



City of Hampton

22 Lincoln Street
Hampton, VA 23669
www.hampton.gov

Official Record

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Ordinance to Repeal Chapter 32.1 of the City Code of the City of Hampton, Virginia in its Entirety and Enact Chapter 32.2 of the City Code of the City of Hampton, Virginia Entitled "Solid Waste"


BE IT ORDAINED by the Council of the City of Hampton, Virginia, that Chapter 32.1 of the City Code of the City of Hampton is repealed in its entirety and Chapter 32.2 of the City Code of the City of Hampton, Virginia, entitled "Solid Waste" be enacted to read as is reflected by the ordinance attached hereto as "Exhibit A" with an effective date of July 1, 2023.

approved by the Hampton City Council on 1/11/2023.

Aye: 7 Councilmember Bowman, Councilmember Hobbs, Mayor Tuck, Councilmember Brown, Vice Mayor Gray, Councilmember Harper and Councilmember Mugler

Signed by: 
Donnie R. Tuck

Date JAN 11 2023

Attested by: 
Katherine K. Glass

Date JAN 11 2023

[EXHIBIT A TO COUNCIL RESOLUTION 22-0328]

Chapter 32.1 – RESERVED.

Chapter 32.2

SOLID WASTE

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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.

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

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

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

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

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

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

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

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

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

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

Scavenge. The unauthorized or uncontrolled removal of waste materials from a solid 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. Residents that exceed ten (10) cubic yards of yard waste, Non-Hampton Residents, commercial landscapers, and lawn care firms will be charged for yard waste based on a fee schedule that will be posted or otherwise made available by the city annually on July 1st. The city, in its discretion, reserves the right to reject any yard waste that exceeds the defined truck and trailer loads stated in the fee schedule.*
- (c) *Any violation of this section will be subject to penalties in accordance with Sec. 32.2-6.*

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

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

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

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

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

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

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

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

(a) *The city will not collect the following materials, and disposal of those materials shall be made as indicated. Where disposal is listed as being the responsibility of the customer or non-customer, the owner ultimately remains responsible for proper disposal of all items on its property. Violations under this section shall be enforced pursuant to sections 32.2-5, 32.2-6, and 32.2-7 of this chapter and Code of Virginia § 10.1-1455, as amended.*

(b) *Disposal of uncollectable material.*

	Materials the City will not Collect	Method of Disposal
1.	<i>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</i>	<i>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.</i>

	Materials the City will not Collect	Method of Disposal
2.	<i>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</i>	<i>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.</i>
3.	<i>Liquid industrial waste</i>	<i>Dispose of such material pursuant to state regulations.</i>
4.	<i>Self-generated construction demolition waste, i.e., work not under a contract between the customer or non-customer</i>	<p><i>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:</i></p> <ul style="list-style-type: none"> <i>* 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;</i> <i>* The permit must show the contractor doing the construction as "self," and all construction demolition waste must be self-hauled; and</i> <i>* The customer or non-customer 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 customer or non-customer chooses to pay the current public tipping fee set by the landfill.</i>

	Materials the City will not Collect	Method of Disposal
		<i>If the foregoing conditions are not met, deliver such material to the landfill; and applicable fees will be charged.</i>
5.	<i>Construction demolition waste and tree debris generated under contract between the customer or non-customer and another individual or contractor</i>	<i>Self-haul or contracted individual or party shall dispose of such material at the landfill.</i>
6.	<i>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</i>	<i>Arrange for disposal of such material by a proper hauling facility.</i>
7.	<i>Commercial waste and contractor waste</i>	<i>Business establishment owner or contractor must dispose of such material at the landfill.</i>
8.	<i>Land-clearing waste</i>	<i>Self-haul or contact the city to arrange for a special collection of such material.</i>
9.	<i>Automotive engines, bodies, drive trains, and other automotive parts</i>	<i>Deliver such material to a scrap yard.</i>
10.	<i>Riding lawn mowers or any part of such equipment</i>	<i>Deliver such material to a scrap yard.</i>
11.	<i>Lawn mowers (excluding riding lawn mowers), tillers, weed eaters, trimmers, and other lawn implements that contain a gasoline engine.</i>	<i>Lawn implements that contain a gasoline engine must be drained of all fluids for city collection.</i>
12.	<i>Boats and personal watercraft</i>	<i>Deliver such material to the landfill.</i>
13.	<i>Gasoline engines separated from equipment</i>	<i>Deliver such material to a scrap yard.</i>
14.	<i>Oil drums, chemical drums, or other containers that have been used to store petroleum and</i>	<i>Deliver such material to a scrap yard.</i>

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

	Materials the City will not Collect	Method of Disposal
	<i>damage, annoyance, or inconvenience)</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>

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

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

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

- (a) *All collections of refuse by the city shall be made from curbside, except as otherwise provided in this article. Collections will not be made from premises situated on streets which are not passable for collection trucks, 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. Failure to collect any bulk waste, yard waste, tree debris, clippings, 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 therefor.*

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

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 a special collection and disposal fee and other costs incurred. Special collection and disposal fees and costs and any fines shall be billed to and

constitute a legal obligation of the owner consistent with the terms of section 32.2-7 of this chapter. Upon completion of the special collection, the property shall not receive further collection services until all requirements have been met as provided for in section 32.2-48 herein.

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

Sec. 32.2-34. - Dumpster service.

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

Cross reference – Streets and sidewalks, Ch. 34.

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

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

- (a) All customers receiving city collection services shall separate and make available for collection and recycling such categories of solid waste which are designated by the department, including paper, plastics, and aluminum, and placed for collection in accordance with section 32.2-22 of this chapter. Only material designated by the department as “recyclable” may be placed in a recycling container.
- (b) Non-curbside collection of the city-provided recycling container for any person physically incapacitated so as to prevent such person from placing the city-provided recycling container curbside for collection purposes shall be in accordance with section 32.2-29 of this article.
- (c) The department has the authority to inspect the contents of any recycling container placed for pick up and shall document any violation of this section. Any resident who violates any provision of the recycling requirements as given in this section shall be served with a notice of violation under Section 32.2-5, which shall specify the improper materials placed in the recycling container and inform the customer that any further violations will be subject to the penalties in section 32.2-6.

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

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

- (a) *All business establishments must file an annual commercial recycling report with the department. Any business establishment that utilizes city collection service shall be exempt from this reporting requirement to the extent the information may be gathered directly from service users.*
- (1) *The annual report shall cover the twelve (12) month period beginning January 1 and ending December 31 and shall be submitted to the director no later than forty-five (45) days from the end of such period.*
- (2) *The annual report shall contain:*
- (i) *The name, address, and telephone number of the business establishment on whose behalf the report is filed;*
- (ii) *The name, address, and telephone number of an individual who may be contacted on behalf of such business establishment; and*
- (iii) *The total quantity, in tons, of solid waste recycled by such business establishment during the twelve (12) month reporting period.*
- (3) *All quantities of solid waste required to be recycled shall be measured by weight, in tons. When a business 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.*
- (4) *The reporting requirements of this section 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 business establishment. Where any business establishment fails to report any information otherwise required hereunder based upon an assertion that the information is of a proprietary nature, the business 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 therefor; and if the department determines there is no reasonable basis for such assertion, the department shall advise such business establishment in writing, after which the penalties assessable under section 32.2-7 of this chapter may be imposed.*

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

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

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

- i. Source separation of recyclable material from refuse material is mandatory for all tenants and employees;*
- ii. What materials will be recycled;*
- iii. How the recyclable material will be prepared;*
- iv. Any set-out requirements;*
- v. Location of recycling containers;*
- vi. Prohibitions against contamination of source separated recyclable material;*
- vii. The collection schedule for recyclable material;*
- viii. Name and telephone number of a representative of the business or multiple residential facility whom the tenant or employee should contact with any questions.*

(3) *Recycling containers shall be appropriately sized and clearly distinguished from refuse containers by labels or other markings. Recycling containers located on the exterior of a property shall be covered or otherwise secured to prevent the contents from blowing, leaking, or spilling. All recycling containers shall be 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;*

- (2) *An active water account; and*
 - (3) *Active water consumption, which is defined as metered water service that uses at least ten (10) cubic feet (0.10 hcf) of water consumption during a single water billing cycle.*
- (c) *The solid waste user and recycling fee shall be billed regardless of whether customers 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.*

Charter reference – *Financial powers, § 2.02.*

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

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

- (a) *Multiple residential dwelling units, trailer courts of more than five (5) units, and business establishments may opt out of using and being billed for city collection services pursuant to section 32.2-48 of this article provided at least seven (7) business days' advance written notice is provided to the department. The city reserves the right to terminate service to multiple residential dwelling units, trailer courts of more than five (5) units, and business establishments if safe collection is impractical or impeded.*
- (b) *Multiple residential dwelling units, trailer courts of more than five (5) units, and business establishments opting out of city collection services shall be prepared to provide to the department proof that collections are being made by a reputable service for proper disposal. Failure to provide proof of collection within seven (7) business days of the department's request for this information shall be deemed a violation pursuant to Article I of this chapter.*

Sec. 32.2-50. Dual-use properties.

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

This ordinance shall be effective as of July 1, 2023.