

CHAPTER 16
SOLID WASTE¹

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¹ **State law reference** - Similar provisions, Code of Virginia, § 10.1-1400 et seq. **County law reference** - Ord., 11/9/99, as amended 5/13/03, 5/11/04, 8/14/07, 11/13/07, 5/12/09 and 10/13/15.

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Sec. 16-1. Purpose.

The Solid Waste Ordinance which constitutes this Chapter of the Bath County Code was established for the purpose of protecting, promoting, and preserving an environment that is conducive to public health and welfare and preventing the creation of nuisances and the depletion of our natural resources, and to maintain such levels of air quality and water quality as will protect human health, welfare, and safety; and to the greatest degree practicable, prevent injury to plant and animal life and property, and nurture the comfort of the people and their enjoyment of life and property; and to encourage the social and economic development of Bath County and facilitate enjoyment of its attractions.

ARTICLE II. DEFINITIONS

Sec. 16-2. Definitions.

For purposes of this Chapter, the following terms shall have the meanings specified below:

Animal Carcasses means any animal, bird, or fish that has died naturally or has been accidentally or intentionally killed and/or those parts of any animal, bird, or fish that results from its death.

Animal Waste means waste products from any animal to include cattle, sheep, poultry, and those animals existing in the wild.

Business means any corporation, partnership, association, sole proprietorship, municipal corporation or governmental entity (other than Bath County or the Bath County Public Schools) or other legal entity exclusive of individuals and charitable organizations (i.e., those organizations which have obtained an exemption from the federal income tax pursuant to Section 501(a) or (c) of the Internal Revenue Code.)

Commercial Waste means all solid waste generated by establishments engaged in business operation other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

Construction Debris means solid waste produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction debris includes, but is not limited to lumber, wire, sheet rock, broken brick, shingles, glass, pipes, concrete, paving materials, flooring (tile, fabric, wood, or other) and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid compressed gases or semi-liquids and garbage are not construction debris.

Designated Permitted Landfill means Peter's Mountain Landfill owned and operated by the City of Covington, Virginia, or any other permitted solid waste facility operating in

compliance with the laws and regulations of the Commonwealth of Virginia, or other states, and the United States, as may be approved by the Board of Supervisors.

Disposal or Tipping Fee means the per pound (or per ton) monetary fee assessed for solid waste received at the transfer station or Designated Permitted Landfill that has either been brought across the weigh scales or has a fee allotted to the material.

Garbage means all putrescible waste including discarded materials composed of vegetable or other organic matter, animal offal and carcasses and recognizable industrial by-products but excluding sewage and human waste.

Hazardous Waste means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste includes, but is not limited to such items as petroleum wastes, paints, plastics, explosives, acids, caustics, chemicals, poisons, drugs, radioactive materials, pathogenic wastes from hospitals, sanitariums, nursing homes, clinics, and veterinary hospitals, waste from slaughter houses, poultry processing plants, and the like, or any other waste deemed hazardous by the Resource Conservation and Recovery Act and/or by the Virginia Department of Environmental Quality's Hazardous Waste Management Regulations.

Household Waste means any waste material including garbage, trash, and refuse, derived from households.

Industrial Waste means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment, and water treatment. This term does not include mining waste or oil and gas waste.

Infectious Waste means any solid wastes defined to be infectious by the Infectious Waste Management Regulations (VR 672-40-01) as promulgated by the Department of Environmental Quality. To the extent not inconsistent with the Regulations promulgated by the Department of Environmental Quality, Infectious Waste shall mean any waste that is considered to be capable of producing an infectious disease if it has been or may have been contaminated by an organism that may be pathogenic to humans, if such organism is not routinely and freely available to the community and if such organism has a significant probability of being present in significant quantities and with significant virulence to transmit disease, including but not limited to quarantine waste; discarded cultures, stocks, specimens, and vaccines; blood and blood products; pathological waste; sharp objects including hypodermic needles, syringes, scalpel blades, pasteur pipette, and broken glass; animal carcasses; any residue or contaminated soil, water, or other

debris resulting from the cleaning of a spill of any infectious waste; and any waste contaminated or mixed with infectious waste.

Inoperable Vehicles means any vehicle that is worn-out, cast off, unused, whether self propelled or not.

Large Waste Generator means any manufacturing plant, generating plant, hotel or motel with 35 or more sleeping rooms available for use by the public, public campground or recreation area, and any other business or industry which generates an average of greater than 4,500 pounds of solid waste per month.

Lead acid or wet cell batteries means batteries with a primary cell having an electrolyte in the form of a liquid bath.

Litter means loose articles of solid waste or other discarded matters thrown out, scattered, or lying on roads, streets, alleys, public places or private premises.

Medium Waste Generator means any person, exclusive of individuals, which is not a Large Waste Generator or Small Waste Generator, and shall include, but not be limited to, a motel, hotel, inn, bed and breakfast, lodge, or similar entity having fewer than 35 sleeping rooms available for use by the public, retail store, grocery store, convenience store, service station, restaurant, public utility office (specifically excluding a power generation station), hospital, nursing home, retirement home, and privately-owned camp or campground at which the public may stay for a fee.

Municipal Solid Waste means that waste which is normally composed of residential, commercial and institutional solid waste.

Open Dump means a site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health.

Person means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or other legal entity.

Recyclable Materials means materials which are free of contaminants and are separated from the solid waste stream so that they may be used again as a raw material for a product which may or may not be similar to the original. Recyclable Materials shall include but are not limited to aluminum (cans and scrap), tin cans, glass (clear, green, and brown), #1 (PET) and #2 (HDPE) plastic, computer paper, newspaper, corrugated cardboard, mixed paper, and magazines, catalogs and books.

Resident means any landowner or person having a place of abode in the Bath County, Commonwealth of Virginia. The term "resident" as used herein **shall not** be construed to embrace any sole proprietorship, joint venture, corporation, partnership, firm or other legal entity having a place of business located in the County of Bath, Commonwealth of Virginia.

Small Waste Generator means any non-retail business, beauty salon, insurance, contractor, law, real estate, or banking office or any office similar to the foregoing provided that such business or office employs fewer than 5 full-time on-site employees and generates primarily paper waste.

Solid Waste means any garbage, rubbish, refuse, sludge, and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from residential (household), industrial, commercial, mining and agricultural operations, or community activities. Solid Waste shall include but not be limited to animal or vegetable waste, glass, metal paper, plant growth and wood, furniture, white metal goods, and all other materials which are capable of being disposed of in a County approved solid waste receiving site or at the transfer station, but does not include (i) solid or dissolved materials in domestic sewage, (ii) solid or dissolved materials in irrigation return flows or in industrial discharges which are sources subject to a permit from the Virginia Department of Environmental Quality, (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended, or (iv) Hazardous Waste.

Solid Waste Collector means a person or business that engages in the solicitation, pickup, collection, or hauling of solid waste originally belonging to someone else and charges a fee for said services.

Solid Waste Container means a metal container to be used for collection and transportation of solid waste. The metal container must have an acceptable means of closing the top during transport to prevent littering along the highways. Openings should be large enough to accommodate bulk materials from residences (mattresses, etc.) to be deposited into the metal container.

Solid Waste Generator means any person, business, or industry that generates solid waste.

Solid Waste Recycling and Receiving Site means the sites designated from time to time by the County and approved by the Virginia Department of Environmental Quality for the purpose of receiving, collecting, and preparing for transportation of the solid waste and recycling materials to a designated transfer station or disposal site.

Source Reduction means any action that reduces or eliminates the generation of waste at the source.

Source Separation means separation of solid waste from recyclables at the point of generation.

Transfer Station means a constructed facility, designated by the County and approved by the Virginia Department of Environmental Quality, where daily quantities of solid waste are received, sorted for recycling and disposal, and stored for transportation to a designated end user or disposal site.

Trash means combustible or non-combustible discarded materials and is used interchangeably with the terms "rubbish" and "refuse".

Vegetative Waste or *Yard Waste* means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub, limb, and tree prunings not to exceed four (4) inches in diameter, bark, and roots.

White Goods means any refrigerators, freezers, air conditioners, stoves (electric or gas), washers, dryers, hot water heaters and other similar appliances.

Cross reference-Definitions and rules of construction generally, § 1-2.

ARTICLE III. TRANSFER STATION

Sec. 16-3. County to operate transfer station and document solid waste and recyclable materials.

The County will be responsible for operating a Transfer Station for the collection and compaction of all solid waste and recyclable materials. Monthly weight documentation of all solid waste and recyclable materials shall be recorded by the County.

Sec. 16-4. Materials to be accepted at transfer station.

Materials to be accepted at the Transfer Station during designated hours of operation will include:

- (a) Solid Waste
- (b) Construction Debris
- (c) Vegetative Waste
- (d) Yard Waste
- (e) Tires
- (f) White Goods
- (g) Inoperable Vehicles that have had tires, batteries, rims, and gas tanks removed
- (h) Lead Acid or Wet Cell Batteries
- (i) Recyclable Materials that are free of contaminants

Sec. 16-5. Materials not to be accepted at transfer station.

Materials not to be accepted at the Transfer Station will include, but are not limited to:

- (a) Hazardous waste
- (b) Infectious waste
- (c) Radioactive waste
- (d) Animal carcasses
- (e) Volatile liquids, explosives and flammable materials
- (f) Waste oil, kerosene and antifreeze

Sec. 16-6. Disposal of solid waste and recyclable materials at transfer station.

(a) *Businesses and Industries:* All Large Waste Generators within Bath County shall dispose of their solid waste and Construction Debris at the Designated Permitted Landfill. All other businesses and persons with Construction Debris generated within Bath County shall dispose of their solid waste and Construction Debris at the Transfer Station or Designated Permitted Landfill. Businesses and industries may dispose of their recyclable materials free from contaminants at the Transfer Station.

(b) *Solid Waste Collectors:* All Solid Waste Collectors shall dispose of solid waste and their recyclable materials free from contaminants at the Transfer Station or Designated Permitted Landfill. Such Solid Waste Collectors shall dispose of their solid waste and recyclable materials at least one-half hour prior to the regularly-scheduled closing time of the Transfer Station.

(c) *Residents:* Bath County residents may dispose of household solid waste and recyclable materials free from contaminants at the Transfer Station or Designated Permitted Landfill.

(d) *Nonresidents:* Except as otherwise provided herein, it shall be unlawful for any nonresident to place any material or solid waste at the Transfer Station or Designated Permitted Landfill.

ARTICLE IV. SOLID WASTE AND RECYCLING RECEIVING SITES

Sec. 16-7. County to operate sites.

The County will be responsible for the operation of the Solid Waste and Recycling Receiving Sites throughout the County.

Sec. 16-8. Materials to be accepted at solid waste and recycling receiving sites.

Materials accepted at the sites will include:

- (a) Household Solid Waste
- (b) Small Waste Generator and Medium Waste Generator solid waste, unless precluded by Sec. 16-10 or other section of this Chapter 16, which solid waste is produced from operations within Bath County
- (c) Recyclable materials that are free of contaminants

Sec. 16-9. Materials not to be accepted at solid waste and recycling receiving sites.

Materials not accepted at the sites will include:

- (a) Tires
- (b) White Goods
- (c) Inoperable Vehicles
- (d) Vegetative Waste

- (e) Yard Waste
- (f) Lead Acid or Wet Cell Batteries
- (g) Animal Carcasses
- (h) Infectious Waste
- (i) Hazardous Waste
- (j) Volatile liquids, explosives and flammable materials
- (k) Waste oil, kerosene or antifreeze
- (l) Construction debris
- (m) Furniture

Sec. 16-10. Disposal of solid waste and recyclable materials at solid waste and recycling receiving sites.

(a) *Businesses and Industries:* No Large Waste Generator solid waste or industrial solid waste shall be received at any Solid Waste and Recycling Receiving Site. Such businesses and industries may dispose of their recyclable materials free from contaminants at any Solid Waste and Recycling Receiving Site.

(b) *Solid Waste Collectors:* Solid Waste Collectors are expressly precluded from using the Solid Waste and Recycling Receiving Sites and no solid waste collected by any Solid Waste Collector shall be delivered to or disposed of at any Solid Waste and Recycling Receiving Site.

(c) *Lawful Disposal:* Bath County residents, Medium Waste Generators, and Small Waste Generators may dispose of household solid waste, recyclable materials free from contaminants, and materials permitted by Sec. 16-9 above, at any Solid Waste and Recycling Receiving Site.

(d) *Nonresidents:* Except as otherwise provided herein, it shall be unlawful for any nonresident to place any material or solid waste at any Solid Waste and Recycling Receiving Site.

(e) *Materials to be Placed in Containers:* All solid waste and materials placed at any Solid Waste and Recycling Receiving Site shall be placed inside the containers located at such sites for receipt of waste; provided, however, that solid waste and materials may be placed outside such containers if all the following circumstances are met:

- (1) all containers at such Site are completely filled; and
- (2) the solid waste or materials placed outside such containers are fully enclosed in securely fastened bags or tightly closed boxes.

Any person violating this provision shall be guilty of a Class 1 Misdemeanor.

Sec. 16-11. Amnesty Day.²

Bath County may, from time to time, as approved by the Board of Supervisors, hold a Solid Waste Amnesty Day, which shall occur, if at all, on a Saturday in the month of May, from 9:00 a.m. until 5:00 p.m., unless another date and time are established. Notice of such date and time shall be published in a local newspaper of general circulation within the County on a least two occasions ten to thirty days in advance.

ARTICLE VI. TRANSPORTATION OF SOLID WASTE CONTAINERS

Sec. 16-12. Transportation of solid waste containers.

Solid waste shall be hauled to and from the Transfer Station, Solid Waste and Recycling Receiving Sites, Designated Permitted Landfill, and other designated sites in containers with non-leaking, tight-fitting lids or containers secured in such a manner that materials cannot be strewn along the roads, streets or alleys of the County.

ARTICLE VII. ADDITIONAL SITES AND CONTAINERS

Sec. 16-13. Additional sites and containers.

The Board of Supervisors may from time to time designate other sites for residents for the purpose of receiving and disposing household solid waste and recyclable materials free from contaminants and may place containers for the collection of household solid waste and/or recyclable materials free from contaminants at these designated sites.

Sec. 16-14. Materials not to be accepted at designated sites.

Materials not accepted at the designated sites will include those items not accepted at a Solid Waste Recycling Receiving Site pursuant to Sec. 16-9.

Sec. 16-15. Additional containers for hunting and fishing seasons.

Additional containers for the collection of solid waste and recyclable materials free of contaminants maybe placed throughout the County during the weeks of hunting and fishing seasons to encourage those participating in said sports to deposit their solid waste and recyclables within. Nonresidents in the County for the purpose of participating in said sports may dispose of solid waste and recyclable materials free of contaminants in said containers.

Information regarding Bath County's Solid Waste Chapter and violations thereof, shall be posted at places of businesses and check-in stations to inform hunters and fishermen of these

²On motion by the Hon. Carol R. Hardbarger, and approved unanimously by the Board of Supervisors, Section 16-16 was amended to its present form on May 12, 2009, after a duly advertised and conducted public hearing.

laws. Failure to post such information shall not be a defense or limit the liability or responsibility of a person charged with a civil or criminal violation of this Chapter.

**ARTICLE VIII. USAGE OF TRANSFER STATION,
SOLID WASTE AND RECYCLING RECEIVING SITES, AND
OTHER DESIGNATED SITES**

Sec. 16-16. Use of transfer station and sites.

(a) The Transfer Station, Solid Waste and Recycling Receiving Sites, and other sites designated by the Board of Supervisors for receiving solid waste and/or recyclable materials free from contaminants shall be for the collection and disposal of solid waste and recyclable materials produced within the boundaries of Bath County.

(b) No person shall be permitted to deposit solid waste at the Transfer Station or any Solid Waste and Recycling Receiving Site or any other site designated by the Board of Supervisors for receiving solid waste which has been transferred into Bath County from any other jurisdiction without obtaining special written permission from the County Solid Waste and Recycling Coordinator, or the Coordinator's duly authorized representative.

Sec. 16-17. Accepted materials at Transfer Station and other sites to be County property.

(a) All materials delivered and deposited for disposal at the Transfer Station, a Solid Waste and Recycling Receiving Site, Designated Permitted Landfill, and/or additional designated site or container in accordance with the provisions of this Chapter shall become the property of the County and the County shall have the sole and absolute right and authority to dispose of the same. The County shall not become the owner of any materials delivered and deposited for disposal in violation of the provisions of this Chapter.

(b) No person shall separate, collect, carry off, or dispose of materials delivered and deposited for disposal.

Sec. 16-18. County not liable for loss of valuables.

The County shall not be responsible for the loss of any valuables which may be inadvertently lost in any solid waste, but shall cooperate with the owner to the extent reasonably practical as determined by the County, to locate such valuables and restore same to the rightful owner. All articles of value which are found will be turned in and kept at the Bath County Sheriff's Office until claimed by owner.

**ARTICLE IX. AUTHORITY OF BOARD TO PROVIDE FOR
SOLID WASTE COLLECTION**

Sec. 16-19. Board of Supervisors to provide for collection and regulations regarding solid waste.

The Bath County Board of Supervisors, through the County Administrator and/or other designated County employee(s) or agent(s), shall encourage and have the authority to approve the systematic collection of solid waste from public or private premises, and to provide and enforce proper regulations for the placement of the solid waste.

ARTICLE X. VIOLATIONS

Sec. 16-20. Violation of provisions; generally.

It shall be unlawful for any person to violate the provisions of this Chapter.

Sec. 16-21. Disposing of solid waste unlawfully.

It shall be unlawful for any person to dispose of any materials that are prohibited by this Chapter at the Transfer Station or at any Solid Waste and Recycling Receiving Sites or at any other site designated by the Board of Supervisors for receiving solid waste and/or recyclable materials free from contaminants.

Sec. 16-22. Tampering with containers, fences, equipment.

It shall be unlawful for any person to deface, remove, destroy or tamper with any materials, including fencing and collection containers for solid waste and/or recyclables and other equipment, buildings, structures, or any other property used in connection with the collection facilities at the Transfer Station or any Solid Waste and Recycling Receiving Site or at any other site designated by the Board of Supervisors for receiving solid waste and/or recyclable materials free from contaminants.

Sec. 16-23. Burning solid waste at transfer station, solid waste and recycling receiving sites, and other designated sites prohibited.

It shall be unlawful for any person to set fire to, or burn, any solid waste deposited at the Transfer Station or Solid Waste and Recycling Receiving Sites or any other site designated by the Board of Supervisors for receiving solid waste and/or recyclable materials free from contaminants without the written permission of the County Solid Waste and Recycling Coordinator, or the Coordinator's duly authorized representative.

Sec. 16-24. Littering.

(a) Any person who dumps or otherwise disposes of trash, garbage, refuse, litter, 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 shall be guilty of littering.

(b) When a violation of the provisions of this Section has been observed by any person, and the matter illegally 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. However, such presumption shall be rebuttable by competent evidence.

(c) The provisions of this Section shall apply to those agents employed by the County for the collection of solid waste, as well as to all other persons.

(d) The provisions of this Section shall not apply to the lawful disposal of such matter at the Transfer Station or Solid Waste and Recycling Receiving Sites or at any other site designated by the Board of Supervisors for receiving solid waste and/or recyclable materials free from contaminants.

State law reference-Similar provision, Code of Virginia, § 33.1-346.

Sec. 16-25. Solid waste collectors to secure loads.

It shall be unlawful for any Solid Waste Collector to collect, pickup, transport, or dispose of solid waste or other waste material in the County unless such vehicle used for transportation of solid waste or other waste material is constructed or loaded so as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom.

Sec. 16-26. Open dumps unlawful.

(a) It shall be unlawful for any person to own, establish, maintain, or operate an open dump for placement or deposit of any solid waste including but not limited to business, industrial waste, household solid waste, tires, white goods, inoperable vehicles or parts thereof, hazardous waste, infectious waste, construction debris, vegetative waste, or recyclable materials in the territorial boundaries of the County.

(b) It shall be unlawful for any person to dispose of solid waste in open dumps or to allow solid waste or other waste to be disposed of on his or her property without a permit from the Virginia Department of Environmental Quality. Any person who removes trees, brush or other vegetation from land used for agricultural or forestal purposes shall not be required to obtain a permit if such material is deposited or placed on the same or other property of the same landowner from which such materials were cleared.

ARTICLE XI. PENALTIES AND ENFORCEMENT

Sec. 16-27. Criminal penalties.

Any person violating the provisions of this Chapter shall be guilty of a Class 1 misdemeanor and subject to a fine of up to \$2,500.00 and/or a term of imprisonment of up to 12 months in jail, and shall pay restitution for the costs of clean up. Each day that a person violates this Chapter shall constitute a separate offense and such violation shall, in addition, be subject to injunctive relief by a Court of competent jurisdiction within this Commonwealth.

Cross reference-Penalty for a Class 1 misdemeanor, § 1-14.

Sec. 16-28. Civil penalties.

The cost of any clean up shall be charged to the person or persons violating this Chapter and may be collected in a separate civil action if not recovered in a criminal action under Section 16-32.

Sec. 16-29. Enforcement and prosecution.

(a) The County Sheriff's Department shall be responsible for enforcement of the provisions of this Chapter.

(b) The Commonwealth's Attorney and/or the County Attorney shall prosecute all violations of this Chapter.

ARTICLE XII. CHAPTER SUPERSEDES SOLID WASTE ORDINANCES

Sec. 16-30. Prior solid waste ordinances superseded.

This Solid Waste Chapter upon its effective date supersedes and repeals all solid waste ordinances previously enacted in Bath County.

Sec. 16-31. Effective date.

This Chapter shall become effective midnight October 13, 2015.