

ORDINANCE NO. 22-13(1)

AN ORDINANCE TO AMEND CHAPTER 13, SOLID WASTE DISPOSAL AND RECYCLING, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 13, Solid Waste Disposal and Recycling, is hereby reordained and amended as follows:

By Amending:

Sec. 13-100

Sec. 13-300

Sec. 13-301

Sec. 13-302

**CHAPTER 13
SOLID WASTE DISPOSAL AND RECYCLING**

ARTICLE I. IN GENERAL

Sec. 13-100 Definitions.

The following definitions shall apply to this chapter:

- (1) ~~Clutter.~~ The term "clutter" means mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when such items are left in public view for an extended period or are allowed to accumulate, unless such items are on land zoned for agriculture or in a lawfully active agricultural operation.
- (2) ~~(1) Commingled recyclables.~~ The term "commingled recyclables" means a mixture of several recyclable materials in one container.
- (3) ~~(2) Food waste.~~ The term "food waste" means all animal and vegetable solid wastes generated by food facilities, or from residences, that result from the storage, preparation, cooking, or handling of food.
- (4) ~~(3) Garbage.~~ The term "garbage" means solid waste consisting of decomposable animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce, and other food products.
- (5) ~~(4) Industrial solid waste.~~ The term "industrial solid waste" means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and publicly operated treatment works, and/or solid wastes placed in debris boxes.
- (6) ~~(5) Litter.~~ The term "litter" means solid waste discarded outside the established collection disposal system.
- (7) ~~(6) Multi-family dwelling.~~ The term "multi-family dwelling" means a building or portion thereof containing more than two dwelling units and not classified as a one family or two family dwelling nor as a townhouse, with not more than one family occupying each dwelling unit.
- (8) ~~(7) Nonresidential units.~~ The term "nonresidential units" means commercial buildings or structures, both retail and wholesale, including apartments with more than two dwelling units.

- (9) ~~(8)~~ *Person*. The term "person" means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, or representative or group of individuals or entities of any kind.
- (10) ~~(9)~~ *Processing*. The term "processing" means the separation and marketing of recyclable materials.
- (11) ~~(10)~~ *Recyclable materials*. The term "recyclable materials" means materials which have been source separated by any person or materials separated from solid waste for the subsequent utilization in both cases as raw material to be manufactured into a new product other than fuel or energy.
- (12) ~~(11)~~ *Recycling*. The term "recycling" means 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.
- (13) ~~(12)~~ *Refuse*. The term "refuse" means all solid and semiliquid wastes of a community, that are composed wholly or partially of materials such as including garbage, trash, litter, clutter, rubbish, ashes, street cleanings, and industrial solid waste, residues from clean up of spills or contamination, and other discarded materials, but not including human or agricultural animal body wastes.
- (14) ~~(13)~~ *Residential unit*. The term "residential unit" means any housing unit within the county including single-family dwellings, two-family dwellings, townhouses and mobile homes. It does not include multi-family dwellings. Occupants of such residential units are referred to as residents.
- (15) ~~(14)~~ *Rubbish*. The term "rubbish" means nondecomposable solid waste consisting of both combustible and noncombustible waste materials.
- (16) ~~(15)~~ *Sanitary landfill*. The term "sanitary landfill" means a disposal facility for solid waste so located, designed and operated that it does not pose a substantial present or potential hazard to human health or the environment.
- (17) ~~(16)~~ *Solid waste*. The term "solid waste" means garbage, refuse, sludges, and other discarded solid materials, including those from industrial, commercial, and agricultural operations, and from community activities.
- (18) ~~(17)~~ *Source separation*. The term "source separation" means the segregation of various specific materials from the waste stream at the point of generation.
- (19) ~~(18)~~ *Transfer station*. The term "transfer station" means a place or facility where waste materials are taken from small collection vehicles and placed in larger transportation units for transport to disposal areas, usually landfills, and where compaction or separation may be an incidental activity.
- (20) ~~(19)~~ *Trash*. The term "trash" means dry waste and usually does not include food waste and ashes but may include other organic materials, such as plant trimmings, or material considered worthless, unnecessary, or offensive that is usually thrown away.
- (21) ~~(20)~~ *Waste*. The term "waste" means garbage, trash or other refuse that is discarded, useless, or unwanted.
- (22) ~~(21)~~ *Waste collector*. The term "waste collector" means all persons engaging in the business of picking up garbage, trash or refuse of any description by truck or other vehicle for the delivery to a sanitary landfill area or other place, for disposal of the same as may be permitted by law.
- (23) ~~(22)~~ *Waste stream*. The term "waste stream" means the total flow of solid waste from residences, businesses, institutions, and manufacturing plants that must be recycled, burned, or disposed of in landfills; or any segment thereof, such as the "residential waste

stream" or the "recyclable waste stream." The term "waste stream" also means the total waste produced by a community or society, as it moves from origin to disposal.

(Code 1967, § 15-1; 9-15-93; Code 1988, § 16-1; Ord. 98-A(1), 7-15-98; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code § 15.2-901(A) and 9VAC20-81-10.

Sec. 13-101 Permit required.

No person engaged in a business as a refuse remover shall conduct any portion of such operation within the county unless he has a current permit to do so issued by the county pursuant to this article.

(9-15-93; Code 1988, § 16-18; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-102 Waste collection and recycling permit application.

- A. Each person is required to obtain a permit pursuant to section 13-301, or to renew an existing permit shall submit a permit application to the department of engineering and public works. The application shall be made on a form provided by the department of engineering and public works, and shall require the applicant to provide its name, address and telephone number, and to state generally the areas within the county the applicant proposes to serve.
- B. An application for a new permit shall be submitted, and a permit issued, before the person engages in business as a waste collector as provided in section 13-301.
- C. An application to renew an existing permit shall be submitted between June 1 and June 15 of each year.

(§§ 16-19, 16-21; 9-15-93; Code 1988, §§ 16-19, 16-21; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-103 Waste collection and recycling permit expiration.

Each permit issued pursuant to this chapter shall expire on June 30 following the date of issue.

(9-15-93; Code 1988, § 16-21; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-104 Waste collection and recycling permit issuance or denial.

- A. A permit for which an application has been submitted pursuant to section 13-102 shall be issued or denied by the department of engineering and public works within 15 days of the receipt of such application.
- B. A permit shall be issued if the department of engineering and public works determines that the application is complete and valid and that the applicant has reasonably and substantially complied with all applicable sections of this chapter.
- C. The department of engineering and public works shall provide an applicant whose permit is denied with a written statement of the reasons for denial.

(9-15-93; Code 1988, § 16-20; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-105 Violation and penalty.

Any person who fails to comply with any requirements of article I or article II of this chapter shall be subject to the following:

- A. Any alleged violation will be brought before a committee composed of one representative of the waste collectors, one citizen representative appointed by the county executive, and a third representative chosen jointly by the waste collectors and citizen representatives. The committee shall review the violation from a report of the department of engineering and public works. The alleged violator shall be provided the opportunity to respond to the alleged violation. The committee shall determine whether a violation has occurred, and recommend an appropriate enforcement action including, but not limited to, a recommendation as to whether civil penalties should be pursued.
- B. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$100.00 for the first violation, \$250.00 for the second violation, \$500.00 for the third violation, \$750.00 for the fourth violation, and \$1,000.00 for each violation thereafter.
- C. With the consent of any person who has violated or failed, neglected or refused to comply with any requirement of these articles, the county may provide in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the applicable limitation specified in paragraph B. These civil charges shall be in lieu of any appropriate civil penalty which could be imposed pursuant to paragraph B.

(9-15-93; Code 1988, § 16-22; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

ARTICLE II RECYCLING

Sec. 13-200 Purpose.

The purpose of this article is to encourage and promote recycling throughout the county in order to protect limited natural resources for the benefit of its citizens.

(9-15-93; Code 1988, § 16-13; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-928.

Sec. 13-201 Residential and nonresidential source separation of solid waste for purposes of recycling.

The following regulations shall apply to the source separation of solid waste for purposes of recycling:

- A. Each waste collector shall collect recyclable materials identified in paragraph B from county residents choosing to participate, and such collection shall be consistent with the recycling program for which the waste collector provides service.
- B. Each waste collector shall recycle source separated newspaper, magazine, container glass, metal cans, and plastic soda, milk and water containers from residential units. The county will provide for the processing of newspaper and commingled recyclables collected by a waste collector from residential units.
- C. Each waste collector shall offer recycling services to the owner or manager of each multi-family dwelling and apartment complex in the county to which it provides service.

- D. Each waste collector shall make a reasonable effort to promote residential and nonresidential participation in a recycling program.
- E. This article shall not affect the right of any person or entity to sell or otherwise dispose of waste material as provided in Virginia Code § 15.2-933 or permitted under any other law of the commonwealth, nor shall it impose any liability upon any waste collector for failure of its customers to comply with this article.

(9-15-93; Code 1988, § 16-15; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-937.

Sec. 13-202 Frequency of removal.

Each waste collector serving residential units shall collect recyclable materials in accordance with paragraph 13-201(A) either weekly or biweekly.

(9-15-93; Code 1988, § 16-16; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code §§ 15.2-928, 15.2-930.

ARTICLE III DUMPING, ACCUMULATION, STORAGE, REMOVAL AND DISPOSAL OF WASTE

Sec. 13-300 Dumping waste on public property, a public highway, right-of-way, or on private property.

- A. It shall be unlawful for any person to dump or otherwise dispose of refuse or other unsightly matter on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, 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 refuse or other unsightly matter alleged to have been dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of Virginia Code § 46.2-936 in making such arrest.
- C. When a violation of the provisions of this section has been observed by any person, and the refuse or other unsightly matter dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or removing of such matter. This presumption shall be rebuttable by competent evidence.
- D. Any person convicted of violating this section shall be guilty of a misdemeanor punishable as provided in section ~~1-115301~~ of the Code, at the court's discretion, in lieu of a criminal conviction it may permit the person to volunteer his services for a reasonable period of time to remove litter from the highway.

(Code 1988, § 16-2; Ord. 98-A(1), 7-15-98; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code §§ 33.1-346, 33.1-346.1.

Sec. 13-301 Transporting refuse in vehicles.

It shall be unlawful for any person to transport any refuse upon the streets, roads, or highways in the county in a motor vehicle unless the vehicle is constructed or loaded to prevent any of the load, consisting of the refuse and refuse containers, from dropping, sifting, leaking or otherwise escaping therefrom. A vehicle may be deemed to be constructed or loaded to prevent the load from dropping, sifting, leaking or otherwise escaping if the refuse is transported in one or more secured covered containers within the vehicle which do not allow sifting, leakage or the escape

of refuse therefrom, and each container is loaded in the vehicle in a manner that prevents it from dropping or otherwise escaping from the vehicle. Any person convicted of violating this section shall be guilty of a misdemeanor punishable as provided in section 1-115301 of the Code.

(Code 1967, § 15-4; 4-17-75; Code 1988, § 16-3; Ord. 98-A(1), 7-15-98; Ord. 01-13(1) , 12-5-01; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code § 10.1-1424.

Sec. 13-302 Accumulation, storage and removal of refuse on private property.

The following regulations shall apply to the accumulation, storage and removal of refuse and other dangerous substances on private property:

- A. No owner or occupant of any property in the county shall store, accumulate, or dump refuse or other substances that might endanger the health or safety of other residents of the County except as otherwise provided by law on such property in such quantities or in such a manner or for such a period of time as to constitute a nuisance as to be injurious to the health or safety of the public, or which might endanger the health or safety of the residents of the county. The storage, accumulation, or dumping of refuse or other substances that might endanger the health or safety of others is declared a nuisance.
- B. All refuse ~~shall~~ must be placed in personally owned or privately owned watertight containers and be kept covered until transported to a public sanitary landfill or until taken from the property by trash or garbage collectors or otherwise disposed of as provided by law.
- C. Each owner or occupant of property in the county shall, at such time or times as the board of supervisors or its agent may prescribe in a writing personally delivered to the owner or occupant or sent to the owner or occupant by certified mail to the property or sent to the owner by certified mail at the last known address as shown on the current real estate tax assessment records, remove from the property any and all refuse and other substances which might endanger the health or safety of other residents of the county as directed in such writing. For purposes of this Article, the board of supervisors designates the county executive and the county executive's designee as its agents.
- D. If the board of supervisors or its agent deems it necessary, after ~~reasonable written~~ notice personally delivered or sent by certified mail to the owner or occupant of property in the county according to subsection C above, the board of supervisors or its agent may have such refuse and other substances which that might endanger the health of other residents of the county removed by the county's own ~~agents or employees or independent~~ contractors within a reasonable period of time, in which event the cost or expense thereof shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes are collected. If the condition poses an emergency, the county may correct or abate the condition immediately with or without notice. Every such charge authorized by this section 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 parity with liens of unpaid local taxes and enforceable in the same manner as provided in section 15-100 of the Code and Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia. The county executive may waive such liens in order to facilitate the sale of the property but may only do so as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property from when the liens were imposed.
- E. ~~Any person convicted of violating this section shall be guilty of a misdemeanor punishable as provided in section 1-115 of the Code. Violations of this section are subject to a civil penalty 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 12 months after the first violation is \$200.00. Each business day during which the same violation is found to have existed constitutes 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 \$3,000.00 in a 12-month period. A violation shall constitute a Class 3 misdemeanor and preclude the imposition of civil penalties if 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 faces, within a 24-month period.

F. The remedies identified in this section are not exclusive and do not preclude the county from seeking all other available legal remedies, including injunctive relief to abate, correct, prevent, and preclude violations of this Article's provisions.

(Code 1967, § 15-6; 11-15-89; Code 1988, § 16-5; Ord. 98-A(1), 7-15-98; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code § 15.2-901.

Sec. 13-303 Waste collectors to dispose of same at authorized locations.

It shall be unlawful for any waste collector to dispose of garbage, trash, or refuse at any location in the county other than at a public sanitary landfill, transfer stations, recycling drop-off centers and other locations designated by the county. Any person convicted of violating this section shall be guilty of a class 1 misdemeanor.

(Code 1967, § 15-5; Code 1988, § 16-4; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-931.

Sec. 13-304 Scavenging.

It shall be unlawful for any person other than a permitted waste collector to salvage or otherwise remove any recyclable materials set out for collection by a permitted waste collector.

(9-15-93; Code 1988, § 16-17; Ord. 98-A(1), 7-15-98)

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Andrews	_____	_____
Mr. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Price	_____	_____