

ORDINANCE # 23-2002

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 3, Article III, Section 3.111 – GARBAGE RECEPTACLES **AND** Chapter 8, Article I, Section 8.103 - DUMPING PROHIBITED, **AND** Chapter 3, Article II, Section 3.2 - DISPOSAL OF NON-RECYCLABLE AND RECYCLABLE MATERIALS **AND** Chapter 14, Article I, Section 14.108 - GARBAGE AND RUBBISH DISPOSAL be deleted in their entirety from the Ordinances of the City of Portsmouth and in place thereof the following is adopted:

**CHAPTER 3, ARTICLE II: SOLID WASTE, YARD WASTE AND RECYCLING**

**Section 3.201: PURPOSE**

**A. PURPOSE :**

The City of Portsmouth recognizes that a comprehensive municipal program for the disposal of solid waste and yard waste, as well as the recycling of materials is necessary for the convenience of its citizens and the protection of the environment of the municipality. The City further recognizes that such program must be developed and administered in the most cost efficient manner consistent with the goals of the program.

**Section 3.202: DEFINITIONS**

For the purposes of this ordinance, the following definitions apply:

*Bulky Waste* - any items whose large size or weight precludes or complicates their handling by normal collection, processing or disposal methods.

*Business District* - For the purposes of this section, the Business District shall mean the following areas:

Congress Street from Bridge Street to Market Square;  
High Street from Congress Street to Ladd Street;  
Ladd Street from High Street to Market Street;  
Market Street from Market Square to Hanover Street;  
Daniel Street from Wright Avenue to Market Square;  
Wright Avenue from Daniel Street to State Street;  
State Street from Wright Avenue to Pleasant Street;  
Pleasant Street from Court Street to Market Square;  
Chapel Street from Daniel Street to State Street;  
Porter Street from Middle Street to Pleasant Street.

*Non-Business Districts:* For the purposes of this section, the Non-Business Districts shall mean all areas other than those designated as being within the Business District.

*Commercial Property* - any property the predominate use of which is a structure used for commercial or business purposes including, but not limited to, the following:

- Properties containing five (5) or more dwelling units;
- Hotels, restaurants, warehouses;
- Trailer Parks containing five (5) or more dwelling units;
- Markets, bakeries, grocery stores, fruit stands;
- Manufacturing or industrial;
- Business offices;
- Condominiums; and
- Any non-residential use.

*Construction and Demolition (C & D)* - waste from the building, tearing down or destruction of a structure or part of a structure.

*Garbage* - All putrescible waste material including, but not limited to wastes resulting from the handling, preparation, cooking and consumption of food. Garbage shall not include yard, industrial, hazardous and/or radioactive waste.

*Hazardous Waste* - A solid, semi-solid, liquid or contained gaseous waste, or combination of, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious or incapacitating illness, or pose a health hazard to humans and the environment when improperly treated, stored, transported or disposed.

*Industrial Waste* - Byproducts or scrap remaining from an industrial manufacturing process.

*Putrescible Waste* - Any organic material, which can decompose and give rise to foul odors and noxious byproducts.

*Radioactive Waste* - Material regulated by the Atomic Energy Commission.

*Recyclables* are defined as follows:

- "Aluminum" means cans made of aluminum.
- "Glass" means jars and bottles colored green, brown or clear.

- “Paper” means fibrous material derived mainly from wood, examples of such are newspapers, inserts, junk mail, magazines, office paper and office manila folders, phone books, paperback books, paper board (cereal and pasta boxes), wax coated milk and juice cartons, and paper egg cartons.
- “Plastic” means all polyethylene terephthalate (PET) and high-density polyethylene (HDPE) plastic containers such as soda, milk and detergent containers. This definition includes all plastic containers encoded on the bottom with a number “1” or “2” inside a three-arrow recycling symbol.
- “Steel” or “tin” cans means cans made of those materials.
- The list of recyclables may be modified as needed by the Department of Public Works,

*Refuse* - Any solid waste composed wholly or partly of garbage and rubbish.

*Residential Property* - Any property the predominate use of which is a residential structure containing at least one (1) dwelling unit but not more than four (4) dwelling units.

*Rubbish* - All nonputrescible waste material including, but not limited to, paper, cigarettes, cardboard, cans, wood, glass, bedding and crockery. Rubbish shall not include yard, industrial, hazardous and/or radioactive waste.

*Yard Waste* - Leaves, grass, clippings, garden debris, small brush (no greater than 5” in diameter) or chipped branches.

**Section 3.203: PROGRAM COMPONENTS**

The City's program for waste disposal and materials recycling shall consist of the following components, each of which is to be administered in accordance with the provisions of this ordinance:

**A. Solid Waste Disposal (Curbside pick-up):**

The City shall maintain a regularly scheduled program of curbside solid waste pick-up from residential properties. Solid waste may consist of garbage and refuse, but shall exclude other types of waste. The limitations on curbside solid waste pick-up are as follows:

1. Weekly pick-up from residential properties shall not exceed over twelve cubic feet or 3 - 45 U.S. gallon trash barrels of municipal solid waste.

2. Weekly pick-up from commercial properties shall not exceed over one cubic yard or 9 - 45 U.S. gallon trash barrels. Where a non-residential structure contains five or more business establishments, including multi-family housing, that building shall be considered one unit limited to not more than one cubic yard.
3. All waste placed for curbside pick-up shall be kept in sealed, sanitary containers not exceeding fifty (50) pounds each.
4. Trash containers shall not be so filled so as to be grossly unwieldy; larger than a volume of 45 U.S. gallon or so worn or damaged as to make them likely to fail.
5. Non-Business District waste shall be placed curbside no earlier than 7:00 p.m. the evening before collection.
6. Business District waste shall be placed curbside no earlier than 4:30 p.m. but no later than 6:00 p.m. on the day of collection.
7. Every rental and leased dwelling unit shall be provided by the property owner with adequate storage receptacles with tight fitting covers for rubbish and garbage. These containers must be maintained in a clean and sanitary condition and disposal procedures must comply with this ordinance.
8. In the Business District, materials for disposal or recycling shall not be placed in plastic or paper bags, unless the bags are within sealed containers.

**B. Recycling:**

Recycling of recyclable materials is mandatory for all residential and commercial property owners or residents who dispose of waste at the Recycling Center or who utilize the curbside collection service of the City. The recycling program shall operate under the following terms and conditions:

1. The City shall provide all residential properties with at least one marked recycling container for use in connection with the curbside recycling program. These containers shall not be used for any materials other than specified recyclable materials.

2. All aluminum, glass and plastic to be recycled shall be cleaned and placed together in the recycling container. Lids, caps, corks and neck rings shall be removed from all materials.
3. Paper to be recycled shall be placed on top of or next to the recycling container in a manner to prevent the scattering of paper. Paper shall either be packed in standard paper grocery bags, or securely tied in flat bundles, none of which shall weigh greater than fifty pounds.
4. If there are more recyclables than can be held in one container, the resident shall flatten those materials which can be flattened and/or place the additional recyclables next to the recycling container in a separate cardboard box or other suitable container clearly marked "recyclables".
5. No person other than an authorized agent of the City acting in the course of his/her employment shall collect or pick-up or cause to be collected or picked up any recyclable material placed at curbside.
6. Recyclable materials generated at both commercial and residential properties in the City may be delivered to the Recycling Center.
7. Recyclable materials shall be separated from municipal solid waste when placed at curbside.

**C. Bulky Waste (Curbside Collection):**

Residential properties which qualify for curbside collection of municipal solid waste shall also be permitted to utilize an on demand curbside bulky waste collection service maintained by the City. Curbside pick-up of bulky waste shall be performed under the following terms and conditions:

1. The property owner or resident shall schedule bulky waste pick-up on an appointment basis by arrangement with the Department of Public Works.
2. Each property shall be allowed up to four curbside collections of bulky waste per calendar quarter, each of which shall be limited to a maximum of sixty-four cubic feet per collection (64 cubic feet is approximately the bed size of a mid-sized pick-up truck).

3. All bulky waste items set out at curbside must be properly sorted by type in accordance with categories to be established by the Department of Public Works and communicated to the property owner/resident at the scheduling of the appointment. Bulky waste shall be placed curbside no earlier than the Saturday prior to collection.
4. Any bulky waste which is not collected by the City due to lack of compliance with the provisions of this ordinance must be removed from the curbside by the property owner/resident within twenty-four (24) hours of being provided notice that the Department of Public Works will not collect the bulky waste.
5. Where bulky waste is not picked up by the City for any reason, proper disposal is the responsibility of the owner/resident.

**D. Bulky Waste and Municipal Solid Waste (Recycling Center):**

The City shall maintain a recycling service for bulky waste and municipal solid waste. The terms and conditions under which the Recycling Center shall operate are as follows:

1. The Department of Public Works shall determine and publish the days and hours under which the Recycling Center shall be available to residents and property owners.
2. The Recycling Center shall be available only for waste generated by residential properties.
3. The Recycling Center shall be available to Portsmouth Commercial Properties for recyclable materials exclusively.

**E. Yard Waste:**

Yard waste shall be collected by the City in accordance with the following terms and conditions:

1. Yard waste shall be collected at curbside in accordance with a collection schedule to be determined and published by the Department of Public Works.
2. Brush which is placed at curbside must be cut into lengths not exceeding four (4) feet; contain no pieces of brush greater than five inches in diameter, and be tied in neat bundles the diameter of which shall not exceed one (1) foot

and a weight of which shall not exceed greater than fifty (50) pounds.

3. Other than brush, yard waste which is placed at curbside must either:
  - A. be placed in commercially manufactured biodegradable bags which are factory labeled to indicate that they are 100% biodegradable; or
  - B. be placed in open containers which are clearly labeled, "Yard Waste".

Neither the biodegradable bags nor the open containers shall weigh more than fifty (50) pounds each when filled and placed at the curbside.

4. Any yard waste placed at curbside which the Public Works Department refuses to collect due to lack of compliance with this ordinance must be removed from the curbside by the property owner/resident within twenty-four (24) hours of being provided notice by the Public Works Department that the yard waste will not be collected.
5. The Director of Public Works may designate a central repository to which residential properties may deliver yard waste. Landscape contractors may utilize the same repository, provided the yard waste originated from a Portsmouth residential property.

**Section 3.204: PROHIBITIONS:**

The following acts are not permitted in the City of Portsmouth:

1. The disposal at City's Recycling Center or the placement at curbside for municipal pick-up of any hazardous waste or radioactive waste.
2. The disposal of any materials on public or private property in any manner not permitted by this ordinance or by state law.
3. The placement of solid waste for curbside pick-up, the placement of bulky waste for curbside pick-up or the deposit of any waste or recyclables at the City's Recycling Center or other repository by any person, firm or corporation not expressly authorized to do so under the provisions of this ordinance.

4. The bringing of materials into the City of Portsmouth from elsewhere for disposal or recycling by the City.
5. The use of public trash containers for disposal of commercial or residential garbage, rubbish or refuse.

**Section 3.205: RIGHT OF INSPECTION:**

The placement of any materials at curbside for municipal pick-up conveys to the City the right to inspect such materials for compliance with this ordinance as well as local, state and federal law.

**Section 3.206: PENALTIES AND REMEDIES:**

In addition to any other penalty or remedy permissible at law for violation of this ordinance, the following shall apply:

1. Any person, firm or corporation violating any provision of this ordinance shall be subject to a penalty, upon conviction, up to the maximum amount authorized under state law.
2. The Public Works Department is authorized to issue citations to persons, firms or corporations violating this ordinance in accordance with municipal citation authorization contained in the ordinances of the City of Portsmouth, except that all citations issued for violation of this ordinance shall be in the amount of \$100.00.
3. The Public Works Department may refuse to accept or pick-up any waste of any kind which is not delivered or placed in accordance with the provisions of this ordinance or any rules adopted hereunder by the Department of Public Works. In all such circumstances, proper disposal of the waste is the responsibility of the owner/resident.
4. The Public Works Department has the right to refuse residents/commercial properties access to the Recycling Center who misuse the Center, are negligent and/or abusive to City employees.
5. The City Attorney is authorized to file any appropriate legal proceedings, including but not limited to requests for injunctive relief, necessary to prevent violation of this ordinance.
6. The Public Works Department may negotiate and settle civil claims involving violations of this ordinance.

**Section 3.207: SEVERABILITY:**

In the event that any portion of this ordinance is found to be unenforceable for any reason, the remaining provisions shall remain in full force and effect.

The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect on January 1, 2003 except for mandatory recycling in the business district which shall become effective on July 1, 2003.

APPROVED:

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Evelyn Sirrell, Mayor

ADOPTED BY COUNCIL:  
December 16, 2002

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Kelli L. Barnaby, City Clerk