

## Chapter 26

### SOLID WASTE

#### Sec. 26-1. Definitions.

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

*Bulky items.* Normal household items too large to be placed in solid waste container, including such items as stoves, refrigerators, hot water tanks, washers, dryers, up to six rolls of carpet, a set of box springs and mattresses, regular size doors, lawn mowers, grills, or other normal household items. The term "bulky items" does not include dead animals, manure or other waste materials resulting from the operation of a horse or other animal stable, hazardous waste (including, but not limited to, batteries, used motor oil, etc.), tires, construction or renovation debris or other items too heavy or too bulky to be handled by a two-person crew.

*Business and commercial establishments.* Premises wherein:

- (1) There is carried on any business, profession or occupation subject to article IV of chapter 18 of this Code, provided home occupations operating under an approved zoning permit and in accordance with all applicable provision of chapter 42 of this Code shall not be a considered business and commercial establishments for the purpose of administering this chapter.
- (2) There is carried on any broadcasting, publishing, manufacturing or commercial activity or process.
- (3) There is carried on any renting of multi-family residential units.

*Commercial waste.* Waste material from a commercial enterprise, including wholesale, retail and service establishments, such as office buildings, stores, markets, theaters, hotels and warehouses, or from enterprises providing services for a fee, such as yard services, refuse collection services, etc.

*Construction and demolition waste.* Waste, including building materials and rubble, resulting from the construction, remodeling, repair and demolition of houses, commercial buildings, pavements and other structures.

*Construction site.* Any area in which construction of any type is conducted, including roads, buildings and all other places actively being constructed or renovated by public or private owners or the agent, employees or contractors thereof.

*Dwelling.* Any building which is wholly or partly used or intended to be used for occupancy or sleeping by human occupants, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities, excluding any lodging establishment or multi-family dwelling unit.

*Garbage.* Putrescible animal and vegetable wastes and similar discarded materials composed of animal, vegetable or other organic matter.

*Garbage or trash collectors.* All persons engaged in the business of picking up garbage and trash of any description, by truck or other vehicle, for delivery to a sanitary landfill or other place for disposal as permitted by law.

*Hazardous wastes.* As so characterized or designated by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law; dead animals, batteries or tires, waste oil, poisons, acids or caustics, explosives, hot ashes, pool chemicals, human excreta or manure from animals, any other unacceptable waste defined above or waste that cannot be disposed of at a permitted landfill without special handling.

*Highway.* All public streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts, bridges and approaches thereto, and all other public ways in the town. The term "highway" shall also mean the entire width thereof between abutting property lines.

*Household.* A dwelling and its occupants.

*Operator.* The person operating any business or commercial establishment as distinguished from the owner of the premises involved.

*Private property.* Property owned by a person that is not used or held out for use by the public.

*Public property.* Any area that is used or held out for by the public, whether owned or operated by a public or private interest or entity.

*Refuse.* Includes any putrescible and non-putrescible solid wastes (except body waste), including garbage, rubbish, trash, ashes, yard waste and other similar wastes.

*Single-family dwelling.* A room or group of rooms within a building and constituting a separate and independent housekeeping unit occupied or intended for occupancy by one family and containing kitchen, sleeping and sanitary facilities. A dwelling unit shall not include a mobile home, recreational vehicle or room or group of rooms within a hotel, motel, tourist home or lodging house.

*Solid waste.* Waste as defined in 9 VAC 20-81-95 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

*Solid waste container.* Personally- or privately-owned, wheeled solid waste reusable container authorized for use by the Town.

*Trash.* All organic and inorganic waste material, including rubbish, cans, bottles, paper, cardboard, mattresses, furniture, appliances, inoperative lawn and garden equipment, and other discarded inorganic matter.

*Trees or tree stumps.* Tree trunks, stumps, branches, limbs and parts of trees that have been cut or otherwise removed from a tree or have fallen on the ground, including bushes or shrubbery larger than four inches in diameter, provided that the term shall not include tree stumps which have been grounded up or properly disposed of, or have been left in the ground.

*Vehicle.* Every device capable of being moved upon a public highway and in, upon or by which any person or property may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

*Yard waste.* Grass clippings, leaves, plant materials, roots, branches, and similar biodegradable materials.

#### **Sec. 26-2. Violations of chapter.**

(a) Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a civil violation and upon an admission of liability or finding of liability shall be punishable by fine of \$50.00 for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve months of the first violation shall not exceed \$200.00. 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 a total of \$3,000 in a 12-month period. Imposition of civil penalties in accordance with this section shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor; provided, however, that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period, which shall preclude the imposition of civil penalties for the same violation. Nothing in this section shall be construed as to prohibit the town council from bringing legal action to remedy any violation by injunction, abatement or other appropriate action or proceeding, as authorized by law. The provisions of Code of Virginia, § 15.2-2209, regarding issuance of civil summons, the opportunity to make all appearances in person or by mail, waiver or trial and admission of liability, right of trial and appeal, are hereby adopted by reference, mutatis mutandis.

(b) After having served a notice of violation to any person committing or permitting a violation of this chapter and if such violation is not ceased within such reasonable time

as is specified in such notice, the town manager or his designee shall cause two copies of a summons and/or ticket to be personally served upon such person or posted in a conspicuous location at the site of the violation. If a person complies in writing to a notice of violation, and agrees to cease said violation, no further fines shall be levied after the date of such agreement, provided such agreement is complied with.

(c) The summons and/or ticket shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the town at least 72 hours prior to the time and date fixed for trial, and by such appearance may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission of liability or finding of liability shall not be deemed a criminal conviction for any purpose.

(d) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district courts in the same manner and with the same right of appeal as provided by law.

### **Sec. 26-3. Duties of owners or occupants of premises.**

Every owner or occupant of any building, premises or vacant property in the town shall keep the same in a clean and orderly condition and shall not permit the deposit or accumulation of refuse, trash, and the like thereon.

### **Sec. 26-4. Littering and unlawful disposal of solid waste.**

(a) No person shall throw, drop or deposit, or cause to be thrown, dropped or deposited on any premises, public property or vacant property owned or not owned or occupied by him, any solid waste, including, but not limited to, trash, refuse, rubbish, , construction and demolition waste, dead animals, and any other wastes injurious to public health or safety.

(b) A violation of this section shall constitute a civil violation subject to Section 26-2.

### **Sec. 26-5. Removal of trash, cutting of grass and weeds.**

(a) The owner of real property within the town shall, within each consecutive seven-day period, remove all trash, garbage, refuse, litter and other substances which might endanger the health or safety of residents of the town from his property. If any such owner shall fail to remove such substances within any seven-day period, he shall be guilty of a civil violation subject to Section 26-2, provided that each day that such substances are permitted to remain on the premises for more than seven days shall constitute a separate offense.

(b) Whenever an owner of real property in the town fails to comply with the provisions of subsection (a) of this section, the town manager or designee may, after written notice given by him to the owner not less than 15 days prior, have the trash, garbage, refuse, litter and other like substances which might endanger the health or safety of residents of the town removed by the town's agents or employees, in which event the costs and expenses thereof, shall be chargeable to and paid by the owner of such property and may be collected by the town in the same manner and at the same time as taxes and levies are collected. Every charge with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq., and 58.1-3965 et seq.

(c) The owner of real property in the town shall cut the grass, weeds and other foreign growth on such property, or any part thereof, so as to maintain a height of less than 12 inches for growth. If any such owner fails to cut the grass, weeds and other foreign growth as required in this subsection, he shall be guilty of a civil violation subject to Section 26-2, provided that each day that such owner fails to cut the grass, weeds and other foreign growth as provided herein shall constitute a separate offense.

The provisions of this subsection shall not apply to:

- (1) Land located within a greenbelt, conservation area, preservation area or similar protected area as identified on the rezoning concept plan and/or described in the approved proffers for the subdivision or development, or any other lands so located as identified on the final subdivision plat or site plan for the subdivision or development and described more particularly in the deed for the parcel(s) so located, including without limitation lands which are to remain "undisturbed" or upon which the clearing or removal of trees or other vegetation is prohibited.
- (2) Public park land, or land located within a conservation easement or open space easement established pursuant to the Virginia Conservation Easement Act and/or Virginia Open Space Lands Act, as amended.
- (3) Jurisdictional wetlands as defined in and regulated by Section 404 of the Federal Water Pollution Control Act, as amended;
- (4) Parcels of land not less than 5 acres in size which are dedicated to an agricultural operation, or to any production agriculture and silviculture, as these terms are defined in §3.2-300 of the Code of Virginia; or
- (5) Well-defined and maintained landscaped areas which contain native and non-native shrubs, ornamental grasses, sedges, and plants, including without limitation such areas as identified on the approved landscaping plan for a subdivision or development.

(d) The owner of real property in the town shall not permit any yard waste or any other accumulations of trees or tree stumps to be disposed of or exist on any real property or improved or unimproved street or alley.

(e) Whenever an owner of real property within the town fails to comply with the provisions of subsection (c) or (d) of this section, the town manager or designee may, after reasonable notice given by him to the owner of such real property have such grass, weeds and other foreign growth cut, or have the accumulations of yard waste, tree or tree stumps removed and properly disposed of, by the town's agents or employees, in which event the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town in the same manner and at the same time as taxes and levies are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice.

**Sec. 26-6. Control of trash and debris at construction sites.**

(a) Construction sites shall be maintained in such a manner as to prevent trash and construction and demolition waste and debris from accumulating thereon unrestrained or being allowed to blow or be transported onto other property. A suitable trash receptacle shall be maintained on the site at all times during construction and shall be periodically and properly emptied during such construction in accordance with applicable provisions of the Town Code governing the same.

(b) Dirt, sand, gravel and similar construction materials shall be stored on construction sites in such a manner so as not to be deposited or tracked on public streets or rights-of-way.

(c) Any violation of this section may be abated in the manner prescribed by section 26-5.

**State law reference—** Authority for above sections, Code of Virginia, § 15.2-901, 10.1-1414 et seq.