

FEB 5 1990

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

ORDINANCE NO. 131A-3

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 7, GARBAGE AND REFUSE, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY CREATING ARTICLE I, IN GENERAL, BY ADDING NEW SECTIONS 7-1, 7-2; BY RENUMBERING EXISTING SECTIONS 7-1, 7-3 AND 7-4; BY REPEALING EXISTING SECTION 7-2; BY AMENDING EXISTING SECTIONS 7-1 AND 7-3; BY REPEALING AND REPLACING EXISTING SECTION 7-5; BY CREATING ARTICLE II, REFUSE REMOVERS, BY ADDING SECTIONS 7-8 THROUGH 7-15; AND BY CREATING ARTICLE III, REFUSE PERMIT, BY ADDING SECTIONS 7-16 THROUGH 7-23.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 7, Garbage and Refuse, is hereby amended and reordained by creating Article I, In General, by adding new Section 7-1. Purpose, and Section 7-2. Definitions; by renumbering and amending Section 7-3. Prohibited disposition of wastes--Generally; by renumbering and amending Section 7-4. Maintenance of premises--Duty of owners, occupants and persons in charge; by renumbering Section 7-5. Same--Recourse of county upon failure of owner or occupant; Section 7-6. Presumptions; and Section 7-7. Penalty; by creating Article II, Refuse Removers, by adding Section 7-8. General regulations for removing and transporting refuse; Section 7-9. Requirements for refuse removal vehicle construction and equipment; Section 7-10. Identification of vehicles; Section 7-11. Periodic inspection of vehicles; Section 7-12. Transfer of refuse from one vehicle to another; Section 7-13. Where vehicles to be emptied, Section 7-14. Vehicles to be emptied completely and cleaned; and Section 7-15. Notice required prior to termination of business; by creating Article III. Refuse Permit, by adding Section 7-16. Refuse permit required, Section 7-17. Application procedure, Section 7-18. Inspection of applicant's vehicles; Section 7-19. Issuance or denial of refuse permit, Section 7-20. Assignment of permit number to vehicles, Section 7-21. Expiration; renewal, Section 7-22. Surrender upon termination of business, and Section 7-23. Suspension from use of landfill; by repealing existing Section 7-2. Same - Upon property of another person; and by repealing and replacing existing Section 7-5. Vehicles used in business of garbage and refuse disposal.

Chapter 7. Garbage and Refuse

Article I. In General.

Section 7-1. Purpose.

It is the purpose of this chapter to aid in refuse control throughout the County in order to protect public health, safety and welfare.

Section 7-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Ashes: The residue resulting from the burning of wood, coal, coke or other combustible material.

County Administrator: The County Administrator of James City County.

Garbage: All animal and vegetable waste resulting from the handling, preparation, cooking or consumption of food.

Litter: All waste material, including, but not limited to disposable packages or containers, but not including the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing.

Manager: The General Manager of the James City Service Authority or his designee.

Refuse: All solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, litter, residues from clean up of spills or contamination, or other discarded materials.

Refuse remover: Any person, firm or corporation or any agent or employee, thereof, engaged in removing and transporting refuse for compensation from two or more residential, commercial or industrial establishments, or any combination thereof, in the county.

Refuse vehicle: Any truck or trailer used for transporting refuse from the premises from which it is collected to the point of refuse disposal.

Section 7-3. Prohibited disposition of wastes—Generally.

It shall be unlawful for any person to dispose of any garbage, trash, litter, refuse, rubbish or other waste matter, whether liquid or solid, in any well, spring, reservoir, watercourse or body of water, or upon any street, sidewalk, or public or private grounds other than grounds designated by governmental authority for such purpose and then only in the manner provided by governmental regulations relating thereto.

Section 7-4. Maintenance of premises—Duty of owners, occupants and persons in charge.

It shall be the duty of each owner, occupant and person in charge of any real property in the county to maintain such property at all times free from any accumulation of garbage, trash, litter, refuse or other waste matter, whether liquid or solid, which might endanger the health or safety of residents of the county or otherwise constitute a nuisance; and to provide for the cutting on vacant developed or undeveloped property of grass, weeds and other foreign growth as often as may be necessary to prevent breeding and harboring places for insects, reptiles and rodents and to prevent other hazards to the health or safety of residents of the county or other nuisances.

State law reference—Authority of county to provide for removal of trash, garbage, weeds, etc., Code of Va. Section 15.1-11.

Section 7-5. Same—Recourse of county upon failure of owner or occupant.

(a) The county administrator or his designee may, and upon complaint by any responsible person that conditions exist on any real property in violation of Section 7-4 shall, investigate conditions existing on real property in the county at any time; and upon determination by the county administrator or his designee, following investigation, that the owner, occupant or persons in charge of any real property in the county stands in violation of his duty as provided in Section 7-4 and directing him to take such action as may be necessary to rectify such conditions within such time, not more than 10 days, as shall be stated in the notice.

(b) If, 10 days after the service of any such notice, the directive thereof has not been complied with, the county administrator or his designee shall proceed to have such work done as may be necessary to abate any condition which might endanger the health or safety of residents of the county and all expenses resulting therefrom shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected; and all charges not so collected shall constitute a lien against such property. (Ord. No. 131A-1, 8-13-79)

Section 7-6. Presumptions.

When a violation of the provisions of this Chapter has been observed by any person, and the matter dumped or disposed of on the highway, right-of-way, property adjacent to such highway or right-of-way, or private property, has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse, litter or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence. (Ord. No. 131A-2, 8-8-83)

Section 7-7. Penalty.

Any person convicted of a violation of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine not exceeding \$1,000.00 or by confinement in jail for a period not exceeding 12 months, either or both; provided, however, that the Court may suspend the imposition of any sentence on condition that the defendant volunteer his services for such period of time as the Court may designate to remove litter from the highway. (Ord. No. 131A-2, 8-8-83)

ARTICLE II. REFUSE REMOVERS

Section 7-8. General regulations for removing and transporting refuse.

It shall be unlawful for any refuse remover to fail to comply with the following provisions:

(1) Refuse shall be removed in such a manner that it does not create a nuisance or adversely affect public health.

(2) Refuse shall be removed in such a manner and transported so that it does not spill or fall into a street, nor shall it be dumped, spilled, thrown or leaked into any street, sewer inlet or vacant lot.

(3) No known harmful material, including, but not limited to, materials which are explosive, toxic, radioactive, highly combustible by nature or burning, shall be removed for disposal, except with the written permission of the county administrator, requested in writing, with a copy thereof sent to the Manager and to the Landfill Superintendent. This provision is not applicable to materials loaded and carried at the direction of public officials, public employees or public servants executing their duties in emergencies.

Section 7-9. Requirements for refuse removal vehicle construction and equipment.

It shall be unlawful for any vehicle used by refuse removers for removing and transporting refuse to fail to meet the following requirements:

(1) The bodies of all such vehicles shall be constructed so as to prevent the refuse from spilling, leaking or being blown or hurled from the vehicle or deposited upon any street during loading or while in transit.

(2) Non-watertight vehicle bodies may be used; provided, that any liquid or semiliquid refuse transported shall be in watertight containers.

(3) The vehicle body shall be so constructed that no refuse can be carried at any place other than in the enclosed body.

(4) All vehicles, other than those which are completely enclosed, shall be equipped with a tarpaulin or other cover which shall be constructed and employed so as to prevent refuse from falling from the vehicle onto the street.

Section 7-10. Identification of vehicles.

It shall be unlawful for any refuse vehicle to fail to have permanently affixed the permit number assigned to such vehicle pursuant to Section 7-20, together with the company name and telephone number, the same to be affixed to both sides of the vehicle on the door of the cab or at the farthest point forward on the truck body, in letters and numbers not less than four inches high, except that the permit number shall be four inches high. In addition, the permit number shall be placed on the rear of the vehicle in numbers four inches high. The above identification shall be painted in a conspicuous color contrasting with that of the vehicle.

Section 7-11. Periodic inspection of vehicles.

All refuse vehicles used by refuse removers shall be made available for inspection, in addition to the inspections required by Article III of this chapter, upon request of the Manager in writing. A reasonable time shall be provided to make a vehicle available for such inspections. Failure to make a vehicle available for inspection within 24 hours of such written request shall be unlawful.

Items to be checked include, but are not to be limited to, cleanliness, watertightness (including seals) of closed bodies, tarpaulin covers (no rugs or carpets will be approved), if required, audible alarms (horn or automatic backup alarm), tires, a frame-mounted front tow hook, brake lights, and the name, phone number and permit number of the refuse remover. All items appropriate for the type of vehicle shall be installed and functioning for the vehicle to be approved. No vehicle bearing an expired or "Rejected" State of Virginia vehicle inspection sticker shall be permitted to dump at the County Landfill.

Section 7-12. Transfer of refuse from one vehicle to another.

It shall be unlawful for refuse removers to transfer refuse, other than refuse in containers, from one vehicle to another, except in case of breakdown, in which case the Manager shall be immediately notified.

Section 7-13. Where vehicles to be emptied.

It shall be unlawful for any vehicle used by a refuse remover to be emptied of refuse or any other materials, including but not limited to liquid materials, in the county on any ground or location other than a sanitary landfill or other approved disposal facility duly licensed by the county or maintained by the county. However, in a bonafide emergency, such as a fire in the truck, the refuse remover may empty the truck in a clear area so as not to endanger life or property. The refuse remover shall be responsible for cleaning up the refuse immediately upon resolving the emergency.

Section 7-14. Vehicles to be emptied completely and cleaned.

Each vehicle used for refuse removal or transportation shall be completely emptied each time it is dumped and thoroughly cleaned twice a week when in use. Failure to comply with this requirement shall be unlawful.

Section 7-15. Notice required prior to termination of business.

It shall be unlawful for a refuse remover to fail to notify, in writing, the Manager and each customer, at least thirty days prior to the date of the remover's termination and discontinuance of his business. In addition, it shall be unlawful for a refuse remover to fail to notify an individual customer at least thirty days prior to discontinuance of service to that customer.

ARTICLE III. REFUSE PERMIT

Section 7-16. Refuse permit required.

It shall be unlawful for a refuse remover to remove or transport refuse in the county, unless he has a current refuse permit issued pursuant to the provisions of this chapter.

Section 7-17. Application procedure.

(a) Application for a refuse permit required by this article shall be filed with the Manager. Such application shall state the full name, address and telephone number of the applicant, the business name, address and telephone number, if different from the applicant, and shall state, generally, the area(s) within the county that the applicant serves, or proposes to serve, and the frequency of proposed collections. Also included shall be a list of all vehicles to be used in the refuse remover's collection of county refuse. This list shall include make, model, year, serial and license plate numbers for each vehicle.

(b) No refuse permit shall be issued until the applicant therefor, in addition to all other requirements set forth, shall file with the Manager evidence of satisfactory automobile liability insurance policy covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, as a minimum, in the amount required by the Department of Motor Vehicles, Commonwealth of Virginia. The policy may be written to allow no more than the first \$100.00 of liability for damage to property to be deductible. The policy shall provide for written notification to the Manager by the insured and the insurance carrier, of any cancellation of said policy not less than twenty days prior to the effective date of cancellation. If the applicant's insurance is cancelled, the applicant shall obtain a new policy prior to the effective date of the cancellation or the refuse permit shall be revoked. The county shall be provided with a certificate of insurance from the insurance carrier at the time application for permit is made.

(c) Each applicant for a refuse permit shall be required to furnish to the Manager and to all customers, prior to commencement of collection, a statement of service. The statement of service shall include the following:

- (1) Name of company, address and phone number;
- (2) Notice of company rules and regulations concerning collection; (such rules and regulations shall be consistent with the provisions of this Chapter);
- (3) Notice of company policy concerning collection of refuse on legal holidays, snow days or during other extreme weather conditions.

(d) Each applicant for a refuse permit shall include with the application a copy of a current business license for said refuse removal business.

Section 7-18. Inspection of applicant's vehicles.

The applicant for a refuse permit under this division shall have all vehicles used or to be used for refuse removal or transportation inspected at a reasonable time and place to be designated by the Manager. In the event of an emergency requiring the immediate replacement of a vehicle, the refuse permit holder shall notify the Manager of such replacement and have the replacement vehicle inspected by the Manager within five days after it is placed in use. All items listed in Section 7-11 of this chapter shall be checked during this inspection.

Section 7-19. Issuance or denial of refuse permit.

The Manager shall issue a refuse permit required by this article, upon satisfactory finding that the applicant has complied with all applicable sections of this article. The refuse permit shall be issued or denied within thirty days of the receipt of the application. A denial shall be accompanied by the reasons for the denial. Three months from the date of denial, the application shall expire. Within that period of time, the Manager shall issue a permit upon finding that the applicant has come into compliance with the provisions of this article and the items noted in the denial.

Section 7-20. Assignment of permit number to vehicles.

Upon the issuance of a permit under this division, the Manager shall assign all vehicles a permit number, which shall be affixed to the vehicle, as provided in Section 7-10.

Section 7-21. Expiration; renewal.

All permits issued under this chapter shall expire on the thirtieth of June following the date of issue. All vehicles shall be inspected annually and permits renewed between May first and June thirtieth of each year.

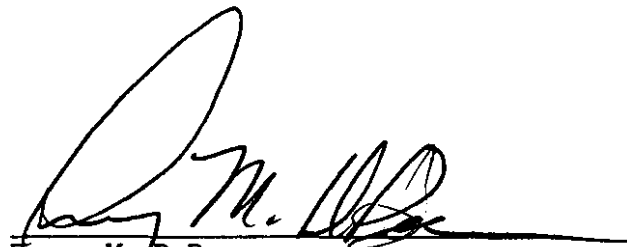
Section 7-22. Surrender upon termination of business.

On the date a refuse remover discontinues business, he shall surrender to the Manager the permit issued to him under this division. Failure to surrender the permit shall be unlawful.

Section 7-23. Suspension from use of Landfill.

Any refuse remover violating any section of this chapter shall, in addition to any criminal penalties, be subject to suspension from use of the county landfill for a period of time to be determined by the Manager. Such suspension shall be in writing and shall detail the cited violation, or violations. Any refuse remover so suspended shall have ten days from the receipt of the notice of suspension to appeal the action to the County Administrator in writing. The County Administrator shall afford the refuse remover a hearing within seven days of the receipt of such appeal. The effective dates of the suspension shall begin ten days after the notice of suspension, if not appealed, or upon notice from the County Administrator that an appeal has been denied.

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Perry M. DePue
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	NAY
EDWARDS	AYE
KNUDSON	AYE
DEPUE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 5th day of February, 1990.

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