

1 **Ordinance to Repeal Chapter 32.1 of the City Code of the City of Hampton, Virginia in Its**
2 **Entirety and Enact Chapter 32.2 of the City Code of the City of Hampton, Virginia Entitled**
3 **“Solid Waste”**

4
5 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia, that Chapter 32.1 of the City
6 Code of the City of Hampton is repealed in its entirety and Chapter 32.2 of the City Code of the
7 City of Hampton, Virginia, entitled “Solid Waste” be enacted to read as follows:

8
9 **Chapter 32.1 – ~~SOLID WASTE.~~ *RESERVED.***

10 **~~ARTICLE I. – IN GENERAL~~**

11 **~~Sec. 32.1-1. – Definitions.~~**

12 ~~Unless otherwise expressly stated or the context clearly indicates a different intention,~~
13 ~~the following words and terms shall, for the purposes of this article, have the meanings indicated~~
14 ~~in this section:~~

15 ~~*Bulk waste* shall mean individual items that are not suitable because of size or weight to~~
16 ~~be placed in approved refuse containers, to include but not limited to appliances, sofas,~~
17 ~~mattresses, and furniture.~~

18 ~~*Business or commercial establishment* shall mean any person, association, partnership,~~
19 ~~or corporation engaged in manufacturing or in any business, profession or occupation subject to~~
20 ~~a license tax as set forth in Chapter 18.1 of the City Code.~~

21 ~~*CFC's* shall mean chlorofluorocarbons used as coolants for commercial and home~~
22 ~~refrigeration.~~

23 ~~*Construction demolition waste* shall mean solid waste which is produced or generated~~
24 ~~during construction, remodeling or repair of pavements, houses, commercial buildings and other~~
25 ~~structures. Construction demolition wastes include but are not limited to lumber, wire, sheetrock,~~
26 ~~broken brick, shingles, glass, pipes, concrete, paving materials, metals and plastics if the metal~~
27 ~~and plastics are a part of the materials of construction or empty containers for such materials.~~
28 ~~Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and refuse~~
29 ~~are not construction demolition wastes.~~

30 ~~*Contractor* shall mean an individual or firm that contracts to perform work.~~

31 ~~*Department* shall mean the department of public works, the director of public works, the~~
32 ~~superintendent of public works or their designee.~~

33 ~~*Disposable containers* shall mean ordinary plastic bags suitable for the reception of trash~~
34 ~~due to their waterproof nature.~~

~~Dumpster shall mean a metal container of not less than four (4) cubic yards, made of watertight construction, designed and constructed so that it can be emptied mechanically by specially equipped trucks.~~

~~Excess refuse or bulk waste shall mean any refuse that will not fit into the approved refuse container or bulk waste in excess of ten (10) cubic yards per a single scheduled collection.~~

~~Household hazardous waste shall mean any residentially produced hazardous chemicals and products that are volatile, reactive, explosive or corrosive to include, but not limited to, paints, stains, sealers, thinners, solvents, charcoal fluids, any automotive fluids, pesticides, lawn and garden chemicals, fertilizers, swimming pool chemicals, oven cleaners, polishes, photo finishing chemicals and chemistry sets. Commercially produced hazardous wastes are not considered household hazardous wastes.~~

~~Leased shall mean any residential living unit that is leased or rented for occupation by a tenant other than the property owner.~~

~~Multiple residential unit shall mean any duplex, apartment, group of apartments or condominium used for dwelling places of more than one (1) family.~~

~~Private property shall mean any dwelling, house, building or other structure, designed or used, either wholly or in part, for private residential, business or other purposes.~~

~~Recyclable shall mean any material that could be reprocessed for reuse in the same or another form.~~

~~Recycling shall mean the process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product which may or may not be similar to the original product.~~

~~Recycling container shall mean a container approved by the city for use in its system of street side collection of recycling.~~

~~Refuse means all solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from spills, contaminations or other discarded materials.~~

~~Refuse container shall mean a container approved by the city for use in its system of street side collection of refuse.~~

~~Residential living unit shall mean any single family or multifamily living unit which is considered safe and inhabitable under the health regulations set forth under the Code of Virginia.~~

~~Rubbish means combustible or slowly putrescible discarded materials which include but are not limited to printed matter, plastic and paper products, rags and other combustible or slowly putrescible materials not included under the term "garbage."~~

~~Scavenge means the unauthorized or uncontrolled removal of waste materials from a solid waste management facility or from material set out for collection.~~

~~Single residential unit shall mean a dwelling place commonly referred to as a house, occupied by one (1) family.~~

~~Solid waste means any discarded material as defined in the Virginia Solid Waste Management Regulations (9 VAC 20-80-140 et seq.)~~

~~Special collection and disposal fee shall mean an additional collection and disposal fee paid by the property owner, tenant, homeowner, or contractor in advance per truck load for collections not included in the basic collection services provided by solid waste. This fee authorizes a special collection of construction demolition waste, tree debris, or bulk trash in excess of ten (10) cubic yards per week at an individual property by solid waste.~~

~~Street side shall mean a location adjacent to, and no more than eight (8) feet from, the curb line or edge of the pavement.~~

~~Tree debris shall mean decomposable materials to include, but not limited to, limbs, wood cuttings, branches, logs, vines, roots, wood chips, bark, shrubs, and tree trunks. Tree debris does not include stumps.~~

~~Waste tire means a tire that has been discarded because it is no longer suitable for its original intended purpose because of wear, damage or defect.~~

~~Yard waste means that fraction of municipal solid waste that consists of grass clippings, leaves, brush and tree prunings arising from general landscape maintenance.~~

~~(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-2. -- Enforcement of article.~~

~~(a) — Until otherwise directed by the city manager and except as otherwise specifically provided in this article, the department shall be responsible for collections provided for in this article and for the enforcement of the provisions of this article. The police and codes compliance departments shall assist in the enforcement of this article.~~

~~(b) — The city manager shall have the right to shift the responsibility of departments under this article, by written directive, when the interests of good administration so demand.~~

~~(Code 1964, § 20-22; Ord. No. 493; Ord. No. 586, 9-13-78; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Charter reference — Responsibility of department of public works as to garbage and refuse collection and disposal, § 10.02.~~

~~Sec. 32.1-3. -- Violations of article.~~

~~(a) — Any person who violates provisions of this article shall be subject to the following fines:~~

~~(1) — For the first offense, violators shall receive a written warning.~~

~~(2) — For the second offense, violators shall be fined fifty dollars (\$50.00).~~

~~(3) — For the third offense, violators shall be fined seventy-five dollars (\$75.00).~~

~~(4) — For the fourth offense and subsequent offense, violators shall be fined one hundred fifty dollars (\$150.00).~~

~~(5) — Each violation shall be counted as a separate violation at the location at which the violation occurs.~~

~~(b) — The city, or its designee, shall serve the written warning or assessment of fine by either:~~

~~(1) — Hand delivering the document to the violator or other adult occupying or employed by a business on the property where the violation occurred; or~~

~~(2) — Posting the document on the front door of the primary structure and mailing, by first class U.S. mail, a copy of the document to the owner/occupant of record at the current mailing address for the property where the violation occurred.~~

~~(c) — Persons who have been assessed a fine shall have the right to challenge the assessment by providing a written notice to the city manager within ten (10) days of the date of the assessment of the penalty. The city manager or his designee shall determine whether the fine was properly assessed and notify the complaining person in writing of his determination. Should the city manager or his designee determine that the fine was properly assessed, the person may challenge that determination within ten (10) calendar days of receiving the notice of determination by filing an action in court.~~

~~(d) — The city manager or his designee may waive the penalty if he determines that the violation occurred due to no fault of the person.~~

~~(e) — The imposition of one (1) penalty for any violation of this article shall not excuse the violation or permit it to continue. When not otherwise specified, each day that prohibited conditions are maintained or allowed to be maintained shall constitute a separate offense.~~

~~(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-4. -- Disposal generally.~~

(a) ~~The purpose of this section is to safeguard life, limb, property and public health and the safety and welfare by regulating and controlling the disposal of solid waste and hazardous materials.~~

(b) ~~It shall be unlawful for any person to deposit solid waste or hazardous materials within the city, without first complying with the zoning ordinance and obtaining a permit from the Virginia Department of Environmental Quality.~~

~~(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-5. - Littering.~~

(a) ~~It shall be unlawful for any person to dump or otherwise dispose of refuse, litter, or other unsightly matter on a public highway, right-of-way, property adjacent to such highway or right-of-way, or any other public property, or on private property without the written consent of the owner thereof or his agent.~~

(b) ~~When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia § 46.2-936 in making an arrest.~~

~~When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such matter; provided, however, that such presumption shall be rebuttable by competent evidence.~~

(c) ~~Any person convicted of a violation of this section is guilty of a misdemeanor punishable by confinement in jail for not more than twelve (12) months and a fine of not less than \$250.00 or more than \$2,500.00, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of ten (10) hours of community service in litter abatement activities.~~

~~(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09; Ord. No. 17-0003, 3-22-17)~~

~~Cross-reference — Littering, § 7-50.~~

~~State Law reference — Improper disposal of solid waste; civil penalties, Code of Virginia § 10.1-1418.1; locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901; dumping trash, penalty, Code of Virginia § 33.2-802; arrest for misdemeanor; release on summons and promise to appear; right to demand hearing immediately or within twenty-four hours; issuance of warrant on request of officer for violations of §§ 46.2-301 and 46.2-302; refusal to promise to appear; violations, Code of Virginia § 46.2-936.~~

~~Sec. 32.1-6. -- Repealed.~~

~~Editor's note -- Ord. No. 09-0011, adopted August 12, 2009, repealed § 32.1-6 which pertained to prohibited deposits at the designated city disposal site. See also the Code Comparative Table.~~

~~Sec. 32.1-7. -- General responsibility of owner or occupant of premises to comply with article.~~

~~It shall be the duty of the owner or occupant of any premises within the city to comply with the applicable provisions of this article including payment of any required fees for service or capacity, except where otherwise specifically provided or except where the occupant or owner has, by deed, contract, lease, negotiation, or agreement determined otherwise.~~

~~(Code 1964, § 20-2; Ord. No. 493; Ord. No. 531; Ord. No. 671, 9-24-80; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-8. -- Storage of garbage and refuse on premises.~~

~~It shall be unlawful for refuse to be placed, deposited or allowed to remain on any premises unless placed or kept in metal or plastic containers or dumpsters with tight-fitting covers; and such covers shall be kept on the containers at all times. Plastic or polyethylene bags, if used for on-premise storage of refuse, shall be used as liners in metal or plastic containers with tight-fitting covers; and such covers shall be kept on the containers at all times. This temporary storage of refuse shall be used only until the refuse can be transferred to the approved refuse container by the resident for street-side collection.~~

~~(Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Secs. 32.1-9 -- 32.1-20. -- Reserved.~~

~~ARTICLE II. -- COLLECTIONS BY THE CITY~~

~~Sec. 32.1-21. -- Frequency and maximum amount of collections.~~

~~Except as otherwise provided in this article, and except in the case of emergency arising from an act of God or under circumstances over which the department has no control, the department shall collect, or have collected, remove and dispose of all household refuse from premises for which it provides service once weekly and recycling every other week with conditions as set forth below:~~

(1) In residential sections of the city, the collections shall not exceed the contents of any approved refuse container. No extra bags of refuse will be collected without the approval of the department.

(2) Collection of regular refuse from commercial establishments using approved refuse containers, multiple residential units of less than five (5) separate units, and trailer courts using approved refuse containers shall be made weekly and shall not exceed the contents of any approved refuse container. No extra bags of refuse will be collected without the approval of the department.

(3) A holiday collection schedule shall be announced by the department for those holidays that fall on a regularly scheduled collection day.

(Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Sec. 32.1-22. -- Refuse containers generally.

(a) Approved refuse containers issued by the city shall remain the property of the city and shall not be removed from the property they were assigned to without approval by the department.

(b) One (1) approved refuse container shall be provided by the city at no cost to a homeowner occupied residential living unit or a multiple residential unit or trailer court of less than five (5) separate units. For a leased residential unit the landlord or tenant shall purchase all approved refuse containers for the property. The maximum number of approved refuse containers allowed at any homeowner occupied residential living unit or a multiple residential unit or trailer court of less than five (5) separate units shall be two (2). All approved refuse containers for a business or commercial establishment that receives city collection service shall be purchased by the owner of the property. The maximum number of approved refuse collection containers allowed at a business or commercial establishment shall be four (4).

(c) Additional approved refuse containers, not to exceed the maximum number allowed, may be purchased from the city at the current replacement cost as established by the department.

(Code of 1964, §§ 20-2, 20-3; Ord. No. 493; Ord. No. 531; Ord. No. 671, 9-24-80; Ord. No. 874, 12-9-87; Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Sec. 32.1-23. -- Maintenance of refuse containers.

It shall be the responsibility of the owner or occupant of the premises to maintain all approved refuse containers in their possession in clean condition and good repair. Each approved refuse container shall be equipped with a proper fitting lid. All approved containers

used for the deposit of refuse under the provisions of this article shall be cleaned or disinfected by the resident of the dwelling to whom the approved container is assigned as often as may be needed.

(Code 1964, § 20-2; Ord. No. 493; Ord. No. 531; Ord. No. 671, 9-24-80; Ord. No. 874, 12-9-87; Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

~~Sec. 32.1-24. - Replacement of lost, stolen or defective refuse containers.~~

(a) — The department shall have the authority to require the replacement of any approved refuse container that is unserviceable or damaged as to hinder the effective street-side collection process. Failure to replace an unserviceable approved refuse container within ten (10) days after notification by the department will be justifiable cause to cease providing refuse collection service.

(b) — Any approved refuse container that is damaged or destroyed through the negligence or misuse of the city or through normal wear and tear shall be replaced at the expense of the city. The department shall have the authority to determine, in each case of damage, whether the damage is sufficient to require replacement or repair.

(c) — In cases of loss or damage of the approved refuse container due to the negligence of the resident or by a third party, replacement shall be the responsibility of the homeowner. In cases of hardship, the city manager or his designee shall have the authority to waive the fee for replacement. In determining hardship, the city manager shall be assisted by the department of Human Services.

(Code 1964, § 20-24; Ord. No. 493; Ord. No. 874, 12-9-87; Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

~~Sec. 32.1-25. - Placement for collection generally.~~

(a) — All refuse and recyclables shall be placed in an approved container for collection. The approved refuse and recycling container, yard waste, bulk waste and tree debris shall be placed at street-side for collection purposes. The collection schedule for the city shall be announced by the department. If the approved refuse or recycling container, yard waste, bulk waste, or tree debris is not street-side at collection time, this will indicate no service is needed on that date. Yard waste prepared for collection, as prescribed in section 32.1-27, bulk waste, and tree debris shall be placed street-side on the same scheduled collection day as established for the collection of the approved refuse container.

(b) — The approved refuse and recycling containers shall be placed no more than three (3) feet from the street for collection. They shall be placed no closer than ten (10) feet from

275 parked vehicles and three (3) feet from all other objects with the arrows on the lid facing
276 the street.

277 (c) ~~The approved refuse container, recycling container, yard waste, and bulk waste and tree~~
278 ~~debris shall be placed street-side no earlier than 3:00 p.m. on the date before the~~
279 ~~scheduled collection day and any approved containers shall be removed from street-side~~
280 ~~no later than midnight on the day of collection. No approved refuse container, recycling~~
281 ~~container, yard waste, bulk waste, or tree debris shall be left on a lot or piece of property~~
282 ~~in front of a line parallel to the front of the structure on the property, except during the~~
283 ~~period provided for herein, when the approved refuse container, yard waste, bulk waste,~~
284 ~~tree debris, or recycling container is at street side for collection purposes. Bulk waste,~~
285 ~~tree debris, and yard waste (including bagged grass and leaves), as permitted by~~
286 ~~sections 32.1-26 and 32.1-27, shall be subject to the same regulations with regard to~~
287 ~~placement as the approved refuse container or recycling container. Violations of this~~
288 ~~subsection should be reported to the department or other office as may be designated~~
289 ~~by the city manager. Upon receiving a complaint, such office shall investigate such~~
290 ~~complaint, and, if a violation is determined, such office shall fine the violator in~~
291 ~~accordance with section 32.1-3.~~

292 (Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

293
294 **Sec. 32.1-26. ~~Bulk waste collection.~~**

295 (a) ~~The city shall provide collection of bulk waste, as defined in section 32.1-1, to occupied~~
296 ~~dwellings receiving regular refuse collections service from the city and subject to the~~
297 ~~conditions established in this chapter of the city code and in accordance with a collection~~
298 ~~schedule established by the department. Bulk waste shall be placed street-side, free~~
299 ~~from low power lines, fences, poles, low branches, parked vehicles or other conditions~~
300 ~~which would hamper collection. If such bulk waste is not prepared for collection as~~
301 ~~herein required or is in excess of the ten (10) cubic yard bulk waste limit as defined in~~
302 ~~section 32.1-1, its disposal shall be the responsibility of the owner or occupant of the~~
303 ~~premises themselves or by payment of the special collection and disposal fee.~~
304 ~~Placement and set out times shall be in accordance with section 32.1-25.~~

305 (b) ~~The occupant of the premises shall be responsible to see that doors of refrigerators,~~
306 ~~freezers and iceboxes or other containers are removed in order to comply with section~~
307 ~~24-38 of the City Code.~~

308 (c) ~~Bulk waste collection shall be provided to residential living units, trailer courts, multiple~~
309 ~~residential units, and business or commercial establishments that receive city collection~~
310 ~~service, per a collection schedule established by the department and fee schedule~~
311 ~~established by the city council.~~

(Code 1964, § 20-13; Ord. No. 493; Ord. No. 535, 7-27-77; Ord. No. 565, 3-8-78; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Sec. 32.1-27. - Preparation and placement of yard waste, tree debris, cuttings, etc.

Leaves, grass clippings and other yard waste as defined in section 32.1-1, shall be placed in clear plastic bags free of refuse and other waste. Bags shall not be overloaded beyond capacity. Tree debris too large to be placed in clear plastic bags must be placed street-side, free from low power lines, fences, poles, low branches or other conditions which would hamper collection. If such material is not prepared for collection as herein required, in an orderly pile free of refuse, bulk waste or bagged yard waste, its disposal shall be the responsibility of the owner or occupant of the premises. Such tree debris shall be no longer than eight (8) feet and no more than six (6) inches in diameter subject to the placement and set out times prescribed in section 32.1-25.

(Code 1964, § 20-8; Ord. No. 493; Ord. No. 586, 9-13-78; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Sec. 32.1-28. - Disposal of waste tires.

(a) — Passenger vehicle waste tires shall be collected curbside from residential living units only. Residential living units are allowed to place up to five (5) passenger vehicle tires at the curb for disposal twice each calendar year. All other waste tires must be disposed of in accordance with applicable state and federal laws and regulations.

(b) — Waste tires shall not be placed in approved refuse containers destined for disposal at the city-operated refuse burning facility or any other waste disposal facility.

(Ord. No. 752, 5-11-83; Ord. No. 874, 12-9-87; Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Sec. 32.1-29. - Special preparation of certain materials.

(a) — Hypodermic instruments shall not be placed in an approved refuse container or disposable container before first breaking, disassembling, destroying or otherwise rendering the same inoperable and incapable of reuse. Such instruments or devices shall be further safeguarded by wrapping or securing the instrument so as to avoid the possibility of causing injury to the collection personnel.

(b) — All pressurized cans shall be released of all pressure before being deposited in an approved refuse container for collection by the city or any private collection agency.

(c) ~~All broken glass or any type of glass that may cause injury to refuse collection personnel shall be separately wrapped to prevent injury and placed in the approved refuse collection container for collection.~~

(d) ~~All pesticide containers and other poisonous containers shall be emptied and rinsed according to the manufacturer's label directions before being placed in the approved refuse collection container for collection.~~

~~(Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

Sec. 32.1-30. ~~Certain materials not to be collected.~~

(a) ~~Poisons, acids, caustics, manure, human excreta, explosives, barrels, drums, compressed gas cylinders, tanks, and other dangerous materials or substances such as soil, loam, and other substances that may accumulate as a result of repairs to yards, will not be collected by the city. Nor shall any refuse from an overflowing approved refuse container, piles of mixed, refuse, bulk waste, yard waste, or tree debris or other materials or loose or dangerous refuse be collected by the city.~~

(b) ~~Industrial waste shall not be collected by the city, but shall be collected, removed and disposed of by the operator of the factory, plant or enterprise creating or causing the same in accordance with regulations promulgated by the city manager.~~

(c) ~~Construction demolition waste and tree debris generated under contract between the owner/occupant and another individual or party shall not be collected or disposed of by the city and shall be collected, removed and disposed of by the individual party with which contracted or, in the event of his failure, by the owner/occupant of the property; unless the contractor, property owner, or tenant pays the special collection and disposal fee per truck load in advance as established by the city council. The special collection and disposal fee authorizes collection of debris including, but not limited to, construction demolition waste and tree debris.~~

(d) ~~Construction demolition waste shall not be collected, removed, or disposed of by the city but shall be the responsibility of the owner of the property unless; the property owner or tenant pays the special collection and disposal fee per truck load in advance as established by city council. The special collection and disposal fee authorizes collection of debris including, but not limited to, construction demolition waste and tree debris.~~

(e) ~~Disposal of five (5) self hauled pick-up truck loads of construction demolition waste is permitted at the landfill at no charge to the property owner or tenant with the tipping fee being charged to the department at the current city tipping fee rate only if the property owner or tenant who is doing construction or remodeling meets the following conditions:~~

(1) ~~The property owner or tenant must have a current, paid, and valid building permit issued by the City of Hampton for the construction or renovations being done;~~

(2) ~~— The permit must show the contractor doing the construction as "self" on the permit and all construction demolition waste must be self hauled;~~

(3) ~~— The property owner or tenant must provide current identification upon disposal of the construction demolition waste. The addresses on the building permit and the identification provided shall be the same or disposal shall be denied unless the property owner or tenant chooses to pay the current public tipping fee set by the landfill.~~

~~(Code 1964, §§ 20-7, 20-15, 20-16; Ord. No. 493; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-31. -- Material not to be collected from certain premises.~~

(a) ~~— All collections of refuse material by the city shall be made from street side, except as otherwise provided in this article. Collections will not be made from premises situated on streets which are not passable for collection trucks, private streets and lanes nor shall any collection be made from basements, garages, enclosed porches or the interior of any building.~~

(b) ~~— City refuse collectors are not required to collect from premises where the provisions of this article are violated. The failure to collect any bulk waste, tree debris, or refuse from the premises because of a violation of the provisions of this article shall not relieve the person responsible for such violation from prosecution and penalty therefore.~~

~~(Code 1964, §§ 20-10, 20-11; Ord. No. 493; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-32. -- Non-street side collection.~~

~~Any user of the city provided refuse and recycling collection service, having an address on a public street, who is physically incapacitated so as to prevent such person from placing the approved refuse container or recycling container at street side for collection purposes may obtain non-street side collection of refuse or recyclables by obtaining the approval of the department. Application for non-street side collection must be made annually and supported by medical documentation of the physical incapacitation and approved by the department.~~

~~(Code 1964, § 20-5; Ord. No. 493; Ord. No. 874, 12-9-87; Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-33. -- Collection from private streets.~~

(a) — In the case of private streets, the department shall review the street and determine whether or not city refuse collection vehicles can reasonably obtain access to approved refuse containers and that the infrastructure in place can accommodate city collection vehicle traffic. The department shall designate where and when the approved refuse containers are to be placed for collection.

(b) — In the event it is determined by the department that reasonable access is not possible, the department shall designate a central location where all the approved refuse containers shall be placed for collection purposes. It shall be the responsibility of the residents, in such case, to place the approved refuse or recycling containers in the central location selected by the department.

(c) — In the event the city collects refuse material along a private street or road, the city shall not be responsible for damage by collection vehicles or maintenance of such street or road.

(Code 1964, § 20-10; Ord. No. 493; Ord. No. 874, 12-9-87; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Cross reference — Streets, Ch. 34.

Sec. 32.1-34. — Collection from trailer courts.

In the case of trailer courts, the department shall review the trailer court and determine whether or not city refuse collection vehicles can reasonably obtain access to approved refuse and recycling containers. If access is possible, the city shall require of the trailer court owner a hold harmless agreement. The agreement shall protect the city from any claim or cause arising out of damage to property of the trailer court located in or on the private roadway used by the city's collection vehicle. The agreement shall also protect the city from any claim of damage to the private roadway resulting from the use thereof for collection purposes. The agreement shall be approved by the city attorney. The department shall designate where and when the approved refuse and recycling containers are to be placed for collection.

In the event it is determined by the department that reasonable access is not possible, the department shall designate a central location where all the approved refuse or recycling containers shall be placed for collection purposes. It shall be the responsibility of the residents, in such case, to place the approved refuse or recycling containers in the central location selected by the department.

(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)

Cross reference — Mobile home parks, § 20-16 et seq.

Sec. 32.1-35. — Dumpster service.

(a) ~~Dumpster service may be rendered by the city to business or commercial establishments, multiple living units of five (5) or more separate units constructed for individual ownership, and such service can be provided from a public street or other location approved by the department. Fees for this service shall be set by city council. The minimum dumpster size shall be four (4) cubic yards. Collection and disposal of refuse not collected by the city shall be the responsibility of the property owners through the use of dumpsters or other means approved by the department.~~

(b) ~~It shall be the responsibility of the owner of any premises served by a dumpster box to maintain such box in clean condition and good repair. Each dumpster box shall be watertight and shall be equipped with a proper lid or top so that it may be fully closed. If dumpster service is provided, residents will be responsible for placing their refuse in the dumpster box. Such dumpster box shall be placed in a location approved by the department.~~

~~(Code 1964, §§ 20-14, 20-17; Ord. No. 493; Ord. No. 535, 7-27-77; Ord. No. 545, 9-28-77; Ord. No. 564, 3-8-78; Ord. No. 565, 3-8-78; Ord. No. 579, 8-9-78; Ord. No. 614, 2-28-79; Ord. No. 671, 9-24-80; Ord. No. 874, 12-9-87; Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-36. -- Collection of recyclable materials.~~

~~All occupants of residential living units and business or commercial establishments receiving city collection services, shall separate and make available for collection and recycling such categories of solid waste which are designated by the department.~~

~~(1) -- Recycling containers generally.~~

~~a. -- Only recycling containers, approved for use by the department, shall be used for the collection of recyclables.~~

~~b. -- One (1) approved recycling container shall be provided by the city without charge. Ownership of the approved recycling container remains with the city, and it shall not be removed from the premises to which assigned. Subsequent replacement of approved recycling containers, due to loss or damage attributable to the owner or occupant of the property, shall be the responsibility of the owner or occupant of the property to which the approved recycling container is assigned.~~

~~c. -- One (1) additional approved recycling container may be provided by the city upon request by the owner or occupant with proof of need due to regular volumes of recyclable materials exceeding capacity of single container and will be serviced according to the provisions of this article.~~

~~(2) -- Placement of the approved recycling container; frequency of collection.~~

- a. ~~The approved recycling container shall be placed street side in accordance with the requirements for approved refuse containers in section 32.1-25, no closer than three (3) feet from the approved refuse container for collection.~~
- b. ~~The approved recycling container shall be placed out for collection and removed once the collection is completed, in accordance with section 32.1-25 of this chapter.~~
- c. ~~Non-street side collection of the approved recycling container for any person physically incapacitated so as to prevent such person from placing the approved recycling container street side for collection purposes shall be in accordance with section 32.1-32 of this chapter.~~

~~(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-37. -- Recycling commercial reports.~~

- (a) ~~All business or commercial establishments, as defined in this chapter, shall be required to file an annual commercial recycling report with the department. Any business or commercial establishment that utilizes city collection service shall be exempt from this commercial reporting requirement, because the information can be gathered directly from service users.~~
- (b) ~~The annual report shall cover the twelve-month period beginning January 1 and ending December 31, and shall be submitted no later than forty-five (45) days from the end of such period.~~
- (c) ~~The annual report shall contain:~~
- ~~(1) The name, address, and telephone number of the commercial establishment on whose behalf this report is filed;~~
 - ~~(2) The name, address, and telephone number of an individual who may be contacted on behalf of such commercial establishment; and~~
 - ~~(3) The total quantity, in tons, of solid waste recycled by such commercial establishment during the twelve-month reporting period.~~
- (d) ~~All quantities of solid waste required to be recycled shall be measured by weight, in tons. When a business or commercial establishment is unable to accurately determine quantity by weight, such quantities shall be reported based upon carefully estimated data. Each report shall identify all information which is based upon estimated data, and the basis of measurement used for such estimate.~~

(e) ~~— The reporting requirements of section 32.1-37 shall not include any information of a proprietary nature, defined as information, the disclosure of which would result in compromise of a trade secret or have a direct economic advantage to a competitor of such commercial establishment. Where any business or commercial establishment fails to report any information otherwise required hereunder based upon an assertion that the information is of a proprietary nature, the business or commercial establishment shall specify in the annual report the nature of the information withheld and the basis for the determination that such information is of a proprietary nature. The department may examine such assertion and reasons therefore, and, if the department determines there is no reasonable basis for such assertion shall advise such business or commercial establishment in writing, after which the penalties assessable under section 32.1-3 herein may be imposed.~~

(f) ~~— Failure to timely comply with the reporting requirements of section 32.1-37 of this chapter shall be punishable by a civil penalty in accordance with section 32.1-3. Each day of any violation under section 32.1-37 shall constitute a separate punishable occurrence. No criminal penalties shall be imposed for such violations.~~

~~(Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-38. -- Scavenging of refuse or recycling containers.~~

~~It shall be unlawful to scavenge, remove, alter, or otherwise tamper with any item, material, or object either contained in or attached to the approved refuse or recycling container placed street side for collection without the approval of the of the department.~~

~~(Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-39. -- Establishment of fees for solid waste service.~~

(a) ~~— The city council shall establish solid waste user fees. All households within the city eligible for city collection service shall be subject to the solid waste user fees established by the city council. All solid waste user fees shall be approved by the city council prior to implementation and may include any or all of the following:~~

- ~~• Special collection and disposal fees.~~
- ~~• Residential collection and disposal fees.~~
- ~~• Commercial refuse collection and disposal user fees.~~
- ~~• Dumpster service rental, collection and disposal fee.~~
- ~~• Landfill and steam plant tipping fees.~~

- ~~• Bulk waste collection and disposal fees.~~
- ~~• Excess refuse and bulk waste collection and disposal fees~~
- ~~• Yard waste collection and disposal fees.~~
- ~~• CFC collection fees.~~
- ~~• Waste tire collection and disposal fees.~~
- ~~• Household hazardous waste collection and disposal fees.~~

~~(b) The city council shall have the authority to establish and/or change user fees as required during the annual budget process.~~

~~(c) All solid waste user fees shall be billed by the department, or its designee.~~

~~(d) Any fee for solid waste service in addition to the solid waste user fee shall be set and approved by city council. In the event that any fee in addition to the solid waste user fee is not approved by city council, the department may either choose to make the collection at no cost or choose to not provide that collection service.~~

~~(Ord. No. 1137, 5-10-95; Ord. No. 1415, 1-25-06; Ord. No. 09-0011, 8-12-09)~~

~~Sec. 32.1-40. - Exemption for qualified elderly and disabled persons.~~

~~Notwithstanding any provision in this chapter to the contrary, the implementation of the amendment adopted by city council on May 14, 2014, ordinance number 14-007 pertaining to the repeal of relief from the payment of solid waste user fees for qualified applicants at least 65 years of age or anyone found to be permanently and totally disabled as defined in Virginia Code § 58.1-3217 and claiming a real estate tax exemption under city code § 37-123 as of July 1, 2013 which implementation was to be delayed until July 1, 2016, only for those persons qualifying and claiming a real estate tax exemption as of July 1, 2013 by ordinance number 14-00025 adopted by city council on November 12, 2014, will no longer be in effect. Effective March 9, 2016, all elderly and disabled persons qualifying and claiming a real estate tax exemption under city code § 37-123 as of July 1, 2013 are exempt from the payment of solid waste user fees subject to income limitations and financial worth limitations as set forth herein. All other elderly and disabled persons not eligible under the prior real estate tax exemption program pursuant to city code § 37-123 or claiming an exemption to real estate taxes as of July 1, 2013 are required to pay the solid waste user fee. Income limitations and financial worth limitations set forth in the prior tax exemption program pursuant to city code § 37-123, article II of the city code shall apply. For purposes of this section, qualified applicants are defined as those individuals who meet income limitations for each annual tax relief application. Administration and application for relief from the solid waste user fee shall be the responsibility of the department. The commissioner of revenue shall certify that a person is qualified for relief~~

to the department providing the percentage of tax liability for each qualified person. The department shall reduce the solid waste user fee accordingly.

(Ord. No. 14-0025, 11-12-14 ; Ord. No. 16-0005, 3-9-16)

State Law reference— Authority to grant exemption, Code of Virginia, § 15.2-936.

Sec. 32.1-41. -- Solid waste rate determination.

(a) — All property owners or occupants who meet the criteria in paragraph (b) of this section are required to pay a solid waste user and recycling fee, which shall be charged pursuant to the following conditions:

(1) — The fee of \$11.85 per week for up to two refuse containers shall be charged to property owners or occupants who do not participate in the city's recycling program. Property owners or occupants having more than two refuse containers shall be charged an additional \$11.85 per week for each additional refuse container.

(2) — The reduced fee of \$6.10 per week for up to two refuse containers shall be charged to property owners or occupants who participate in the city's recycling program. Property owners or occupants having more than two refuse containers shall be charged an additional \$6.10 per week for each additional refuse container. Participation in the recycling program requires customers to recycle by placement of the approved recycling container curbside on the approved collection day at least one collection cycle in any 30-day period and be at least 25% full during any one collection cycle.

(b) — Solid waste user and recycling fees will be imposed upon (i) single residential unit property owners or occupants and (ii) business or commercial establishment and multiple residential unit property owners or occupants opting to use the city collection service that meet all of the following criteria:

(1) — A habitable dwelling unit or business or commercial establishment;

(2) — An active water account; and

(3) — Active water consumption, which is defined as metered water service that uses at least 20 cubic feet of water consumption during a single billing cycle.

(c) — The solid waste user and recycling fee shall be billed regardless of whether property owners or occupants actually use the service, or regardless of whether the service is provided if prevented due to an emergency, because the service is provided and supported by the equitable contribution of all customers who meet the criteria set forth herein.

(Ord. No. 15-0021, 8-12-15 ; Ord. No. 16-0007, 4-3-16; Ord. No. 17-0005, 5-10-17)

Chapter 32.2
SOLID WASTE*

ARTICLE I. IN GENERAL

- Sec. 32.2-1. Definitions.*
Sec. 32.2-2. Administration
Sec. 32.2-3. General responsibility to comply with chapter.
Sec. 32.2-4. Enforcement of chapter.
Sec. 32.2-5. Notice of violation.
Sec. 32.2-6. Civil penalties.
Sec. 32.2-7. Costs of cleanup.
Sec. 32.2-8. Littering.
Sec. 32.2-9. Violations of zoning ordinance.
Sec. 32.2-10. Payments to the city.
Sec. 32.2-11. Storage of garbage and refuse on premises.
Secs. 32.2-12. – 32.2-20. Reserved.

ARTICLE II. COLLECTIONS BY THE CITY

- Sec. 32.2-21. Frequency and maximum amount of collections.*
Sec. 32.2-22. Placement for collection generally.
Sec. 32.2-23. Bulk waste collection.
Sec. 32.2-24. Preparation and placement of yard waste, tree debris, cuttings, etc.
Sec. 32.2-25. Disposal of tire waste.
Sec. 32.2-26. Collection only from authorized containers.
Sec. 32.2-27. Certain materials not to be collected; special preparation of certain materials.
Sec. 32.2-28. Material not to be collected from certain premises.
Sec. 32.2-29. Non-curb-side collection; physical incapacitation.
Sec. 32.2-30. Collection from private streets.
Sec. 32.2-31. Collection from trailer courts.
Sec. 32.2-32. Termination of solid waste collection services.
Sec. 32.2-33. Evictions and moveouts.
Sec. 32.2-34. Dumpster service.
Sec. 32.2-35. Collection of recyclable materials; placement of the city-provided recycling container; frequency of collection.
Sec. 32.2-36. Commercial recycling and reports.
Sec. 32.2-37. Scavenging of refuse or recycling containers.
Sec. 32.2-38. Solid waste generated outside the city.
Sec. 32.2-39. Portable basketball goals in right-of-way
Sec. 32.2-40. Reserved.

ARTICLE III. REFUSE AND RECYCLING CONTAINERS

673 *Sec. 32.2-41. Refuse and recycling containers generally.*
674 *Sec. 32.2-42. Maintenance of refuse and recycling containers.*
675 *Sec. 32.2-43. Replacement of lost, stolen, or defective refuse and recycling containers.*
676 *Secs. 32.2-44 – 32.2-45. Reserved.*

677
678
679 **ARTICLE IV. SOLID WASTE FEES**
680

681 *Sec. 32.2-46. Establishment of fees for solid waste service.*
682 *Sec. 32.2-47. Exemption for elderly and disabled persons.*
683 *Sec. 32.2-48. Solid waste rate determination; fee rates.*
684 *Sec. 32.2-49. Opting out of city services.*
685 *Sec. 32.2-50. Dual-use properties.*
686

- 687 _____
688
689 • **State law references** – *Local ordinances incorporating state law by reference, Code*
690 *of Virginia § 1-220; locality may provide for removal or disposal of trash, cutting of*
691 *grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901.*
692

Chapter 32.2 - SOLID WASTE

ARTICLE I. - IN GENERAL

Sec. 32.2-1. - Definitions.

Unless otherwise expressly stated, the following words and terms shall be defined as indicated in this section.

Bulk waste. Collectible individual items not suitable because of size or weight to be placed in city-provided refuse containers, including but not limited to appliances, sofas, mattresses, and furniture.

Bulk waste limit. Ten (10) cubic yards of bulk waste (6.4633 feet high x 6.4633 feet wide x 6.4633 feet deep) per week per service address.

Business establishment. Any retail, restaurant, manufacturing, wholesale, institutional, religious, governmental, or other non-residential establishment at which garbage or trash may be generated. For purposes of this chapter, "business establishment" does not include churches, synagogues, mosques, or any other such house of worship.

Building and construction materials. Any solid materials such as lumber, wire, pilings, sheetrock, shingles, brick, plaster, gutters, pipes asphalt, stones, glass, concrete or other substances produced or accumulated as a result of the construction, repair, alteration, or demolition of infrastructure, including but not limited to, buildings, highways, utilities, streets, sidewalks, or similar structures. For purposes of this chapter, "building and construction materials" does not include paints, coatings, solvents, asbestos, refuse, and liquids, compressed gases or semi-liquids.

Contractor. An individual, firm, or business establishment owner or operator that contracts on a non-exclusive basis to perform services.

Curbside. A location adjacent to, and no more than three (3) feet from, the curb line or edge of public pavement, if applicable, within the city right-of-way without impeding vehicular traffic, or at a location approved by the department.

Customer. Any residential property owner, occupant, individual, or business establishment owner or operator receiving city collection services.

Department. The department of public works.

Director. The director of the department of public works or his/her designee(s).

Dumpster. A solid waste container of not less than four (4) cubic yards (4.7622 feet high x 4.7622 feet wide x 4.7622 feet deep) made of watertight construction, designed and constructed to be emptied mechanically by specially equipped trucks.

Duplex dwelling. A type of multi-family structure containing two (2) dwelling units attached by a common vertical fire-resistant wall, with each unit on a separate fee-simple lot.

Dwelling. A building or portion thereof designated or used exclusively for residential purposes.

Dwelling unit. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, cooking, eating, and sanitation.

Emergency. A serious, unexpected, and dangerous situation requiring immediate action or an event beyond the reasonable control of residents or the city that prevents compliance with this ordinance, including, but not limited to acts of God, earthquakes, fires, floods, hurricanes, tornados, civil or military disturbances, explosions, war, riots, labor disputes, epidemics, power failures, sabotage, or acts or threats of terrorism.

Garbage. The by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding materials for insects or animals.

Hazardous materials. Solid waste or a combination of solid waste, as defined by Va. Code § 10.1-1400, which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or (ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Household hazardous waste. Any waste material derived from households (including single and multifamily residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas) which, except for the fact that it is derived from a household, would be classified as hazardous material including but not limited to, nickel, cadmium, mercuric oxide, manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint solvents; any product containing trichloroethylene, toxic art supplies, used motor oil and unusable gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides, or restricted-use pesticides as defined in Code of Virginia § 3.2-3900, as amended. For purposes of this chapter, "household hazardous waste" does not include empty household product containers or any household products in legal distribution, storage, or use.

Litter. Trash, garbage, refuse, tire waste, or any other discarded, used, or unconsumed substance which is not handled as specified in this chapter.

765 *Medical waste. Waste materials generated at health care facilities, such as hospitals,*
766 *clinics, physicians' offices, dental practices, blood banks, and veterinary hospitals and*
767 *clinics, as well as medical research facilities and laboratories, which, if improperly treated,*
768 *handled, or disposed of may serve to transmit an infectious disease, excluding discarded*
769 *items listed in Virginia Administrative Code § 9VAC20-120-130(C), as amended, when*
770 *emptied and not regulated by the Occupational Safety and Health Administration.*
771 *Medical waste includes "sharps" as defined by Virginia Administrative Code § 9VAC20-*
772 *120-10, as amended, and Virginia Administrative Code § 9VAC20-120-150(4), as*
773 *amended. For purposes of this chapter, "medical waste" does not include syringes*
774 *without needles and uncontaminated intravenous spikes.*

775 *Multiple residential dwelling unit. Any building or portion thereof designated*
776 *exclusively for occupancy by two (2) or more persons or households living independently*
777 *of each other in separate dwelling units.*

778 *Non-customer. Any property owner, occupant, individual, or business establishment*
779 *owner or operator that does not receive city collection services.*

780 *Private property. Any privately-owned property, whether improved or unimproved,*
781 *and any improvements thereon, including but not limited to, buildings, streets, sidewalks,*
782 *and alleys.*

783 *Recyclable. Any material that may be reprocessed for reuse in the same or different*
784 *form.*

785 *Recycling. The process of separating a given waste material from the waste stream*
786 *and processing it to be used again as raw material for a product which may or may not*
787 *be similar to the original product.*

788 *Recycling container. A container provided by the city for use in its system of curbside*
789 *collection of recyclables.*

790 *Refuse. All solid waste products having the character of solids rather than liquids*
791 *and composed wholly or partially of materials such as garbage, trash, rubbish, litter,*
792 *residues from spills, contaminations, vegetative waste, yard waste, or other discarded*
793 *materials.*

794 *Refuse container. A container provided by the city for use in its system of curbside*
795 *collection of refuse.*

796 *Rubbish. Combustible or slowly putrescible discarded materials, including but not*
797 *limited to printed matter, plastic and paper products, rags, and other such materials not*
798 *included under the term "garbage."*

799 *Scavenge. The unauthorized or uncontrolled removal of waste materials from a solid*
800 *waste management facility or from material set out for collection.*

Special collection and disposal fee. An additional collection and disposal fee of \$250.00 paid in advance by the customer or non-customer per truck load for collections not included in the basic collection services provided by the city. This fee authorizes a special city collection and disposal of construction demolition waste, tree debris, yard waste, evicted personal property, or bulk waste in excess of the bulk waste limit and per twenty (20) cubic yard truck load for illegally dumped material. This special collection and disposal fee shall be paid subsequent to collection whenever the city must collect and dispose of material that any customer or non-customer fails to dispose of properly.

Tire waste. Any tire that has been discarded.

Tree debris. Decomposable materials, including but not limited to limbs, wood cuttings, branches, logs, vines, roots, wood chips, bark, shrubs, and tree trunks. For purposes of this chapter, "tree debris" does not include stumps.

Vegetative waste. Decomposable materials generated by yard and lawn care or land-clearing activities, including but not limited to leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps.

Yard waste. Decomposable waste materials generated by yard and lawn care, including but not limited to leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. For purposes of this chapter, "yard waste" does not include roots or stumps that exceed six (6) inches in diameter.

State law references – Definitions, Code of Virginia § 10.1-1400 and Virginia Administrative Code §§ 9VAC20-120-10, 9VAC20-120-130(C), 9VAC20-120-150(4); Other, Code of Virginia § 3.2-3900.

Sec. 32.2-2. - Administration.

(a) *The provisions of this chapter shall be administered by the director under the direction and control of the city manager.*

(b) *The provisions of this chapter may be overridden in the event of an emergency. In such a case, the director will conduct a debris and trash removal program as may best be accommodated by the demands of the emergency and may continue for a length of time the director determines is necessary.*

(c) *If a local emergency is declared under Code of Virginia § 44-146.21, as amended, the city manager or his designee may modify or suspend any provision of this chapter.*

(d) *Pursuant to Code of Virginia § 8.01-246(4), requests for monetary refunds, whether made by the city or a customer, must be made within three (3) years after the right to the refund accrues.*

Charter reference – Functions, § 10.02.

State law references – Personal actions based on unwritten contracts, Code of Virginia § 8.01-246(4); local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928; regulation of garbage and refuse pickup and disposal services; contracting for such services in certain localities, Code of Virginia § 15.2-931; declaration of local emergency, Code of Virginia § 44-146.21.

Sec. 32.2-3. - General responsibility to comply with chapter.

It shall be the duty of customers and non-customers to comply with the applicable provisions of this chapter, including payment of any required fees and civil penalties for service or capacity.

Cross references – Owners/operators responsible for upkeep of cemetery, §10-16; unlawful accumulations of refuse generally, § 24-36; accumulations of trash, garbage, refuse, litter and other like substances and cutting of grass and weeds near residential or commercial structures, § 24-37.

Sec. 32.2-4. - Enforcement of chapter.

(a) *Until otherwise directed by the city manager and except as otherwise specifically provided in this chapter, the department shall be responsible for enforcement of the provisions of this chapter. The police division shall assist in the enforcement of section 32.2-8 of this chapter.*

(b) *The city manager shall have the right to shift the enforcement responsibility of departments under this chapter by written directive when the interests of good administration so demand.*

Charter reference -- Function of department of public works, City Charter § 10.02.

Sec. 32.2-5. Notice of violation.

(a) *Unless otherwise provided, upon finding or observing a violation of any of the provisions of this chapter, the director shall issue a notice of violation to the customer or non-customer causing or permitting such violation or to the owner of the property within twelve (12) months after the violation is observed or found to have occurred. Such notice shall set forth the date and nature of the violation, including a citation of the city code section violated, shall specify the time within which the violation shall*

be corrected, and shall state the penalty for such violation as set forth in this section and sections 32.2-6(a), 32.2-7, 32.2-8, and 32.2-9.

(b) Service of the notice in subsection (a) shall be by personal delivery to the customer or non-customer causing or permitting the violation or the owner or, if these person(s) cannot be found, by delivering a copy and giving information of its contents and meaning to any adult member of the family found at such person's regular place of abode or at his usual place of business or by posting the notice in a conspicuous location upon the land or premises and mailing a copy of the violation notice to the owner of the property where the violation occurred.

(c) Failure to correct the violation within the time specified in the notice shall result in the imposition of civil penalties pursuant to section 32.2-6. In addition, the director may correct the violation and impose fees and costs of cleanup in accordance with section 32.2-7.

(d) Notwithstanding the provisions of subsections (a) and (b) above, if the department determines the violation jeopardizes the health, safety, or welfare of persons in the city or if the violation is observed by the department or the police, the director may require immediate remediation without the necessity of issuing a notice of violation and assess appropriate penalties and costs accordingly.

State law reference – Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901.

Sec. 32.2-6. Civil penalties.

(a) Except as otherwise provided in sections 32.2-8, 32.2-9, 32.2-22 and 32.2-23 of this chapter, in addition to being responsible for any disposal fees and costs as provided in sections 32.2.5 and 32.2-7, any person who violates the provisions of this chapter shall be subject to a civil penalty under the following penalty schedule:

i. First violation – written warning

ii. Second violation within twelve (12) months – Fifty dollar (\$50.00) fine

iii. Third and subsequent violations within twelve (12) months – Seventy-five dollar (\$75.00) fine

When not otherwise specified, each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed \$3,000.00 in a twelve (12) month period. For purposes of this section, "same set of operative facts" means the same violation.

(b) Except as provided in section 32.2-5(c) of this article, no civil penalty shall be assessed without first issuing a notice of violation to the customer, non-customer, or owner of the property where the violation occurred causing or permitting such violation in the manner specified in section 32.2-5(a).

(c) The director may waive the civil penalty if he determines the violation occurred due to no fault of the person charged.

(d) The imposition of one (1) civil penalty for any violation of this chapter shall not excuse further violations for the same or separate offense; nor shall it permit the original violation to continue.

(e) In addition to and not in lieu of the penalties prescribed in this article, the city may apply to the circuit court for an injunction against the continuing violation of any provisions of this chapter and may seek any other remedy authorized by law, provided, that the assessment of a civil penalty for any violation shall preclude the institution of a criminal prosecution for the same violation.

State law reference - Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901; local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928; collection of taxes or other charges not paid when due; distress for same, § 58.1-3919; General jurisdiction of circuit court to award injunctions, Code of Virginia § 8.01-620; environmental injunction; financial capacity, Code of Virginia § 8.01-631.1.

Sec. 32.2-7. - Costs of cleanup.

(a) Except as provided in section 32.2-5(d) of this article, if the city determines illegal dumping has occurred, it immediately shall give the customer or non-customer responsible for the illegal dumping notice to remove the illegally dumped material within twenty-four (24) hours. If this material is not removed within twenty-four (24) hours, the city shall collect the illegally dumped material and charge the customer or non-customer responsible for the illegal dumping costs incurred pursuant to subsection (b) of this section and a penalty of \$250.00 per violation.

(b) In addition to any other civil penalty, cost, payment, or forfeiture provided for by law or in this chapter, all costs incurred by the city to clean up, remove, or otherwise properly dispose illegally dumped material or hazardous materials shall be the responsibility of and charged to the customer or non-customer who is in control of the property involved as may be appropriate.

State law references - Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901; local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-8. - Littering.

- (a) *It shall be unlawful for any person to dump or otherwise dispose of refuse, litter, or other unsightly matter on a public highway, right-of-way, property adjacent to such highway or right-of-way, or any other public property, or on private property, and fail to immediately remove the same or fail to prevent the litter from being carried or deposited by the elements upon any street, sidewalk, public place, or private property without the written consent of the owner thereof or his agent.*
- (b) *When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such matter, provided, however, that such presumption may be rebuttable by competent evidence.*
- (c) *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor punishable by confinement in jail for not more than twelve (12) months and/or a fine of not less than \$250.00 or more than \$2,500.00, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of ten (10) hours of community service in litter abatement activities.*

Cross reference – Littering, § 7-50.

State law references – *Improper disposal of solid waste; civil penalties, Code of Virginia § 10.1-1418.1; dumping trash, penalty, Code of Virginia § 33.2-802; locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901; punishment for conviction or misdemeanor, Code of Virginia § 18.2-11.*

Sec. 32.2-9. Violations of zoning ordinance.

- (a) *In any case where building and construction materials, hazardous materials, hazardous household waste, or refuse is deposited, transported, transferred, or stored in or upon any public or private property in the city without acquiring all permits under applicable city, state, and federal laws, the mere cessation of such activities shall not be deemed sufficient to correct the violation. It shall be unlawful for any person to deposit hazardous materials within the city without first complying with section 3.3(7)(e) of the zoning ordinance of the city and obtaining a permit from the Virginia Department of Environmental Quality. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor punishable by confinement in jail for not more than twelve (12) months and/or a fine of not less than \$250.00 or more than \$2,500.00, either or both.*

Cross reference – Additional standards on uses, section 3.3 of the zoning ordinance.

Sec. 32.2-10. – Payments to the city.

(a) Unpaid debts resulting in liens against property:

(1) Within ten (10) days of service of a violation notice pursuant to section 32.2-5, the person to whom it was directed shall pay any penalty amount specified on the notice to the city treasurer.

(2) Any costs or fees under sections 32.2-7 and 32.2-8 that may be charged pursuant to this chapter that remain unpaid for more than thirty (30) days after notice has been sent for such costs or fees shall be referred to the city treasurer who shall include those costs or fees in the next regular real estate tax bill sent to the owner of the real estate at which the costs or fees were incurred. All unpaid costs and fees shall then constitute a lien against such real estate and shall be collected by the city treasurer as other taxes and liens are collected.

(3) The city may waive and release such liens to facilitate sale of the property if the purchaser is unrelated by blood or marriage to the owner and who has no common business affiliation with the owner of the property at the time the liens were imposed. All such liens shall remain a personal obligation of the person who was owner of the property at the time the liens were imposed.

(b) Unpaid debts not resulting in liens against property:

Monies due to the city under sections 32.2-23, 32.2-24, 32.2-27, and 32.2-33 of this chapter for voluntary special collections and sections 32.2-27 and 32.2-41 of this chapter for container leases are due upon receipt. Any bill not paid under this subsection within thirty (30) days may result in action being instituted for its collection in the general district court. Debtor is responsible for any attorney's fees expended by the city to collect on the unpaid bill.

(c) Persons who have been assessed a civil penalty have the right to challenge the assessment by providing written notice to the director within ten (10) business days of the date of the assessment of the penalty. The notice shall include the facts surrounding the assessment of the penalty and any supporting justification for the appeal. The director will contact the assessed party if further information is

needed to make a determination. After reviewing the relevant information, the director shall determine whether the penalty was properly assessed and shall notify the assessed party in writing of the determination within ten (10) business days after receipt of the written notice. Should the director determine that the penalty was properly assessed, within ten (10) calendar days of receiving the notice of determination, the person assessed shall pay any penalty amount specified on the notice. Failure to appeal within the period specified herein or to pay any penalty upon notice of determination of the appeal will constitute a waiver of any administrative or judicial remedies.

State law references - Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, Title 58.1, Subtitle III, Chapter 39.

Sec. 32.2-11. - Storage of garbage and refuse on premises.

(a) It shall be unlawful for refuse to be placed, deposited, or allowed to remain on any premises unless placed or kept in metal or plastic containers or dumpsters with tight-fitting covers; and such covers shall be kept on the containers at all times. Plastic or polyethylene bags, if used for on-premise storage of refuse, shall be used as liners in metal or plastic containers with tight-fitting covers; and such covers shall be kept on the containers at all times. This temporary storage of refuse shall be used only until the refuse is transferred to the city-provided refuse container by the customer for curbside collection.

(b) Regardless of whether placed in accordance with section 32.2-22(c) of this chapter, the department may collect any refuse placed, deposited, or allowed to remain outside of containers or dumpsters and charge the customer for all costs incurred in making such collection pursuant section 32.2-8 of this article.

(c) It shall be unlawful for any person to permit, deposit, store or hold any refuse or matter which is noxious or offensive, either to health or to comfort, on any premises or place or in any building or structure, unless such matter is so treated, screened, covered or placed as not to create a nuisance. Should refuse become a public nuisance that presents an imminent and immediate threat to life or property, the department shall take whatever actions are necessary to abate, raze, or remove the nuisance. If such occurs, the city may bring an action against the (1) owner, occupier, or possessor of the premises where the nuisance is located, (2) owner or agent of the owner of the material that escaped, spilled, or was released, and (3) owner or agent of the owner who was responsible for such material and whose acts caused the nuisance to recover necessary costs incurred for the provision of services reasonably required to abate the nuisance.

Cross references – Garbage and refuse containers, § 15-114; containers for garbage and refuse, § 15-148; garbage containers, § 20-51; accumulations of trash, garbage, refuse, litter and other like substances and cutting of grass and weeds near residential or commercial structures, § 24-37.

State law reference - Abatement or removal of nuisances by localities; recovery of costs, Code of Virginia § 15.2-900; Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty, Code of Virginia § 15.2-901.

Secs. 32.2-12 through 32.2-20. - Reserved.

ARTICLE II. - COLLECTIONS BY THE CITY

Sec. 32.2-21. - Frequency and maximum amount of collections.

Except as otherwise provided in this chapter, and except in the event of an emergency, the department shall collect or have collected, remove, and dispose of all refuse from premises for which it provides service once weekly and recycling every other week with the following conditions:

(a) Collections shall not exceed the contents of any city-provided refuse and recycling containers, and lids must be closed on all containers.

(b) The department shall announce a holiday collection schedule for those holidays that fall on a regularly scheduled collection day.

State law reference – Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-22. - Placement for collection generally.

(a) All refuse and recyclable material shall be placed in the proper city-provided refuse and recycling containers. All city-provided refuse and recycling containers, bulk waste, yard waste, tree debris, and cuttings shall be placed for collection pursuant to this article and, to the extent possible, curbside, directly in front of the customer's property, no closer than ten (10) feet from parked vehicles and three (3) feet from all other objects, and with the lid hinge closer to the dwelling or structure such that the city's automated collection devices are able to lift the container safely. Where placement as described herein is not possible, the director may designate and approve an alternate location. The director also has the discretion to designate an alternate location where necessary to ensure efficient and safe collection. The department has complete discretion to refuse service to customers with improperly placed containers, bulk waste, yard waste, tree debris and cuttings. The director

further has the discretion to cancel collection under certain circumstances that prevent safe collection, including but not limited to during states of emergency, flooding, and Nor'easters. Should the director provide notice of collection cancellation to the customer and the customer places waste curbside for collection after receiving such notice, then the customer shall be subject to a fine of \$250, and the city shall enforce the violation in accordance with sections 32.2-6 and 32.2-7 of this chapter.

(b) The department shall announce the collection schedule for the city. Any material not placed in a city-provided refuse or recycling container and bulk waste, yard waste, tree debris, and cuttings that is not placed curbside at collection time and pursuant to this article shall indicate no service is needed on that date. Yard waste, tree debris, and cuttings prepared for collection as prescribed in section 32.2-24 of this article and bulk waste prepared for collection as prescribed in section 32.2-23 of this article shall be placed curbside on the same scheduled collection day as established for the collection of the city-provided refuse container.

(c) City-provided refuse and recycling containers, bulk waste, yard waste, tree debris, and cuttings shall be placed curbside no earlier than 3:00 p.m. on the day before the scheduled collection day, and all city-provided containers shall be removed from curbside no later than midnight on the day of collection.

(d) No refuse container, recycling container, bulk waste, yard waste, tree debris, and cuttings shall be left on a lot or piece of property in front of a line parallel to the front of the structure on the property, except during the period provided for herein, when the refuse container, recycling container, bulk waste, yard waste, tree debris, and cuttings are placed curbside for collection. Violations of this subsection should be reported to the department or other office as may be designated by the city manager. Upon receiving a complaint, the city shall investigate such complaint; and, if a violation is determined, the city shall enforce the violation in accordance with sections 32.2-6 and 32.2-7 of this chapter.

(e) Where illegally parked vehicles are in the right-of-way and are obstructing or impeding the collection vehicle, the department will attempt to locate the owner(s) of the vehicles to have them removed. If the department is unable to locate the owner of each vehicle or if an owner continues to illegally park a vehicle after notice, the department may contact the police division for assistance in clearing the right-of-way.

State law reference – Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-23. - Bulk waste collection.

(a) The city shall provide for the collection of bulk waste from occupied dwellings, trailer courts of less than five (5) separate units, multiple residential dwelling units, and

business establishments receiving regular refuse collections service and subject to the conditions established in this chapter and in accordance with a collection schedule established by the department and fees established by the city council pursuant to section 32.2-46 of this chapter.

(b) Notwithstanding the provisions of section 32.2-6 of this chapter, if such bulk waste is not prepared for collection as required in this subsection or is in excess of the bulk waste limit, upon notice, the customer or non-customer shall remove and properly dispose of the bulk waste within twenty-four (24) hours of receipt of the notice of violation or shall be subject to the city's special collection and disposal fee. Collections exceeding ten (10) cubic yards shall be subject to the special collection and disposal fee of \$250.00 per truck load. Placement shall be in accordance with section 32.2-22 of this article.

(c) Customers shall ensure the doors of refrigerators, freezers, iceboxes, or other airtight containers are removed as required by section 24-38 of the city code. Customers also must remove all freon from appliances in accordance with state regulations prior to setting these items curbside for city collection.

Cross reference – Abandoned or discarded refrigerators and other airtight containers, § 24-38.

State law reference – Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-24. - Preparation and placement of yard waste, tree debris, cuttings, etc.

(a) Leaves, tree debris, grass clippings, and other yard waste shall be placed in clear plastic bags free of refuse and other waste. Bags shall not be overloaded beyond capacity. Tree debris too large to be placed in clear plastic bags must be placed curbside, free from low power lines, fences, poles, low branches, or other conditions which would hamper collection. Neither grass nor other vegetative waste shall be placed in any authorized refuse or recycling containers for collection. If such material is not prepared for collection as required or in an orderly pile free of refuse, bulk waste, or bagged yard waste, its disposal shall be the responsibility of the customer. Tree debris shall be no longer than eight (8) feet and no more than six (6) inches in diameter subject to the placement regulations prescribed in section 32.2-22 of this article. Material set out for collection under this section shall not exceed ten (10) cubic yards. Collections exceeding ten (10) cubic yards shall be subject to the special collection and disposal fee.

(b) All private residents of the city may drop off their separated yard waste that was generated on their property free of charge at 100 North Park Lane. Residential drop-offs are limited to an amount no greater than ten (10) cubic yards of yard waste. Proof of residency (e.g., driver's license, utility bill, etc.) is required.

1190 *Residents that exceed ten (10) cubic yards of yard waste, Non-Hampton*
1191 *Residents, commercial landscapers, and lawn care firms will be charged for yard*
1192 *waste based on a fee schedule that will be posted or otherwise made available by*
1193 *the city annually on July 1st. The city, in its discretion, reserves the right to reject*
1194 *any yard waste that exceeds the defined truck and trailer loads stated in the fee*
1195 *schedule.*

1196
1197 (c) *Any violation of this section will be subject to penalties in accordance with Sec.*
1198 *32.2-6.*

1199
1200 **State law reference** – *Local recycling and waste disposal; powers; penalties, Code of*
1201 *Virginia § 15.2-928.*

1202

1203 **Sec. 32.2-25. - Disposal of tire waste.**

1204 *Passenger vehicle tire waste shall be collected pursuant to section 32.2-22 of this article*
1205 *from residential living units only. Residential dwelling units may place up to five (5)*
1206 *passenger vehicle tires curbside for collection twice each calendar year. All other tire*
1207 *waste must be disposed of in accordance with applicable state and federal laws and*
1208 *regulations. Tire waste shall not be placed in city-provided refuse containers destined for*
1209 *disposal at the city-operated refuse burning facility or any other waste disposal facility*

1210 **State law reference** – *Local recycling and waste disposal; powers; penalties, Code of*
1211 *Virginia § 15.2-928.*

1212

1213 **Sec. 32.2-26. – Collection only from authorized containers.**

1214 *All authorized refuse and recycling containers bear a serial number. The department will*
1215 *not collect solid waste from any refuse or recycling containers that do not contain a serial*
1216 *number.*

1217 **State law reference** – *Local recycling and waste disposal; powers; penalties, Code of*
1218 *Virginia § 15.2-928.*

1219

1220 **Sec. 32.2-27. - Certain materials not to be collected; special preparation of certain**
1221 **materials.**

1222 (a) *The city will not collect the following materials, and disposal of those materials shall*
1223 *be made as indicated. Where disposal is listed as being the responsibility of the*
1224 *customer or non-customer, the owner ultimately remains responsible for proper*
1225 *disposal of all items on its property. Violations under this section shall be enforced*

1226 pursuant to sections 32.2-5, 32.2-6, and 32.2-7 of this chapter and Code of Virginia
 1227 § 10.1-1455, as amended.

1228 (b) Disposal of uncollectable material.

	Materials the City will not Collect	Method of Disposal
1.	Poisons, acids, caustics, manure, human excreta, explosives, barrels, drums, compressed gas cylinders, tanks, and other dangerous materials or substances, such as soil, loam, and other similar substances	Dispose of such material at designated sites and times, such as Virginia Peninsulas Public Service Authority, city's quarterly chemical collection, or in a lawful manner by a state-approved disposal company.
2.	Refuse from an overflowing city-provided refuse container, piles of mixed, refuse, bulk waste, yard waste, tree debris, other similar materials, or loose or dangerous refuse	Lease an additional city-provided refuse container if otherwise permissible, pay a special collection fee, engage a contractor to haul, or self-haul such material.
3.	Liquid industrial waste	Dispose of such material pursuant to state regulations.
4.	Self-generated construction demolition waste, i.e., work not under a contract between the customer or non-customer	<p>Disposal of five (5) self-hauled pickup truck loads of construction demolition waste is permitted at the landfill at no charge to the customer or non-customer with the tipping fee being charged to the city at the current city tipping fee rate only if the customer or non-customer performing the construction or remodeling meets the following conditions:</p> <ul style="list-style-type: none"> * The customer or non-customer must have a current, paid, and valid building permit issued by the city for the construction or renovations being done; * The permit must show the contractor doing the construction as "self," and all construction demolition waste must be self-hauled; and * The customer or non-customer must provide current identification upon

	Materials the City will not Collect	Method of Disposal
		<p>disposal of the construction demolition waste. The addresses on the building permit and the identification provided shall be the same, or disposal shall be denied unless the customer or non-customer chooses to pay the current public tipping fee set by the landfill.</p> <p>If the foregoing conditions are not met, deliver such material to the landfill; and applicable fees will be charged.</p>
5.	Construction demolition waste and tree debris generated under contract between the customer or non-customer and another individual or contractor	Self-haul or contracted individual or party shall dispose of such material at the landfill.
6.	Hazardous materials, household hazardous waste, or any other waste prohibited by law from being placed curbside or delivered to or accepted for disposal at the city's solid waste drop-off facility or compost facility	Arrange for disposal of such material by a proper hauling facility.
7.	Commercial waste and contractor waste	Business establishment owner or contractor must dispose of such material at the landfill.
8.	Land-clearing waste	Self-haul or contact the city to arrange for a special collection of such material.
9.	Automotive engines, bodies, drive trains, and other automotive parts	Deliver such material to a scrap yard.
10.	Riding lawn mowers or any part of such equipment	Deliver such material to a scrap yard.
11.	Lawn mowers (excluding riding lawn mowers), tillers, weed eaters, trimmers, and other lawn implements that contain a gasoline engine.	Lawn implements that contain a gasoline engine must be drained of all fluids for city collection.
12.	Boats and personal watercraft	Deliver such material to the landfill.

	Materials the City will not Collect	Method of Disposal
13.	Gasoline engines separated from equipment	Deliver such material to a scrap yard.
14.	Oil drums, chemical drums, or other containers that have been used to store petroleum and chemical products, paint, or other liquids	Deliver such material to a scrap yard.
15.	Glass windows and doors not properly placed in a refuse or recycling container	Deliver such material to the landfill.
16.	Rocks, dirt, sand, sod, concrete, cement, masonry material (bricks, cinder blocks, etc.), plaster, tile, or drywall material	Deliver such material to the landfill.
17.	Ashes and other burnt waste	Deliver such material to the landfill.
18.	Bagged waste outside the container with the exception of residential vegetative waste as otherwise provided for in this chapter	Deliver such material to the landfill.
19.	Asbestos products, such as shingles and siding	Deliver such material to the landfill.
20.	Utility trailers, house trailers, campers, camper shells, truck bed liners, and truck bed covers and caps	Deliver such material to a scrap yard.
21.	Propane tanks	Deliver to scheduled household chemical collection events.
22.	Residential vegetative waste contaminated with dirt, including tree roots and stumps	Deliver such material to the landfill.
23.	Any item longer than six (6) feet (i.e., pole or lumber)	Deliver such material to the landfill.
24.	Outbuildings larger than one hundred fifty (150) square feet	Deliver such material to the landfill.
25.	Debris, litter, or rubbish that is considered dangerous or constitutes a nuisance (i.e., any	Deliver such material to the landfill within twenty-four (24) hours of receipt of a notice to do so or arrange for

	Materials the City will not Collect	Method of Disposal
	<i>activity that unreasonably interferes with an individual's or the public's comfort, convenience or enjoyment such that it interferes with the rights of others by causing damage, annoyance, or inconvenience)</i>	<i>collection of such material by a certified vendor.</i>
26.	<i>Medical waste</i>	<i>Arrange for collection of such material by a certified vendor.</i>
27.	<i>Any other solid waste not listed in this table or otherwise provided in this chapter</i>	<i>The director may determine in his sole discretion the proper method of disposal to promote public health, safety, and welfare.</i>

1229

1230 **Cross reference** – *Additional standards on uses, section 3.3 of the zoning ordinance.*

1231 **State law references** – *Disposal of used motor oil, other fluids for automotive engine*
1232 *maintenance, and oil filters, Code of Virginia § 10.1-1422.6; permits required; waiver of*
1233 *requirements; reports; conditional permits, Code of Virginia § 10.1-1426; penalties and*
1234 *enforcement, Code of Virginia § 10.1-1455; regulation of garbage and refuse pickup and*
1235 *disposal services; contracting for such services in certain localities, Code of Virginia §*
1236 *15.2-931; ordinances requiring delivery of garbage, trash and refuse to certain facilities;*
1237 *exceptions, Code of Virginia § 15.2-933; abatement or removal of nuisances, Code of*
1238 *Virginia § 15.2-1115.*

1239

1240 **Sec. 32.2-28. - Material not to be collected from certain premises.**

1241 (a) *All collections of refuse by the city shall be made from curbside, except as otherwise*
1242 *provided in this article. Collections will not be made from premises situated on*
1243 *streets which are not passable for collection trucks, nor shall any collection be made*
1244 *from basements, garages, enclosed porches, or the interior of any building.*

1245 (b) *City refuse collectors are not required to collect from premises where the provisions*
1246 *of this article are violated. Failure to collect any bulk waste, yard waste, tree debris,*
1247 *clippings, or refuse from the premises because of a violation of the provisions of this*
1248 *article shall not relieve the person responsible for such violation from prosecution*
1249 *and penalty therefor.*

1250 **State law reference** – *Local recycling and waste disposal; powers; penalties, Code of*
1251 *Virginia § 15.2-928.*

1252

Sec. 32.2-29. - Non-curbside collection; physical incapacitation.

Any customer having an address on a public street and who physically is incapacitated so as to prevent such person from placing the city-provided refuse container or recycling container curbside for collection may obtain non-curbside collection of refuse or recyclables by (i) annually submitting an application for non-curbside collection with supporting medical documentation of the physical incapacitation, and (ii) receiving approval by the department.

State law reference – *Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties, penalty, Code of Virginia § 15.2-901.*

Sec. 32.2-30. - Collection from private streets.

(a) The department shall review the conditions of private streets to determine whether city collection vehicles reasonably may obtain access to city-provided refuse and recycling containers and whether existing infrastructure may accommodate city collection vehicular traffic. The department shall designate where and when the city-provided refuse and recycling containers must be placed for collection.

(b) In the event the department determines reasonable access is not possible, the department reserves the right to deny service and may require collection by a private service.

(c) In the event the city collects refuse material along a private street or road, the city shall not be responsible for any damage by collection vehicles or maintenance to such street or road.

Cross reference – *Streets and sidewalks, Ch. 34.*

State law reference – *Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties, penalty, Code of Virginia § 15.2-901.*

Sec. 32.2-31. - Collection from trailer courts.

(a) The department shall review individual trailer courts to determine whether city refuse collection vehicles reasonably may obtain access to city-provided refuse and recycling containers. If access is possible, the city shall require the trailer court owner to enter into a hold harmless agreement, which protects the city from any claim or cause arising out of damage to property of the trailer court located in or on the private roadway used by the city's collection vehicle. The agreement also shall protect the city from any claim of damage to the private roadway resulting from the use thereof for collection purposes. The agreement shall be approved by the city attorney. The department shall designate where and when the city-provided refuse and recycling containers are to be placed for collection.

(b) If the department determines reasonable access is not possible, the department shall designate a central location where all the city-provided refuse and recycling containers shall be placed for collection or deny collection. It then shall be the responsibility of the customers to place the city-provided refuse and recycling containers in the central location selected by the department.

Cross reference – Mobile homes and mobile home parks, Ch. 20.

State law reference – Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties, penalty, Code of Virginia § 15.2-901.

Sec. 32.2-32. - Termination of solid waste collection services.

The director may terminate solid waste collection services to any customer pursuant to section 32.2-49 if the customer violates the provisions of this chapter more than six (6) times within a twelve (12) month period. The director may also terminate solid waste collection services if any customer who (i) dumps more than two (2) cubic yards of refuse, debris or waste on public property or another person's private property; (ii) dumps any hazardous materials, including paint, chemicals, or medical waste, or (iii) dumps any materials that maybe dangerous or environmentally hazardous.

State law reference – Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-33. - Evictions and moveouts.

(a) Pursuant to Code of Virginia §§ 55.1-1255 and 55.1-1416, as amended, the sheriff oversees the removal of personal property placed curbside. Evicted tenants may remove this personal property from the public way during the twenty-four (24) hour period after eviction. Upon expiration of the twenty-four (24) hour period after eviction, the owner shall remove or dispose of all personal property remaining in the public way and shall ensure that the property does unnecessarily obstruct the right of way or impede foot or vehicle traffic.

(b) The provisions of this section shall not be construed to restrict any law enforcement officer or other authorized person in the execution of an order of possession or other lawful process for the removal and disposal of household furnishings and other bulk items in the city. The law enforcement officer or other authorized person placing, or causing the placement of, household furnishings, bulk trash or other items on the right-of-way or edge of public street shall use best efforts to coordinate such deposit with prompt collection of such materials by the department of public works. The owner may contact the city for special collection for the special collection and disposal fee. If the real property owner refuses or neglects to remove or dispose of evicted personal property within forty-eight (48) hours of the eviction or fails to prepare for special collection, the city shall collect the personal property and assess

1329 a special collection and disposal fee and other costs incurred. Special collection and
1330 disposal fees and costs and any fines shall be billed to and constitute a legal
1331 obligation of the owner consistent with the terms of section 32.2-7 of this chapter.
1332 Upon completion of the special collection, the property shall not receive further
1333 collection services until all requirements have been met as provided for in section
1334 32.2-48 herein.

1335 **State law references** – Local ordinances incorporating state law by reference, Code of
1336 Virginia § 1-220; authority of sheriffs to store and sell personal property removed from
1337 premises; recovery of possession by owner; disposition or sale, Code of Virginia § 55-
1338 237.1; authority of sheriffs to store and sell personal property removed from residential
1339 premises; recovery of possession by owner; disposition or sale, Code of Virginia § 55-
1340 248.38:2.

1341

1342 **Sec. 32.2-34. - Dumpster service.**

1343 The city does not provide dumpster service for residential or business establishment
1344 customers without an explicit written agreement signed by the city manager. Any
1345 dumpster in the city right-of-way must comply with chapter 34 of the city ordinance.

1346 **Cross reference** – Streets and sidewalks, Ch. 34.

1347 **State law reference** – Local recycling and waste disposal; powers; penalties, Code of
1348 Virginia § 15.2-928.

1349

1350 **Sec. 32.2-35. - Collection of recyclable materials; placement of the city-provided**
1351 **recycling container; frequency of collection.**

1352 (a) All customers receiving city collection services shall separate and make available
1353 for collection and recycling such categories of solid waste which are designated by
1354 the department, including paper, plastics, and aluminum, and placed for collection
1355 in accordance with section 32.2-22 of this chapter. Only material designated by the
1356 department as “recyclable” may be placed in a recycling container.

1357 (b) Non-curbside collection of the city-provided recycling container for any person
1358 physically incapacitated so as to prevent such person from placing the city-provided
1359 recycling container curbside for collection purposes shall be in accordance with
1360 section 32.2-29 of this article.

1361 (c) The department has the authority to inspect the contents of any recycling container
1362 placed for pick up and shall document any violation of this section. Any resident who
1363 violates any provision of the recycling requirements as given in this section shall be
1364 served with a notice of violation under Section 32.2-5, which shall specify the

1365 *improper materials placed in the recycling container and inform the customer that*
1366 *any further violations will be subject to the penalties in section 32.2-6.*

1367 **State reference** – *Separation of solid waste, Code of Virginia § 15.2-937; local recycling*
1368 *and waste disposal; powers; penalties, Code of Virginia § 15.2-928.*

1369

1370 **Sec. 32.2-36. – Commercial recycling and reports.**

1371 (a) *All business establishments must file an annual commercial recycling report with the*
1372 *department. Any business establishment that utilizes city collection service shall be*
1373 *exempt from this reporting requirement to the extent the information may be*
1374 *gathered directly from service users.*

1375 (1) *The annual report shall cover the twelve (12) month period beginning January*
1376 *1 and ending December 31 and shall be submitted to the director no later than*
1377 *forty-five (45) days from the end of such period.*

1378 (2) *The annual report shall contain:*

1379 (i) *The name, address, and telephone number of the business establishment on*
1380 *whose behalf the report is filed;*

1381 (ii) *The name, address, and telephone number of an individual who may be*
1382 *contacted on behalf of such business establishment; and*

1383 (iii) *The total quantity, in tons, of solid waste recycled by such business*
1384 *establishment during the twelve (12) month reporting period.*

1385 (3) *All quantities of solid waste required to be recycled shall be measured by*
1386 *weight, in tons. When a business establishment is unable to accurately*
1387 *determine quantity by weight, such quantities shall be reported based upon*
1388 *carefully estimated data. Each report shall identify all information which is*
1389 *based upon estimated data, and the basis of measurement used for such*
1390 *estimate.*

1391 (4) *The reporting requirements of this section shall not include any information of*
1392 *a proprietary nature, defined as information, the disclosure of which would*
1393 *result in compromise of a trade secret or have a direct economic advantage to*
1394 *a competitor of such business establishment. Where any business*
1395 *establishment fails to report any information otherwise required hereunder*
1396 *based upon an assertion that the information is of a proprietary nature, the*
1397 *business establishment shall specify in the annual report the nature of the*
1398 *information withheld and the basis for the determination that such information*
1399 *is of a proprietary nature. The department may examine such assertion and*
1400 *reasons therefor; and if the department determines there is no reasonable*
1401 *basis for such assertion, the department shall advise such business*

1402 establishment in writing, after which the penalties assessable under section
1403 32.2-7 of this chapter may be imposed.

1404 (b) Any business located within the city shall source separate from its solid waste
1405 stream at least one principal recyclable material and deposit such recyclable
1406 material where it can be accessible for removal. Business owners are encouraged
1407 to recycle other recyclable material and include such information in their annual
1408 report.

1409 (1) The owner or manager of any commercial office building, strip mall, or business
1410 shall be required to provide a recycling system to its tenants, employees, and/or
1411 customers. Each new business that begins operations after January 1, 2023 is
1412 required to establish a recycling system within 60 days after receiving a city
1413 business license.

1414 (2) It shall be the responsibility of the property owner, business owner, or managing
1415 agent of any commercial office building, strip mall, or business to notify, in writing,
1416 its tenants and employees that recycling participation is mandatory. Written
1417 notification shall be provided within five days to all new tenants and employees
1418 and no less frequently than annually thereafter to all existing tenants and
1419 employees. The written notification shall set forth the requirements of this chapter
1420 and include, at a minimum:

1421 i. Source separation of recyclable material from refuse material is
1422 mandatory for all tenants and employees;

1423 ii. What materials will be recycled;

1424 iii. How the recyclable material will be prepared;

1425 iv. Any set-out requirements;

1426 v. Location of recycling containers;

1427 vi. Prohibitions against contamination of source separated recyclable
1428 material;

1429 vii. The collection schedule for recyclable material;

1430 viii. Name and telephone number of a representative of the business or
1431 multiple residential facility whom the tenant or employee should contact
1432 with any questions.

1433 (3) Recycling containers shall be appropriately sized and clearly distinguished from
1434 refuse containers by labels or other markings. Recycling containers located on
1435 the exterior of a property shall be covered or otherwise secured to prevent the
1436 contents from blowing, leaking, or spilling. All recycling containers shall be
1437 emptied frequently enough to prevent their contents from overflowing.

(4) *The owner or manager shall provide for on-site service for collection of recyclable material that is no less than one-half of the weekly service level (in volume or cubic yard capacity) for refuse material generated on the property, thus allowing for at least one-third of the recyclable material to be recycled.*

(c) *Failure to timely comply with this section shall be punishable by a civil penalty in accordance with section 32.2-7 of this chapter. Each day of any violation under section 32.2-7 shall constitute a separate punishable occurrence. No criminal penalties shall be imposed for such violations. The director has the authority to enforce this section and to issue civil penalties in accordance with section 32.2-7. No owner or manager of a commercial office building shall be liable for failure of tenants to comply with any provision in this section.*

State law references – *Waste information and assessment program, Code of Virginia § 10.1-1413.1; ordinances requiring recycling reports, Code of Virginia § 15.2-939; Separation of solid waste, Code of Virginia § 15.2-937.*

Sec. 32.2-37. - Scavenging of refuse or recycling containers.

It shall be unlawful to scavenge, remove, alter, or otherwise tamper with any item, material, or object either contained in or attached to the city-provided refuse or recycling container placed curbside for collection. Any individual who is found to have violated this provision will be guilty of a Class 4 misdemeanor.

State law reference – *Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.*

Sec. 32.2-38 – Solid waste generated outside the city.

It shall be unlawful for any person or entity to bring into the city any solid waste accumulated or collected outside the city for the purpose of disposal through the city's solid waste collection service unless approved by the department. This includes any yard waste. Any individual who is found to have violated this provision will be guilty of a Class 4 misdemeanor.

State law reference – *Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.*

Sec. 32.2-39 – Portable basketball goals in the right-of-way.

No basketball goal, including portable goals, shall be placed in the public street or right-of-way. Any basketball goal or portable goal located within the public street or right-of-

way is declared a nuisance. After giving notice of the violation by posting a notice on the basketball goal and sending a copy thereof by first class mail to the address where the basketball goal is located and giving ten (10) calendar days after the notice has been posted on the basketball goal to correct the deficiencies, the department of public works shall have the authority to remove the nuisance basketball goal and dispose of it. The expense of such action shall be charged against the property owner, become a lien on the property, and be collected by the same means, process and manner by which taxes are collected by the city.

Sec. 32.2-40. – Reserved.

ARTICLE III. – REFUSE AND RECYCLING CONTAINERS

Sec. 32.2-41. - Refuse and recycling containers generally.

(a) Only refuse and recycling containers provided by the city shall (i) be used for the collection of refuse and recyclables, (ii) remain the property of the city, and (iii) not be removed from the property to which they are assigned.

(b) All city-provided refuse and recycling containers for customer use shall be leased by the owner of the property.

(c) The city shall provide:

- (1) one (1) refuse and one (1) recycling container without charge; and
- (2) a second recycling container without charge upon request and proof of need due to regular volumes of recyclable materials exceeding the capacity of a single container.

(d) Additional refuse containers, not to exceed the number provided herein, may be leased for the initial lease fee plus the current monthly charge pursuant to section 32.2-48(a)(2) of this article. No more than three (3) refuse and two (2) recycling containers are allowed at any occupied residential dwelling unit, multiple residential dwelling units, or trailer court of less than five (5) separate units. The maximum number of city-provided refuse and recycling collection containers allowed at any business establishment shall be five (5) for each type of container.

(e) Notwithstanding the provisions of subsection (d) above and subject to director prior approval, additional city-provided refuse and recycling containers may be leased from the city for an amount established by the department.

State law reference – Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-42. - Maintenance of refuse and recycling containers.

Customers shall maintain all city-provided refuse and recycling containers in their possession in clean condition and good repair. Each refuse and recycling container shall be equipped with a proper fitting lid. All containers used for the deposit of refuse and recycling material under the provisions of this article shall be cleaned or disinfected as often as needed by the customer to whom the container is assigned.

Sec. 32.2-43. - Replacement of lost, stolen, or defective refuse and recycling containers.

(a) Any city-provided refuse or recycling container that is damaged or destroyed through the negligence or misuse of the city or through normal wear and tear shall be replaced at the expense of the city. The department shall have the authority to determine, in each case of damage, whether the damage is sufficient to require replacement or repair.

(b) In cases of loss or damage of the city-provided refuse or recycling container due to the negligence of the customer or a third party, the cost of replacement shall be the responsibility of the customer. "Damage" shall include (i) any defacing of refuse or recycling container by painting or otherwise marking the outside surface and (ii) altering or removing any identifying serial numbers from a refuse or recycling container.

Secs. 32.2-44 through 32.2-45. – Reserved.

ARTICLE IV. – SOLID WASTE FEES

Sec. 32.2-46. - Establishment of fees for solid waste service.

(a) All residential and contracted entities eligible for city collection service shall be subject to the solid waste user and recycling fees, and additional collection fees, which shall be approved by city council prior to implementation.

(b) All solid waste user fees shall be billed by the department or its designee.

Charter reference – Financial powers, § 2.02.

State law reference – Local recycling and waste disposal; powers; penalties, Code of Virginia § 15.2-928.

Sec. 32.2-47. - Exemption for elderly and disabled persons.

(a) Notwithstanding any provision in this chapter to the contrary, implementation of the amendment adopted by city council on May 14, 2014 (Ordinance No. 14-0218) pertaining to the repeal of relief from the payment of solid waste user fees for qualified applicants at least sixty-five (65) years of age or anyone found to be permanently and totally disabled as defined in Virginia Code § 58.1-3217, as amended, and claiming a real estate tax exemption under city code section 37-123 as of July 1, 2013, which implementation was to be delayed until July 1, 2016, only for those persons qualifying and claiming a real estate tax exemption as of July 1, 2013 by Ordinance No. 14-0448 adopted by city council on November 14, 2014, will no longer be in effect. All elderly and disabled persons qualifying and claiming a real estate tax exemption under city code section 37-123 as of July 1, 2013 are exempt from the payment of solid waste user fees subject to income limitations and financial worth limitations as set forth herein. All other elderly and disabled persons not eligible under the prior real estate tax exemption program pursuant to city code section 37-123 or claiming an exemption to real estate taxes as of July 1, 2013 are required to pay the solid waste user fee.

(b) Income limitations and financial worth limitations set forth in the prior tax exemption program pursuant to city code section 37-123 shall apply. For purposes of this section, qualified applicants are defined as those individuals who meet income limitations for each annual tax relief application. Administration and application for relief from the solid waste user fee shall be the responsibility of the department. The commissioner of revenue shall certify to Newport News Waterworks that a person is qualified for tax relief, including the percentage of tax liability for each qualified person; and the solid waste user fee shall be reduced accordingly.

Cross reference – Grandfathering of qualified persons under the prior tax exemption program, § 37-123.

State law references – Garbage and refuse disposal; fee exemption, Code of Virginia § 15.2-936; permanently and totally disabled defined, Code of Virginia § 58.1-3217.

Sec 32.2-48. – Solid waste rate determination; fee rates.

(a) From time to time, the city council, by resolution, shall set (i) an annual charge for the collection and disposal of solid waste, ashes, recyclable materials, and yard debris from required user properties on a fiscal year basis and (ii) changes to any fees or fines allowed under this chapter, and all required users shall pay the charges and fees so established by council.

(b) Solid waste user and recycling fees will be imposed upon (i) single residential unit property owners or occupants and (ii) business establishment and multiple residential unit property owners or occupants opting to use the city collection service that meet all of the following criteria:

(1) A habitable dwelling unit or business establishment;

1587 (2) *An active water account; and*

1588 (3) *Active water consumption, which is defined as metered water service that uses*
1589 *at least ten (10) cubic feet (0.10 hcf) of water consumption during a single water*
1590 *billing cycle.*

1591 (c) *The solid waste user and recycling fee shall be billed regardless of whether*
1592 *customers actually use the service, or regardless of whether the service is*
1593 *provided if prevented due to an emergency, because the service is provided and*
1594 *supported by the equitable contribution of all customers who meet the criteria set*
1595 *forth herein.*

1596 **Charter reference – Financial powers, § 2.02.**

1597 **State law reference – Local recycling and waste disposal; powers; penalties, Code of**
1598 **Virginia § 15.2-928.**

1599

1600 **Sec. 32.2-49. Opting out of city services.**

1601 (a) *Multiple residential dwelling units, trailer courts of more than five (5) units, and*
1602 *business establishments may opt out of using and being billed for city collection*
1603 *services pursuant to section 32.2-48 of this article provided at least seven (7)*
1604 *business days' advance written notice is provided to the department. The city*
1605 *reserves the right to terminate service to multiple residential dwelling units, trailer*
1606 *courts of more than five (5) units, and business establishments if safe collection is*
1607 *impractical or impeded.*

1608 (b) *Multiple residential dwelling units, trailer courts of more than five (5) units, and*
1609 *business establishments opting out of city collection services shall be prepared to*
1610 *provide to the department proof that collections are being made by a reputable*
1611 *service for proper disposal. Failure to provide proof of collection within seven (7)*
1612 *business days of the department's request for this information shall be deemed a*
1613 *violation pursuant to Article I of this chapter.*

1614

1615 **Sec. 32.2-50. Dual-use properties.**

1616 *With the exception of lawful home-occupied business establishments, any lot containing*
1617 *a single structure that is used both as a dwelling unit and a business establishment shall*
1618 *be issued a separate set of refuse and recycling containers and shall be billed separately.*