

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-03-07

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 13th day of August, 2007:

Present:	Vote:
David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark W. Hill	Aye
Stran L. Trout	Aye

Motion was made by Mr. Hill, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE AMENDING
CHAPTER 58, NEW KENT COUNTY CODE
TO REGULATE REFUSE COLLECTION AND RECYCLING**

WHEREAS, the Board of Supervisors has prohibited certain land uses within the County, including landfills; and

WHEREAS, the necessary implication of such a land use prohibition is the regulation of refuse collection and an increase in recycling to minimize the amount of waster requiring disposal; and

WHEREAS, the Director, General Services has proposed certain modifications to the operations of the County's refuse collection centers to promote efficient and cost effective operation; and

WHEREAS, the Board of Supervisors finds that recycling is required to minimize the amount of refuse requiring disposal; and

WHEREAS, the Board of Supervisors has reviewed the cost of the County's refuse collection and disposal operations; and

WHEREAS, the Board of Supervisors scheduled and conducted a formal and duly advertised public hearing on August 13, 2007, and carefully considered the public comment received; and

WHEREAS, the Board of Supervisors finds that the collection and recycling of refuse is required to protect the public health and safety; and

NOW THEREFORE BE IT ORDAINED this, the 13th day of August, 2007, by the New Kent County Board of Supervisors that Chapter 58 of the New Kent County Zoning Ordinance be amended as follows:

A. Amend Chapter 58 by deleting the current chapter in its entirety and its place insert:

"ARTICLE I. IN GENERAL

Sec. 58-1. Definitions.

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

Building materials means concrete, wood, wallboard, paint and stains, carpeting, foam padding, insulation, partially used adhesives, brick, plaster, metals

Construction waste means solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, 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 wastes. Vegetative wastes are not construction wastes.

Commercial waste means all solid waste emanating from establishments engaged in business. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, shopping centers, and theatres. This category specifically excludes large equipment such as refrigeration units.

County collection container site means any refuse collection site operated by or on the behalf of the county. The County currently has four official sites (Rt. 612, Rt. 634, Rt. 647, and Rt. 618). The County may contract for other locations.

Commercial Collector means anyone who accepts consideration of any kind from others to dispose of waste of any kind.

Demolition waste means concrete, wood, brick, plaster, insulation, building materials coated with lead-based paint, roofing materials, wallboard, metals, carpeting.

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.

(3) Household refrigerators and freezers and window air conditioners will be accepted at the Rt. 618 main refuse site only. These items contain freon which must be removed before final disposal by the County. Residents will be charged a fee of \$15.00 for each item containing Freon. All residents will be charged the fee if proof is not provided by a licensed technician that the Freon has been removed from each appliance. Under no circumstances will any New Kent County refuse collection site accept commercial sized appliances.

Note: Residential solid waste normally contains some hazardous materials, but because such materials are usually present in very small quantities, their safe disposal in either a sanitary landfill or incinerator presents no special problems. Therefore, residential waste is not considered hazardous within the meaning of the term "hazardous waste" as used in this chapter.

Industrial waste means all solid waste resulting from manufacturing and industrial processes such as, but not limited to, those carried on in factories, processing plants and slaughterhouses.

Land clearing debris means tree stumps, tree tops, logs, brush, and dirt.

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 the threat of a release of harmful substances into the environment or present a hazard to human health.

Personal refuse transport vehicles means cars, pickup trucks without raised sides, and trailer no longer than ten feet (10') in length and without raised sides and without tandem wheels.

Prohibited transport vehicles means dump trucks, flatbed trucks, industrial trailers.

Recyclable Liquids means used motor oil, used cooking oils and anti-freeze.

Recyclable items used household paint, lead acid and nickel cadmium batteries, used propane cylinders

Residential waste means solid waste resulting from household operations.

Solid waste means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the state water control board, (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended, or (iv) compost or mulch produced from vegetative waste.

Solid waste disposal system means the method of disposal of solid waste operated by the county.

(Code 1999, §§ 7-1(b)--(i), 7-11)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, Code of Virginia, § 10.1-1400.

Sec. 58-2. Disposal of solid waste not collected by commercial collectors. All solid wastes generated within the county and not collected by commercial collectors shall be properly disposed of. Solid waste collected by commercial Collectors will not be accepted at any New Kent County refuse collection site. (Code 1999, § 7-11)

Sec. 58-3. Prohibited disposition of wastes; private dumping ground.
(a) It shall be unlawful for any person to dispose of any solid waste in any well, spring, reservoir, watercourse or body of water, or upon any sidewalk or public grounds other than grounds designated by the county for such purpose and then only in the manner provided by this chapter and by governmental regulations relating thereto.

(b) It shall be unlawful for any person to permit any land within the county which is owned or occupied by him or which is under his charge or supervision to be used as a dumping ground. Nothing in this section shall prohibit the dumping of solid waste material in a sanitary landfill licensed by the director of the state department of waste management and operated in accordance with state regulations.

(Code 1999, § 7-2)

Sec. 58-4. Dumping trash and other unsightly matter on highway, right-of-way, or private property.

(a) No person shall dump or otherwise dispose 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 or his agent.

(b) When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia, § 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 matter illegally 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 disposing of such matter. However, such presumption shall be rebuttable by competent evidence.

(d) Any person convicted of such violation shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$250.00 or more than \$2,500.00, either or both.

(e) The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

(f) All fines and costs collected under the terms of this section shall be paid over to the county treasurer and credited by him to the general county fund.

(Code 1999, § 7-3)

Cross references: Streets, sidewalks and other public places, ch. 86.

State law references: Similar provisions, Code of Virginia, § 33.1-346.

Sec. 58-5. Maintenance of premises; duty of owners, occupants, and persons in charge.

(a) 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 solid waste matter which might endanger the health or safety of residents of the county or otherwise constitute a nuisance; and if such property is located within a platted subdivision or any other area zoned for residential, business, commercial or industrial use to provide for the cutting thereon 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.

(b) The county may, at any time and upon complaint by any responsible person that conditions exist on any real property in violation of subsection (a) of this section, investigate conditions existing on real property in the county and upon a determination following investigation that the owner, occupant or person in charge of any real property in the county stands in violation of his duty as provided in subsection (a) of this section, the county shall give written notice to the owner of record of such property, stating the facts which constitute a violation of subsection (a) and directing him to take such action as may be necessary to rectify such conditions within such time, not more than ten days, as shall be stated in the notice.

(c) If, ten days after the service of any such notice, the directive has not been complied with, the county may proceed to have such work done as may be necessary to abate any such condition, 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 are collected.

(d) Every charge under 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 a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq., 58.1-3965 et seq. The county may waive such liens in order to facilitate the sale of the property. Such liens may be waived only 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 at the time the liens were imposed.

(Code 1999, § 7-4)

State law references: Removal or disposal of trash, cutting of grass and weeds, Code of Virginia, § 15.2-901.

Sec. 58-6. Penalty for violation of chapter.

A violation of any provision of this chapter, unless otherwise specifically provided, shall be a class 3 misdemeanor.

(Code 1999, § 7-27)

Secs. 58-7--58-40. Reserved.

ARTICLE II. COUNTY COLLECTION CONTAINER SITES

Sec. 58-41. Use.

All county collection container sites operated by the county or its licensee are for the use and benefit of the resident householders and resident commercial

businesses of the county and are for the deposit of residential and commercial waste only. CDL Waste (construction, demolition, and land clearing debris) disposal is specifically prohibited at all New Kent County collection container sites. All deposits of solid waste at county collection container sites shall conform to the following provisions:

(1) No liquid waste of any kind shall be deposited at county collection container sites. "Liquid waste" shall not be associated with acceptable "recyclable" liquids (anti-freeze, used oil, used oil filters and cooking oil.

(2) No hazardous waste shall be deposited at county collection container sites.

(3) No industrial waste shall be deposited at county collection container sites.

(4) All solid waste shall be placed within collection containers and no solid waste shall be placed in any collection container so that it protrudes beyond the top or sides of the container.

(5) No solid or liquid waste of any kind shall be deposited on the ground at any county collection container site.

(6) No tires or dead animals shall be deposited in collection boxes or at collection sites.

(7) No construction waste from commercial collectors shall be placed in collection boxes or at collection sites.

(8) Debris from yards such as leaves, grass clippings, shrubs, and tree limbs may be deposited in collection boxes only if bagged or if firmly tied in bundles not exceeding four feet in length. Limbs exceeding 6" in caliper will not be accepted at any current waste transfer site or any other site operated on behalf of the County.

(9) No stoves, washing machines, refrigerators or other appliances, bedsprings, mattresses, furniture, motor vehicle or any part thereof, or any other large and bulky item shall be deposited in any collection container or at any county collection container sites Rt. 612, Rt. 634 and Rt. 647. Such items except for motor vehicles will be accepted at the Rt. 618 main refuse collection site.

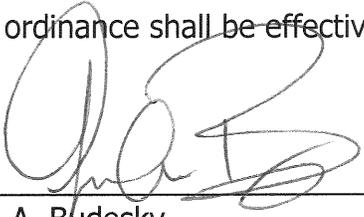
(10) No load of solid waste larger than that capable of being transported by a pickup truck shall be deposited at collection sites Rt. 612, Rt. 634, and Rt. 647. Large loads are to be carried directly to the Rt. 618 main refuse collection site. No stumps, brush greater than 6-inch in diameter and land clearing debris will be accepted at the main refuse collection site or at any county collection container site. Trailers in excess of ten-feet in length will be turned away from the Rt. 618 main refuse site. Trailers with artificially raised sides and or with tandem wheels will be turned away.

(11) No person not a resident of the county shall deposit any solid waste at any county collection container site. For purposes of this subsection, persons driving vehicles not displaying a county license decal shall be presumed to be nonresidents of the county.

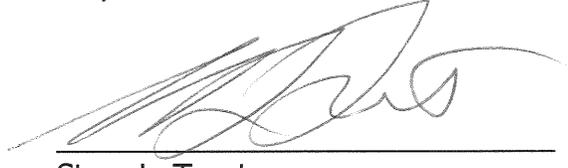
(12) No scavenging shall be conducted at county collection container sites. No person shall remove any item from any collection container nor shall any person

sort through or examine the contents of any collection container for the purpose of removing items therefrom.
(Code 1999, § 7-12)"

This ordinance shall be effective immediately.



John A. Budesky
County Administrator



Stran L. Trout
Chairman