

**AN ORDINANCE TO AMEND CHAPTER 40.1 OF THE CODE OF THE CITY OF PORTSMOUTH, VIRGINIA (2006) PERTAINING TO ZONING FOR THE PURPOSE OF AUTHORIZING AND REGULATING CONSTRUCTION/DEMOLITION/DEBRIS LANDFILLS AND TRANSFER STATIONS, INCLUDING BY AMENDING TABLE 40.1-4.1(A) AND SECTION 40.1-8.3, AND BY ADDING NEW SUBSECTIONS 40.1-4.3(D)(4)(e) AND 40.1-4.3(D)(4)(f).**

**BE IT ORDAINED** by the Council of the City of Portsmouth, Virginia:

1. That Chapter 40.1 of the Code of the City of Portsmouth, Virginia (2006) be amended by the adoption of the amendments shown on Exhibit A hereto and made a part hereof.
2. That this Ordinance shall take effect on the date of its adoption.

**ADOPTED** by the Council of the City of Portsmouth, Virginia at a meeting held on September 27, 2016.

Teste:

City Clerk

**EXHIBIT A**

**AMENDMENTS  
TO THE  
CITY OF PORTSMOUTH ZONING ORDINANCE  
SEPTEMBER 27, 2016**

INTERPRETATION: In the amendments listed below, instructions are provided in italics.

AMENDMENT #: 1

TABLE #: 40.1-4.1(A) (Use Table)

*Table 40.1-4.1(A) is amended by inserting Construction/Demolition/Debris Landfill and Transfer Station where alphabetically appropriate under the Waste-Related Services Use Category of the Industrial Use Classification, as shown below. Table 40.1-4.1(A) is not otherwise amended.*

TABLE 40.1-4.1(A): USE TABLE																			
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL OR SLASH = PROHIBITED USE																			
USE CATEGORY	USE TYPE	ZONING DISTRICTS														ADDITIONAL REQUIREMENTS			
		RESIDENTIAL [1]				BUSINESS				ACTIVITY CENTER			SPECIAL [2]						
		N R	G R	U R	U R	N M	G M	M U	I L	I N	N A	C A	R A	H R	H L		H L	P G	W F
INDUSTRIAL USE CLASSIFICATION																			
Waste-Related Services	Construction/Demolition/Debris Landfill (CDD)	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	U	/	40.1-4.3(D)(4)(e)
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**TABLE 40.1-4.1(A): USE TABLE**

P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL OR SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS				ACTIVITY CENTER			SPECIAL [2]					
		N R	G R	U R	U H	N M	G M	M U	I L	I N	N A	C A	R A	H R	H L	H L	P G	
	Transfer Station	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	40.1-4.3(D) (4) (f)
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**AMENDMENT #: 2**

**SECTION #:40.1-8.3 (Definitions)**

*Section 40.1-8.3 (Definitions) is amended by inserting definitions for Construction/Demolition/Debris Landfill (CDD Landfill) and Transfer Station where alphabetically appropriate. Section 40.1-8.3 is not otherwise amended.*

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**CONSTRUCTION/DEMOLITION/DEBRIS LANDFILL (CDD LANDFILL)**

A land burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, yard waste, split tires, and white goods or combinations of the above solid wastes. Construction waste means solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes.

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**TRANSFER STATION**

Any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration, or resource recovery.

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**AMENDMENT #: 3**

**SECTION #:40.1-4.3(D)(4)(e)**

*Article 40.1-4 (Use Standards) is amended by adding a new subsection 40.1-4.3(D)(4)(e).*

**(e) Construction/Demolition/Debris Landfill (CDD Landfill)**

In addition to the standards contained in Section 40.1-2.3(B)(4), any Use Permit requested shall be approved only if the applicant has demonstrated that all of the following additional requirements are met, unless they are specifically waived or modified through the Use Permit process approved by City Council in accordance with Section 40.1-2.3(B) of this Ordinance:

**(i) Location and Siting Requirements**

- a.** CDD Landfills shall be located so that truck traffic arriving at or departing from the landfill can access an arterial street without need for travel upon a public street within or adjacent to:
  - 1.** any residentially zoned area as identified in Table 40.1-1.7(H); or
  - 2.** any public park or public recreational area or recreational facility.
- b.** CDD Landfills and expansions of such facilities shall not be located within or encroach into any 100-year floodplain.
- c.** The minimum area of a parcel proposed for development as a CDD Landfill must be 20 acres.
- d.** No disposal unit (disposal cell) or leachate storage unit shall be located within:
  - 1.** 50 feet of the lot line on which the landfill is located; or
  - 2.** 200 feet of a lot line of a residentially zoned property as identified in Table 40.1-1.7(H); or
  - 3.** 200 feet of a lot line of any Educational facility, Health Care facility or religious institution.
- e.** All CDD Landfills shall comply with the requirements of the Virginia Department of Environmental Quality and all required permits shall be maintained throughout all phases of operation and closure of the facility.

**(ii) Design Requirements**

- a.** All facilities shall have an adequately lighted and heated shelter where operating personnel can exercise site control and have access to essential sanitation facilities. Lighting, heat, and sanitation facilities may be provided by portable equipment as necessary.
- b.** The facility shall be designed with sufficient off-street parking and stacking areas to accommodate all employees, visitors, and trucks. Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
- c.** The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility

operations by trucks and the use of emergency access ways and fire lanes.

- d. The off-site road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
- e. On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
- f. The on-site road system shall be designed to avoid the need for the backing of truck traffic.
- g. Sufficient internal storage areas shall be provided for incoming solid waste.
- h. A CDD Landfill shall include an eight foot perimeter fence interrupted only by necessary access and maintenance gates, or otherwise secured as determined by the Zoning Administrator in order to control vehicular and public access and prevent illegal disposal. All access will be limited by gates, and such gates shall be securable and equipped with locks. Fencing shall be constructed in accordance with Section 40.1-5.10, Fences and Walls, and may include chain link, wood, vinyl or other materials of similar aesthetic characteristics and quality. The use of barbed wire or electric fencing shall be prohibited.
- i. The facility shall be surrounded by a buffer yard that is composed of not less than Type C plant units as identified in Section 40.1-5.2(E) so as to screen the facility from public view. The Zoning Administrator shall be authorized to modify or waive the landscaping requirements where the facility is not visible from a public right-of-way or from privately owned property.

**(iii) Operational Requirements**

- a. Only construction waste, demolition waste, debris waste, yard waste, split tires, and white goods shall be accepted at any CDD Landfill. No other wastes shall be accepted unless specifically identified in an approved Use Permit and permitted by the Virginia Department of Environmental Quality.
- b. Operating hours shall be limited to 7:00am to 8:00pm Monday through Saturday.
- c. Trucks or vehicles shall not be parked or stored overnight at the landfill unless screened in a manner that will substantially prevent view of stored vehicles from public rights-of-way. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash delivery. Junked or inoperable vehicles shall not be stored at the landfill.
- d. Emergency access ways and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.

- e. The operation of the CDD Landfill shall be undertaken so as to prevent the attraction, harborage or breeding of wildlife or insects, rodents, and other vectors (e.g., flies, maggots, roaches, rats, mice, and similar vermin) and to eliminate conditions which cause or may potentially cause harm to the public health and the environment, congregation of birds, safety hazards to individuals and surrounding property, and excessive odor problems, unsightliness, and other nuisances.
  - f. CDD Landfills shall be maintained in a neat and orderly appearance at all times through the control of uncontained waste, trash, and litter. Operators shall cause periodic off-site policing and clean-up of trash and litter along all public rights-of-way described in the Truck Routing Plan within 1,760 feet (1/3 of a mile) of the landfill not less than once per week (or more often if needed) to ensure a neat and orderly appearance of the public rights-of-way.
  - g. Scavenging is prohibited at any CDD Landfill.
- (iv) In addition to all other materials required by other provisions of this Ordinance or the City Code, the following materials must be submitted by the applicant as part of the Use Permit application process for a CDD Landfill:
- a. A conceptual plan of the design and layout of the site demonstrating compliance with the design standards above.
  - b. Conceptual elevations of any proposed building demonstrating compliance with the requirements above.
  - c. A Traffic Impact Analysis in accordance with Section 40.1-5.12 of this Ordinance, and including a Truck Routing Plan.
  - d. An analysis of the structural capacity of the road network serving the landfill, identifying any deficiencies and improvements necessary to accommodate the facility. This analysis shall be of sufficient scope and detail as determined by the City Engineer.
  - e. A detailed assessment of the proposed design capacity of the landfill in relationship to the overall solid waste system in the region, including, but not limited to the anticipated volumes of solid waste (including average daily volume and maximum daily volume), anticipated sources of waste (i.e. municipal, commercial, industrial, etc.), and the relationship to other facilities in the vicinity and region.
  - f. An Operation Plan demonstrating compliance with the operational requirements listed above.
  - g. Other information as required by the City of Portsmouth that is appropriate to the evaluation of the proposed landfill.
- (v) Emergency Provisions

Deviations from the requirements above and any conditions attached to the approval of the Use Permit may be necessary during times of emergencies, as determined by the City Manager, provided they do not jeopardize public health and safety and all requirements are met upon return to normal operations. Any deviation of the standards or requirements shall be established for a specific period of time (which may be extended by the City Manager) and shall be subject to any conditions established by the City Manager.

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**AMENDMENT #: 4**

**SECTION #: 40.1-4.3(D)(4)(f)**

*Article 40.1-4 (Use Standards) is amended by adding a new subsection 40.1-4.3(D)(4)(f).*

**(f) Transfer Station**

In addition to the standards contained in Section 40.1-2.3(B)(4), any Use Permit requested shall be approved only if the applicant has demonstrated that all of the following additional requirements are met, unless they are specifically waived or modified through the Use Permit process approved by City Council in accordance with Section 40.1-2.3(B) of this Ordinance:

**(i) Location and Siting Requirements**

- a. Transfer stations shall be located so that truck traffic arriving at or departing from the station can access an arterial street without need for travel upon a public street within or adjacent to:
  - 1. any residentially zoned area as identified in Table 40.1-1.7(H); or
  - 2. any public park or public recreational area or recreational facility.
- b. Transfer stations and expansions of such stations shall not be located within or encroach into any 100-year floodplain.
- c. The minimum area of a parcel proposed for development as a transfer station is four acres.
- d. No building or area in which the unloading, storage, processing, or transfer of waste or recyclable materials takes place shall be located within:
  - 1. 50 feet of the lot line on which the waste transfer station is located; or
  - 2. 200 feet of a lot line of a residentially zoned property as identified in Table 40.1-1.7(H); or
  - 3. 200 feet of a lot line of any Educational facility, Health Care facility or religious institution.
- e. All transfer stations shall comply with the requirements of the Virginia Department of Environmental Quality and maintain valid

permits throughout all phases of operation and closure of the facility.

**(ii) Design Requirements**

- a. All activities associated with waste transfer, including tipping, sorting, storage, compaction, transfer, reloading, and related activities shall be conducted in a fully enclosed building. No outdoor storage of materials or equipment shall be permitted. Appropriate enclosed office and plumbed employee restroom facilities shall be provided on-site.
- b. The facility shall be designed with sufficient off-street parking and stacking areas to accommodate all employees, visitors, and trucks. Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
- c. The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and passenger vehicles (e.g., for household waste), and the use of emergency access ways and fire lanes.
- d. The off-site road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
- e. On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
- f. The on-site road system shall be designed to eliminate the need for the backing of truck traffic.
- g. The unloading area shall be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles.
- h. The unloading and loading pavement areas shall be constructed of concrete or asphalt paving material and a collection and disposal system shall be maintained that will prevent liquids contained in waste materials and generated by normal operations such as wash-out and cleaning of equipment, trucks, and floors ("waste liquids"), from contaminating the soil, surface water, or ground water. Drains shall be connected to either the sanitary sewer system, if permitted by the service provider, or a corrosion-resistant holding tank. Alternate designs may be used with prior written approval of the City if the applicant can show that the alternate design will prevent waste liquids from contaminating the soil, surface water, and ground water.
- i. Provisions shall be made for weighing or measuring all solid waste transferred to the facility.
- j. Sufficient internal storage areas shall be provided for incoming solid waste.
- k. The transfer station design shall include an eight foot perimeter fence interrupted only by necessary access and maintenance gates.

Fencing shall be constructed of brick, block, stone, wood, vinyl or other materials of similar aesthetic characteristics and quality. Use of split-face style cinder block shall be permitted if of a neutral earth-tone color (no un-textured, common gray cinder block will be permitted).

- l.** Gates shall be designed in a manner to balance the aesthetic compatibility of the station fencing materials with station security. Colored metal or wrought iron gates designed to substantially reduce public views into the station are encouraged. Use of chain link materials for gates is prohibited.
- m.** Facility layout, building materials, and building design shall, to the greatest extent possible, be planned to present an aesthetically attractive appearance from off-site locations when viewed through gated openings that will remain open during daylight or business hours.
- n.** The use of chain link fencing within the station shall be limited to areas not visible from any public right-of-way. The use of barbed wire or electric fencing shall be prohibited.
- o.** The facility shall be surrounded by a buffer yard that includes an eight foot perimeter fence and is composed of not less than Type C plant units as identified in Section 40.1-5.2(E). The Zoning Administrator shall be authorized to modify or waive the landscaping requirements where the facility is not visible from a public right-of-way or from privately owned property.

**(iii) Operational Requirements**

- a.** Only household waste, commercial, and industrial waste and recyclable materials shall be accepted at any transfer station. No wastes classified as hazardous in accordance with United States Public Law 96-510, as amended, shall be knowingly accepted. The operator shall employ a plan for proper identification, control, and disposal of hazardous wastes received by the waste transfer station. No asbestos waste shall be knowingly accepted at a transfer station facility. The operator shall employ a plan for proper identification, control, and disposal of hazardous and asbestos wastes.
- b.** All activities associated with processing, such as tipping, sorting, storage, compaction, transfer, reloading, and related activities shall be conducted in a fully enclosed building.
- c.** Operating hours shall be limited to 7:00am to 8:00pm Monday through Saturday.
- d.** Adequate storage space for all waste shall be available at the transfer station in a fully enclosed building. No external storage of wastes shall be permitted. Solid wastes shall not remain at the transfer station for more than 72 hours. Any solid waste that is to be kept overnight at the station shall be stored in an impervious enclosed structure.

- e. Trucks or vehicles shall not be parked or stored overnight at the transfer station unless screened in a manner that will substantially prevent view of stored vehicles from public rights-of-way. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash delivery and transfer at the waste transfer station. Junked or inoperable vehicles shall not be stored at the waste transfer station.
- f. Emergency access ways and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.
- g. The operation of the transfer station and the storage and handling of all solid waste shall be undertaken so as to prevent the attraction, harborage or breeding of wildlife or insects, rodents, and other vectors (e.g., flies, maggots, roaches, rats, mice, and similar vermin) and to eliminate conditions which cause or may potentially cause harm to the public health and the environment, congregation of birds, safety hazards to individuals and surrounding property; and excessive odor problems, unsightliness, and other nuisances.
- h. Transfer stations shall be maintained in a neat and orderly appearance at all times through the control of uncontained waste, trash, and litter. Operators shall cause periodic policing not less than once every day (or more often as needed) of the entire waste transfer station. Operators shall also cause periodic off-site policing and clean-up of waste, trash, and litter along all public rights-of-way described in the Truck Routing Plan within 1,760 feet (1/3 of a mile) of the station not less than three times per week (or more often if needed) to ensure a neat and orderly appearance of the public rights-of-way.
- i. Sanitary conditions shall be maintained through the periodic wash-down or other appropriate cleaning method of the transfer station and transfer vehicles. Frequency of cleaning shall be sufficient to prevent odors and other nuisance conditions from developing. All residuals shall be properly disposed of following cleaning operations.
- j. No liquids, other than those used to disinfect, to suppress dust, or to absorb or cover odors from the solid waste, shall be added to the solid waste.
- k. Open burning is prohibited on any transfer station site.
- l. Scavenging is prohibited at any transfer station.

(iv) In addition to all other materials required by other provisions of this Ordinance or the City Code, the following materials must be submitted by the applicant as part of the Use Permit application process for a Transfer Station:

- a. A conceptual plan of the design and layout of the site demonstrating compliance with the design standards above.
- b. Conceptual elevations of the proposed building demonstrating compliance with the requirements above.
- c. A Traffic Impact Analysis in accordance with Section 40.1-5.12 of this Ordinance, and including a Truck Routing Plan.
- d. An analysis of the structural capacity of the road network serving the transfer station, identifying any deficiencies and improvements necessary to accommodate the transfer station. This analysis shall be of sufficient scope and detail as determined by the City Engineer.
- e. A detailed assessment of the proposed design capacity of the transfer station in relationship to the overall solid waste system in the region, including, but not limited to the anticipated volumes of solid waste (including average daily volume and maximum daily volume), anticipated sources of waste (i.e. municipal, commercial, industrial, etc.), and the relationship to other transfer stations in the vicinity and region.
- f. An Operation Plan demonstrating compliance with the operational requirements listed above.
- g. Other information as required by the City of Portsmouth that is appropriate to the evaluation of the proposed transfer station.

**(v) Emergency Provisions**

Deviations from the requirements above and any conditions attached to the approval of the Use Permit may be necessary during times of emergencies, as determined by the City Manager, provided they do not jeopardize public health and safety and all requirements are met upon return to normal operations. Any deviation of the standards or requirements shall be established for a specific period of time (which may be extended by the City Manager) and shall be subject to any conditions established by the City Manager.

**(vi) Violation Abatement Fund**

- a. As a condition of commencing operation of a transfer station to be operated by any entity other than the City of Portsmouth, the operator shall maintain at all times a cash deposit with the City of Portsmouth in an amount determined at the time of application according to a then-current resolution of the City Council establishing the minimum deposit. In the absence of such a resolution, the minimum amount shall be \$2,000.00. This fund shall be known as the "Abatement Fund."
- b. The Abatement Fund shall assure the prompt and complete performance of the operator with requirements imposed by this Ordinance and any additional conditions of the Use Permit, and, in

- particular, the requirement to maintain the use and the truck routes described in any required Truck Routing Plan within 1,760 feet of the use in a neat and orderly appearance.
- c. The City of Portsmouth shall be authorized at its discretion to draw upon and use all or any portion of the Abatement Fund in order to remedy a violation, pursuant to the following procedures:
    - 1. The City shall first issue a written notice of violation to the operator or supervisor of the use. Such notice shall provide the specific conditions existing that are deemed in violation of the requirements of this Ordinance or the conditions of approval of the use.
    - 2. Except in cases where the City Manager or the City Manager's designee determines that the violation presents an imminent threat to public health or safety, the City shall provide twenty-four (24) hours from the delivery of notice (or such longer period as may be determined appropriate by the City Manager or the City Manager's designee) to remedy the cited violation.
    - 3. If the cited violation is not remedied within the time specified by the notice, or if the City Manager or the City Manager's designee determines that the violation presents an imminent threat to public health or safety, the City may (but is not obligated to) take action to remedy the violation, and the City shall be authorized to apply all or any part of the Abatement Fund to the cost of same.
  - d. The Abatement Fund shall be maintained in an account determined by the City. Interest, if any, earned on such Abatement Fund deposit shall accrue to such account or fund for use in the same manner and purpose as the Abatement Fund.
  - e. At all times the operator shall maintain a balance in the Abatement Fund of not less than the greater of \$2,000.00 or the minimum amount established by City Council from time to time in accordance with subsection (a) hereof. In the event the City draws Abatement Funds in accordance with subsection (c), then within fourteen days after the operator receives notice of the City's draw the operator shall replenish the Abatement Fund as necessary to achieve the minimum balance. Failure to maintain the required minimum balance shall constitute cause for City Council to revoke the Use Permit.
  - f. Nothing in this section shall prevent or preclude the City from pursuing any other remedy or right to enforcement or abatement of violations or nuisances resulting from the operation of a transfer station.

**AN ORDINANCE TO TRANSFER \$596,677 FROM THE JUDICIAL CATEGORY OF THE FY 2017 GENERAL FUND BUDGET TO THE NON DEPARTMENTAL CATEGORY OF THE FY 2017 GENERAL FUND BUDGET.**

**BE IT ORDAINED** by the Council of the City of Portsmouth, Virginia:

1. That it authorizes the transfer of \$596,677 from the Judicial category of the FY 2017 General Fund Budget to the Non Departmental category of the FY 2017 General Fund Budget.

2. That the source of the transferred funds shall be funds no longer required under the Judicial category of the FY 2017 General Fund Operating Budget due to the State Compensation Board's funding thirteen fewer deputy positions at the Portsmouth City Jail than originally anticipated.

3. That this ordinance shall take effect on the date of its adoption.

**ADOPTED** by the Council of the City of Portsmouth, Virginia at a meeting held on September 27, 2016.

Teste:

City Clerk