

Chapter 12

SOLID WASTE*

* **Editors Note:** An ordinance adopted Dec. 17, 1990, rescinded, in effect repealed, the provisions formerly codified as §§ 12-1--12-4, 12-26--12-34, 12-51--12-56 and 12-76--12-83 and enacted similar new provisions as §§ 12-1--12-4, 12-26--12-36, 12-51--12-55 and 12-76--12-83. Formerly, such provisions derived from Ord. No. 1984-5, §§ 11:401--11:406, adopted Dec. 3, 1984, and an ordinance adopted Jan. 4, 1988.

Cross References: Administration, Ch. 2; public works department, § 2-347 et seq.; animals, Ch. 3; buildings and building regulations, Ch. 4; health, Ch. 7; nuisances, § 7-16 et seq.; housing, Ch. 8; mobile homes and manufactured housing and mobile home parks, Ch. 10; streets, sidewalks and other public places, Ch. 13; utilities, Ch. 16; zoning and land use, Ch. 17.

State Law References: Civil liability for hazardous waste violation, RSA 147:58; hazardous waste management, RSA 147-A; hazardous waste clean-up fund, RSA 147-B; hazardous waste facility review, RSA 147-C; hazardous waste fee, RSA 147-D; NH-VT interstate sewage compact, RSA 147-J; solid waste management, RSA 149-M; acquisition, development and disposal of industrial land and facility, RSA 162-G.

Case Law References: *Stablex v. Town of Hooksett*, 122 N.H. 1091, 490 A2d 94 (1982); the state hazardous waste program governed by RSA Chapter 147-A and RSA Chapters 147-B, 147-C and 147-D represents a comprehensive plan intended to be implemented on a statewide basis and as such, it completely preempts the field of hazardous waste legislation in the state; *Applied Chemical Technology Inc. v. Town of Merrimack*, 126 N.H. 45, 490 A2d 1348 (1985); *Opinion of the Justices*, 114 N.H. 170, 316 A2d 190 (1979); *Bagley v. Controlled Environmental Corp.*, 127 N.H. 556, 503 A2d 823 (1986).

Art. I. In General, §§ 12-1--12-25

Art. II. Collection and Disposal, §§ 12-26--12-50

Art. III. Municipal Solid Waste Disposal Facilities, §§ 12-51--12-75

Art. IV. Privately Operated Solid Waste Disposal Facility, §§ 12-76--12-83

ARTICLE I.

IN GENERAL

Sec. 12-1. 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:

Bulky waste facility shall mean a solid waste facility approved to accept rubbish or special wastes.

Commingled recyclable materials shall include materials which are sorted into containers separate from non-recyclable solid waste.

Combustible waste shall mean all waste substances that have been approved for incineration including tree limbs and brush and clean combustible building demolition material.

Commercial and industrial establishments shall include all public or private establishments including,

but not limited to, those manufacturing, retailing and/or service establishments; food establishments in business for the purpose of consumption, on or off premises, as well as food distribution and/or processing; and professional and/or corporate entities and finally residential structures of three (3) or more units. For the purpose of this Chapter, commercial and industrial establishments shall constitute a “person”. (Ord. 9-17-12)

Demolition debris shall mean wood, brick, plaster or other waste matter resulting from demolition, alteration or construction of buildings or structures.

Dwelling unit shall include any one-family, two-family or multifamily home; apartments and high rises **up to but not including 3 units**; condominiums and/or cooperatives.

Garbage shall mean all animal and vegetable waste and all putrescible waste.

Glass containers shall be deemed to include all bottles and jars made entirely of glass and used in the storage of food and beverages. Specifically excluded are blue glass, mirrors, flat glass commonly known as window glass, and light bulbs.

Hazardous wastes shall mean any product considered hazardous by the US Environmental Protection Agency. These materials are generally considered hazardous because they exhibit one (1) or more of the following characteristics: ignitability, reactivity, corrosivity or toxicity. Examples include solvents (kerosene, turpentine, nail polish remover); certain household products (furniture polish, oven cleaners, drain cleaner); certain home maintenance products (oil-based paints, pool chemicals, varnishes), and pesticides.

Incident shall mean any situation created by or through the operation of a solid waste facility which results in any threat or harm to persons and/or the environment that requires immediate remedy including, but not limited to, fire suppression, chemical containment or cease and desist of operations.

Infectious waste means any waste which, because of its infectious nature, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Liquid tight shall mean the thing so described is resistant to permeation by water and will hold water and any liquid introduced to the interior thereof by the user.

Newspaper shall be deemed to include newspaper including glossy inserts, Sunday magazines, and comics. Specifically excluded are magazines, paperboard boxes (cereal, raisin, pasta boxes, etc.), junk mail, office paper, egg cartons, and waxed paper.

Person shall mean a natural or corporate person or any governmental agency, except in context of health of persons in which case it shall mean natural persons only.

Plastics shall be deemed to include high-density polyethylene (HDPE) and polyethylene terephthalate (PET) plastics. HDPE includes milk, juice and water jugs, all liquid laundry detergent, dishwasher, fabric softener and bleach bottles, motor oil, transmission fluid, and anti-freeze containers, windshield washing solvent containers, and shampoo bottles. PET includes clean and clear soda bottles.

Proper manner or properly shall mean that a thing is done reasonably so as to meet the requirements, purposes and spirit of this chapter.

Public or private institutions shall include all municipal and state government facilities; all religious, educational and health care facilities; and any and all public and/or private civic organizations.

Radioactive wastes shall mean wastes resulting from the mining of radioactive ore, production of reactor fuel materials, reactor operation, processing of irradiated reactor fuels and related operations, and from use of radioactive materials in research, industry and medicine.

Recyclable materials shall include all waste materials designated by the municipality to be source separated from the solid waste stream for the purpose of recycling, and includes newspaper, glass, plastic, yard waste, scrap metal and tires.

Recycling shall mean the process by which designated materials, which would otherwise become solid waste, are separated, collected, processed and returned to the economic mainstream in the form of raw materials or products.

Refuse shall include garbage, household and office type wastes, and certain other wastes approved for disposal in the city's sanitary landfill(s).

Residing shall mean maintaining a household, dwelling, business, office or other place which generates solid waste.

Rubbish shall include furniture, mattresses and similar bulky wastes, and certain commercial and industrial wastes approved for disposal in the city's bulky waste facilities.

Sanitary landfill shall mean the type of operation in which refuse is deposited by plan in a pit or excavation of open land, is compacted and then covered by a layer of earth or suitable covering material.

Scrap metal shall be deemed to include all discarded products made of steel, aluminum or other metal materials used for any purposes. Specifically excluded are food and/or beverage packaging, automobiles, and tanks used for oil, gasoline, hazardous or radioactive material storage.

Solid waste, for purposes of section 12-26 et seq., shall not include septage.

Tires shall be deemed to include all discarded rubber automobile, truck, tractor, motorcycle and off-road vehicle tires.

Tree limbs and brush shall mean all clean brush and limbs not exceeding five (5) inches in diameter. Stumps are specifically excluded.

Waste reduction shall mean any acceptable process or practice which minimizes the quantity of solid waste disposed of by landfilling.

Yard waste shall include leaves and lawn clippings and green or dry garden waste.
(Ord. of 12-17-90)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 12-2. Authority.

This chapter is adopted pursuant to the authority granted the city in RSA 47:17 regarding bylaws and ordinances and RSA 149-M regarding solid waste management.
(Ord. of 12-17-90)

Sec. 12-3. Purposes.

The purposes of this chapter are to protect the health and welfare of the city and its people; to prevent, abate and remove nuisances; to regulate the storage, collection, transportation, processing and disposal of garbage; to regulate the use of streets and public ways so as to prevent inconvenience or hindrance to public travel; to prevent expense to the city; and to add to, and for compliance with, state and federal regulation.

There is hereby established a mandatory program for the source separation of certain designated materials from the solid waste stream including newspaper, glass, plastic, yard waste, tree limbs and brush, demolition debris, scrap metal and tires from the solid waste generated within the city for the purposes of recycling and waste reduction.

(Ord. of 12-17-90)

Sec. 12-4. Facilities, collection activities generally.

No person shall establish or operate a solid waste facility except in accordance with the zoning ordinance and as permitted herein; nor shall any person dispose of, deliver for disposal, or accumulate deliveries of solid waste except at a solid waste disposal facility permitted herein. No person shall prepare solid waste for collection except as permitted in this chapter.

Secs. 12-5--12-25. Reserved.

ARTICLE II.

COLLECTION AND DISPOSAL*

* **State Law References:** Sanitation, RSA 147:1 et seq.

Sec. 12-26. Disposal of refuse.

(a) It shall be the duty of all persons residing in dwelling units within the City as well as all commercial and industrial establishments within the City to place all household refuse in suitable receptacles as may be approved by the director of public works and/or health officer and to place the same near the sidewalk or street on those mornings and at such times as designated by the director of public works as collection days. Snow must be cleared so receptacles are readily accessible to employees of the public works department. Refuse shall not be placed at the curb until the morning of the designated pick up day.

(b) Municipal collection of commercial, industrial or institutional refuse shall be limited to not more than one (1) pickup per week and not more than two (2) cubic yards or two hundred forty (240) pounds of acceptable refuse per residential unit or commercial, industrial or institutional establishment. It shall be the duty of all persons residing in dwelling units within the City as well as commercial and industrial establishments within the City to place such refuse in suitable receptacles of not more than 30 pounds each. (Ord. 9-17-12)

Sec. 12-27. Disposal of designated recyclable materials.

It shall be the duty of all persons residing within in dwelling units within the City as well as all commercial and industrial establishments within the City to separate designated recyclable materials from the solid waste and dispose of these materials separately in the manner indicated below: The separate curbside boxes containing separated recyclables as indicated below shall be placed at the curb for collection on the day(s) specified by the Director of Public Works. Recyclable items shall not be placed at the curb until the morning of the designated pick up day.

(1) Separately, newspaper and magazines shall be secured in covered containers or in plastic bags to facilitate handling and ensure that it will not be windblown or distributed on the public streets and protected from precipitation. The containers or bags shall not exceed a weight of thirty (30) pounds each.

(2) Separately, glass containers, plastic containers (with caps removed) (accepted by the AVRRDD) and aluminum and tin cans shall be rinsed clean of all residue and may be mixed together and placed in an appropriate plastic container (approved curbside box) (Ord. 9-17-12)

- From an operational standpoint, requiring the recyclables to be sorted in individual containers could potentially decrease the time required for collection and ultimately free up 2 employees to perform other tasks during the work week.

Sec. 12-28. Disposal of special and hazardous wastes.

Solid wastes not itemized above shall not be collected by public works department crews unless special collections of such wastes are established by the city council. Residents should contact the AVRRDD to see if they can dispose of other wastes there. Special and hazardous wastes shall be separated and disposed of in the following manners:

(1) Tires may be accepted or not as authorized by the AVRRDD facility on Route 110. City permits enabling City residents to, at no cost, dispose of up to the same number of tires (no more than 4 tires/vehicle) for which they have registered vehicles at the AVRRDD facility may be obtained at City Hall.

(2) Asbestos shall be properly bagged or otherwise prepared in accordance with the provisions of state and federal regulations, as applicable, and as directed by the health officer and may be accepted or not as authorized by the AVRRDD facility on Route 110..

(3) Waste oil shall be disposed of by:

a. Incineration in approved waste oil furnaces;

- b. Through approved waste oil recovery firms; or may be accepted or not as authorized by the AVRRDD facility on Route 110
- c. By other method approved by the health officer.

(4) Wet-cell batteries shall be disposed of at authorized battery recovery facilities or by any other method approved by the health officer or may be accepted or not as authorized by the AVRRDD facility on Route 110

(5) Hazardous wastes shall be disposed of through approved hazardous waste recovery firms or may be accepted or not as authorized by the AVRRDD facility on Route 110

(6) Infectious wastes shall be disposed of in accordance with regulations promulgated by the state department of environmental services and may be accepted or not as authorized by the AVRRDD or as otherwise directed by the health officer.

(Ord. 9-17-12)

Sec. 12-29. Specifications for receptacles.

Receptacles for refuse and separated recyclables shall be made of metal or plastic, (including disposable plastic bags for refuse), be liquid tight, **include at least one handle for ease of lifting** and provided with a reasonably tight-fitting cover or closure. When filled, they will have a weight of not more than thirty (30) pounds. **The size of receptacles for refuse shall not exceed fifty-five (55) gallons and** Receptacle shall meet all other reasonable specifications which may be required by the director of public works and the health officer.

Receptacles for designated recyclable materials shall be **of blue or green in color and be no larger than 24" long by 16" wide by 16" high. Receptacles are available for purchase through the City at a rate determined by the Public Works Director. those furnished by the city or Alternative receptacles purchased not through the City are subject to those approved approval** by the city for the placement of such recyclable materials. (Ord. 9-17-12)

Sec. 12-30. Manner of filling receptacles.

Refuse receptacles other than disposable plastic bags shall be filled so that public works department crews can easily empty them by turning them so that the open top is below the bottom. Crews are not required to pull contents from receptacles. If a receptacle will not empty, it will be left at the curb. (Ord. 9-17-12)

Sec. 12-31. Maintenance of receptacles.

Receptacles shall be kept in good condition at all times and shall be cleaned as necessary or as required by the health officer. All receptacles not so cleaned after the owner has been notified in writing twice may be declared a danger to public health or otherwise unfit for use and, if so declared, shall be confiscated and destroyed or otherwise disposed of.

(Ord. of 12-17-90)

Sec. 12-32. Disposition of uncollectible wastes.

Refuse and designated recyclable materials not prepared as described in this article will not be collected by the crews of the public works department. If uncollectible materials are not removed from the sidewalk or street

within twelve (12) hours after the collection crew has passed, it may be collected by a special crew, and the cost thereof shall be borne by the property owner. Collection of such costs shall be as permitted by the laws of the state. Otherwise, it shall be the responsibility of such property owner to properly remove and dispose of it in a proper manner. If the offender continues to violate the provisions of this article, municipal collection of refuse and designated recyclable materials from the offender may cease until such time as the offender complies with this section. (Ord. 9-17-12)

Sec. 12-33. Collection of designated recyclable materials by unauthorized persons prohibited.

Recyclable material as defined herein shall be the property of the city once placed at the designated collection or pickup sites authorized by the municipality or its designated agent.

It shall be a violation of this chapter for any person unauthorized by the municipality or its designated agent to pick up or cause to be picked up such recyclable materials as defined herein. Each such collection in violation hereof shall constitute, a separate and distinct offense, punishable as hereinafter provided. (Ord. 9-17-12)

Sec. 12-51. Transportation of refuse. – Relocated from Article II

(a) No person shall drive on any street or highway any open vehicle loaded with bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles or parts thereof, grass, brush, sawdust, wood, bark, leaves, clippings, pruning or gardening refuse, household refuse or refuse of any nature whatsoever, earth, sand, asphalt, stone, gravel or other particulate substance unless such vehicle is equipped with and such load is covered and secured by a close-fitting tarpaulin or other covering or securing method which prevents the escape of any substance from such load onto the street or highway. No person shall operate on any street or highway any vehicle with any load unless such load and any covering thereon are securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the street, highway, right-of-way and private property in accordance with RSA 163B and RSA 147:33.

(b) Any person who violates the provisions of this section shall be guilty of a violation. Any person shall be liable to the city for any damage done to the street or highway or for any costs incurred by the city to have such obstruction or deposits removed in addition to a minimum fine of one hundred dollars (\$100.00) per occurrence. Each day that the violation(s) exists shall be considered a separate offense.

(c) The provisions of subsection (a) shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a street or highway, provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.

(d) The provisions of subsection (a) shall not apply to:

(1) The operation of highway building equipment as defined in RSA 259:42 and motor vehicles used in the construction of highways provided that such equipment or motor vehicles are used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the driver of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care.

(2) The operation of municipal and state highway maintenance equipment.

(Ord. of 12-17-90; Ord. of 3-16-92)

Sec. 12-34. Alternative disposal.

Nothing in this article shall be construed to prevent persons from selling, donating or otherwise disposing of solid waste, to private persons, provided receptacles are satisfactory to the health officer, are maintained and kept in a satisfactory condition at all times and such materials are disposed of in an appropriate manner at an approved location. (Ord. 9-17-12)

Sec. 12-35. Days for collection.

Solid waste shall not be collected by the public works crews on the following days:

- (1) Any legal holiday; and
- (2) Any Monday which immediately follows a Sunday which is a legal holiday.

In such cases, there shall be collections on days to be announced.
(Ord. of 12-17-90)

Sec. 12-36. Penalties.

a) Any person failing to comply with this article after due warning as defined herein shall be served a summons, shall be guilty of a violation and shall lose the privilege of municipal refuse collection until all levied fines for the infraction are paid or waived by the court, and, on conviction thereof, shall be fined in an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense. The term "due warning" as used herein shall mean at least two separate written notices from the City within any six (6) month period either left attached to a property owner's curbside receptacle and/or mailed to the property owner which states the nature of the violation which needs to be corrected. In addition to and/or in lieu of the penalties stated herein for violations which continue after "due warning", the Public Works Director at his/her discretion may discontinue refuse pickup and/or recycling services at the offending property until such violations are corrected.

(b) Any person violating any of the provisions of this article shall become liable to the city for any loss, expense or damage occasioned the city by the reason of such violation or necessary actions needed to correct the violation. (Ord. 9-17-12)

Secs. 12-37--12-50. Reserved.

ARTICLE III.

MUNICIPAL SOLID WASTE DISPOSAL FACILITIES*

~~* Cross References: Streets, sidewalks and other public places, Ch. 13.~~

~~State Law References: Power to regulate landfill, RSA 147:26a.~~

Sec. 12-51. Transportation of refuse.

~~———— (a) ——— No person shall drive on any street or highway any open vehicle loaded with bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles or parts thereof, grass, brush, sawdust, wood, bark, leaves, clippings, pruning or gardening refuse, household refuse or refuse of any nature whatsoever, earth, sand, asphalt, stone, gravel or other particulate substance unless such vehicle is equipped with and such load is covered and secured by a close fitting tarpaulin or other covering or securing method which prevents the escape of any substance from such load onto the street or highway. No person shall operate on any street or highway any vehicle with any load unless such load and any covering thereon are securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the street, highway, right of way and private property in accordance with RSA 163B and RSA 147:33.~~

~~———— (b) ——— Any person who violates the provisions of this section shall be guilty of a violation. Any person shall be liable to the city for any damage done to the street or highway or for any costs incurred by the city to have such obstruction or deposits removed in addition to a minimum fine of one hundred dollars (\$100.00) per occurrence. Each day that the violation(s) exists shall be considered a separate offense.~~

~~———— (c) ——— The provisions of subsection (a) shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a street or highway, provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.~~

~~———— (d) ——— The provisions of subsection (a) shall not apply to:~~

~~———— (1) ——— The operation of highway building equipment as defined in RSA 259:42 and motor vehicles used in the construction of highways provided that such equipment or motor vehicles are used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the driver of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care.~~

~~———— (2) ——— The operation of municipal and state highway maintenance equipment.
(Ord. of 12-17-90; Ord. of 3-16-92)~~

Sec. 12-52. Hours of operation.

~~The director of public works shall seasonally adjust the hours of operation of the sanitary landfill and the bulky waste facility as may be deemed necessary. All scheduled changes in the hours of operation shall be publicly advertised.
(Ord. of 12-17-90)~~

~~Sec. 12-53. Acceptance and separation of materials.~~

~~—— (a) —— It will be required by the director of public works, in conformity with state regulations, that all persons utilizing the city's landfills shall separate and deposit garbage at the East Milan Sanitary Landfill and all rubbish at the Cates Hill Bulky Waste Facility.~~

~~—— (b) —— All wastes shall be separated in accordance with the provisions of Article II of this chapter.~~

~~—— (c) —— Disposal of wastes at city solid waste facilities or landfills shall be subject to acceptance by the director of public works and the health officer.~~

~~(Ord. of 12-17-90)~~

~~Sec. 12-54. Authority of director.~~

~~The public works director or his designated representative is authorized to direct all persons making use of the city's sanitary landfill or bulky waste facility to dispose of waste materials in conformance with this article and to operate the landfills in compliance with federal and state statute and approved operational procedures.~~

~~(Ord. of 12-17-90)~~

~~Sec. 12-55. Penalties.~~

~~—— (a) —— Any person refusing to comply with this article shall be served a summons, shall be guilty of a violation and shall lose the privilege of use of the landfills and, on conviction thereof, shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense.~~

~~—— (b) —— Any person violating any of the provisions of this article shall become liable to the city for any loss, expense or damage occasioned the city by the reason of such violation.~~

~~(Ord. of 12-17-90)~~

~~Secs. 12-56–12-75. Reserved.~~