

INTRODUCED: February 5, 2018

AN ORDINANCE No. 2018-027

To amend City Code § 11-104, concerning exceptions to the prohibitions on unlawful dumping and unlawful accumulation, to provide that bulk items and tree and shrubbery trimmings placed for collection by the City pursuant to City Code § 23-44 do not constitute unlawful accumulation, and to amend City Code §§ 23-1, 23-43, and 23-44, concerning the collection of solid waste, to require the Director of Public Works to provide for the regular collection of bulk items and tree and shrubbery trimmings.

Patron – Ms. Gray

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: FEB 26 2018 AT 5 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 11-104, 23-1, 23-43, and 23-44 of the Code of the City of Richmond (2015) be and are hereby **amended** and reordained as follows:

Sec. 11-104. Exceptions.

Sections 11-102 and 11-103 shall not apply to the following:

- (1) Legally authorized junk dealers or persons legally authorized to repair, rebuild, recondition or salvage.
- (2) A landfill operated by the City.

AYES: 5 NOES: 4 ABSTAIN: _____

ADOPTED: FEB 26 2018 REJECTED: _____ STRICKEN: _____

(3) A legally authorized private landfill.

(4) Trash, garbage, refuse, litter and other similar substances, both commercial and noncommercial, while in containers approved by the Director of Public Works or bulk items, appliances, tree and shrubbery trimmings, and yard waste, the collection of which has been prearranged with or provided for collection by the Director of Public Works pursuant to Section 23-44.

(5) Trash, garbage, refuse, litter and other similar substances while stored in containers approved by the Director of Public Works, but not for collection by the City.

Sec. 23-1. 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:

Appliance means a household or office device operated by gas or electric current.

Ashes means refuse resulting from the burning of wood, coal, coke and other combustible material.

Building materials means any material such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.

Bulk container means a metal container of not less than six cubic yards nor larger than eight cubic yards, made of watertight construction with doors opening on two sides and top, and constructed so that it can be emptied mechanically by specially equipped trucks.

Bulk item means any refuse, other than an appliance or hazardous refuse, that does not fit into an empty mobile container or super can.

Business trash means any waste accumulation of dust, paper and cardboard, excelsior, rags or other accumulations, other than garbage or household trash, which are usually attendant to the operation of stores, offices and similar businesses.

Commercial establishment means any retail, restaurant, manufacturing, wholesale, institutional, religious, governmental or other nonresidential establishment at which garbage or trash may be generated.

Dwelling unit means a room or group of rooms within a building constituting a separate and independent housekeeping unit occupied or intended for occupancy by one family and containing kitchen and sleeping facilities, provided that a dwelling unit available for occupancy for periods of less than one month shall be considered a lodging unit as defined by Section 30-1220.

Garbage means the byproduct of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors or which, during or after decay, may serve as breeding or feeding material for insects or animals.

Hazardous refuse means materials such as poison, acids, caustics, chemicals, infected materials, offal, fecal matter and explosives.

Household trash means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

Industrial waste means all waste, including solids, semisolids, sludges and liquids, created by factories, processing plants or other manufacturing enterprises.

Litter means garbage, refuse, waste materials or any other discarded, used or unconsumed substance which is not handled as specified in this chapter.

Mobile containers and supercans mean any containers for refuse provided by the City for use in the City, having a capacity of 90 to 95 gallons and equipped with wheels for mobility.

Refuse means solid waste accumulations consisting of garbage, household trash, and business trash, as defined in this section.

Tree and shrubbery trimmings means waste accumulation of tree branches, tree limbs, parts of trees, bushes, shrubbery and cuttings or clippings created as refuse of trees or bushes.

Yard waste means waste accumulations of lawn, grass or shrubbery cuttings or clippings and leaves, free of dirt, rocks, large branches and bulky or noncombustible material.

Sec. 23-43. Residential service generally; collection on private property restricted.

(a) The City or its designated agent shall use its personnel and equipment to collect refuse from residential property on a regular schedule to be set by the Director of Public Works. The residential program shall undertake the regular curbside collection of household waste, [~~bulky waste~~] bulk items, yard waste and tree and shrub trimmings.

(b) City forces will not enter private property for the purpose of collecting refuse unless:

1. The Director of Public Works considers it to be to the advantage of the City to have City vehicles enter the private property, in which case the Director will require a legal release from liability or responsibility in writing to be obtained from the owner of the property prior to entry; or

2. The Director of Public Works considers that the property and accesses thereto are large enough not to impede or delay the movement of City vehicles.

Sec. 23-44. Times and places of collection; bulk items; brush collection; collection of loose leaves.

(a) Refuse receptacles ~~[and]~~ , recycling bins, and bulk items shall be placed for collection at a location designated by the Director of Public Works. Refuse receptacles ~~[and]~~, recycling bins, and bulk items must be placed out for collection by 6:00 a.m. of the scheduled collection day but not earlier than 4:00 p.m. of the day preceding, except for any special times as deemed necessary by the Director of Public Works. The refuse receptacles and recycling bins must be removed by 7:00 a.m. on the day following collection from City property or right-of-way to include, but not be limited to, sidewalks, alleys and median strips between sidewalks and roadways. The public utility account holder of any property to which a refuse receptacle or recycling bin has been assigned shall be responsible for removing the refuse receptacle or recycling bin from City property or right-of-way by 7:00 a.m. on the day following collection. The account holder may request permission from the Director of Public Works not to remove the refuse receptacle or recycling bin as required by the preceding sentence. The Director of Public Works shall grant such permission when the Director determines that doing so will not interfere with use of the City property or right-of-way and that there is no place outdoors other than City property or right-of-way where the account holder may store the refuse receptacle or recycling bin that is accessible without the need for the account holder to convey the refuse receptacle or recycling bin indoors. The Director of Public Works may rescind such permission at any time. Otherwise, any account holder who allows a refuse receptacle or recycling bin to remain on City property after 7:00 a.m. on the day following collection shall receive a notice from the Department of Public Works advising of the violation and allowing the account holder until 7:00 a.m. on the day following the delivery of the notice to remove the refuse receptacle or recycling bin. If after receiving two such notices in the same calendar year, the account holder fails to remove any refuse

receptacle or recycling bin from City property or right-of-way by 7:00 a.m. on the day following collection, the Department of Public Works, after providing the account holder notice and an opportunity to remove any refuse receptacles or recycling bins in accordance with the preceding sentence, shall cause to be imposed on the account holder a civil penalty in the amount of \$50.00. Such civil penalty shall be included on the account holder's monthly utility statement and shall be subject to collection in the same manner as other utility charges including delinquent charges for utilities.

(b) ~~[Upon request, the]~~ The Director of Public Works shall provide for ~~[schedule]~~ the collection of bulk items ~~[such as furniture or similar large items]~~ on the days established for collection of recycling at no charge. However, upon a request for same-day collection of bulk items ~~[and]~~ or for collection of appliances, a fee shall be charged as set forth in Appendix A to this Code.

(c) Collection of loose tree trimmings less than four inches in diameter, six feet in length; shrubbery trimmings; and loose brush shall be ~~[scheduled]~~ provided for by the Director of Public Works on the days established for collection of recycling.

(d) Collection of loose leaves shall be undertaken in accordance with a schedule established by the Director of Public Works. Upon request, loose leaves may be collected outside the established collection period. A fee as set forth in Appendix A to this Code shall be charged for service outside the established collection period.

(e) If the Director of Public Works finds that refuse quantities or location, building design or other factors are not compatible for refuse collection by City forces and equipment, the refuse shall be removed by private or contract collectors. The Director of Public Works shall give

adequate notice of such noncollectibility or noncompliance, so that other collection arrangements may be made.

(f) Fees for collection may only be waived during City-designated cleanups or declared emergencies.

(g) Real property owners or their agents who file for eviction proceedings with the City Sheriff shall remove all property or items which are placed outside during an eviction within 72 hours of the eviction. Notwithstanding the collection fee provided for in Subsection (b) of this section, if the evicted tenant, building owner or the owner's agent fails to immediately remove the property or items after the 72-hour time period has elapsed, the City will cause the immediate removal and assess the building owner a removal fee as set forth in Appendix A to this Code.

§ 2. This ordinance shall be in force and effect upon adoption.



Richmond City Council

The Voice of the People

Richmond, Virginia

Lou Brown Ali
Council Chief of Staff

Office of the Council Chief of Staff

RECEIVED

Ordinance/Resolution Request

JAN 12 2018

TO Allen Jackson, City Attorney

THROUGH Lou Brown Ali, Council Chief of Staff *MLB on behalf*

FROM Charles M. Jackson, Council Budget Analyst *C. J.*

COPY Kimberly Gray, 2nd District Council Member
 Meghan K. Brown, Deputy Council Chief of Staff *MLB*
 Craig Bieber, 2nd District Liaison
 Haskell Brown, Deputy City Attorney

DATE January 10, 2018

PAGE/s 1 of 3

TITLE Amend the City Code with Regards to the Bulk and Brush Program.

OFFICE OF CITY ATTORNEY

This is a request for the drafting of an **Ordinance** **Resolution**

REQUESTING COUNCILMEMBER/PATRON

Kimberly Gray

SUGGESTED STANDING COMMITTEE

Government Operations

ORDINANCE/RESOLUTION SUMMARY

The patron requests an ordinance to (1) amend the City Code Sec. 23-1 to add a definition of bulk items to specify that mattresses, upholstered furniture, and other similar large bulk items are included in the list of bulk items collected by the City, (2) amend Sec. 23-44(b) and (c) establishing a monthly schedule for their collection to be every two weeks, on trash collection day, during the scheduled recycling week and (3) amend the City Code Sec.11-103, which prohibits accumulation of certain upholstered furniture outdoors, to clarify that upholstered furniture collected as part of the City's bulk and brush program should not be considered unlawful accumulation.

BACKGROUND

Included in the Mayor's proposed FY18 budget was a proposal to bring major enhancements to the Bulk & Brush Collection Program. **Under the Mayor's initiative it was proposed** that the fee increase would provide an enhanced service by having bulk and brush trash collection, "picked up consistently and reliably, collected every other week year-round on the same rotation with city recycling."

Previously residents could request, and have scheduled, the collection of bulk items, "such as furniture or similar large items" at no charge unless same-day

collection was requested with an associated fee. Items such as mattresses and upholstered furniture were considered to be "Bulk" items. Now the Administration is excluding these types of items from being collected on the bi-weekly schedule.

After the adoption of the FY18 budget, the City Administration has now indicated that the "Enhanced Bulk and Brush Operation" as presented at City Council's Informal Council meeting on November 13, 2017, that bulk and brush will be collected bi-weekly; **however**, the city will no longer collect bulk items such as mattresses or other upholstered furniture during the bi-weekly collection. Instead there will be a minimum of two neighborhood cleanups scheduled for the collection of bulk items, such as mattresses and other upholstered furniture. The Administration has indicated that this change is in accordance with City Code section 11-103 – Unlawful Accumulation. **This newly proposed schedule for the collection of bulk items is in conflict** with what was originally proposed by the Mayor to have both bulk and brush pick up being consistent and reliable and collected every other week year-round on the same rotation with city recycling.

The intent of the proposed amendments below is to align the code with what the Mayor originally proposed for the improvements to the bulk and brush collection program and what the increase in the monthly fee was to support which is consistent and reliable pick up, collected every other week year-round on the same rotation with city recycling. The proposed change in code also provides the ability of the Director of Public Works to schedule any additional collections for bulk and brush items as may deem appropriate; such as neighborhood cleanups.

(1) Need to define bulk items: Currently the City code does not include a formal definition or description of bulk items. Although the description of this term can vary by locality, the term generally describes discarded material inappropriate for normal refuse or recycling collection. This typically includes items such as:

- Upholstered furniture,
- Mattresses,
- Box springs,
- Other non-metal bulk furniture items

(2) Schedule for collection of bulk and brush items: To establish a schedule of the collection of bulk and brush items to be every two weeks, on trash collection day, during the scheduled recycling week. An amendment to the City Code Sec. 23-44(b) and (c) shall reflect this change according to the patron's request. The Director of Public Works shall establish any additional collection schedule for bulk and brush items, as may be deemed appropriate.

Due to the newly established schedule, as indicated above, the patron has proposed adding clarification to City Code Sec. 11-103 that compliance with the bulk and brush collection schedule shall not be considered unlawful accumulation of trash.

(3) Unlawful accumulation: This request will include a distinction within City Code Section 11-103, clarifying that items intended for the bulk and brush program are excluded from the provisions of City Code Sec. 11-103 while in compliance with the established collection schedule. It is the belief that Public Works has misinterpreted the original intent of this code provision by including items left on the right-of-way as part of collection and removal activities of the Bulk and Brush

program as unlawful accumulation. The original intent of Sec. 11-103 was to make it unlawful to have upholstered (excluding items manufactured for outdoor use) items on porches or backyards. Concerns about fire hazards on porches and backyard were the main issue as past incidents revealed these items as the cause of house fires. Therefore bulk items such as mattresses and upholstered furniture should not be considered as unlawful accumulation if such items are in compliance with the established collection schedule and removal activities of the Bulk and Brush Program.

FISCAL IMPACT STATEMENT

Fiscal Impact Yes No

Budget Amendment Required Yes No

Estimated Cost or Revenue Impact:

Staff time and resources will be required. As part of the FY18 adopted budget the solid waste fee was increased by \$0.80 to \$20.80 per month to hire additional positions and for the purchase of knuckle boom trucks for the enhanced collection of bulk and brush items. Residents have been charged the increased fee, without receiving any enhanced service, from July through the end of November. Furthermore, funding was provided in the FY18 budget to hire 15 additional positions for the "Enhanced Bulk and Brush Operation," and as of mid-November four of those positions had not yet been filled which has generated some vacancy savings.

Attachment/s Yes No