

Chapter 148

SOLID WASTE

[HISTORY: Adopted by the Town Council of the Town of Pennington Gap 3-14-1985 (Ch. 15 of the 1985 Code). Amendments noted where applicable.] [Amended 7-17-2017]

GENERAL REFERENCES

Open burning — See Ch. 83.

Nuisances — See Ch. 129.

Property maintenance — See Ch. 136.

§ 148-1. Title.

This chapter shall be known and may be cited as the "Litter Control and Solid Waste Disposal Ordinance."

§ 148-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANTIQUÉ MOTOR VEHICLE —% Every motor vehicle which was actually manufactured, or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item, used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event used for general transportation, may be classified by the Commissioner of the Division of Motor Vehicles as an antique motor vehicle.

BRUSH —% Bushes, branches, briars, leaves, and similar material.

BULK WASTE —% All waste materials, including but not limited to junked furniture and appliances, fence posts and wire, scrap metal and other items of a large or unwieldy nature which would tend to damage compaction equipment or impede the collection/compaction process.

COMMERCIAL SOLID WASTE —% Garbage, rubbish and trash resulting from the normal operations of commercial establishments.

CONTAINER —% Receptacles for solid waste which:

- A. Are not less than two cubic yards in capacity; and
- B. Are constructed of such quality as to maintain the original shape when placed at an outdoor location; and
- C. Are reasonably resistant to rust and corrosion; and
- D. Are designed for automated servicing.

GARBAGE —% Animal, vegetable or mineral matter derived from the preparation or packaging of foodstuffs.

HOUSEHOLD SOLID WASTE —% Garbage, rubbish and trash resulting from the normal day-to-day activities of households.

INSTITUTION —% Any public or private establishment which educates, instructs, treats for health purposes, or otherwise performs a service or need for the community, region, state, or nation, excluding the county school system.

INSTITUTION SOLID WASTE —% Garbage, rubbish and trash resulting from the operations of institutions.

LITTER —% All waste materials, including but not limited to bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste or scrap building materials, tires, brush, junked furniture and appliances, carcasses, disposable packages or containers, which have a volume of 12 cubic inches or less per item, which are thrown or disposed of as prohibited herein, but not including the properly disposed of waste of the primary processes of mining, logging, saw-milling, farming or manufacturing.

LITTER RECEPTACLE —% Receptacles for litter which:

- A. Are of not less than 10 nor more than 15 gallons in capacity; and
- B. Are constructed of such quality as to maintain the original shape when placed at an outdoor location; and
- C. Are reasonably resistant to rust and corrosion; and
- D. Are designed for manual servicing.

MOTOR VEHICLE —% Every vehicle as herein defined which is self-propelled or designed for self-propulsion. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space shall be considered a part of a motor vehicle.

MUNICIPAL CONTAINERS, TRASH CANS, AND LITTER RECEPTACLES —% Those placed and maintained for use by the Town government or the public.

MUNICIPAL SOLID WASTE —% Garbage, rubbish and trash resulting from the normal activities of the Town government.

PERMITTED DISPOSAL SITE —% A location approved by the State Department of Health and the Town of Pennington Gap for the disposal of waste.

PERSON —% Any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, or representative or group of individuals or entities of any kind.

PRIVATE CONTAINERS, TRASH CANS, AND LITTER RECEPTACLES —% Those placed and maintained for use by a commercial business or institution or their agent(s).

PRIVATE PROPERTY —% Property owned by any person, as such is defined herein, including but not limited to yards, grounds, driveways, entrance or passageways, parking areas, storage areas, any stream, creek, river, or body of water, vacant land and recreation facilities.

PUBLIC PROPERTY —% Any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to highways, streets, alleys, parks, medians, recreation areas, sidewalks, streams, creeks, rivers, or bodies of water.

RUBBISH AND TRASH —% Waste material, not to include food wastes.

SCHOOL CONTAINERS, TRASH CANS, AND LITTER RECEPTACLES —% Those placed and maintained for use by the school system or its agent(s).

SCHOOL SOLID WASTE —% Garbage, rubbish and trash resulting from the normal operation of the school system.

SEMITRAILER —% Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

THE PUBLIC —% Individuals, but specifically excluding businesses, firms, corporations, institutions, partnerships, estates, and similar organizations, associations or entities.

TRAILER —% Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

TRASH CANS —% Receptacles for solid waste which:

- A. Are not less than 16 gallons nor more than 32 gallons in capacity; and
- B. Are constructed of such quality as to maintain the original shape when placed at an outdoor location; and
- C. Are reasonably resistant to rust and corrosion; and
- D. Are designed for manual servicing.

VEHICLE —% Every device capable of being moved upon a public highway or waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or waterway, and shall also include any watercraft, boat, ship, vessel, barge or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or a tractor used exclusively for agricultural purposes and not licensed pursuant to state law, which is not operated upon any public highway for purposes other than crossing such public highway, along such highway between two tracts of land for farming purposes, or any other necessary and legal purpose.

HAZARDOUS REFUSE – No contagious disease refuse or any other refuse that may cause a public health hazard shall be placed in any receptacle used for collection by the Town or collection by any private agency, unless so authorized under this section. In particular, the following types of refuse items shall be given special care and preparation before disposal of the items in any refuse container:

- (1) Hypodermic syringe, needle or similar instrument. No person shall dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering the instrument or device inoperable and incapable of reuse. Such hypodermic syringe, needle, instrument or device shall not be disposed of without safeguarding by wrapping or securing the

syringe, needle, instrument or device in a suitable manner so as to avoid the possibility of causing injury to the collection personnel.

(2) Ashes. Ashes that are to be collected by the Town or private collectors must have been wetted and cooled to the touch prior to collection. Ashes shall be placed in suitable containers and shall not be placed with the normal refuse unless separately wrapped. So that they will not cause injury to the collection personnel.

(3) Pressurized cans. All pressurized cans containing pesticides or any other dangerous materials shall be released of all pressure before being deposited in a receptacle for collection by the Town or any private collection agency.

(4) Glass. All broken glass or any type of glass that may cause injury to refuse collection personnel shall be separately wrapped to prevent injury and placed with the normal refuse.

(5) Pesticides. All pesticide containers and other poisonous containers shall be emptied before being placed for collection.

§ 148-3. Minimum standards.

Construction standards for litter receptacles and other solid waste containers shall be as by statute and subordinately as herein.

§ 148-4. Construction, placement, use, service and maintenance.

Construction, placement, use, service and maintenance of litter receptacles, trash cans, containers and other solid waste containment devices shall be as defined by statute. Additionally, the Town or its authorized agent(s) may direct commercial establishments and institutions to install additional litter receptacles, trash cans or containers for litter or solid waste control, health, or aesthetic reasons. Such notice shall be in the manner prescribed in § 148-23 hereof.

§ 148-5. Littering prohibited.

A. It shall be unlawful for any person to drop, discard, deposit, or otherwise dispose of litter in or upon any public or private property within the corporate limits of the Town of Pennington Gap except in litter receptacles, trash cans, containers or in a permitted disposal site.

B. When a violation 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 trash, garbage, refuse, or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

§ 148-6. Uncovered vehicles; escape of load.

A. No vehicle used to transport litter or other items likely to fall or be blown from such vehicle shall be driven or moved, stopped or parked on any highway unless such vehicle is covered to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that sand or any substance to increase traction or water or other substance

may be applied on a roadway in the cleaning or maintaining of such roadway by the state or local government agency having such responsibilities.

B. Any person operating a vehicle from which glass or objects have fallen, escaped, or been ejected, which would cause an obstruction or damage a vehicle or otherwise endanger travelers or animals on such public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay any costs therefor as well as be subject to fine and/or imprisonment.

§ 148-7. Areas surrounding commercial establishments and institutions.

It shall be the duty of each proprietor, owner, and operator of any business, industry, or institution to keep the adjacent and surrounding area clean and free of litter. These areas include, but are not limited to, public and private sidewalks, roads and alleys, grounds, parking lot(s), loading and unloading areas, and all vacant lots which are owned or leased by said establishment or institution.

§ 148-8. Maintenance of residential property.

[Amended by Council vote-December 21, 2020 to include violation]

It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter, garbage, rubbish and trash, bulk waste and other unsightly matter. These areas shall include, but not be limited to, sidewalks, alleys, driveways, yards and grounds, fences, walls, property lines, drainages, and vacant lots in residential areas. Violation of this is a Class 4 misdemeanor.

§ 148-9. Commercial waste haulers.

A. All persons engaged in the operation of a waste collection service in the Town of Pennington Gap shall use vehicles which are constructed or covered in such a manner as to prevent the distribution of waste.

B. Said persons shall dispose of waste only in a permitted disposal site.

§ 148-10. Sweeping litter into street prohibited.

It shall be unlawful to sweep or push litter or other waste material or unsightly matter from sidewalks into streets. Such waste(s) shall be deposited into a litter receptacle, trash can, or container, or otherwise disposed of in a legal manner.

§ 148-11. Construction and demolition sites.

A. It shall be unlawful for any owner, agent, or contractor to permit the accumulation of litter or other waste material or unsightly matter at any construction or demolition site.

B. It shall be the duty of the owner, agent, or contractor in charge of a construction or demolition project to collect and contain to prevent scattering said matter.

C. The wastes referenced in Subsections A and B shall be removed from said site or project as necessary to prevent health and safety hazards but in no instance later than the conclusion of said project or major phases of said project.

§ 148-12. Handbills and advertising material.

It shall be unlawful for any person to distribute commercial handbills, leaflets, flyers, or any other advertising or informational material in such a manner that it litters either public or private property through the action or reasonably foreseeable action of wind or animals.

§ 148-13. Household solid waste containerization and removal.

[Amended by Council vote-December 21, 2020 to include disability]

A. All household solid waste shall be containerized receptacles provided by the Town. If it is not feasible for the Town to provide the container, waste shall be containerized in trash bags which are at least 1.5 mil thick and not exceeding 30 gallons capacity and/or in trash cans. If the household is deemed to have an excessive amount of trash, the household will be furnished an additional receptacle at an additional charge.

B. Said waste shall be placed for collection at the point designated by those employees of the Town who operate the Town's collection equipment; provided, however, that in all instances, unless special circumstances exist, which may include but not limited to disability of the occupant of the dwelling, this point must be along the curb or side of the street.

C. All households are required to pay the assessed solid waste collection tax on a monthly basis as billed. Any household not utilizing the collection service is still required to pay said tax. Said tax rate may be changed by a quorum vote of the Town Council. [Amended 5-20-1985]

D. No person shall place any solid waste for collection in such a manner that it creates, or contributes to, a hazard of any kind to vehicular or pedestrian traffic or the health, safety, or welfare of the public.

E. Assessed tax rate for solid waste residential (household): one pickup per household. One apartment is considered as one household. Business and household may not be combined as one business or household. Said tax rate may be as set from time to time by the Town Council. [Added 5-20-1985]

§ 148-14. Commercial and institutional solid waste containerization and removal.

[Amended by Council vote-December 21, 2020 to include containers issued by Town]

A. All commercial and institutional solid waste shall be containerized in trash bags which are at least 1.5 mil thick and not exceeding 30 gallons' capacity and/or in trash cans with covers. If there is deemed to be an excessive number of trash cans to containerize the garbage, the business must furnish a dumpster at their expense.

B. Said waste shall be placed for collection at the point designated by those employees of the Town who operate the Town's collection equipment; provided, however, that in all instances, unless special circumstances exist, which may include but not limited to disability of the occupant of the dwelling, this point must be along the curb or side of the street.

C. All establishments are required to pay the assessed solid waste collection tax on a monthly basis as billed in accordance with the rate schedule set from time to time by the Town Council. Any establishment not utilizing the collection service is still required to pay the tax. Said tax rate may be changed by a quorum vote of the Town Council. [Amended 5-20-1985]

D. No person shall place any solid waste for collection in such a manner that it creates, or contributes to, a hazard of any kind to vehicular or pedestrian traffic or the health, safety or welfare of the public.

E. No person shall place for collection any large cardboard boxes, containers, wrapping or packaging materials, or similar such items or large quantities of smaller such items without first flattening and/or containerizing said item(s); provided, however, that cardboard boxes of a size which will fit into the receiving area of compactor trucks may be occasionally used to containerize other smaller cardboard boxes and packaging material so long as done in such a manner as not to promulgate litter or neighborhood blight.

§ 148-15. School solid waste containerization and removal.

A. Containerization and removal of the solid waste generated by the activities of the school system shall not be the responsibility of the Town; however, said waste shall be containerized in such a manner as to prevent or preclude its distribution by wind or animals.

B. No person shall use containerization equipment meant for the deposit of solid wastes generated by the activities of the school system for the deposit of any waste generated from any other source.

§ 148-16. Bulk waste and brush.

A. Bulk waste shall not be deposited into any litter receptacle, trash can, or container nor indiscriminately dumped.

B. The Town will provide free bulk waste and brush pick-up and haulage service during Spring Cleanup Week, and one additional free bulk waste pickup per year. Additional bulk waste pickups will be charged a fee per load. Large or heavy items of brush, including but not limited to tree limbs and trunks, must be cut, sawed, or split into manageable lengths and weights or they may not be loaded or hauled by Town personnel. The following guidelines must be followed: [Amended 5-20-1985]

- (1) Trunks or branches three to six inches in diameter: no longer than six-foot lengths;
- (2) Trunks and branches greater than six inches in diameter: no longer than four-foot lengths, but in no instance with any single piece weighing in excess of 150 pounds;
- (3) Leaves must be bagged;
- (4) Other types of brush and bulk waste must be prepared in such a manner as to make it as easily transportable as possible; and
- (5) All waste referenced by this subsection must be placed for collection in the manner designated by § 148-13B hereof.

C. Brush shall not be deposited into any litter receptacle, trash can, or container nor indiscriminately dumped.

§ 148-17. Proper litter receptacles, trash cans and containers.

Any receptacle, trash can, or container which does not conform to Section 3 of this chapter shall be replaced by the owner or user of same upon written notice from the Town. Failure to do so within 90 days shall constitute a violation of this section and each day thereafter shall constitute a separate violation.

§ 148-18. Use of litter receptacles, trash cans and containers.

A. It shall be unlawful for any person to damage or cause to be damaged any litter receptacle, trash can, or container.

B. It shall be unlawful for any person to deface or cause to be defaced any litter receptacle, trash can, or container.

C. It shall be unlawful for any person to set afire or cause to be set afire any litter receptacle, trash can, or container.

D. It shall be unlawful for any person to displace or cause to be displaced any litter receptacle, trash can, or container except those persons authorized to do so.

E. It shall be unlawful for any person to go through the contents of any litter receptacle, trash can, or container except those persons authorized to do so.

F. It shall be unlawful to deposit animal carcasses into any litter receptacle, trash can, or container.

G. No person shall place, deposit or dump any explosive, gasoline, gasoline derivative or other inflammable or noxious, poisonous, burning or other dangerous material in any litter receptacle, trash can, container or collection vehicle.

§ 148-19. Indiscriminate dumping or discarding of litter and solid waste.

It shall be unlawful for any person to discard or dump any item or combination of items with a singular or combined volume of more than 12 cubic inches along any public or private property, as such is defined herein, of any of the types of waste listed herein, either explicitly or by inference, including animal carcasses, except in a proper receptacle for that type of waste or in an area approved for such use by the Town and the State Department of Health.

§ 148-20. Inoperative motor vehicles prohibited; storage of motor vehicle parts.

A. It shall be unlawful for any person, firm or corporation to keep, except within an enclosed building or structure, or otherwise shielded from public from public view, on any public or private property any motor vehicle, trailer or semi-trailer, as such are defined in § 148-2 of this chapter, the condition of which is such that it is economically impractical to make them operative; provided, however, that the provisions of this section shall not apply to a properly licensed business which on the date of passage of this chapter is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

B. The accumulation and storage of parts of motor vehicles on private or public property or rights-of-way shall be unlawful except within an enclosed building a structure or otherwise in a manner which shields them from public view.

§ 148-21. Remove of inoperative vehicles or parts.

A. If any person empowered to issue citations under this chapter finds any violation of § 148-20, he shall make diligent search and inquiry to determine the record owner of the land upon which the vehicle or parts are located and/or the owner of said vehicle or parts and shall notify said owner that he had found such violation and the nature thereof. He shall demand and it shall be the duty of the record owner of the land, or vehicle, or parts, to cause such vehicle or parts to be removed from the property forthwith and taken to an authorized place of storage or disposal.

B. The owner of the property on which the same is stored or located or the owner of the vehicle or parts or either of them shall remove same within 30 days of the date of mailing or service of the notice.

C. If the mailing address of the owner of the land and the owner of the vehicle or parts is not known and diligent search has been made to determine same and the land is unoccupied and the owner has no agent in the Town nor within the county, such notice shall be posted upon such land as notice to the owner thereof.

D. If the violation described in the notice has not been remedied within 30 days after the mailing or serving thereof, then the owner of the land on which the vehicle or parts are located or the owner of the vehicle or parts, or either of them, shall be deemed guilty of a misdemeanor for maintaining a public nuisance and debris and subject to fines as detailed in § 148-23 hereof. In addition, the Town shall have an injunctive action for any continuing or anticipated violation of this section. Each day that the offending vehicle(s) or parts are allowed to remain on the property in violation of this chapter after the passage of 30 days shall constitute a separate violation.

§ 148-22. Antique vehicles.

The provisions of this chapter shall not be deemed to apply to antique vehicles, as defined herein, which are capable of being repaired or restored, and the parts necessary for such repairing or restoration; provided:

A. A bona fide effort is being made to repair or restore such vehicle; and

B. Such vehicle and parts are covered so as to shield them from public view; protect them from the weather and make them unsuitable as a hiding place for snakes, rats, or vermin. Such shield shall be constructed of wood, metal, masonry, or vegetative material which should be of such density as to screen said automobile and automobile parts from public view and shall be constructed and thereafter maintained in such a manner as not to create or perpetuate neighborhood blight.

§ 148-23. Enforcement; violations and penalties.

[Amended by Council vote-December 21, 2020 to include unlawful acts]

- A. It shall be unlawful for any person to drop, discard, deposit, or otherwise dispose of litter in or upon any public or private property within the corporate limits of the Town of Pennington Gap except in litter receptacles, trash cans, containers or in a permitted disposal site.
- B. When a violation 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 trash, garbage, refuse, or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.
- C. Enforcement officers of the Pennington Gap Police Department, Lee County Sheriff's Department, State Police, Virginia Division of Game and Inland Fisheries and all other police agencies with the power to arrest are hereby empowered to issue citations to or arrest persons violating any provision of this chapter, and may serve and execute all warrants and other processes issued in enforcing the provisions of this chapter.
- D. The personnel of the following departments are empowered to issue citations only: Solid Waste Collection.
- E. Prosecution for a violation of any provision of this chapter may be initiated by any law enforcement officer who witnesses such offense or who discovers an article of litter bearing a person's name or address, liberally distributed on the property of another, on any public highway, street or road, upon a public park or recreation area, or upon any other public property except property that is designated as a permitted disposal site. Such prosecution may be initiated by any private citizen, who witnesses an offense or discovers evidence.
- F. Articles of litter bearing a person's name or address, found liberally distributed on the private property of another, or on any public property as designated herein, shall be presumed to be the property of such person whose name or address appears thereon, and that such person placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence.
- G. Violations of §§ 148-6B, 148-17, 148-18C and 148-18G shall be Class 1 misdemeanors.

§ 148-24. Displacement of private waste companies. [Added 6-19-2000 by Ord. No. 3-2000]

A. Pursuant to the Code of Virginia, § 15.2-934, the Town of Pennington Gap, Virginia shall become the exclusive provider of garbage, trash or refuse collection service, displacing all private collection companies, now serving the Town of Pennington Gap, Virginia, five years from the date this amendment to the Litter Control and Solid Waste Disposal Ordinance is passed. If said private collection company operating in the Town of Pennington Gap shall cease to provide service within the displacement area, at any time within the five-year displacement period, then said five-year displacement period shall lapse as to that company. All other private companies not now collecting garbage, trash or refuse are hereby immediately prohibited from engaging in garbage, trash and refuse collection from this date forward. The definitions for the term

"displace" or any derivative thereof shall be the same as the definition used in the Code of Virginia, § 15.2-934.

B. The Town Manager is authorized to exempt from the mandatory provisions of the solid waste collection services the owners or occupants of residences or commercial establishments and industries where the Town Manager determines that collection would not be feasible because of access roads, bridges, safety or other factors.

C. The fine for a violation of § 15.2-934 of said chapter shall be a Class 3 misdemeanor, that being a fine of not more than \$500.