

# CITY OF CONCORD

---

*In the year of our Lord two thousand and sixteen*

AN ORDINANCE amending the CODE OF ORDINANCES, Title I, General Code, Chapter 5, Public Works, Article 5-7, Solid Waste.

## **The City of Concord ordains as follows:**

**SECTION I:** Amend the CODE OF ORDINANCES, Title I, General Code, Chapter 5, Public Works, Article 5-7, Solid Waste, by amending it as follows:

### **5-7-1 - Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

*Administrator.* The City Manager or his designee.

*Authorized container.* A container designated by the Administrator for the collection of solid waste and recycling.

*Bulky waste.* Includes, but not by way of limitation, discarded large and small household appliances, furniture, carpets, mattresses, and white goods.

*Commercial solid waste.* Includes, but not by way of limitation, discarded waste refuse materials from any commercial, industrial source, or nonresidential unit.

*Construction and demolition debris.* ***In accordance with State law, Construction and demolition debris is defined as: Non-putrescible waste, building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes, but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.***

~~[Waste generated from construction, renovation, or demolition activities. This waste often contains bulky, heavy materials, including concrete, steel, brick, wood, asphalt (from roads and roofing shingles), gypsum (the main component of drywall), metals, and plastics. Construction and demolition debris also includes salvaged building components such as doors, windows, and plumbing fixtures.]~~

*Customer.* A person or entity receiving solid waste collection and disposal service from the City.

***Designated Facilities.*** *The City-designated waste aggregation facilities in accordance with Article 5-8-2.*

***Downtown Solid Waste Removal District.*** *The area of the City bounded and described on a map of the district approved by the City Council and shall be operated under the direction of the Administrator who may make rules and regulations.*

***Dwelling unit.*** Any building or portion thereof that contains living facilities, which provide for sleeping, eating, cooking, and sanitation, for not more than one household.

~~[Facility. City-designated disposal site or sites.]~~

***Hazardous waste.*** *A solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:*

***(1) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:***

***a. Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or***

***b. Pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of, or otherwise mismanaged.***

***(2) Or which has been identified as a hazardous waste by the New Hampshire Department of Environmental Services using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means.***

~~[Waste as defined by RSA 147-A:2, VII, as amended.]~~

***Household hazardous waste.*** Hazardous waste generated from noncommercial usage by persons in their living abodes.

***Infectious waste.*** 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.

***Nonresidential unit.*** *Any property except those defined under residential property or the Downtown Solid Waste Removal District.*

~~[Any establishment except those defined under residential property.]~~

***Principal use.*** The primary purpose for which a lot or structure is used.

***Recyclable.*** Any material that is collected and handled by the City or the City's contractor for reuse. Recyclable materials means materials that can be used to produce marketable goods, including but not limited to, separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, and paper.

***Recycling collection contractor.*** The contractor hired by the City of Concord to collect the recyclable material from residential units.

***Residential containerized service.*** The solid waste and recycling collection and disposal service provided by the City to occupants and residents of multifamily residential property with eight (8) or more units.

*Residential curbside service.* Residential curbside service is the solid waste collection and disposal service, and recycling collection service, provided by the City to single-family residences and multifamily residences with fewer than eight (8) units.

*Residential property.* Single-family residences and multifamily residences, including apartments and condominiums (in which each unit has separate cooking, bathing, sleeping facilities, and the principal use is residential as defined by the Zoning Ordinance) but does not include hotels, motels, rooming houses, hospitals, nursing homes, convalescent centers, dormitories or barracks or other group living places using bins for the temporary accumulation and collection of solid waste. ***“Residential property” also excludes those properties included in the Downtown Solid Waste Removal District for the purposes of this Article and Nonresidential unit.***

*Residential solid waste.* Acceptable solid and recyclable waste, generated or accumulated, at residential property and placed in residential containers for accumulation and collection. Residential solid waste does not include commercial solid waste, construction or demolition debris, or any other solid waste.

*Solid waste. Any matter consisting of putrescible material, refuse as defined in RSA 149-M:4, residue from an air pollution control facility, and other discarded or abandoned material. It includes solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this Article, it does not include construction and demolition debris; hazardous waste; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps; municipal and industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended; source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended; or septage or sludge as defined in RSA 485-A:2, IX-a and XI-a.*

~~[Any garbage, refuse, or other discarded material resulting from industrial, commercial, residential, agricultural, or community activities, but excluding solid or dissolved material in domestic sewage, solid or dissolved material in irrigation return flows or in municipal and industrial discharges, hazardous waste or bodies of deceased beings, special nuclear or by-product materials as defined by the Atomic Energy Act of 1954, as amended, or septage or sludge as defined in RSA 485-A:2, IX-a and XI-a.]~~

*Solid waste collection contractor.* The contractor hired by the City of Concord to collect the solid waste from residential units and transport it to ~~the~~ [a] facility.

*Solid waste service charge.* The fee for solid waste and recycling services provided to customers by the City.

*Tipping fee.* The costs associated with disposal of the City’s solid waste.

~~[Transfer station. A site or area designated by the Director of General Services within or outside the City to which acceptable waste collected within the borders of the City is delivered and temporarily stored for transportation and delivery by the City or its contractor to the facility. The facility itself may serve as the designated transfer station.]~~

***Transfer station. The City-designated transfer station, located at 77 Old Turnpike Road, Concord, New Hampshire 03301 or other City-designated location for the aggregate and transfer of acceptable solid waste, subject to weight limitation under Article 5-8-5.1. The Administrator may establish rules relative to the disposal of acceptable waste at the Transfer Station.***

*Yard waste.* A form of solid waste composed of leaves, grass clippings, brush, small branches, and other forms of organic matter generated from landscapes and gardens, separated from other forms of solid waste. Yard waste does not include Christmas trees, or stumps and branches exceeding three (3) inches in diameter or three (3) feet in length and forty (40) pounds, or any other materials not specified above.

#### **5-7-1.1 - Collection and Disposal of Solid Waste.**

The City will offer a user fee based solid waste collection and disposal service to residential property. Residential properties with fewer than eight (8) dwelling units may use the residential curbside collection service. Residential properties designated in the assessing data as multifamily with eight (8) or more dwelling units may use the residential containerized service. The owner of a multifamily residential property who requests City service shall provide an appropriately sized dumpster(s) with a pad. The owner shall cooperate with the City's collection contractor(s) to locate the dumpster(s) in a place safely accessible by the collection contractor's vehicle. Participation in the user fee based solid waste service is mandatory for participation in the City's recycling collection service.

Adoption of State Statutes. The provisions of Chapter 149-M of the Revised Statutes Annotated of New Hampshire relating to solid waste are hereby adopted as to be in force in this City.

- (a) Purposes for Which Solid Waste Fee, Charges and Rental Income Shall Be Used. The income from solid waste as set forth in this Article shall be used for defraying the costs of construction, management, maintenance, operation, reconstruction, replacement and repair of City solid waste systems, including but not limited to: collection, disposal and for the payment of the interest and principal of any debt incurred to pay such costs.
- (b) Solid Waste Income Shall Go Into City Treasury. The income from solid waste fees shall be paid into the City treasury and shall be kept and applied exclusively for the purposes as set forth in this Article. The City Treasurer is hereby authorized in his/her discretion to deposit any present or future surplus income in commercial and/or savings accounts and withdraw or transfer the same for proper purposes as is deemed expedient.
- (c) Who Shall Pay Solid Waste Fees and Charges. Solid waste fees and charges shall be paid by the owner or owners of real estate serviced by the City or whose real estate received special benefit therefrom in any way.
- (d) Basis for Solid Waste Fees and Charges. Solid waste fees and charges shall be based on the capacity of the container or bag and the related collection service. The fees for services are incorporated in Title 1, General Code; Chapter 1, Government Organization; Article 1-5, Fees, Fines and Penalties; Schedule I, Fees; Chapter 5, Public Works, under Section 5-7-4[5].

#### **5-7-1.2 - Prohibited Material.**

Customers shall not place for collection or dispose [~~at the transfer station or~~] in an authorized container:

- (a) Any materials prohibited under other ordinances, *rules or regulations*.
- (b) The City reserves the right to prohibit or to place disposal restrictions upon any waste that may adversely affect the disposal site or that may pose a risk to the health or safety of city employees or its contractor. Disposal restrictions that may be implemented shall include, but are not limited to, item size restrictions, quantity restrictions, recycling

regulations, special preparation requirements, and rubbish source documentation requirements.

(c) *Hazardous waste.*

(d) *Construction and demolition debris.*

**~~[5-7-1.3 - Disposal.~~**

~~All Concord designated haulers bringing solid waste from the City of Concord to the facility for disposal shall be charged a tipping fee. The Director of General Services is authorized to establish and adjust tipping fees.]~~

**5-7-1.[4]3 - Cleanup Responsibility.**

The owner, operator, occupant, or other person in charge of the day-to-day operation of each property in the City outside the Downtown Solid Waste Removal District, shall be responsible for the cleanup of any and all solid waste which otherwise has come to be located outside an authorized container on, at, or in the property of which the person is the owner, operator, occupant or is otherwise in charge. This cleanup responsibility includes the cleanup of solid waste and recyclables which has come to be located outside an authorized container notwithstanding human or animal interference with dumpsters or containers, wind or other natural forces and whether during storage, collection, removal, or transfer. Cleanup of any and all solid waste or recycling shall be completed within twenty-four (24) hours of written notification to owner, operator or occupant of the property. Should the Administrator deem necessary, the City may at its option complete the cleanup at the owner's expense.

**5-7-1.[5]4 - Frequency of Collection and Removal.**

To protect public health, safety, and well-being, and to protect the City against the growth and spread of vectors, persons in charge of the day-to-day operation of each property in the City shall make arrangements to have all solid waste generated or accumulated on the property (other than construction and demolition debris and bulk waste) collected and removed not less frequently than once a week.

**5-7-1.[6]5 - Administration and Termination of Service.**

The Administrator shall issue rules and regulations as needed to enforce this article. Failure of a customer to comply with any provision of this Article or the rules and regulations issued by the Administrator will be deemed a violation and may result in revocation of residential curbside service or residential containerized service.

**5-7-1.[7]6 - Disposal of Solid Waste at Transfer Station.**

~~[The Director of General Services is authorized to establish or approve fees for transfer station services.]~~

(a) *Availability. The transfer station shall be available as authorized by the Administrator and in accordance with Article 5-8.*

(b) *Service fees. The Administrator is authorized to establish or approve fees for transfer station services.*

(c) *Waste other than solid waste. The Administrator is authorized to establish or approve rules and regulations with respect to disposal of materials other than solid waste, including*

*but not limited to household hazardous waste (e.g. oil based paints, gasoline, car wax, insecticides, varnishes, lighter fluid, chemical fertilizers) and tires.*

**~~5-7-2 - Solid Waste Removal Districts.~~**

- (a) ~~Downtown Solid Waste Removal *District*. The area of City bounded and described on a map of the district approved by the City Council on July 11, 2011, and on file in the office of the City Clerk and General Services Department is designated as the Solid Waste District and shall be operated under the direction of the Administrator Solid Waste Advisory Committee.~~
- (b) ~~Residential Solid Waste Removal. All solid waste removal in the district shall be governed by the rules and regulations issued by the Solid Waste Advisory Committee and no solid waste shall be brought into the district for disposal without the written approval of the of a majority of all the Committee members.]~~

**5-7-[3]2 - Disposal of Tires.**

Concord residents will be allowed to bring up to four (4) unmounted passenger car or pickup truck tires per three-month period to the *transfer station* [~~sanitary landfill~~]. Tires will not be accepted from commercial tire dealers or businesses.

**5-7-[4]3 - Penalty.**

Any person or corporation violating any of the provisions of this Article shall be liable to a fine not to exceed the amount listed in Schedule II of Chapter 1.

**5-7-[5]4 - Nonresidential Collection and Disposal of Solid Waste *and Recycling*.**

The City may provide collection and disposal service of solid waste to nonresidential property. This service is provided under the City's curbside residential collection and disposal contract or other City contract for a fee.

The fees for nonresidential solid waste and recycling subscription services are incorporated in Title 1, General Code; Chapter 1, Government Organization; Article 1-5, Fees, Fines and Penalties; Schedule I, Fees; Chapter 5, Public Works, under Section 5-7-4[5].

**5-7-[6]5 - Administration and Enforcement.**

The administration and enforcement of this Article shall be the duty of the Administrator, who shall be the City Manager or the City Manager's designee. The Administrator is hereby authorized to take such action as may be reasonably necessary to enforce the provisions and purposes of this Article and to appoint and authorize such assistants and agents as may be necessary to carry out the provisions of this Chapter 5.

**SECTION II:** This ordinance shall take effect upon its passage.

Explanation: Matter added to the current ordinance appears in ***bold italics***.  
Matter removed from the current ordinance appears in [brackets and ~~struck through~~].