

ARTICLE VI. CONSTRUCTION SITE MAINTENANCE

DIVISION 1. GENERALLY

Secs. 7-111--7-120. Reserved.

DIVISION 2. SOLID WASTE, TRASH AND OTHER DEPOSITS*

***Editor's note:** Ord. No. 958, §§ 1--7, adopted May 9, 1994, enacted provisions pertaining to collection and disposal of construction waste and other deposits. Such provisions have been codified by the editor as, Div. 2, §§ 7-121--7-127.

Cross references: Littering, § 12-14; garbage and trash collection generally, § 21-70 et seq.

Sec. 7-121. Definitions.

The following words and terms when used in this division shall have the meanings respectively ascribed to them by this section unless the context clearly indicates otherwise:

Contractor. Contractor or "general contractor" is defined to be one who, for a fixed price, commission, fee or wage, undertakes to construct or superintend the construction of any building, highway, sewer, grating or any improvement or construction where the cost of the undertaking is two thousand dollars (\$2,000.00) or more, and anyone who shall engage in the construction or superintending the construction of any structure or any undertaking or improvement above mentioned in the City of Fairhope, said structure costing two thousand dollars (\$2,000.00) or more, shall be deemed and held to have engaged in the business of general contracting in the city.

Industry standards. Industry standards are determined by calling at least three (3) local businesses or companies who provide like services and averaging the costs.

Large appliances. Large appliances are stoves, refrigerators, washers, dryers, hot water heaters or other large metal or like material.

Materialman. A materialman is a person who has finished materials used in the construction or repair of a building or structure.

Rubbish. Rubbish is all nonputrescible solid waste, excluding ashes, consisting both of combustible and noncombustible waste, combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture, metal construction parts and materials applied to a job site, and like materials which will not burn at ordinary incinerator temperatures not less than one thousand six hundred (1,600) degrees Fahrenheit.

Small appliances. Small appliances shall include small electronic devices, radios, televisions, microwaves, toaster ovens, etc.

Solid waste. Solid waste is all putrescible and nonputrescible discarded materials, except household sewage and livestock and poultry waste, including, but not limited to, garbage, rubbish, ashes, street and highway cleanings, dead animals, including offal, abandoned automobiles and such industrial wastes as are not controlled by other agencies.

Subcontractor. A subcontractor is defined as one who takes a portion of a contract from a principal contractor or another subcontractor. A subcontractor is one who

has entered into a contract, express or implied, for the performance of an act with the person who has already contracted for his performance.

Trash. Trash shall include any waste products, portions of material, whether it be wood, metal, plastic or a combination of said materials which are used in the construction of any building or structure. Trash shall also include material used to control erosion, furniture, couches, etc. Small trash items shall also include garden hoses, garden pots, old jugs, etc.

(Ord. No. 958, § 1, 5-9-94; Ord. No. 1296, 3-9-06)

Sec. 7-122. Placing on street or property of others.

No owner, building contractor, general contractor, subcontractor or materialman shall place or cause to be placed upon the public streets, sidewalks or alleys or rights-of-way of the city any garbage, trash, refuse, rubbish, solid waste or like matter except as hereinafter provided, and no person shall throw, place or dispose of any trash, litter, garbage, refuse or like matter upon the property of another.

(Ord. No. 958, § 2, 5-9-94)

Sec. 7-123. Disposal in municipal landfill prohibited.

No owner, building contractor, general contractor, subcontractor or materialman shall dispose of any construction site waste, rubbish, trash, solid waste and/or debris in the municipal landfill.

(Ord. No. 958, § 3, 5-9-94)

Sec. 7-124. Storage and disposal of waste.

It is the responsibility of every owner, building contractor, general contractor, subcontractor and materialman working on a construction site in the city limits or the police jurisdiction of the city to store all construction site waste, refuse, trash, debris, solid waste and rubbish in a location that does not block any street, alley, right-of-way or easement of the city; and, it shall further be the responsibility of said persons, to dispose of said construction site rubbish, trash, solid waste, and/or debris at their own expense at the county landfill or another landfill of their choice, but said waste shall not be disposed of at the municipal landfill.

(Ord. No. 958, § 4, 5-9-94)

Sec. 7-125. Waste container required; where.

Any owner, building contractor, general contractor, subcontractor or materialman working on any building project within the city shall cause a proper construction site debris disposal unit, adequate to store not less than one (1) week's accumulation of site debris, at the construction site and shall place all construction site waste, trash, debris, solid waste and/or rubbish in such refuse container and shall have the container removed from the site and emptied as required. No such waste, rubbish, trash, debris, and/or solid waste in such construction site container or from such construction site shall be disposed of at the municipal landfill but must be disposed of at the county landfill or another landfill at the choice of said contractor.

(Ord. No. 958, § 5, 5-9-94; Ord. No. 965, § 1, 1-9-95)

Sec. 7-125.1. Construction sites to be kept reasonably free of garbage, trash, etc.

(a) Where the building official or other authorized enforcement officer finds any construction site upon which the owner, contractor or subcontractor has allowed trash,

garbage or rubbish to accumulate such officer shall notify the owner, contractor or subcontractor in charge of the premises of the existence of a violation of this section. Such notice shall be given by certified mail or personal service and by posting upon the premises. Where certified mail is returned as undeliverable or unclaimed, posting of the premises as provided herein shall be deemed legally sufficient notice. Such notice shall provide for a period of two (2) days, exclusive of weekends and holidays, for the responsible party to correct the violation. Failure or refusal to do so shall cause the responsible officer to invoke the remedy specified herein.

(b) Remedies. The enforcement officer may, after the expiration of time set forth above, stop all work in furtherance of the construction undertaken by posting upon the premises a "Stop Work Order" setting forth the reason for the stop order and specifying the conditions required for release of such stop order. The officer shall not release the stop order until such time as the violation has been mitigated. Any person who continues to pursue work on the premises after posting of the stop order may be cited for violation of this section by the issuance of a municipal offense ticket for the first such offense relating to the subject property. A second offense on the same property by the same person may result in issuance of an arrest warrant out of the municipal court.

The enforcement officer may, in cooperation with the city attorney, pursue such other civil remedies as are available to the city.

(c) Penalties. In addition to stop work orders or other civil remedies, any person violating any provision of this section shall be subject to the following penalties upon conviction. For a first conviction under a municipal offense ticket the fine shall be one hundred dollars (\$100.00). For other convictions, violators may be sentenced to a fine not to exceed five hundred dollars (\$500.00) and/or a jail sentence not to exceed six (6) months, at the discretion of the municipal court.

(d) Nothing in this section shall be deemed a bar to any other remedy or penalty otherwise available to the enforcement officers of the city.

(Ord. No. 1001, §§ 1--5, 9-23-96)

Sec. 7-126. Erosion and silt deposits.

Any owner, building contractor, general contractor, subcontractor and/or materialman performing work or supplying labor or materials to any construction site in the city limits or police jurisdiction shall control and prevent erosion on the construction site and the depositing of silt on public rights-of-way or other adjacent and nearby property.

(Ord. No. 958, § 6, 5-9-94)

Editor's note: The user's attention is directed to §§ 7-151 et seq.; erosion and sedimentation control for land-disturbing activities. In the event of conflict between such provisions and § 7-126, it is presumed the more recent provisions will prevail.

Sec. 7-127. Penalty for violation.

Any person, firm or corporation failing to comply with these provisions will be deemed to have committed a misdemeanor and upon conviction thereof shall be fined not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) for each such occurrence. Each day a violation of any of the terms or provisions of this division occurs shall be deemed a separate and distinct violation of this division.

(Ord. No. 958, § 7, 5-9-94)

Secs. 7-128--7-150. Reserved.