

ORDINANCE NO. 5105

AN ORDINANCE to amend and reordain Chapter 13 (ENVIRONMENTAL OFFENSES) of Title 11 (HEALTH, ENVIRONMENTAL AND SANITARY REGULATIONS) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 13 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

Sec. 11-13-1 - Definitions.

The following terms, as used in this chapter, shall have the meanings set forth below:

- (a) "Bulk waste" shall mean solid, tangible objects that are subject to disposal. Bulk waste shall include, but is not limited to, appliances, furniture, bedding material, motor vehicle parts and tires, mechanical equipment, mechanical parts and carpets.
- (b) "Commercial waste" shall mean all waste from any retail, wholesale or commercial establishment that has been, or is in the process of being, dumped.
- (c) "Dump" shall mean to discharge, deposit, inject, dispose of, spill, leak or place any waste into or on any land or water so that such waste, or any constituent of such waste, may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
- (d) "Hazardous waste" shall mean a solid waste or combination of solid wastes that has been, or is in the process of being, dumped and 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 danger to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. Hazardous wastes shall include, but are not limited to, insecticides, poisons, corrosives, combustibles, caustics, acids, infectious materials, explosives, compressed gases, biological and chemical materials, radioactive materials, flammable materials and petroleum products.
- (e) "Household hazardous waste" shall mean any solid waste derived from households (including single and multiple residences, hotels, motels, crew quarters, campgrounds, picnic grounds and recreation areas) that has been or is in the process of being dumped and which, except for the fact that it is derived from a household, would be classified as a hazardous waste, including but not limited to, nickel, cadmium, mercuric oxide, manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers or other paint solvents; toxic art supplies; used motor oil and unusable gasoline or kerosene; fluorescent or high-intensity light bulbs; ammunition and fireworks; ~~banned~~ pesticides and restricted-use

pesticides, as defined in the Virginia Code and applicable regulations. All empty household product containers ~~and any household products in legal distribution, storage or use~~ shall not be considered household hazardous waste.

- (f) "Industrial waste" shall mean all materials or substances related to manufacturing, processing or production that have been, or are in the process of being, dumped.
- (g) "Permit" shall mean a valid written document issued by a federal, state or local entity authorizing the work or activity described in the document.
- (h) "Person" shall mean any individual, firm, owner, sole proprietorship, partnership, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.
- (i) "Solid waste" shall mean any garbage, refuse, sludge and other discarded material that has been, or is in the process of being, dumped. Solid waste includes any solid, liquid, semisolid or contained gaseous material that results from industrial, commercial or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the Virginia Water Control Board, or (iii) source, special nuclear or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.
- (j) "Sanitary sewer" shall mean pipelines or conduits, pumping stations and force mains, and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.
- (k) "Stormwater" shall mean precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.
- ~~(l)(k)~~ "Stormwater system" shall mean all man-made facilities, structures and natural watercourses used for collecting and conveying stormwater to, through and from drainage areas to the points of final outlet, including but not limited to streets, curbs and gutters, inlets, conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, drains, sewers, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, flood walls, levees, pumping stations and wetlands.
- ~~(m)(l)~~ "Structural waste" shall mean all building materials resulting from erecting, removing, repairing, remodeling or razing buildings or other structures that have been, or are in the process of being, dumped.
- ~~(n)(m)~~ "Waste" shall mean any commercial, hazardous, household hazardous, industrial, solid, structural, bulk, or yard waste as defined in this section.
- ~~(o)(n)~~ "Waters" shall mean any waters adjacent to or within the city or owned by the city, including, but not limited to, rivers, lakes, bays, tributaries or ponds.
- ~~(p)(o)~~ "Yard waste" shall mean decomposable waste materials generated by yard and lawn care that have been, or are in the process of being, dumped. Yard waste includes all materials derived from trees, shrubbery, leaves, fallen branches, lawn trimmings and other woody waste

Sec. 11-13-2 - Illegal dumping prohibited.

- (a) It shall be unlawful for any person to dump any waste on any property, in any waters or in any sanitary sewer or stormwater system, except as authorized by law or by applicable permit. It shall be the burden of the alleged violator to show proof of any applicable permits.
- (b) In the event waste is dumped from a motor vehicle or water craft in violation of this section, the owner of such motor vehicle or water craft shall be presumed to be the person ejecting such waste, and such owner shall have the burden of coming forward with evidence to rebut the presumption.
- (c) It shall be unlawful for any person to throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain or otherwise discharge into the stormwater system any substance, whether liquid or solid, other than stormwater with the exception of the following:
 - 1) Water line flushing;
 - 2) Landscape irrigation;
 - 3) Diverted stream flows;
 - 4) Rising groundwaters;
 - 5) Uncontaminated groundwater infiltration;
 - 6) Uncontaminated pumped groundwater;
 - 7) Discharges from potable water sources, foundation drains, irrigation waters, springs, or water from crawl spaces or footing drains;
 - 8) Lawn watering;
 - 9) Individual residential car washing;
 - 10) Flows from riparian habitats and wetlands;
 - 11) Dechlorinated swimming pool discharges;
 - 12) Street wash water;
 - 13) Discharges from firefighting activities; and
 - 14) Discharges for which a valid VPDES or NPDES permit has been issued.
- (d) If any of the foregoing exceptions are identified as significant sources of pollutants, and thus cause a negative impact on the quality of the waters of the Commonwealth of Virginia, such situation or occurrence shall be deemed unlawful.

Sec. 11-13-3 - Unlawful storage and accumulation of waste.

It shall be unlawful for any person to accumulate, store, leave, place or deposit, or allow to be accumulated, stored, left, placed or deposited, any waste on any property within the city except as authorized by law or by applicable permit. It shall be the burden of the alleged violator to show proof of an applicable permit.

Sec. 11-13-4 - Failure to keep property clean and free of accumulations of waste.

It shall be unlawful for any person to fail to keep property within the city clean and free of accumulations or deposits of waste.

Sec. 11-13-5 - Removal of certain substances thrown, dropped or deposited on highway at scene of motor vehicle accident.

Any person removing a wrecked or damaged motor vehicle from a street or highway in the city shall remove any glass, metal, plastic, liquid, hazardous or solid waste, or any other injurious substance dropped, thrown or deposited upon the street or highway from such vehicle. Failure to remove such materials prior to leaving or departing from the location from which the vehicle is removed shall constitute an offense under this chapter.

Sec. 11-13-6 - Proof of proper disposal required.

- (a) Any person required to remove any waste from any property, waters, sanitary sewer or stormwater system, as required by this chapter, shall provide proof that the waste that was removed was disposed of in accordance with all applicable local, state and federal regulations.
- (b) A disposal receipt showing proper disposal shall be submitted to the enforcement officer who originated the charge or complaint. The receipt shall indicate on its face the date, time and place of disposal. It shall also, to the extent practicable, state the identifiable quantity or volume of waste that was removed.
- (c) Failure to dispose of waste in accordance with all applicable city, state and federal regulations or to submit the required disposal receipt shall constitute an offense under this chapter.

Sec. 11-13-7 - Enforcement.

Any city law enforcement officer, duly designated sworn special police officer, the director of transportation and environmental services or ~~his~~ designee, the director of public health or ~~his~~ designee, the director of code administration ~~enforcement~~ or ~~his~~ designee, or the chief fire marshal or any of ~~his~~ deputies, is authorized and shall have authority to enforce all provisions of this chapter.

Sec. 11-13-8 - Violations.

- ~~(a) A person who violates any provision of this chapter shall be guilty of a Class 1 misdemeanor. Each day of violation shall constitute a separate offense.~~
- ~~(b) In addition to any penalty imposed for each violation of this chapter, a judge hearing the case may direct the person responsible for the violation to correct the violation and remedy any damage to the property where the spill or dump occurred. Each day's default in the performance of such correction or remediation shall constitute a violation of, and a separate offense under, this chapter. A person convicted of a violation of this chapter may also be ordered by the court to perform public service relating to the correction or remediation of an area polluted by solid waste. (Ord. No. 4211, 6/16/01, Sec. 1)~~

- (a) Criminal Penalties. A person who violates the following provisions of this chapter shall be guilty of a Class 1 misdemeanor. Each day of violation shall constitute a separate offense. Offenses punishable as criminal offenses hereunder include:
- a. Dumping of any hazardous, household hazardous, bulk, or industrial waste; or
 - b. Dumping of any other waste with intentional disregard for the water quality of the waters of the Commonwealth of Virginia. Three citations for the same or similar violation within a 24-month period shall create a presumption of such intentional disregard and knowingly and willfully violating the provisions of this section. The burden of proof shall lie with the defendant to rebut such presumption.
- (b) Civil Penalties. Any other violation of this chapter not set forth in section (a) above shall be punishable as a class four civil violation pursuant to City Code Section 1-1-11(b)(4).
- (c) Injunctive Relief. In addition to any penalty imposed for each violation of this chapter, a judge hearing the case may direct the person responsible for the violation to correct the violation and remedy any damage to the property where the spill or dump occurred. Each day's default in the performance of such correction or remediation shall constitute a violation of, and a separate offense under, this chapter. A person convicted of a violation of this chapter may also be ordered by the court to perform public service relating to the correction or remediation of an area polluted by solid waste.

Section 2. That Chapter 13 amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

ALLISON SILBERBERG
Mayor

Final Passage: February 24, 2018