

LITTER DISPOSAL¹

§ 17.2-200. Authorization.

This Ordinance is adopted and enacted pursuant to § 15.2-901; Article 2 Waste and Recycling, §§ 15.2-927 et seq and § 33.1-346 of the Code of Virginia, 1950, as amended, for the purpose of promoting the public safety, health, welfare, convenience and enjoyment of the general public, public travel, it is hereby declared to be in the public interest to regulate and restrict the disposal of trash, garbage refuse, litter or other unsightly matter on public highways, right-of-way, property adjacent to such highway or right-of-way, on private property, and solid waste facilities of the County, including but not limited to convenience centers, transfer stations and solitary landfills.

Sec. 17.2-201. Title.

This chapter shall be known and may be cited as the "Russell County Litter Control and Disposal Ordinance."

Sec. 17.2-202. Definitions.

For purposes of this ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section.

Administrator means the Russell County Administrator or his or her duly authorized designee.

Ashes means the residue resulting from the burning of wood, coal, coke or other combustible material.

Board of Supervisors means the Russell County Board of Supervisors.

Brush means bushes, briars, branches, leaves and similar material.

Brush, prunings and tree trimmings means trimmings from growing or dead trees or bushes no more than six inches in diameter. Any such trimmings over four inches will not be accepted. These items will only be accepted at the transfer station, with the

¹ **State law reference:** Enabling act for regulation of disposal of trash see Code of Virginia § 15.2-901; Article 2 Waste and Recycling, §§ 15.2-927 et seq and § 33.1-346, 1950, as amended.

applicable tipping fee being paid. This shall not include roots or stumps that exceed four inches in diameter.

Bulk waste means appliances, furniture, bedding material, automobile parts, mechanical equipment, mechanical parts, and carpet.

Commercial establishment means a building or other structure and/or lot or tract of land used for or as a part of the operation of a business enterprise, whether for profit or not, which is not used in whole as a residential unit. For the purposes of this ordinance, any structure which is used by the same owner or tenant for both residential and business purposes shall be deemed to be a commercial establishment, provided however, that if the Administrator determines that a mixed use structure generates a volume of solid waste that does not exceed the average amount of waste generated by a residence in Russell County, then such mixed use structure may be deemed to be a residential unit.

Compacted waste means refuse or waste which has been reduced in volume by mechanical or hydraulic means and remains in this state of reduced volume until deposited at the transfer station.

Containers mean any of the following:

1. Residential Reusable Curbside Receptacle: a receptacle made of plastic, metal or fiberglass with a capacity not to exceed thirty-nine (39) gallons, a loaded weight of no more than thirty-five (35) pounds, having a tight fitting lid, and handles of adequate strength to allow for the container to be lifted.
2. Non-Reusable: Plastic sacks designed for refuse disposal with sufficient wall strength to maintain physical integrity when lifted by the top; securely tied at the top for collection, with a capacity not to exceed thirty (39) gallons and a loaded weight not to exceed thirty-five (35) pounds. Non-reusable containers shall also include garbage compactor bags which meet the capacity and weight requirements for plastic sacks. Both reusable and non-reusable containers shall also be referred to as standard containers in this Ordinance.
3. Bulk: Bins of metal construction capable of being emptied by mechanical equipment operated by solid waste disposal operators, the Cumberland Plateau Regional Waste Management Authority, the County, towns located in the County and their contractors, generally referred to as dumpsters, which have a capacity of at least two and not more than eight cubic yards. Also included are large capacity roll on dumpsters.

Curbside means that portion of the street or highway right of way adjacent to the paved or traveled portion of a primary or secondary roadway as established by the Virginia Department of Transportation.

Contractor means the person with whom Russell County may contract for the collection of solid waste generated within Russell County, however nothing shall be deemed to require the County to contract for collection of all or part of its solid waste. In the event that the County shall contract for collection of all or part of its solid waste, then the term "Contractor" shall be substituted for Russell County where appropriate in the Ordinance.

Convenience Center means a collection point designated and operated by Russell County at which designated solid waste may be deposited.

County the term "County" shall be deemed to refer to Russell County unless the text of the Ordinance specifically refers to some other county.

Disposal means the storage, collection, disposal or handling of refuse.

Garbage means discarded materials composed of animal, vegetable or other organic matter.

Litter means any solid waste that is disposed of as prohibited herein or allowed to be carelessly discarded or scattered about in an unsightly manner. Litter shall include, but not be limited to, garbage, trash, refuse and rubbish as referred to within this Ordinance.

Litter bag means a bag or sack, of durable material, which is large enough to serve as a receptacle for litter inside a vehicle or watercraft which is similar in size and capacity to a state approved litter bag.

Litter receptacle means a container with a capacity of not less than ten gallons constructed of such quality as to maintain the original shape when placed at an outdoor location; reasonably resistant to rust and corrosion; and placed for use as a depository for litter. Appliances (refrigerators, etc.) cannot be used as litter receptacles.

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 so as to pose within the determination of the Administrator a substantial present or potential hazard to human health or the environment, including the pollution of air, land, surface water or ground water. A disposal facility operating without all permits required by the state and/or federal governments shall be considered an open dump.

Operator means the person responsible for the overall operation and site management of a solid waste facility.

Owner means the person, corporation, or other legal entity in whom is vested the title to and interest in the land on which a solid waste management facility is located; the person, corporation or other legal entity in whom is vested title to and interest in the land upon which a residence, residential unit, multi-unit residential unit, commercial establishment or industry is located.

Permit means the written permission issued by the state or federal government to own, operate, or construct a solid waste management facility; and any licenses issued pursuant to the provisions of this Ordinance.

Person means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

Recycling means the process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product, which may or may not be similar to the original product.

Refuse means discarded waste materials in a solid or semi-solid state, consisting of garbage, rubbish, or a combination thereof.

Residential unit means a group of rooms located within a building and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and/or eating. A residential unit shall also include buildings containing multiple single-family dwelling units, however each unit shall be deemed to be a separate dwelling unit for billing purposes. The term "residential unit" shall also be deemed to include mobile home parks.

Salvage means the authorized, controlled removal of waste materials from a solid waste management facility.

Scavenge means the unauthorized or uncontrolled removal of waste materials from a solid waste management facility.

Sludge means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility, or other waste producing facility, but as used in this Ordinance the term does not include the treated effluent from a Wastewater Treatment Plant.

Solid Waste means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from residential, industrial, commercial, mining and agricultural operations and from 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 State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended.

The solid waste herein defined also may refer to the following further defined types, i.e.:

- (1) *Coal Mine Waste:* Any commercial waste, construction/demolition waste, debris waste, inert waste, metals, garbage, mining equipment and/or machinery and any other waste generated prior, during, or after mining activities and which may be disposed of in compliance with this Ordinance and all other applicable state and federal laws and regulations.
- (2) *Commercial Waste:* All solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, and shopping centers.
- (3) *Construction/Demolition Waste:* The waste building material, packaging and rubble, resulting from construction, remodeling, repair and demolition operations on pavement, houses, commercial buildings, and other structures.
- (4) *Debris Waste:* Waste resulting from land clearing operations, including but not limited to stumps, wood, brush, leaves, soil and road spoils.
- (5) *Household Waste:* Any waste material, including garbage, trash, and refuse normally produced or derived from single and/or multiple residential households and residences. Household wastes do not include sanitary waste in septic tanks (septage).
- (6) *Hazardous Waste:* A solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health, the Collection/Disposal System, or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The foregoing definition is intended to include any waste now or hereafter designated as such by state or federal agencies with jurisdiction and authority to promulgate and enforce rules and regulations for the handling and disposal of hazardous and other waste.
- (7) *Ignitable Waste:*
 - a. liquids having a flash point of less than 140 degrees Fahrenheit

(60degrees Centigrade).

- b. non-liquids liable to cause fires through friction, absorption of moisture, spontaneous chemical change or retained heat, or which are liable, when ignited, to burn so vigorously and persistently as to create a hazard.
- c. ignitable compressed gases, and/or oxidizers.

8. *Industrial Waste:* 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/byproducts; inorganic chemicals; iron and steel manufacturing; mining or oil and gas operations; 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.

9. *Inert Waste:* Solid waste which is chemically and biologically stable from further degradation and considered to be non-reactive. Inert waste includes rubble, concrete, broken bricks, bricks, and blocks.

10. *Infectious Waste:* Any solid waste if it is capable of producing an infectious disease in humans; is one of the controlled infectious wastes listed in any relevant section or sections of the Infectious Waste Management regulations of the Virginia Department of Environmental Quality as applicable at any given time, or is identified as infectious by a licensed physician or registered nurse. A waste shall be considered to be capable of producing an infectious disease if it has been, is or may have been contaminated by an organism that is or may be pathogenic to humans and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease. If the exact cause of a disease is unknown, but the health care professional in charge suspects the presence of a pathogen in the waste is the cause, such waste shall be managed as if the pathogen were identified and such waste shall be considered to be infectious waste.

11. *Institutional/Government Waste:* All solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include infectious waste from health care facilities and research facilities which has not been classified as a hazardous waste by the Virginia Hazardous Waste Regulations or the United States Environmental Protection

Agency. Infectious waste which has been defined by state or federal law, rule or regulation as hazardous waste must be excluded from the waste stream.

12. *Putrescible Waste*: Solid waste which contains organic material capable of being decomposed by microorganism, and which causes odors.
13. *Residential Waste*: Household waste.
14. *Waste Oil*: A spent petroleum product or lubricating fluid from vehicles or equipment.

Solid waste management facility means any facility which engages in a planned program for effectively controlling the storage, collection, transportation, processing and reuse, conversion or disposal of solid waste in a safe, sanitary, aesthetically acceptable, environmentally sound and economic manner, in full compliance with all applicable local, state and federal regulations. The Russell County Transfer Station and Russell County Convenience Centers are Solid Waste Management Facilities.

Trash means non-combustible discarded materials including, but not limited to, ashes, scrap metal, glass, brick, concrete or other construction materials.

Uncompacted waste means refuse or waste which has not been reduced in volume by mechanical or hydraulic means, or if so, has not been maintained in this reduced volume state during the transportation to the landfill.

Waste generator means the person who actually produces waste intended for disposal at the landfill.

Waste management facility (See also Solid Waste Management Facility) means that area designated by the County Administrator for the collection of refuse intended for disposal at the Transfer Station or Collection Centers.

White goods means refrigerators, stoves, clothes dryers, washing machines, water heaters, window air conditioners and other large appliances of similar size or character, and waste metal products.

Yard waste means decomposable waste materials generated by yard and lawn care, and include leaves, grass trimmings, brush up to six inches in diameter and shrubs and tree trimmings arising from general landscaping maintenance. This shall not include roots or stumps that exceed four inches in diameter.

Where terms are not defined in this Ordinance and the context or practice requires definition they shall have the meaning specified in Chapter 14 of Title 10.1 of the Code of

Virginia, 1950, as amended and/or specified in other relevant statutes, and/or the Solid Waste Management Regulations of the Virginia Department of Environmental Quality, as now or hereafter adopted as are applicable.

In case of conflict, the statutes and regulations applicable to the particular requirement involved shall prevail over those in this Ordinance.

Sec. 17.2-203. General prohibitions.

A. Moving Violations

1. Littering Prohibited; Penalties

It shall be unlawful for any person to drop, deposit, discard or otherwise dispose of litter in or upon any public or private property within Russell County, with or without permission of the owner, including, but not limited to any street, sidewalk, park, body of water, vacant or unoccupied lot, except in public litter receptacles, or in authorized private litter receptacles provided for public use, or in an area designated by the State Department of Health as a permitted disposal site.

When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

Any person found guilty of a violation of this section shall be guilty of a Class 2 misdemeanor as punishable as provided in Section 17.2-206 of this Ordinance. Any second or subsequent offense shall constitute a Class 1 misdemeanor punishable as provided in Section 17.2-206 of this Ordinance.

2. Uncovered Vehicles, Escape of Load

No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom; provided, however, that sand or any substance to increase traction or water or other substance may be applied on a roadway in the cleaning or maintaining of such roadway by the state or local government agency having such responsibilities.

No person in an aircraft shall throw out, drop or deposit within the County any litter or other object.

Any operator of a vehicle from which an object has escaped, that may cause an obstruction or damage a vehicle or endanger travelers on such public property, shall immediately cause the public property to be cleaned of all objects and shall be responsible for all of the costs of removal.

Any person found guilty of a violation of this section shall be guilty of a Class 2 misdemeanor as punishable as provided in Section 17.2-206 of this Ordinance. Any second or subsequent offense shall constitute a Class 1 misdemeanor punishable as provided in Section 17.2-206 of this Ordinance.

B. Stationary Violations

1. Areas Surrounding Commercial Establishments and Institutions

It shall be the duty of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not limited to, public and private sidewalks, roads, and alleys, grounds, parking lots, loading and unloading areas, and all vacant lots which are owned or leased by said establishment or institution.

Any person found guilty of a violation of this section shall be guilty of a Class 2 misdemeanor punishable as provided in Section 17.2-206 of this Ordinance.

2. Keeping Exterior of Residential and Commercial Property Clean

It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. The owner or occupant of any premises within the County shall be responsible for sanitary conditions of such premises, and it shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any solid waste, except as designated by the terms of this Ordinance. It shall be the duty of each owner and tenant to keep all exterior property free of litter or waste, these areas shall include, but not be limited to: sidewalks, public roads, alleys and driveways; yards and grounds; fences; walls and property lines; drainages and vacant lots in both residential and commercial areas. Any violation of this subsection shall constitute a Class 2 misdemeanor punishable as provided in Section 17.2-206 of this Ordinance.

No person shall sweep into or deposit in any gutter, public road, street or water body within the County the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. This includes but is not limited to rubbish which includes grass clippings, hedge trimmings, leaves, pine needles, paper, plastic or other materials classified as litter or waste must be placed in an approved container and properly disposed. Persons owning or occupying property shall keep the sidewalk in front

of their premises free of litter. Any violation of this subsection shall constitute a Class 3 misdemeanor punishable as provided in Section 17.2-206 of this Ordinance.

Upon violation of this section, the County may proceed against either the tenant, owner or person in control or against all such persons. A warning citation as provided in Section 17.2-204(b) of this Ordinance shall be served on the owner or occupant of any premises upon which solid waste is found in violation of this section, giving the owner or occupant ten (10) days to remove such solid waste. If the owner or occupant does not comply with the terms of such citation, he or she shall be served a summons for violation of this section.

This section shall not be deemed to prohibit the accumulation of litter awaiting the next regularly scheduled refuse or garbage collection if such property is served by regularly scheduled garbage, refuse or litter collection. Such collection shall be deemed to be regular if such collection regularly occurs at least once per week or more frequently.

3. Indiscriminate Dumping or Discarding of Litter and Solid Waste

It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any form of solid waste, rubbish, refuse, junk, motor vehicle or vehicle part, rubber tires, appliances, furniture, or any other material or equipment, on public or private property, with or without permission of the property owner, except in County approved receptacles provided for public use for the deposit of said material, or except in an area designated by the State Department of Health as a permitted solid waste disposal site or collection facility.

C. Cleanup of Improperly Disposed Litter or Solid Waste

1. Cleanup of Premises by County Authorization

The owners of property within the County shall, within fourteen (14) days of receiving written notice from the County, remove from the property any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the County.

If, after fourteen (14) days of receiving the notice, the owners of such property have failed to take action as directed by the notice, the County may have such trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the County, removed by its own agents or employees, in which event the cost or expense thereof shall be chargeable to and paid by the owners of such property and may be collected by the County as taxes are collected.

Execution of the notice to remove litter shall be in writing and shall be in the form set forth in Section 17.2-204(b) of this ordinance and served by personal service, posted service or sent by registered mail.

Every charge authorized by this section 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 Articles 3 (§ 58.1-3940 *et seq.*) and 4 (§ 58.1-3965 *et seq.*) of Chapter 39 of Title 58.1 of the Code of Virginia, 1950, as amended. The County may waive such liens in order to facilitate the sale of the property. Such liens 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.

A violation of this section shall be subject to a civil penalty, not to exceed \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violation arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period.²

In the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period a violation of this subsection shall be a Class 3 misdemeanor.³

D. Litter Receptacles

1. Use of Receptacles

- a. It shall be unlawful to deposit any item or items except litter in any receptacle placed for public use as a depository for litter. Any item or items, including litter, which are expressly prohibited from being placed in said receptacle by a sign or other writing located on or around the receptacle, shall not be placed or deposited in said receptacle.

² See §15.2-901(C) for enabling act authorizing civil penalty by ordinance.

³ See §15.2-901(D) for enabling act authorizing Class 3 misdemeanor when three civil penalties have occurred.

b. Any violation of this subsection shall constitute a Class 2 misdemeanor. A second or subsequent offense shall constitute a Class 1 misdemeanor.

2. Providing Adequate Litter Receptacles for Businesses

It shall be the duty of any person owning or operating any commercial establishment to provide receptacles adequate to contain the litter generated at said establishment. The penalty established for violation of this subsection shall be twenty-five (\$25.00) dollars for each day of violation. The offender shall receive a summons from the enforcement officer for any violation of this subsection. The offender may pay the fine in lieu of appearing in court on any first offense.

3. Providing Adequate Litter Receptacles for Residences

- a. All household solid waste shall be contained in receptacles or containers which conform to standards established by the Russell County Board of Supervisors.
- b. It shall be unlawful for any person to use an old appliance or other container deemed unacceptable by the County for trash collection.
- c. Any violation of this subsection shall constitute a Class 3 misdemeanor.

E. Improper Disposal of Waste

1. Depositing Improper Waste in Receptacles or Facilities

- a. It shall be unlawful to improperly dispose of any solid waste as defined in this Ordinance at a facility operated for or in a receptacle placed for public or private use. Improper disposal shall mean and include the depositing in such facility of solid waste which is not accepted or authorized for disposal by such facility. The types of waste not accepted at any such facility shall be displayed at the entrance of such facility or on the receptacle.

F. Enforcement of Litter Laws; Prosecution; Presumption

1. Enforcement

- a. Prosecution for a violation of any provision of this act may be initiated by any law enforcement officer, litter control officer, or private citizen.

2. Authorization of County Litter Control Office to Bring Civil Action.

Whereas Section 10.1-1418.1 of the Code of Virginia, 1950, as amended authorizes the County to bring a civil action against any person who improperly disposes of solid waste on the property of the County, without the County's permission. Whenever a court of competent jurisdiction finds that a person has improperly disposed of solid waste upon the County's property, without the County's permission, the court shall assess a civil penalty of up to five thousand dollars (\$5,000.00) against such defendant, along with costs and reasonable attorney's fees. Any civil penalty assessed pursuant to this subsection shall be paid into the Russell County treasury.

3. Assign -A - Highway Roadside and Illegal Dump Cleanup

For Cleanup of roadside litter and identified illegal dumps within the County, it is hereby established a program pursuant to Section 53.1-129 of the Code of Virginia, 1950, as amended, and the Sheriff of the County and any of his deputies and any Special Conservator of the Peace/Litter Officer who has been approved by a court of competent jurisdiction shall be permitted to utilize probationers or remove inmates from the County or Regional Jail under their supervision to work in this program providing that any such inmate has been specifically approved to be permitted to participate in this program by the Sheriff and by the Court. Probationers will be assigned to two-mile designated sections of highway, cleaned up every two weeks for the duration of their assignment to this program. Inmates shall be utilized only for the cleanup of illegal dumps identified by the County Litter Control Department. During the cleanup of illegal dumps, the Special Conservator of the Peace/Litter Control Officer or the Sheriff or his deputies will be present during this volunteer work.

Sec. 17.2-204. Removal, disposal of trash and garbage.

- (a) The owners of property in the county shall not accumulate thereon and shall remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the county.
- (b) Notice to property owner.
 - (1) The board of supervisors may, when it deems it necessary, give written notice to the owner of any property in the county, and to the person primarily responsible for such property, if different from the owner and if known, stating the facts that constitute a violation of subsection (a) of this section and directing such person or persons to take such action as may be necessary to rectify the conditions within 14 days from the date of the notice.

(2) The notice required by the section shall be by certified or registered mail to the last known address, or by hand delivery by the sheriff of the county, his deputy, the county sanitation officer or the designee of the county administrator, to the owner of the property and to the person primarily responsible for such property, if different from the owner and if known, The notice shall be substantially in the following form:

NOTICE TO REMOVE TRASH, GARBAGE, REFUSE, LITTER AND OTHER SUBSTANCES	
TO: _____ Responsible Party	AT: _____ Address of property _____ Tax Map Number
<p>Pursuant to Code of Virginia, § 15.2-902 and § 15.2-802 of the Ordinances of Russell County, Virginia, you are hereby notified to remove, within 14 days after the date of this notice, all trash, garbage, refuse, litter and other substances that endanger the health or safety of other residents of the county, in particular (<u>describe the conditions</u>). Upon you failure to remove the same, the county's agents or employees may remove such trash, garbage, refuse, litter and other substances that endanger the health or safety of other residents of the county, and the cost and expenses of such removal shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected and shall constitute a lien on the property.</p>	

(c) If the property is not cleaned up after receiving the notice required in subsection (b) of this section, the board of supervisors may have such trash, garbage, refuse, litter and other like substances that might endanger the health of other residents of the county removed by the county's own agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes and levies are collected.

- (d) Every charge authorized by this section with which the owner and lien holder of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with lien 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.
- (e) Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing such matter or in authorized facilities provided for such purpose, and in no other manner not authorized by law.

§ 17.2-205. Dumping trash on highway, right-of-way or private property.

- (a) It shall be unlawful for any person to dump or otherwise dispose 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.
- (b) When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia, § 46.2-936, in making such arrest.
- (c) 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 or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. However, such presumption shall be rebuttable by competent evidence.
- (d) Any person who violates this section shall, upon conviction, be guilty of a class 1 misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$250.00 nor more than \$2,500.00, either or both.
- (e) The provisions of this section shall not apply to the lawful disposal of such matter in landfills, the county transfer station or county convenience stations.
- (f) The Commonwealth Attorney of Russell County, Virginia or his designee shall be responsible for all prosecutions under this section.

§ 17.2-206. Penalties.

The authorized punishments for a conviction of a misdemeanor are:

(a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

(b) For Class 2 misdemeanors, confinement in jail for not more than six months and fine of not more than \$1,000, either or both.

(c) For Class 3 misdemeanors, a fine not more than \$500.

(d) For Class 4 misdemeanors, a fine of not more than \$250.

§ 17.2-207. Effective date of ordinance.

This ordinance shall be effective on the 1st day of January, 2011. The County Administrator is directed to file a certified copy of this Ordinance in the Offices of the Clerk of the General District Court of Russell County and the Clerk of the Circuit Court of Russell County.

Adopted this the 6th day of December, 2010.