS, the Board of County Commissioners, on April 10, 2019 approved legislative intent and permission to advertise an amendment to land development regulations regarding cargo shipping containers as a type of residential storage structures; and

WHEREAS, the Building Construction Advisory Committee, July 10, 2019, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on July 22, 2019, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions. ~~Strike-through indicates deletions.~~

SECTION 1. Section 62-1102. Definitions and rules of construction, Code of Ordinances of Brevard County, Florida, "Accessory building or use" definition is hereby amended as follows:

**Sec. 62-1102. Definitions and rules of construction.**

For the purpose of this article, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Accessory building or use means a building, structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, provided the building, structure or use shall be constructed after or concurrently with the principal structure.

- (1) Accessory buildings or structures include but are not limited to private garages, storage sheds, carports, greenhouses, gazebos, cabanas, utility buildings/rooms, verandas, glass rooms, porches, screened porches or awnings, swimming pools and screened enclosures, and private residential boat docks with up to two slips for use of the occupants of the principal residential structure. Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. Accessory buildings or structures may have a full or half bath; but may not have living quarters or a kitchen, unless such structure is a guesthouse consistent with section 62-1932.
  - a. A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no stacking of containers shall be allowed.
- (2) Accessory uses include a child or adult day care center accessory to a church, a golf driving range accessory to a golf course, and the package sales of alcoholic beverages accessory to a convenience store. Pursuant to subsection 62-2100.5(1)(f), one single-family garage apartment is accessory to a single-family residence in multi-family zoning classifications. Pursuant to subsection 62-2100.5(2), horses and agricultural pursuits are accessory to a principal residence.
- (3) Except where otherwise provided in this section, an addition which is attached to a principal structure shall not be considered an accessory building, but shall be considered part of the principal structure. "Attached" for the purpose of this regulation means that the addition is integrated visually, structurally and architecturally with the principal structure, contains a common roof with similar design to the principal structure, and permits access between the principal structure and the addition either internally or under the common roof. If there is a connection between the addition and the principal structure which is not enclosed but is comprised solely of the common roof, then the addition shall be considered

part of the principal structure if the length of the connection does not exceed the length of the addition by more than 50 percent (or 20 feet, whichever is less). Otherwise, the addition shall be considered a detached accessory structure. "Enclosed" for the purpose of this regulation means an area under a roof which has solid walls at least four feet in height around its entire circumference, or which is 100 percent screened from floor to ceiling, such that the enclosed inside space is clearly separated from the outside space.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
Kristine Isnardi, Chair  
(Approved by the Board on \_\_\_\_\_, 2019)

(S E A L)

Reviewed for legal form and content by: \_\_\_\_\_

**ORDINANCE NO. 2019-\_\_\_\_\_**

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI ZONING REGULATIONS, DIVISION 6, SUPPLEMENTAL REGULATIONS, SUBDIVISION I, GENERAL PROVISIONS; SPECIFICALLY AMENDING SECTION 62-2131 TEMPORARY USE AGREEMENTS; TO PROVIDE FOR A FIVE (5) YEAR DURATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners desires to revise the duration allowed for a temporary use agreement; and

WHEREAS, the Board of County Commissioners, on July 9, 2019, directed staff to prepare an ordinance and ratify duration of temporary use agreements; and

WHEREAS, the Building Construction Advisory Committee, on July 10, 2019, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on \_\_\_\_\_, 2019, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strikethrough indicates deletions~~

SECTION 1. Section 62-2131, Code of Ordinances of Brevard County, Florida, are hereby amended as follows:

**Sec. 62-2131. Temporary use agreements.**

The board of county commissioners may consider a temporary use agreement for the temporary use of property, regardless of the zoning of the property, where such temporary use

results in a direct public benefit. The purpose of the temporary use agreement is to acknowledge the need and public advantage to locate temporary uses, such as equipment storage, materials storage, portable asphalt plants, etc. in locations that are convenient to public improvement projects in such a manner that the temporary location would result in a savings to the public, but which would not necessarily be appropriate as a permanent use according to the comprehensive plan designation and zoning of the property. Temporary use agreements shall meet the following conditions:

(1) Such temporary use agreement shall be approved only in those situations where the request is necessary to fulfill the obligations of a federal, state or local government agency contract to construct, maintain or improve a public facility.

(2) Such temporary use agreement shall specify the duration of the use, which shall not exceed ~~one~~ five years. Any extension shall be processed as a new agreement.

(3) Such temporary use agreement shall contain a hold harmless stipulation indemnifying the county against liability.

(4) No building permits shall be issued for any permanent structure. All equipment shall be portable and easily moveable.

(5) All temporary equipment, supplies, etc. shall be removed from the property prior to the expiration of the temporary use agreement.

(6) The temporary use agreement shall specify the location of all equipment storage areas and material storage areas, relative to the property lines.

(7) The temporary use agreement shall locate all storage areas such that adjacent developed properties are best protected from the impacts of the temporary use.

(8) The county shall provide written, individual notice to each property owner with 1,000 feet of the site of the proposed temporary use.

(9) The temporary use agreement shall be considered by the board of county commissioners in public meeting.

**SECTION 2. Conflicting Provisions.** In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 3. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or

applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2019.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
, Chair

(as approved by the Board on \_\_\_\_\_, 2019)

( S E A L )

Reviewed for legal form and content by: \_\_\_\_\_