

CHAPTER 11

GARBAGE AND REFUSE

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ARTICLE I. IN GENERAL

SECTION 11-1. VIOLATIONS OF CHAPTER.

Except as otherwise specifically provided, a violation of any provision of this Chapter shall constitute a Class 3 misdemeanor.

SECTION 11-2. DEFINITION.

For the purposes of this Code, the Code Enforcement Officer shall be a person designated by the City Manager, who is employed by or serving under contract to the City to enforce one or more of the several public safety provisions of the Code, specifically including the provisions of this Chapter. (Ord. No. 005-93, 02-09-93; Ord. No. 028-97, 10-14-97)

SECTION 11-3. LITTERING.

- (a) No person shall sweep, throw, dump or otherwise dispose of trash, garbage, refuse or other unsightly matter, on a public highway, street, sidewalk or right-of-way, or on property adjacent to such highway, street, sidewalk or right-of-way, or on private property, or into a storm sewer inlet, 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 dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of Section 14-2 of this Code in making such arrest.
- (c) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such matter; provided, however, that such presumption shall be rebuttable by competent evidence.

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- (d) No person shall allow manure deposited by his/her animal to remain on any public highway, street, sidewalk, park, or other public property, or on private property without the written consent of the owner thereof or his agent. Nothing in this subsection shall limit the provisions of subsection (a). (Ord. No. 024-94, 09-13-94)
- (e) A violation of this section shall constitute a Class 1 misdemeanor. (Code 1959, §§10-1 - 10-5, 22-24; Ord. of 6-14-78)

Cross references-- Requirements of housing code relative to storage and disposal of garbage, §6-143; spilling of garbage or refuse from vehicles, §26-11. Deposit of dead animals on street or sidewalk, §5-9; deposit of injurious or hazardous materials on streets and removal of same, §26-10; spilling vehicle load on streets, §26-11; depositing mud, rock, etc., on sidewalks, §26-12.

State Law References -- Authority of city to require property owners to remove garbage and refuse and city's right to operate a garbage and refuse collection and disposal service, Code of Virginia, §§15.1-11, 15.1-857; Similar provisions and authority of city to adopt above section, Code of Virginia, §33.1-346.

SECTIONS 11-4 - 11-15. RESERVED.

ARTICLE II. COLLECTION BY CITY

SECTION 11-16. NOTICE OF ARTICLE PROVISIONS; ESTABLISHMENT OF SCHEDULES AND METHODS OF COLLECTION.

The Public Works Director is empowered and instructed to give due publicity and notice of the provisions of this Article to the public, and to establish schedules for and methods of garbage and refuse collection and any other related regulations as may, from time to time, be necessary. (Code 1959, §10-11; Ord. of 6-14-78, Ord. No. 005-93, 02-09-93)

SECTION 11-17. GENERAL CONTAINER REQUIREMENTS.

- (a) All garbage, consisting of food waste and organic matter, to be collected by the City shall be placed in watertight containers of durable construction, which shall be rust-resistant, nonabsorbent, easily washable, with tight fitting covers and handles, or properly sealed plastic or polyethylene refuse bags, the walls of which are at least two (2) mils in thickness. Such containers shall be not be less than five (5) nor more than twenty (20) gallons capacity and of sufficient construction to keep out water, to prevent disturbance by animals and entrance by insects, and

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to be safely handled by one collector without coming apart due to the contents or weather conditions.

- (b) All refuse other than that provided for in subsection (a) above, or rubbish consisting of cans, bottles, rags, papers, and solid waste materials to be collected by the City shall be placed in cans, plastic or polyethylene bags, or other containers that can be safely handled without coming apart. Such containers may be of any size, not exceeding forty-two (42) gallons capacity, that can be handled safely by one collector, and filled to such a degree and so secured that they will not spill.
- (c) Ashes to be collected by the City shall be placed separately in cans or other tight, non-combustible receptacles that can be safely handled without coming apart, and of not more than twenty (20) gallons capacity and filled not closer than two and one-half (2.5) inches from the top of the container to prevent spilling. (Code 1959, §§10-1-10-3; Ord. of 06-14-78, Ord No. 005-93, 02-09-93)

SECTION 11-18. GARBAGE TO BE DRAINED BEFORE PLACED IN CONTAINER.

Before garbage to be collected by the City is placed in containers, other than those identified under Section 11-23 or as otherwise prohibited under Section 9-91 of the City Code, shall be drained off into the sanitary sewer. (Code 1959, §10-1; Ord. of 06-14-78; Ord. No. 2011-21, 10-11-11)

Cross reference --Discharges of the City's Storm Sewer System, §9-91.

SECTION 11-19. BUNDLING OF BULK MATERIALS.

Tree branches, brush, cardboard containers and other bulk refuse materials need not be placed in containers, but will be collected by the City if flattened and tied in tight compact bundles that can be handled by one collector, not exceeding four (4) feet in length and eighteen (18) inches in diameter. (Code 1959, §10-3; Ord. of 06-14-78)

SECTION 11-20. WEIGHT OF BUNDLES, CONTAINERS AND CONTENTS.

The total weight of any one container, including its contents of garbage, ashes or rubbish, or of any one bundle of rubbish, to be collected by the City shall not exceed seventy-five (75) pounds. (Code 1959, §10-4; Ord. of 06-14-78)

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SECTION 11-21. PLACEMENT FOR COLLECTION; REMOVAL OF UNCOLLECTED GARBAGE AND EMPTY CONTAINERS.

All garbage, ashes, or other waste material to be collected shall be placed on the curb or other approved place of collection not earlier than 6:00 p.m. on the day prior to and not later than 7:30 a.m. on the day of regular collection. All garbage not collected because of noncompliance with this article shall be removed at once. Empty cans shall be removed on the same day of collection. (Code 1959, §10-10; Ord. of 6-14-78; Ord. No. 013-81, 06-09-81)

SECTION 11-22. MAXIMUM AMOUNT TO BE COLLECTED.

The total amount of garbage, ashes and other refuse to be collected by the City at any one residence or business shall not exceed three (3) containers or bundles in any one collection, except in the primary and secondary downtown districts as defined in Section 25-1 of this Code. (Code 1959, §10-6; Ord. of 06-14-78; Ord. No. 013, 5-10-05)

SECTION 11-23. REFUSE NOT ACCEPTABLE FOR COLLECTION.

- (a) No hazardous material, animal manure, human excreta, industrial waste, building waste, infectious waste or automobiles or parts will be collected by the City. Hazardous materials are defined as cleaning fluids, gasoline, crankcase oil, paints, plastics, rubber cuttings or other highly inflammable material or substances such as poisons, gases, caustics, explosives, radioactive materials or fine powdery earth used to filter cleaning fluid or other like refuse material or substance. In the event such refuse is found, the person placing such refuse for collection shall be required to remove and properly dispose of such refuse immediately. Excreta in diapers of infants or persons with a medical condition causing incontinence, shall /be collected if such excreta is prepared for collection in compliance with this chapter. Further, this section shall not apply to animal waste prepared for collection in compliance with this chapter. (Ord. No. 005-93, 02-09-93; Ord. No. 020-94, 06-14-94)
- (b) Radioactive materials, drugs, poisons and like substances shall be disposed of under the supervision of the Director of Health or some other qualified person.
- (c) Ashes containing hot live coals or fire will not be collected by the City.
- (d) Garbage and trash originating outside the corporate limits will not be collected by the City. (Code 1959, §§10-2, 10-7; Ord. of 6-14-78)

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SECTION 11-23.1. MULTI-FAMILY PROJECTS - REFUSE DISPOSAL.

- (a) Defined: For the purposes of this chapter, the term multi-family project means any apartment or other building, or buildings within the City consisting of more than four (4) dwelling units. Any multi-family project adding dwelling units at any time after the effective date of this ordinance shall be deemed a multi-family project for the purposes of this chapter if the additional units cause the total project units to increase from four (4) or less dwelling units to more than four (4) dwelling units. This section shall not apply to any project in which a majority of the units are occupied by the owners of the units, such as townhouses or condominiums.
- (b) The owner or owners (hereinafter owner) of each multi-family project shall provide for its own refuse collection. The City shall not collect refuse from any such project.
- (c) Refuse Storage Area-Requirements: The owner of each multi-family project shall provide one or more separate areas for storage of refuse on the project grounds. Each storage area shall have a concrete pad. If a dumpster-type container is to be used, the pad shall extend from the area to the adjacent street or parking area, and shall be of sufficient width to allow access by the refuse vehicles(s) serving the project. Each refuse storage area shall be enclosed by opaque gates and screening made of decay-resistant wood or masonry screening walls equal to or greater than the height of the container(s) placed on the storage area in compliance with this section. Landscaping as required by the Zoning Ordinance shall also be provided around the perimeter of the area.
- (d) Refuse Containers-Requirements: The owner shall also provide container(s) in the separate storage area for deposit of trash, garbage and recyclables by the residents of the project. The containers may be of any size or type, but must be watertight, durable, rust-resistant, nonabsorbent, easily washable, with tight fitting covers or doors. Plastic bags shall not be sufficient to comply with this section. The owner shall ensure that all material is properly deposited and stored in the container(s).

If dumpster-type containers are used, the containers shall be fully closed when not being loaded or unloaded. The City shall not be required to provide collection from dumpster-type containers.

The owner shall provide an adequate number and size of containers to hold the refuse normally produced by the project served until it is to be collected. If the owner is responsible for collection, the collections must be made at least one time per week.

The owner shall be responsible to insure that a nuisance, as defined in §16-19 of this Code, shall not exist and that littering, as defined in §11-3 of this chapter,

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shall not result. It shall be the responsibility of the owner to ensure that all trash, garbage, refuse, litter and other substances, are properly stored within the provided containers and that the containers remain properly enclosed.

- (e) The Code Enforcement Officer shall be responsible for notifying property owners of violations of subsections (c) or (d) of this section. For any violation of this or any other section of this chapter requiring that trash, garbage, refuse, litter and other substances to be properly stored within the containers on the owner's property, if such violation continues for seven (7) or more days, after the officer has mailed a notice of violation, the Zoning and Inspections Administrator may have the garbage, refuse, litter, trash and other substances removed. The cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the City as taxes and levies are collected. In addition, for any violation of subsections (c) or (d), the code enforcement officer may take all actions to correct the violation allowed by law.
- (f) A violation of any provision of this section shall constitute a Class 3 misdemeanor. If any person commits violations under this section three (3) times within any twelve (12) month period, the third and any subsequent violations within the twelve (12) month period shall constitute a Class 1 misdemeanor.
- (g) The City shall continue to collect recyclable material from all multi-family projects.

(Ord. No. 005-93, 02-09-93; Ord. No. 028-97, 10-14-97; Ord. No. 013-2005, 5-10-05; Ord. No. 2011-21, 10-11-11)

State Law Reference--Code of Virginia, §15.2.901.

SECTION 11-23.2. ENFORCEMENT.

All alleged violations of any provision of this chapter shall be reported to the Zoning and Inspections Administrator or his designee.

It shall be the duty of the Zoning and Inspections Administrator or his designee to investigate alleged violations of this chapter and procure warrants and other necessary process to effect criminal prosecution and/or civil enforcement if violations have occurred. (Ord. No. 005-93, 02-09-93; Ord. No. 2011-21, 10-11-11)

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SECTION 11-24. COLLECTION OF MATERIAL TO BE RECYCLED.

- (a) Source separation of material, such as newspapers for recycling, shall be on a voluntary basis. Persons electing to participate in recycling efforts shall separately bundle, box or secure materials for recycling and deposit them at curbside on the days scheduled for pickup of recyclable material.
- (b) Recyclable material in the form of discarded newspapers, metal, glass or other material for recycling shall be placed within the vicinity of the curb for pick-up, collection and recycling. Anyone other than the depositor of the material to be recycled or an agent or agency acting on behalf of the City Department of Public Works who removes said refuse for his own use shall be guilty of a Class 4 misdemeanor.
- (c) Refuse not suitable for recycling, consisting of those items designated by the public works director, shall be collected by the City or its agents only on those days not designated for collection of recyclable materials. Non-recyclable materials shall not be placed for collection on the days set for recycling collection unless otherwise provided in this Code. (Ord. No. 007-81, 04-14-89; Ord. No. 005-93, 02-09-93)

State Law References--Code of Virginia, §15.2-937, 15.2-928

ARTICLE II-A. DISPOSAL OF INFECTIOUS WASTE

SECTION 11-25. DEFINITIONS.

- (A) Infectious waste. Any waste is an infectious waste if it is capable of producing an infectious disease. Any waste item which has been or may have been contaminated by an organism that may be pathogenic to humans and in which such organism may be present in sufficient quantities and with sufficient virulence to transmit disease shall be considered to be capable of producing an infectious disease. The following are also infectious waste:
 - 1. Isolation wastes. Isolation wastes are all wastes resulting from the housing, treatment and management of a patient who is isolated because he is believed to have a contagious disease, including protective clothing and other items resulting from visitation to the patient. Isolation waste is infectious waste if it may have been in contact with the patient or discharges, effusions, excreta or body fluids of the patient. The infectious nature of isolation wastes is governed in part by the organism of concern. The Federal Center of Disease Control, Center for Infectious Diseases, Hospital Infections Program has published Guidelines for Isolation

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Precautions in Hospitals (1983) which recommends which materials to consider infective based on the specific organism of concern. When the organism of concern is known, isolation wastes that the guidelines recommend be considered infective material are infectious waste, and other wastes may be considered not to be infectious waste. However, wastes contaminated with infective materials/infectious wastes are infectious waste.

2. Cultures and stock of organisms and biologicals. Discarded cultures, stocks, specimens, vaccines and associated items that may have been contaminated by them are infectious wastes if they may contain organisms that may be pathogenic to humans. Discarded etiologic agents are infectious waste. Wastes from the production of biologicals and antibiotics that may have been contaminated by organisms that may be pathogenic to humans are infectious wastes.
3. Blood and blood products. Wastes consisting of human blood, human blood products (includes serum, plasma, etc.) and items contaminated by human blood are infectious waste.
4. Pathological wastes. All pathological wastes that are human tissues, organs, body parts, or body fluids are infectious waste.
5. Sharps. Used hypodermic needles, syringes, scalpel blades, pasteur pipettes, broken glass and similar devices that may be contaminated with organisms that are pathogenic to humans, and all sharps used in or related to patient care are infectious wastes.
6. Miscellaneous contaminated wastes. All wastes, discarded equipment and discarded products from the following facilities, or parts of a facility, are infectious waste if within them materials are managed that may contain organisms that may be pathogenic to humans (administrative, clerical and other areas where the possibility of contamination is minimal are not included):
 - a. Surgeries, autopsy rooms, examination rooms and obstetrical rooms.
 - b. Preparation rooms at mortuaries, funeral homes and similar facilities.
 - c. Laboratories.
 - d. Pharmaceutical, research, commercial or industrial biological processes.
 - e. Any waste contaminated by or mixed with infectious waste.
 - f. Hemodialysis units.

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7. Exclusions. The following items are not infectious wastes for the purposes of this ordinance:
- a. Human remains, including those remains identified in Section 11-25(A)(4) under the control of a licensed physician or dentist while such remains are being used for medical purposes, or while in preparation by a licensed mortician for interment or cremation.
 - b. Wastes contaminated only with organisms which are not generally recognized as pathogenic to humans, even if those organisms cause disease in other animals or plants, and which are managed in complete accord with all regulations of the U. S. Department of Agriculture and the Virginia Department of Agriculture and Consumer Services.
 - c. Wastes that are clearly identifiable as wastes and which are pathogenic to humans only through direct ingestion. (Examples of these wastes are spoiled food or contaminated fish that may contain pathogens, but those pathogens are only transmitted if the material is eaten.)
 - d. Sharps generated by the occupants of a residence, which are placed in containers in compliance with §11-27, except a residence in a nursing home or other medical care facility. (Ord. No. 020-94, 06-14-94; Ord. No. 2011-21, 10-11-11)
- (B) Sharps. Used hypodermic needles, syringes, scalpel blades, pasteur pipettes, broken glass and similar devices. (Ord. No. 056-88, 12-13-88)

SECTION 11-26. REPEALED

SECTION 11-27. SHARPS - CONTAINER REQUIREMENTS.

Sharps shall be placed in sealed, rigid, puncture-resistant containers. The containers shall be placed in bags. (Ord. No. 056-88, 12-13-88; Ord. No. 020-94, 06-14-94)

The provisions of this ordinance shall become effective January 1, 1989. (Ord. No. 048-88, 12-13-88)

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SECTION 11-28. COLLECTION FROM PRIVATE STREETS.

The Public Works Director or his designee shall determine whether the City refuse vehicles can obtain safe access to refuse containers located along any private street or other private property and may refuse to collect if safe access is determined not to exist.

The City shall not be responsible for any maintenance of any private street used by the Public Works Department for collection of refuse. If weather or other conditions exist which temporarily prevent safe access along a private street or over other private property or to any refuse collection receptacles, the Director or his designee may decline to have refuse collected. (Ord. No. 020-94, 06-14-94).

SECTION 11-29. CONFINEMENT OF ANIMALS WHICH INTERFERE WITH COLLECTORS.

Occupants of premises shall facilitate the collection of garbage, trash or refuse by confining, during regular or special collection times, any animals which might interfere with the refuse collectors. (Ord. 020-94, 06-14-94)

SECS. 11-30 - 11-34. RESERVED.

ARTICLE III. ACCUMULATIONS OF GARBAGE AND REFUSE

SECTION 11-35. DEFINITION.

For the purposes of this article, the word "owner" shall include all persons holding title to any land or lot in the City; lessees, tenants and principal occupants of any land or lot in the City or agents of persons holding title to such lands or lots, having care, custody, control or management of the land or lot; and fiduciaries holding title to or having the care, custody, control, or management of land or lots in the City for others. (Code 1959, §11-5)

SECTION 11-36. PROHIBITED. CIVIL PENALTIES

- (a) Owners of property within the City shall keep the exterior of such property free of trash, garbage, refuse, litter, animal manure, human excreta, appliances and inoperable mechanical equipment except those that are part of a business that is in compliance with the Winchester Zoning Ordinance and other substances which might endanger the health of the residents of the City. Appliances and mechanical equipment which are stored outside and have doors which are only

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operable from the outside or may obstruct the exit by a person from the inside shall have the doors taken off and made inoperable or made secure from entry by lock and chain until the appliance has been removed.

- (b) Where a landlord or other owner, (hereinafter, landlord), through his or her own work or through judicial process has caused the personal property of a tenant to be removed from any rented unit and placed outside of any building, whether onto the landlord's property or onto the public property adjacent thereto, the landlord shall cause such personal property to be completely removed from the landlord's property or public property within twenty-four (24) hours of the removal from the rental unit.(Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 027-90, 7-10-90; Ord. No. 020-94, 06-14-94)
- (c) Any owner who violates any provision of this section shall be subject to a civil penalty of Fifty Dollars (\$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 twelve (12) months of the first violation shall be Two Hundred Dollars (\$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 violations arising from the same set of operative facts result in civil penalties that exceed a total of Three Thousand Dollars (\$3,000.00) in a twelve (12) month period.
- (d) Violations of any provision of this section shall be a Class 3 misdemeanor in the event three (3) 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, with a twenty-four (24) month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation. (Ord. No. 2008-03, 1-8-08)

Cross references--Requirements that premises be kept free from accumulations of rubbish and garbage, City Code Section 6-84

State Law References--Code of Virginia, §§15.2-901 and 18.2-319

SECTION 11-37. NOTICE TO REMOVE.

Where substances of the nature set forth in Section 11-36 are found upon property within the City, the Code Enforcement Officer shall immediately notify the owner of such property to remove such substances. Such notification shall be by registered or certified letter sent to the owner at his last known address, hand delivered by the Code Eforcement Officer or served by a member of the police department. (Ord No. 028-97, 10-14-97)

If, after diligent inquiry, no address can be found for such owner or if such owner refuses to accept the letter referred to herein, the letter herein referred to shall be posted in a

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conspicuous place on the property. This section shall not apply to personal property subject to §11-36(b). (Code 1959, §11-5; Ord. No. 048-88, 11-13-88; Ord. No. 019-89, 8-08-89; Ord. No. 028-91, 6-11-91; Ord. No. 020-94, 06-14-94)

Cross reference--Grass, weeds and other foreign growth on private property, §30-49 *et seq.*

SECTION 11-38. REMOVAL BY THE CITY.

- (a) If the substances referred to in Section 11-36 have not been removed from the property by the owner within seven (7) days from the date the letter has been mailed or the notice posted pursuant to Section 11-37, or, in the case of personal property subject to §11-36(b), within the time prescribed in that subsection, the Code Enforcement Officer may cause the removal by the City's forces or the City's agent of such substances from such property forthwith. (Ord. No. 020-94, 06-14-94; Ord. No. 028-97, 10-14-97)
- (b) Where substances have been removed from property by order of the Code Enforcement Officer pursuant to the provisions of this section, the cost of such removal shall be billed to the owner of the property. If such bill is not paid, it shall be added to the City real estate tax on such property and shall be a lien on such property to the same extent and effect as such real estate tax is. (Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 028-91, 6-11-91; Ord. No. 005-93, 02-09-93; Ord. No. 028-97, 10-14-97)

SECTION 11-39. RESERVED

ARTICLE IV. DISPOSAL OF YARD WASTES

SECTION 11-40. NOTICE OF ARTICLE PROVISIONS, ESTABLISHMENT OR SCHEDULES AND METHODS OF COLLECTION

The Director of Public Works is empowered and instructed to give due publicity and notice of the provisions of this Article to the public, and to establish schedules for and methods of yard waste collection and any other related regulations as may, from time to time, be necessary.

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SECTION 11-41. DEFINITIONS

Yard Waste: Any waste that consists of grass clippings, soft plant material, brush and leaves. Tree branches not exceeding two (2) inches in diameter shall also be designated as yard waste.

SECTION 11-42. PLACEMENT FOR COLLECTION; REMOVAL OF UNCOLLECTED YARD WASTES AND EMPTY CONTAINERS

All yard wastes to be collected shall be placed on the curb or other approved place of collection not earlier than 6:00 p.m. on the day prior to and not later than 7:30 a.m. on the day designated for collection. All yard waste not collected due to non-compliance with this article shall be removed at once. Empty containers shall be removed on the same day of collection.

SECTION 11-43. CONTAINER REQUIREMENTS

- (a) All yard waste to be collected by the City shall be placed in containers of durable construction or biodegradable bags made for such purpose. Such containers shall be not more than thirty-two (32) gallon capacity and of sufficient construction to be safely handled by one collector without coming apart due to the contents or weather conditions.
- (b) Plastic bags shall not be used for the disposal of yard waste.
- (c) Tree branches and brush need not be placed in containers, but will be collected by the City if tied in tight compact bundles that can be handled by one collector, not exceeding four (4) feet in length and eighteen (18) inches in diameter.

SECTION 11-44. WEIGHT OF BUNDLES, CONTAINERS AND CONTENTS

The total weight of any one container, including its contents of yard waste, or of any one bundle of yard waste, to be collected by the City shall not exceed seventy-five (75) pounds. (Ord. No. 019-2003, 5/13/03)

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