

Chapter 34

HEALTH AND SANITATION*

* **Cross References:** Animals, ch. 10; buildings and building regulations, ch. 14; environment, ch. 26; solid waste, ch. 54; trailers and trailer parks, ch. 70; utilities, ch. 74.

State Law References: Food and drink generally, Code of Virginia, § 3.1-361 et seq.; certain local regulations pertaining to food and beverage containers prohibited, Code of Virginia, § 10.1-1425; authority of town to require cutting of weeds and removal of trash, Code of Virginia, § 15.2-901; regulation of well covers, Code of Virginia, § 18.2-318; inspection warrant for inspecting or testing for toxic substances, Code of Virginia, § 19.2-393 et seq.; health, Code of Virginia, title 32.1; restaurants, Code of Virginia, § 35.1-1 et seq.

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ARTICLE I.

IN GENERAL

Secs. 34-1--34-25. Reserved.

ARTICLE II.

UNSANITARY ACCUMULATIONS AND VEGETATION*

* **Cross References:** Solid waste, ch. 54.

Sec. 34-26. Definitions.

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

Administrator means the person designated by the town council, or by the mayor with the approval of the town council, to administer and enforce this article.

Garbage means wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce. The term "garbage" also includes any food or produce containers which, due to their ability to retain moisture content, may serve as breeding places for flies, mosquitoes and other water-breeding pests.

Refuse means all forms of solid wastes.

(Code 1992, § 18-1)

Cross References: Definitions generally, § 1-2.

State Law References: Definitions for the Virginia Waste Management Act, Code of Virginia, § 10.1-1400; definitions concerning litter control and recycling, Code of Virginia, § 10.1-1414; definitions concerning the siting of hazardous waste facilities, Code of Virginia, § 10.1-1433.

Sec. 34-27. Accumulations on premises; storing old machinery on vacant lots.

It shall be unlawful for any person to:

(1) Allow to accumulate upon his premises any filth, offal, obnoxious or offensive matter or things whatsoever; or

(2) Store old machinery, old tools, old automobiles or farming implements on any vacant lot.

(Code 1992, § 18-6)

Sec. 34-28. Removal of stagnant water and unwholesome substances.

It shall be unlawful for any owner or occupant of any lot in the town to allow any stagnant water or any unwholesome substance to remain or accumulate thereon. The mayor, after having given reasonable notice to the owner or occupant of such lot to fill in or drain such lot whereon stagnant water remains at any time or to remove any unwholesome substance from such lot, may fill up or drain such lot or may cause to be removed therefrom any unwholesome substance. The cost of such filling up, draining or removal shall be collected from the owner or occupant of such lot in like manner as taxes due by him to the town would be collected.

(Code 1992, § 18-7)

State Law References: Removal of trash, garbage, weeds, etc., from property, Code of Virginia, § 15.2-901.

Sec. 34-29. Noxious, unwholesome or offensive matter; stagnant water; or nuisance.

No person shall permit any noxious, unwholesome or offensive matter, stagnant water, or nuisance of any kind, either to health or comfort, to be placed or remain in any house, cellar or other property belonging to him, in his possession or under his control.

(Code 1992, § 18-8)

Sec. 34-30. Prohibited storage of refuse.

Except as otherwise provided in this article or in chapter 54, pertaining to disposal of solid waste, no alley, street, sidewalk or private property of another owner is to be used to store any kind of refuse which causes any unsightly appearance in the town. Anyone violating this section shall have the refuse in question removed within 72 hours after a notice is received from the administrator to the effect that the refuse must be removed therefrom. For failure to remove after due notice, the administrator shall have the authority and responsibility to remove or arrange for the removal of unlawfully stored refuse or other material and to recover the cost of removal from the person responsible by any lawful means.

(Code 1992, § 18-9)

Sec. 34-31. Removal of weeds, trash, garbage, refuse, litter and other substances and liquids by council order.

(a) Owners, occupants and persons in charge of lots and premises within the town shall, at such time as the town council may by resolution or order prescribe, remove therefrom any and all weeds, trash, garbage, refuse, litter and other substances and liquids which might endanger the health or safety of persons, constitute a menace towards starting or spreading fire, or afford a breeding place for insects, rodents or reptiles.

(b) Whenever deemed necessary by the town council, after reasonable notice, the council may have such weeds, trash, garbage, refuse, litter and other like substances and liquids mentioned in subsection (a) of this section removed by the town's agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town as taxes and levies are collected.

(c) Between May 20 and June 20 and between August 1 and September 1 of each year, every owner of vacant real estate situated in the town shall, at his own expense, cause to be cut therefrom all grass, weeds and foreign growth. Any such owner who shall violate this subsection shall be guilty of a class 4 misdemeanor for each offense. Each seven-day period that such grass, weeds and foreign growth shall remain uncut after the periods within which they are required by this subsection to be cut shall be deemed to constitute a separate offense under this subsection. If the owner of any such real estate is unknown, cannot be found, or is a nonresident whose address is unknown, the town may, without notice, have such grass, weeds or foreign growth cut and cause the bill covering the costs thereof to be placed upon the tax bill of the owner and collected as taxes are collected.

(d) Any of the remedies described in section 26-125 shall be applicable to this section.

(Code 1992, § 18-11)

State Law References: Removal of trash, garbage, weeds, etc., from property, Code of Virginia, § 15.2-901.

Sec. 34-32. Lien for removal of weeds, trash, garbage, refuse, litter and other substances and liquids.

Every charge authorized by section 34-31 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. and 58.1-3965 et seq. The town may waive such lien in order to facilitate the sale of the property. Such lien 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 1992, § 18-12)

Sec. 34-33. Penalty for violation.

Violation of this article shall be a class 1 misdemeanor, as provided in Code of Virginia, § 15.2-1429. Each day that a person violates this article shall constitute a separate offense, and such violation shall additionally be subject to injunctive relief in a state court of competent jurisdiction.

(Code 1992, § 18-13)

Secs. 34-34--34-60. Reserved.

ARTICLE III.

STOCKPILING OF TIRES*

* **State Law References:** Local regulation of the stockpiling of tires, Code of Virginia, § 10.1-1404(B)(4); disposal of waste tires, Code of Virginia, § 10.1-1422.1.

Sec. 34-61. Definitions.

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

Department means the department of waste management of the commonwealth.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Fire control plan means a document addressing both the potential fire hazard and the suppression of burning tires together with the implementation and preparations necessary to obtain the minimum risk to the public, and which addresses the matters set forth in section 34-65(a)(1).

Tire means a solid or air-filled covering or casing for a wheel, typically of rubber or a similarly elastic synthetic material, fitted around the wheel's rim to absorb shock and provide traction.

Used tire storage means an accumulation of 250 or more tires or any number of tires covering more than 10,000 square feet at a location, not under a roof or other similar structure, for some useful purpose such as a retreading, use as a fuel supplement, or some other innovative use.

Vector control plan means a document addressing the potential spread of disease by vectors together with the implementation and preparations necessary for a minimum danger to the public, and which addresses the matters set forth in section 34-65(a)(2).

(Code 1992, § 9-26)

Cross References: Definitions generally, § 1-2.

State Law References: Department of waste management, Code of Virginia, § 10.1-1404.

Sec. 34-62. Purpose of article.

The purpose of this article shall be to regulate the stockpiling of tires, including but not limited to the location of such stockpiles and the number of tires to be deposited at any site, in order to promote the public health and safety and welfare of the citizens of the town.

(Code 1992, § 9-27)

Sec. 34-63. Violations; penalty.

(a) Any person who violates any section of this article shall be punished as provided in section 1-9.

(b) The town council may institute a suit in the circuit court of the county or in any other court of competent jurisdiction to restrain, enjoin or otherwise prevent a violation of this article.

(Code 1992, § 9-28)

Sec. 34-64. Permit for used tire storage.

(a) No person shall operate or tolerate to exist on his property or property under his effective control any used tire storage in the town without a permit.

(b) Application for a used tire storage permit shall be made by the landowner or person in possession of the proposed site with the consent of the landowner, at the office of the town manager, on forms provided by that office.

(c) The town shall consider all applications and may issue a permit if the applicant has first obtained a permit to operate a used tire storage facility from the department.

(d) Any permit issued by the town council may contain any reasonable conditions, as the council may deem appropriate, including any limitations regarding the duration of the permit.

(e) Application for and the issuance of a renewal of a used tire storage permit shall be made within six months before the permit's expiration date or for such shorter period as the council may fix.

(f) The council may, after one month's notice, revoke any used tire storage permit for failure to comply with the terms of this article or any fire control plan or vector control plan.

(g) All used tire storage permits shall be securely posted and protected from the weather at the location of the facility so as to be plainly visible for public inspection. The failure to display or post a used tire storage permit shall be a violation of this article.

(Code 1992, § 9-29)

Sec. 34-65. Fire control plan; vector control plan.

(a) *Required.* No used tire storage permit shall be granted without a fire control plan and a vector control plan as follows:

(1) *Fire control plan.* Contents of the fire control plan and procedures for review of the plan are as follows:

a. A fire control plan must adequately address compliance with the following requirements for used tire storage:

1. All tires must be stockpiled neatly in cells of 250 tires or less per cell and shall be no higher than ten feet.

2. A berm of soil must be provided between all cells of tires in the storage area. The berm shall extend as high as the height of the tires in the cells.

3. A passageway of 20 feet in width must be maintained between the berms of all cells of tires except where the cells consist of only one or two lanes and the cells can be approached directly.

4. For each cell of tires, a stockpile of 20 cubic yards of soil must be maintained within 200 feet of the cell. This material shall be in addition to any berm material.

5. In lieu of stockpiled soil for fire suppression as described in subsection (a)(1)a.4 of this section, foam with all the necessary equipment for its effective use may be available on the site.

6. A fence of heavy gauge wire six feet in height with two strands of barbed wire extending along the top must enclose the entire storage site.

7. The access to the site must be controlled with a gate equipped with a lock or some other suitable method of preventing access to the site.

8. The plan must specify how long the tires will be stored and the ultimate purpose for which they will be used.

9. Appropriate and adequate equipment to place soil over the tires in case of fire must either be on the site at all times or be readily available.

b. The council shall review all fire control plans and make a decision on approval or denial of such plans at the time the used tire storage permit is considered.

(2) *Vector control plan.* Contents of the vector control plan and procedures for review of the plan are as follows:

a. A vector control plan must adequately address compliance with the

following requirements for used tire storage:

1. Control or suppression of mosquito larva or other insects.

2. Control or suppression of rodents.

b. The council shall review all vector control plans and make a decision on approval or denial of such plans at the time the used tire storage permit is considered. Approved plans must be fully implemented within 60 days after the used tire storage permit is issued.

(b) *Implementation.* Fire control plans and vector control plans shall be implemented and maintained in a continuing state of readiness, and the used tire storage permit may be revoked upon failure of the permit holder to maintain such a state of readiness.

(Code 1992, § 9-30)

Sec. 34-66. Closure plan.

(a) All persons operating or maintaining a used tire storage facility on a parcel of property before the effective date of this Code, who elect to discontinue such tire storage, shall submit to the town council for its approval a plan for removing all tires from the property within a reasonable period of time as set by the council. The council may require a bond or other surety as the council deems sufficient to ensure a prompt, safe and orderly removal of all tires from the property.

(b) Any person failing to submit a closure plan and obtain approval of the plan, as provided in subsection (a) of this section, shall be in violation of this article.

(Code 1992, § 9-31)