



Regular Council Meeting

A G E N D A

August 8, 2023

7:00 p.m.

Administrative

Approval of Minutes
Report of Town Manager
Appearance before Council
Council Comments
Report of Council Committees
Revisions to Agenda

Public Hearings

Consent Agenda (roll call)

Old Business

New Business

- | | |
|-----------------|---|
| 1-CITY-20-8-8-8 | Presentation – Zitel, LLC |
| 2-PD-1-4-8-8 | Ordinance – Amending and Reenacting Section 30-33 and Adopting New Section 30-33.1 of the Code of the Town of Bedford, Virginia, 2006, as amended, to Update the Definition of Petit Larceny and Adopt Provisions Relating to Theft of Utility Services (roll call) |
| 3-PW-17-1-8-8 | Ordinance – Amending and Reenacting Chapter 46, Solid Waste, of the Code of the Town of Bedford, Virginia, 2006, as amended (roll call) |

Adjourn meeting until 5:30 p.m. on August 22, 2023, for
Conflict of Interest Training

Citizens may watch the meeting in real time via the Town of Bedford Live
Stream website: <https://www.bedfordva.gov/1356/Live-Stream>

**TOWN OF BEDFORD, VIRGINIA
TOWN COUNCIL
ACTION FORM**

ITEM: Ordinance – Amending and Reenacting Section 30-33 and Adopting New Section 30-33.1 of the Code of the Town of Bedford, Virginia, 2006, as amended, to Update the Definition of Petit Larceny and Adopt Provisions Relating to Theft of Utility Services

DATE OF COUNCIL MEETING: August 8, 2023

DATE: July 31, 2023

PRESENTATION:

This includes two amendments related to larceny and theft. First, it updates the definition of petit larceny to account for inflation. Today, the threshold for grand (felony) larceny is \$1,000. Our Code simply had not been updated for many years, and referenced \$200 instead.

Second, it adopts an ordinance paralleling Virginia Code § 18.2-187.1 that provides for a crime of theft of utility services and creates a civil cause of action to recover costs. The Town Electric Department recently reported that it has had numerous recent incidents of theft of electrical service, and the Council Electric Committee has, by consensus, asked staff to prepare and present an ordinance change to make theft of utility service clearly criminal. This also would provide for theft of solid waste collection service to be criminal.

The Town has a standing agreement with the Commonwealth’s Attorney to prosecute crimes for the Town. Under the ordinance, the Town Attorney would be able to bring the related civil penalty and recover fees and costs. The Town Attorney could bring similar civil actions for theft of electrical service outside of Town limits under the similar state statute.

ACTION REQUESTED:

Town Council is requested to adopt the Ordinance as presented.

		YES	NO	OTHER	ROUTING	
DATE: _____	BLACK	()	()	()	TOWN ATTY. ()	I.T. ()
	CARSON	()	()	()	COMM. DEV. ()	POLICE ()
APPROVED ()	HAILEY	()	()	()	ELECTRIC ()	PUBLIC SERV. ()
DENIED ()	HARTWICK	()	()	()	ENGINEERING ()	OTHER _____ ()
DEFERRED TO:	JOHANNESSEN	()	()	()	FINANCE ()	
_____	SHOEN	()	()	()	FIRE DEPT. ()	
	STANLEY	()	()	()	H.R. ()	

ORDINANCE

**AMENDING AND REENACTING SECTION 30-33 AND ADOPTING
NEW SECTION 30-33.1 OF THE CODE OF THE TOWN OF BEDFORD,
VIRGINIA, 2006, AS AMENDED, TO UPDATE THE DEFINITION OF
PETIT LARCENY AND ADOPT PROVISIONS RELATING TO THEFT
OF UTILITY SERVICES**

CHAPTER 30. – MISCELLANEOUS OFFENSES.

Article I – In General.

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Sec. 30-33. – Petit larceny.

Any person who: (1) Commits larceny from the person of another of money or other thing of value of less than \$5.00; or (2) commits simple larceny not from the person of another of goods and chattels of the value of less than \$1,000.00, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

(Statutory Ref.: Va. Code § 18.2-96; penalty for Class 1 misdemeanor, Va. Code § 18.2-11.)

Sec. 30-33.1. – Theft of utility services; civil penalty.

- (a) It shall be unlawful for any person knowingly, with intent to defraud, to obtain or attempt to obtain, for himself or for another, electric, water, solid waste service under Chapter 46 of this Code, or sanitary sewer service by the use of false information, or in any case where such service has been disconnected by the supplier and notice of disconnection has been given.
- (b) It shall be unlawful for any person to obtain or attempt to obtain electric, water, solid waste service under Chapter 46 of this Code, or sanitary sewer service by the use of any scheme, device, means, or method, or by a false application for service with intent to avoid payment of lawful charges therefor.
- (c) The word “notice” as used in subsection (a) shall be notice given in writing to the person to whom the service was assigned. The sending of notice in writing by United States mail, duly stamped and addressed to such person at his address shown in the Town tax records shall be prima facie evidence that such notice was duly received. Notice may also be given in person, by posting on the principal entrance to the address at which the electrical service

is obtained or for which the attempt is made to obtain, or by any means of personal service provided by law.

- (d) Any person who violates and of the provisions of this section shall be guilty of a Class 1 misdemeanor. In addition, the court may order restitution for the value of the services unlawfully used and for all costs. Such costs shall be limited to actual expenses, including the base wages of employees acting as witnesses for the Town, and suit costs. However, the total amount of allowable costs granted hereunder shall not exceed \$250, excluding the value of the service.
- (e) The Town may, through its Town Attorney, if aggrieved by a violation of this section, in a civil proceeding in any court of competent jurisdiction, seek both injunctive and equitable relief and an award of damages, including attorney's fees and costs. The Town is entitled to recover an award of actual damages or \$500, whichever is greater, for each such action.

(Statutory Ref.: Va. Code § 18.2-187.1; penalty for Class 1 misdemeanor, Va. Code § 18.2-11.)

**TOWN OF BEDFORD, VIRGINIA
TOWN COUNCIL
ACTION FORM**

ITEM: Ordinance – Amending and Reenacting Chapter 46, Solid Waste, of the Code of the Town of Bedford, Virginia, 2006, as amended

DATE OF COUNCIL MEETING: August 8, 2023

DATE: July 31, 2023

PRESENTATION:

At its July 11, 2023, work session, Council requested staff and the Town Attorney update the Town solid waste code to delete superfluous language and make the language match the services the Town currently provides. Importantly, sections dealing with recycling, the landfill, and solid waste container sites that are no longer applicable were removed.

ACTION REQUESTED:

Town Council is requested to adopt the Ordinance as presented.

		YES	NO	OTHER	ROUTING	
DATE: _____	BLACK	()	()	()	TOWN ATTY. ()	I.T. ()
	CARSON	()	()	()	COMM. DEV. ()	POLICE ()
APPROVED ()	HAILEY	()	()	()	ELECTRIC ()	PUBLIC SERV. ()
DENIED ()	HARTWICK	()	()	()	ENGINEERING ()	OTHER _____ ()
DEFERRED TO:	JOHANNESSEN	()	()	()	FINANCE ()	
_____	SHOEN	()	()	()	FIRE DEPT. ()	
	STANLEY	()	()	()	H.R. ()	

Ordinance No. _____

ORDINANCE

AMENDING AND REENACTING CHAPTER 46, SOLID WASTE, OF THE CODE OF THE TOWN OF BEDFORD, 2006, AS AMENDED

Chapter 46 SOLID WASTE¹

ARTICLE I. IN GENERAL

Sec. 46-1. 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:

Ashes means the residue from the burning of wood, coal, coke or other combustible materials.

Garbage means putrescible animal or vegetable wastes resulting from the handling, preparation, cooking or consumption of foods.

Premises means any land, building or other structures, or part thereof, upon or in which refuse is stored.

Refuse means all solid wastes of the community, including garbage, ashes, rubbish, dead animals, street cleanings and solid market and trade wastes, but not including body wastes or the solid wastes resulting from industrial processes.

Rubbish means nonputrescible solid wastes, such as paper, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, metals and similar materials.

Trash means that refuse and rubbish, other than garbage, incident to the ordinary conduct of a household, such as tin cans, bottles, and paper, and like items generated by business offices, stores, and other facilities. The term "trash" shall not include tree limbs, hedge clippings, grass,

¹Editor's note(s)—Per Case No. CL 12-1306, heard on Dec. 18, 2012, effective at midnight on June 30, 2013, the City of Bedford transitioned to town status and became the Town of Bedford. This was ratified by the Commonwealth of Virginia and a three judge special court.

Charter reference(s)—Adoption of Code of Virginia, § 15.2-927, authorizing town to collect and dispose of garbage and other refuse, maintain facilities for the disposal of refuse, contract with others for such services, charge collection fees, etc.

leaves, stones, roofing materials, lumber, or other substances that may accumulate as a result of repairs to the land or buildings.

(Code 1984, § 17.1-1)

Sec. 46-2. Declaration of policy.

It is hereby declared to be the policy of the town to promote the general welfare of the town by providing for regulating the collection and disposal of all refuse.

(Code 1984, § 17.1-2)

Sec. 46-3. Powers and duties of town manager generally.

The town manager, in order to protect the health and safety of the people of the town, shall, by implementing and enforcing the provisions of this chapter, control the collection and disposal of refuse within the town. He shall provide a public refuse collection service from premises, so that the type and usual quantity of refuse can be safely and expeditiously handled by such service and shall regulate the establishment, maintenance and operation of refuse disposal methods and sites.

(Code 1984, § 17.1-3)

Sec. 46-4. Right of entry to inspect; inspection warrants.

Upon presentation of appropriate identification and upon consent of the owner or custodian of the property, the town manager or his designee shall have the right to enter at any reasonable time onto any property to inspect, investigate, evaluate, conduct tests, or take samples for testing as he reasonably deems necessary in order to enforce the provisions of this chapter having to do with the storage and disposal of refuse. If the town manager or his designee is denied entry, he may apply for an inspection warrant authorizing such investigation, inspection, testing, or taking of samples for testing as provided by law.

(Code 1984, § 17.1-4)

Sec. 46-5. Rules and regulations.

The town manager shall have the authority to establish rules and regulations consistent with the provisions of this chapter and other ordinances and resolutions of the town, governing the removal, keeping, collection, and disposal of refuse, garbage, and rubbish. The procedures for the collection of refuse shall be designated by the town manager.

(Code 1984, § 17.1-5)

Sec. 46-6. Fees.

The town council shall adopt a schedule of rates, fees, and charges for trash pickup and may amend it from time to time.

(Code 1984, § 17.1-6)

Sec. 46-7. Other governmental regulations.

The provisions of any applicable federal or state law or regulation shall control to the extent that compliance with this chapter could prevent compliance with a regulation or law of the federal or state government, including solid waste management regulations, hazardous waste management regulation, hazardous materials transportation regulations and infectious waste management regulations.

(Code 1984, § 17.1-7)

Sec. 46-8. Compliance and general penalty for violations.

It shall be unlawful for any person to refuse, fail or neglect to comply with the provisions of article I, II, or IV of this chapter. Any person, firm or corporation violating any of the provisions of this article, upon conviction, shall be found guilty of a Class 1 misdemeanor, and each day's continuation of such violation shall constitute a separate offense.

(Code 1984, § 17.1-8)

Secs. 46-9—46-34. Reserved.

ARTICLE II. COLLECTION BY TOWN

Sec. 46-35. Duty of property owners; unlawful accumulations on premises.

- (a) The owner or his agent, or the occupant of any premises within the town, shall be responsible for the sanitary condition of the premises owned, handled, or occupied by him.
- (b) It shall be unlawful for any person within the town, whether in a commercial or any other area, a vacant lot or a developed lot, to allow garbage, rubbish, ashes, trash, or any other refuse to accumulate on such premises, except in accordance with the provisions of this chapter.
- (c) It shall be unlawful for any person to cast, throw, or dump any ashes, garbage, trash, or other rubbish in any streams or drainage areas in the town.
- (d) Any person responsible for refuse not acceptable for collection by the regular collection service as set forth in this chapter shall make arrangements for the collection and disposal of such refuse in some other fashion, either by special service handling by the town or by private collection.
- (e) Any person placing refuse for collection shall be responsible therefore until it is collected. Any person placing any refuse for collection which violates the provisions of this chapter shall remove such refuse from the public ways as directed by means of a violation notice. A violation notice shall be by means of posting the site and by personal service or first class mail to the owner of the property addressed to the owner at the last

address provided to the commissioner of the revenue for purpose of real estate taxation. Such notice when posted on the property and when either served in person or deposited in the United States mail, postage prepaid with the USPS, addressed to the owner shall be deemed complete and sufficient.

- (f) Each day of refusal to remove such refuse after proper notice shall constitute a separate offense. The town code official shall verify compliance within the time specified or may have the unlawful refuse removed at the expense of the owner. The cost of removal shall be a lien upon the land or premises and shall be reported by the town manager to the town treasurer, who shall collect the same in the manner in which town tax levies upon real estate are authorized to be collected.

(Code 1984, § 17.1-9; Ord. No. 20-9 , § 2, 10-13-2020)

Sec. 46-36. Regular collection service.

Regular collections of garbage and trash from households, institution and businesses shall be made once a week as the town manager may direct. Any additional collection services will be provided under section 46-35(d).

(Code 1984, § 17.1-10)

Sec. 46-37. Special collection services.

- (a) *Brush pickup.* Special brush pickup service will be provided on an as needed basis. Tree limbs and brush must be stacked at the curb and not in the gutter. Refuse from tree trimming or removal performed by a contractor will not be picked up by the town.
- (b) *Leaf pickup.* The town will pick up leaves with a mechanical leaf collector or other device from September through December and during the spring clean-up week in April according to a schedule established from time to time by the public works department after considering demand and availability of funds. The town will provide leaf pickup service only for residential locations. The owner or occupant of the property may place leaves in the public rights-of-way for pickup only if the leaves are placed behind the curb or as near the edge of the pavement as possible and in such a manner as not to obstruct use of the sidewalk or the traveled portion of the street or the flow of drainage along gutters and ditches. No person shall place leaves for pickup except in front of property which he owns or on which he resides. Brush, lumber and trash must not be mixed with leaves in order to avoid damage to the collecting machine. Licensed commercial contractors picking up leaves for residents shall be responsible for leaf disposal and shall not place leaves in the public right-of-way for disposal. The town will not pick up leaves left in the public right-of-way by licensed commercial contractors.
- (c) *Spring and fall cleanup.* A special pickup service will operate for a period of one week during April and during October for pickup of furniture, appliances, and building material or other items resulting from home improvements performed by the owner or occupant. Refuse for any work done by a contractor will not be picked up by the town.

(Code 1984, § 17.1-11; Ord. of 7-22-1997, § 1(b))

Sec. 46-38. Special requirements for refuse to be collected.

- (a) *Guidelines.* Ashes, garbage and trash, shall be prepared for collection in accordance with guidelines established by the director of community services.
- (b) *Garbage.* Garbage shall be drained and stored in plastic bags which are closed and tied and placed in containers provided by the town. No container plus contents shall weigh more than 50 pounds and shall not be more than level full.
- (c) *Sharps.* Medical needles, syringes, scalpels, devices and pasteur pipettes and similar medical items having a point or sharp edge shall be placed in a container with a high degree of puncture-resistance before being mixed with other refuse.
- (d) *Ashes.* Ashes shall be stored in substantial containers holding not in excess of 50 pounds. No ashes containing hot embers shall be placed for collection.
- (e) *Miscellaneous rubbish.* Miscellaneous rubbish shall be stored in durable containers, which containers shall be neither too bulky nor too heavy for easy and rapid handling. Cardboard boxes must be nested, or flattened and bundled, unless used as containers for other rubbish. Bulky rubbish such as tree trimmings, weeds, etc., shall be bundled so as not to exceed five feet in length, 2½ feet in diameter, or 50 pounds in weight.
- (f) *Dead animals.* Unless otherwise properly disposed of, small dead animals, not exceeding 30 pounds each in weight, which die in the normal course of community activity, excluding animals from a slaughterhouse or other animals normally considered industrial refuse, shall be placed in closed plastic bags in the garbage containers.
- (g) *Bulky refuse.* Bulky refuse such as tree trimmings and leaves shall not be placed or allowed to remain on sidewalks, gutters or streets.

(Code 1984, § 17.1-12)

Sec. 46-39. Refuse not acceptable for collection.

The following refuse shall be considered not acceptable for collection by the town:

- (1) Hazardous materials or substances, such as poisons, acids, caustics, infected materials or explosives.
- (2) Materials resulting from the repair, remodeling, excavation, construction or cleanup of buildings, structures or grounds, except during spring and fall cleanup such materials will be collected without additional charge under guidelines established by the director of community services.
- (3) Liquid wastes or slop.
- (4) Ashes containing hot embers.
- (5) Materials not prepared for collection in accordance with this chapter.
- (6) Solid wastes resulting from industrial processes.
- (7) Such other matter as may be prohibited for collection by the town manager pursuant to authority vested in him by section 46-5.

(Code 1984, § 17.1-13)

Sec. 46-40. Placement of containers.

- (a) Refuse to be collected under the provisions of this chapter shall not be set out in paper bags of any type, grocery carts, baskets or any type of open containers that are not properly covered or tied.
- (b) Containers of refuse to be collected under the provisions of this chapter shall be placed at the sidewalk or curblin of maintained streets, where they can be easily and conveniently reached by collection crews; except that where adequate alleys or space permits, collection may be made from these areas when it has been determined to be more convenient and economical.
- (c) Containers of refuse to be collected under the provisions of this chapter shall not be set out earlier than 4:00 p.m. on the date before the next scheduled collection. Containers shall not be set out on Fridays after the scheduled refuse route has been run, on Saturdays, or on days before town holidays.
- (d) Containers from which the contents have been collected prior to 1:00 p.m. on any collection day shall be removed by their owners before 6:00 p.m. on the day of collection, and those from which the contents have been collected after 1:00 p.m. on any collection day shall be removed by their owners prior to 8:00 a.m. on the next day following collection. Containers so removed shall be returned to the premises of their owners and screened from view of persons on the same street, adjacent streets and sidewalks.
- (e) Upon application to the town manager, disabled and handicapped persons may be exempted by the town manager from the provisions of this section.
- (f) It shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any refuse, except in accordance with the provisions of this chapter.

(Code 1984, § 17.1-14)

Sec. 46-41. Special collections other than at curb.

The town manager may provide for special collection of refuse other than at the curb in order to avoid an unusual hardship.

(Code 1984, § 17.1-15)

Sec. 46-42. Scavenging prohibited.

From time of placement at the curb by anyone of the refuse described herein for collection by the town in accordance with the terms of this chapter, items shall be and become the property of the town or its authorized agent. It shall be a violation of this chapter for any person unauthorized by the town to collect or pick up or cause to be collected or picked up any such items. Any and each such collection in violation of this section shall constitute a separate and distinct offense punishable as hereinafter provided. Violation of this section shall be punishable

as a Class 1 misdemeanor, and the violator may be required to reimburse to the Town the value of any items scavenged.

(Code 1984, § 17.1-16)

Secs. 46-43—46-72. Reserved.

ARTICLE III. RESERVED

Secs. 46-75—46-91. Reserved.

ARTICLE IV. RESERVED.

Secs. 46-96—46-118. Reserved.

ARTICLE V. RESERVED