

ARTICLE IV. - REFUSE, LITTER AND WEED CONTROL*

* Cross References: Solid waste, ch. 86.

Sec. 38-151. - Unlawful dumping.

Sec. 38-152. - Unlawful **accumulation**.

Sec. 38-153. - Exceptions.

Sec. 38-154. - Weeds and other vegetation.

Sec. 38-155. - Violations and notice.

Sec. 38-156. - Abatement by city.

Sec. 38-157. - Injunction.

Secs. 38-158—38-190. - Reserved.

Sec. 38-151. - Unlawful dumping.

(a)

It shall be unlawful for any person to dump or otherwise dispose of **trash**, garbage, refuse, litter, junk, demolition materials, hazardous wastes or other offensive, unwholesome, unsightly, unsanitary or unhealthy substances on public property, including in any waters within the city, a public highway, drainage ditch, culvert, pipe, storm drain, 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 the owner's agent.

(b)

Any person convicted of violating this section shall be guilty of a class 1 misdemeanor and shall be punished by a fine of not more than \$2,500.00 or confinement in jail for not more than 12 months or both such fine and imprisonment.

(Code 1993, § 19-51)

Sec. 38-152. - Unlawful accumulation.

It shall be unlawful for any person who owns or occupies property within the city to permit the **accumulation** of **trash**, garbage, refuse, litter, junk, demolition materials or other offensive, unwholesome, unsightly, unsanitary or unhealthy substances on such property or on any alley, sidewalk, public right-of-way, grass strips, or street abutting such property.

(Code 1993, § 19-52)

Sec. 38-153. - Exceptions.

Sections 38-151 and 38-152 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.

(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, the collection of which has been prearranged with the director of public works.

(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.

(Code 1993, § 19-53)

Sec. 38-154. - Weeds and other vegetation.

(a)

It shall be a misdemeanor for any person who owns or occupies property within the city to permit any grass, plant, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on such property.

(b)

It shall be a misdemeanor for any person who owns or occupies property within the city to permit the existence on such property of any live or dead hedge, shrub, tree or other vegetation, any part of which extends or protrudes into any street, sidewalk, public right-of-way, grass strip or alley so as to obstruct or impede or threaten the safe and orderly movement of persons or vehicles.

(c)

It shall be a misdemeanor for any person who owns or occupies property within the city to permit any grass, plants, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on any sidewalk, public right-of-way, or grass strip adjacent to such property or unimproved street or alley (to the centerline of such unimproved street or alley).

(d)

It shall be a misdemeanor for any person who owns or occupies property within the city to fail to remove fallen trees, detached limbs, or branches, the **accumulation** of which is offensive, unwholesome, and unsightly.

(Code 1993, § 19-54)

Sec. 38-155. - Violations and notice.

(a)

Each day any violation of [section 38-151](#), [38-152](#) or [38-154](#) continues after issuance of an initial notice shall constitute a separate offense. Upon conviction, each violation of [section 38-151](#), [38-152](#) or [38-154](#) shall be punishable as a class 1 misdemeanor.

(b)

In addition to any penalties imposed for a violation of [section 38-151](#), [38-152](#) or [38-154](#), a judge hearing the case shall order the person responsible for such condition to remove, restore, remediate or correct the violation or condition. It shall be unlawful for any person to default in such removal, restoration, remediation or correction after being so ordered, and each day's default shall constitute a violation of and a separate offense under this article.

(c)

Any law enforcement officer, fire marshal or any assistant, fire inspector, sworn special police officer, or any other city employee designated by the chief administrative officer is authorized and shall have authority to enforce all sections of this article.

(d)

Whenever it shall come to the knowledge of the chief administrative officer, or his or her designee, that there exists upon any land or premises in the city any condition constituting a violation of [section 38-151](#), [38-152](#) or [38-154](#), such person shall serve, post, mail or deliver a notice to any of the following to cause such condition to be abated from such land or premises within 48 hours of delivery or posting of such notice or in the time limit set forth in the notice:

(1)

The person causing or creating the condition;

(2)

The person allowing the condition to remain or continue;

(3)

The occupant of the land or premises; and/or

(4)

The owner of the land or premises.

Proof of such service, delivery, mailing or posting shall be sufficient evidence of such notice.

(e)

Notwithstanding subsection (d) of this section, if the chief administrative officer or any person specified in subsection (c) of this section determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the condition may be ordered abated without ever giving the notice required in this section.

(f)

When any person is in possession of any property or has charge thereof within the city as executor, administrator, trustee, guardian, or agent, such person shall be deemed to be the owner of such property for the purposes of this article and shall be bound to obey all orders and notices of the chief administrative officer in regard to nuisances; sanitation; violations of [section 38-151](#), [38-152](#) or [38-154](#); or other matters, so far as they may affect such property, in the same manner, and be subject to the same penalties and fines as if such person were actually the owner of such property.

(Code 1993, § 19-55.1; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 38-156. - Abatement by city.

(a)

If a condition in violation of [section 38-151](#), [38-152](#) or [38-154](#) remains upon a land or premises after the expiration of the time specified in a notice of violation, the chief administrative officer, or his or her designee, may issue a notice of abatement to such person identified in the notice of violation informing the person that the chief administrative officer will cause the cited condition to be abated at the expense of such person.

(b)

An administrative fee shall be assessed in each case. The expense of abatement and the administrative fee shall be chargeable against such person identified in the notice of abatement.

(c)

The notice of abatement may either be served, mailed or delivered to such person or posted on the land or premises where the nuisance is located. Proof of such service, delivery, mailing or posting shall be sufficient evidence of the service of notice.

(d)

Notwithstanding the notice requirements of this section, if the chief administrative officer, or his or her designee, determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the notice requirement may be dispensed with.

(e)

Notwithstanding subsections (a) through (d) of this section, the notice of violation specified in [section 38-155](#) and the notice of abatement specified in this section can be combined in one document and issued as provided in this article.

(f)

If the abatement is undertaken by the city pursuant to this section, the expense of the abatement and the administrative fee shall constitute a lien on real property of the owner and shall be reported to the finance director who shall collect the expense and fee in the manner in which city taxes levied upon real estate are authorized to be collected.

(g)

Abatement by the city shall be exclusive of and in addition to any criminal penalty which may be imposed.

(Code 1993, § 19-56.1; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 38-157. - Injunction.

Nothing contained in this article shall preclude the city at any time from applying to a court of competent jurisdiction for an injunction to abate the violation of any provision of sections [38-151](#), [38-152](#), and [38-154](#) or to otherwise maintain an action to compel a responsible party to abate, raze or remove a public nuisance under authority of state law.

(Code 1993, § 19-57)

State Law References: Similar provisions, Code of Virginia, §§ 15.2-900, 48-5.

Secs. 38-158—38-190. - Reserved.