

**CHAPTER 16**  
**SOLID WASTE<sup>1</sup>**

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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.)

*Clean fill* means dirt, rock, pavement, concrete, brick, and block, free from contaminants including paint.

*Commercial Waste* means all solid waste generated by establishments engaged in business operation. 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 decayable waste including discarded materials composed of vegetable or other organic matter, animal offal 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.

*Motorized Vehicles* means any vehicle that has an engine and is used for the transporting of people or goods, regardless of the vehicle condition being worn-out, cast off, unused, whether self-propelled or not.

*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.

*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, #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.

*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 pruning 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 (Appliances)
- (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
- (g) Any motorized vehicle.
- (h) Lead Acid or Wet Cell Batteries
- (i) Tree stumps

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

(a) *Businesses and Industries:* All Business Waste Generators within Bath County shall dispose of their solid waste and construction debris at the Designated Permitted Landfill. Businesses and industries may dispose of their recyclable materials free from contaminants at the Transfer Station. However, the Transfer Station will only accept permitted materials from businesses during its hours of operation, up to 30 minutes prior to closing. No commercial or industrial materials will be accepted at the Transfer Station within 30 minutes of closing.

(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) 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 (Appliances)
- (c) Motor 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 business 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 may dispose of household solid waste and recyclable materials free from contaminants 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.

Any person violating this provision shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$500 or more than \$2,500, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of 10 hours of community service in litter abatement activities.<sup>2</sup>

(f) It shall be unlawful for any person knowingly to leave open any solid waste collection container at a Bath County solid waste transfer station. Any person violating this subsection shall be assessed a civil penalty in the amount of \$200 for a first offense, and \$500 for each subsequent offense.<sup>3</sup>

## **CHANGES TO LOCAL CODE CHAPTER 16, SOLID WASTE, ARTICLE 5, FEE STRUCTURE FOR SECTION 16-11<sup>4</sup>**

### **Sec. 16-11. Solid waste fees.**

Any person required to obtain a building or demolition permit pursuant to applicable County ordinances in effect from time to time shall pay, in addition to any other fee required to obtain such building permit, the tipping fees for all construction debris from the acquired permit.

Trees, branches, and brush shall be separated from the construction debris and shall be taken to the transfer station and charged at the rate set forth by the Board of Supervisors and said fee (price per ton) shall be noted on the building permit application.

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<sup>2</sup> See Va. Code § 33.2-802.

<sup>3</sup> Adopted by the Board of Supervisors on July 11, 2017 after a duly advertised public hearing.

<sup>4</sup> The amended Section 16-11 was unanimously approved by the Bath County Board of Supervisors after duly advertised public hearing on March 14, 2017.

Construction debris from these construction projects shall be taken to a designated site that is indicated upon issuance of the building permit.

The applicant for a building permit must provide an affidavit to the Building Official to certify that the solid waste (including construction waste and debris and woody wastes) from the permitted project will be appropriately disposed.

**(a) Demolition.**

Before a building permit for demolition may be issued by the Building Official, the applicant shall provide an affidavit to the Building Official to certify that the solid waste (including construction waste and debris) from the permitted project will be appropriately disposed. Any solid waste from demolition shall be taken to a site designated by the Board of Supervisors and set forth with the demolition permit otherwise disposed of properly (i.e., recycled or reused where possible). Such demolition shall not be deposited into the solid waste receiving sites. Upon bringing such materials to the designated site(s), the applicant shall pay the rate set forth by the Board of Supervisors and said fee (price per ton) shall be noted on the demolition application and/or demolition permit.

**Sec. 16-12. Amnesty Day - Repealed.**

**COUNTY OF BATH, VIRGINIA  
SOLID WASTE AFFIDAVIT**

I, \_\_\_\_\_, affirm that I am the owner and/or authorized representative of the owner of a certain tract or parcel of land located at:

\_\_\_\_\_ having Tax Map Parcel Number: \_\_\_\_\_  
and that I have obtained Building Permit # \_\_\_\_\_.

I hereby acknowledge and agree that I am fully and entirely responsible for ensuring that all new construction, renovation, remodeling, repairs, etc., and demolition debris is disposed of properly (i.e., recycled where possible and reused) and not allowed to be disposed at the Bath County solid waste receiving sites in the dumpsters or roll-offs, or left on the surrounding property. I understand that there will be a charge for the construction debris and demolition debris at the rate set forth by the Board of Supervisors and said fee (price per ton) shall be noted on the construction or demolition permit, at the site(s) designated by the Board of Supervisors, which is separate and apart from the charge for the construction or demolition permit.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

State of Virginia  
County of Bath, to-wit:

I, \_\_\_\_\_, do hereby certify that the foregoing was sworn to and subscribed before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(b) Brush Fee

Trees, branches, and brush shall be separated from the construction debris and shall be taken to the transfer station and charged at the rate set forth by the Board of Supervisors. All brush being taken to the transfer station by a business or commercial enterprise will be weighed at the scale and a ticket will be sent to County Administration for billing the responsible party. No stumps or branches larger than four inches in diameter are allowed in the brush pile. The price per ton shall be set annually and shall take effect on July 1st of each year, except for the initial brush fee, which shall take effect as of the date it is set by the Board of Supervisors.

- Per ton price: \$70

(c) Tire Fee

Tires being brought in by a business or commercial enterprise shall be taken to the transfer station and charged at a rate set forth by the Board of Supervisors. Tires must be checked by transfer station personnel, who shall create a ticket for billing by County Administration. The price per tire shall be set annually and shall take effect on July 1st of each year, except for the initial price, which shall take effect as of the date it is set by the Board of Supervisors.

- Per tire disposal fee: \$5

(d) Clean Fill

Appropriate clean fill shall be taken to the transfer station and charged at the rate set forth by the Board of Supervisors. All clean fill taken to the transfer station shall be weighed at the scale and a ticket shall be sent to County Administration for billing the appropriate business or commercial enterprises. The price per ton shall be set annually and shall take effect on July 1st of each year, except for the initial price, which shall take effect as of the date it is set by the Board of Supervisors.

- Per ton price: \$35

(e) Can Rental Compliance

Any person renting a disposal can from a company for use to dispose of construction debris or other permitted waste shall be responsible for all tipping fees. Any company renting cans for use in the County shall comply with this ordinance and shall notify the County of all cans being rented in Bath County. The County shall bill the renter of the can for the tipping fees.

## **ARTICLE VI. TRANSPORTATION OF SOLID WASTE CONTAINERS**

### **Sec. 16-13. 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. 16-14. 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. 16-15. 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. 16-16. Additional containers for hunting and fishing season. Repealed.**

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

### **Sec. 16-17. 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. 16-18. 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. 16-19. 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. 16-20. 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. 16-21. Violation of provisions; generally.**

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

**Sec. 16-22. 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. 16-23. 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. 16-24. 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. 16-25. 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, § 33.2-802.

**Sec. 16-26. 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. 16-27. 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. 16-28. Criminal penalties.**

Any person dumping or otherwise disposing of trash, garbage, refuse, litter, a companion animal as defined in Virginia Code § 3.2-6500 for the purpose of disposal, or other unsightly matter on (i) public property in a manner that violates this Chapter, or (ii) private property without the written consent of the owner or his agent shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$500 or more than \$2,500, either or both, and shall pay restitution for the costs of clean up. The cost of clean up may be collected in a separate civil action pursuant to Section 16-29 below if not recovered in a criminal action. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of 10 hours of community service in litter abatement activities.

**Cross-reference – Va. Code § 33.2-802.Sec.**

**16-29. Civil penalties.**

(a) The County shall be entitled to bring a civil action for the improper disposal of solid waste on County property without the County's permission. In addition, the County shall be entitled to bring a civil action for the improper disposal of solid waste upon land within its jurisdiction.

(b) When the County establishes by a preponderance of the evidence that (i) the solid waste or any portion thereof had been in possession of the defendant prior to being improperly disposed of on any of the property referred to in subsection a of this Section and (ii) no permission had been given to the defendant to place the solid waste on such property, there shall be a rebuttable presumption that the defendant improperly disposed of the solid waste. When the solid waste has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall in any civil action be presumed to be the person ejecting such matter. However, such



presumption shall be rebuttable by competent evidence. This presumption shall not be applicable to a motor vehicle rental or leasing company that owns the vehicle.

(c) Whenever a court finds that a person has improperly disposed of solid waste pursuant to the provisions of this Chapter, the court shall assess a civil penalty of up to \$5,000 against such defendant. All civil penalties pursuant to this Section shall be paid into the County treasury.

(d) The court may award the County the cost of suit and reasonable attorney's fees in addition to any civil penalty assessed in a civil action brought by the County.

**Cross-reference – Va. Code § 10.1-1418.1.**

**Sec. 16-30. 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. 16-31. 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. 16-32. Effective date.**

This Chapter shall become effective midnight \_\_\_\_\_.