

CHAPTER 91: WASTE, WEEDS AND SCRAP MATERIALS

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§ 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. All solid wastes capable of being rapidly decomposed by microorganisms, including but not limited to animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.

PUBLIC WORKS DIRECTOR. The Public Works Director or any other person designated by the Manager to perform the functions and exercise the responsibilities assigned by this chapter to the Public Works Director.

REFUSE. All solid wastes except garbage and solids that are dissolved or suspended commercial, or industrial waste effluent.

SCRAP MATERIALS. Scrap materials are:

- (1) Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper or any other substance, that formerly were part of the construction of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing;
- (2) Objects or things, including but not limited to machines, tools, equipment, hardware, furniture, appliances and the like, or parts of the same that are no longer in serviceable condition or are valuable only as raw material for reprocessing; or
- (3) Motor vehicles or remnants thereof that:
 - (a) Do not display current license plates;
 - (b) Cannot without substantial repairs be made to operate in the manner originally intended; and
 - (c) Are valuable only as raw materials for reprocessing, but that do not constitute solid wastes as herein defined because they are or may be useful to or wanted by or have not been discarded by the person in control of the premises where they have been located.

SOLID WASTES. Wastes that are nongaseous and nonliquid (except that liquid wastes resulting from the processing of food are deemed **SOLID WASTES** for the purposes of this chapter).

WASTES. All useless, unwanted or discarded materials resulting from domestic, industrial, commercial or community activities.

§ 91.02 ACCUMULATION OF SOLID WASTES.

(A) Subject to the qualifications contained in division (B) below, no person may cause, suffer or permit solid wastes to accumulate or remain on premises under his or her control except in accordance with the provisions of §§ 91.09 through 91.14 below.

(B) Natural solid waste materials resulting from lawn or garden work, such as bush and tree trimmings, leaves, grass, stumps, dirt and stones may be allowed to accumulate or remain on premises under a person's control unless these materials become or threaten to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise pose a danger to the public health or safety.

(1981 Code, § 11-2) Penalty, see § 91.99

§ 91.03 DUMPING OR LITTERING ON PUBLIC OR PRIVATE PROPERTY.

(A) No person may place, discard, throw, drop or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid wastes on:

(1) Any public street or sidewalk within the town or on any property owned or operated by the town or any other public property, except in properly designated receptacles; or

(2) Any property not owned by him or her without the consent of the owner, occupant or lessee thereof.

(B) Note: G.S. § 14-399 makes the acts prohibited in this section a misdemeanor, punishable by a fine of not more than \$200. Therefore, this section may be enforced by the town only through civil penalties or injunctive relief.

(1981 Code, § 11-3) Penalty, see § 91.99

§ 91.04 TRANSPORTATION OF SOLID WASTE WITHIN TOWN.

No person may transport or cause to be transported any solid wastes on the public streets of the town unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

(1981 Code, § 11-4) Penalty, see § 91.99

§ 91.05 BURNING OR BURYING SOLID WASTE.

(A) No person may burn or cause to be burned any garbage for purposes of disposal, and no person may burn or cause to be burned any refuse except as specifically authorized by any other provision of this code.

(B) No person may bury or cause to be buried any solid waste for purposes of disposal.

(1981 Code, § 11-5) Penalty, see § 91.99

§ 91.06 SCRAP MATERIALS; POLICY.

The Council hereby declares that the uncontrolled accumulation of scrap materials on any premises constitutes a danger to the health, safety and welfare of the citizens of the town in that these accumulations can furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, pose a danger of fire and depreciate property values or cause a loss of business by detracting from the appearance and character of residential and commercial neighborhoods.

(1981 Code, § 11-6)

§ 91.07 ACCUMULATION OF SCRAP MATERIALS.

No person may cause, suffer or permit scrap materials to accumulate or remain on premises under his or her control unless the scrap materials are:

(A) Surrounded by a fence of sufficient height, strength and construction to deny persons, especially small children, access to them and to shield neighboring properties from the view of them; or

(B) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in § 91.06 above.

(1981 Code, § 11-7) Penalty, see § 91.99

§ 91.08 NOXIOUS GROWTH.

(A) No person may cause, suffer or permit on premises under his or her control any growth of weeds, grasses or other plants or bushes that becomes or threatens to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise poses a danger to the public health or safety.

(B) Without limiting the generality of the foregoing, the owner or other person in possession of every vacant lot shall keep mowed or cut down within 12 inches of the ground all weeds, grass or other noxious growth.

(C) Weeds, grass or other noxious growth which are not cut in conformity with this section are declared to be a nuisance and the town may cause the same to be cut. In this event, the costs incurred by the town shall be charged against the lot where noxious growth was located, as well as the owner thereof, and collected as unpaid ad valorem taxes.

(1981 Code, § 11-8) (Am. Ord. passed 8-24-1998) Penalty, see § 91.99

§ 91.09 PROPERTY OWNERS; ADEQUATE WASTE RECEPTACLES.

The town shall be responsible for providing adequate solid waste receptacles in accordance with this section to store the solid wastes generated by activities taking place on those premises between scheduled pickups.

(1981 Code, § 11-16) Penalty, see § 91.99

§ 91.10 SIZE, NUMBER AND TYPE OF WASTE RECEPTACLES REQUIRED.

(A) (1) Subject to the provisions of this section, and after consultation with the owner of the premises concerned, the Public Works Director shall determine the size, number and type of solid waste receptacles that must be provided for all premises in accordance with § 91.09 above.

(2) In making this determination, the Public Works Director shall consider the type of activities on each premises and the amount of solid waste likely to be generated by those activities, as well as the welfare of the occupants and neighbors of those premises and the town's need to facilitate collection and minimize the costs of this service.

(B) Unless otherwise determined by the Public Works Director for good cause shown, when 5 or more dwelling units are located on a single lot, the owner of the premises shall provide 1 or more dumpsters so that the following criteria relating to capacity are satisfied:

(1) Two cubic yards of storage capacity are provided for every 8 dwelling units or fraction thereof; and

(2) If more than 1 dumpster is required, the owner shall provide the smallest number of dumpsters capable of satisfying the requirements stated in division (B)(1) above.

(C) Unless otherwise determined by the Public Works Director for good cause shown, when any nonresidential premises requires more than 4 containers to satisfy the requirement stated in § 91.09 above, 1 or more dumpsters of an appropriate size will be required.

(1981 Code, §11-17) (Am. Ord. passed 8-25-2008) Penalty, see § 91.99

§ 91.11 PREMISES SERVED BY DUMPSTERS.

With respect to premises served by dumpsters:

(A) The location of dumpsters shall be determined by the Public Works Director after consultation with the owner of the premises concerned. In making this determination, the Public Works Director shall consider the needs of the occupants of the premises, the welfare of the occupants and neighbors and the town's need to facilitate collection and minimize the cost of service;

(B) The Public Works Director may require that screening be provided around dumpsters if he or she determines that screening is necessary to prevent solid wastes from being transported onto neighboring properties or if the location of the dumpsters is such that, in the absence of screening, the dumpsters would present an offensive appearance or cause offensive odors to be transmitted to neighboring properties or passers-by;

(C) All solid wastes shall be stored in dumpsters pending collection by the town; and

(D) All dumpsters shall be cleaned periodically to minimize offensive odors, and the tops or openings to all dumpsters shall be kept securely fastened at all times pending collection.

(1981 Code, § 11-18)

§ 91.12 PREMISES NOT SERVED BY DUMPSTERS.

With respect to premises not served by dumpsters:

(A) Garbage may be stored pending collection by the town only in the receptacles described in §91.10(C). Refuse may be stored (between scheduled collections only) in any appropriate and convenient fashion;

(B) Except as otherwise provided in this section, solid wastes may not be stored between scheduled pickups within 45 feet of the center line of any public street unless solid wastes are stored within a completely enclosed substantial structure such as a house, garage or shed;

(C) Solid wastes shall be placed adjacent to the street for collection on the scheduled collection day or after dark on the preceding day. After collection, all solid waste receptacles and all uncollected solid wastes shall be removed to a storage location that complies with division (B) above by 6:00 a.m. on the day following the collection day;

(D) Containers other than those described in §91.09 will be treated as solid wastes and collected by the town;

(E) Grass cuttings, hedge clippings, tree trimmings and similar materials less than 4 inches in diameter and 60 inches in

length will be collected by the town on the regularly scheduled, weekly special collection day if placed in containers or located at the point of pick-up with trunks or limbs facing toward the street. Tree limbs may be placed in piles no larger than 20 feet in road frontage width, 4 feet in height and 60 inches in length;

(F) Leaves will be collected by the town between November 15 and March 15 on days specified for collection if placed adjacent to the street so that they may easily be handled by the collector. No tree limbs, shrubs or other material may be mixed with the leaves. At other times during the year, leaves will be picked up as part of the regular collection if prepared in accordance with division (E) above;

(G) Containers weighing more than 75 pounds and heavy or bulky items such as tree trunks, tree trimmings or hedge cuttings more than 60 inches in length or 4 inches in diameter, furniture and similar items will be collected only in accordance with § 91.13; and

(H) Under no conditions will the town collect ashes, and no person may place ashes in any container intended for collection by the town.

(1981 Code, § 11-19) (Am. Ord. passed 9-28-2015) Penalty, see § 91.99

§ 91.13 SPECIAL COLLECTIONS.

(A) Solid wastes that are too bulky or too heavy or too cumbersome to be collected by the town as part of its regular collection service may be collected by the town pursuant to a request made to the Public Works Director and a fee to be paid in advance per the Town of Liberty fee schedule.

(B) The town reserves the right to refuse any request made pursuant to this section and the failure of the town to provide this service shall not relieve any person of any of the obligations imposed by this chapter.

(1981 Code, § 11-20) (Am. Ord. passed 4-27-1998; Am. Ord. passed 8-25-2008)

§ 91.14 MISCELLANEOUS.

(A) The Public Works Director shall establish collection routes and schedules and may alter these routes and schedules from time to time. A copy of the current routes and schedules shall be kept on file in the office of the Town Clerk. Notice of any changes in the routes or schedules shall be published in the local newspaper at least 10 days before the changes are to become effective.

(B) Whenever this subchapter authorizes the Public Works Director to make a discretionary determination, all persons affected by that determination shall comply with it within 15 calendar days after receiving written notice of the determination and the reasons for it. Thereafter a failure on the part of the person receiving the notice to comply with the determination shall constitute a violation of this chapter.

(C) No person may damage, displace or otherwise interfere with solid waste receptacles or solid wastes stored or prepared for collection except with the consent of the owner, lessee or occupant of the premises where those receptacles or solid wastes are located.

(1981 Code, § 11-21) Penalty, see § 91.99

§ 91.15 VIOLATIONS; ABATEMENT; NOTICE; HEARING; ORDER.

(A) *Violations resulting from continuing conditions*

(1) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, a written notice shall be sent to the last known address of the responsible person, specifying the nature of the violation and what must be done to correct it, requiring the responsible person to correct the violation within 10 calendar days after delivery of the notice, and informing the responsible person of the possible consequences of his or her failure to comply.

(2) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, the penalties and remedies provided for in § 91.99 may not be invoked until after the 10-day correction period specified in the section has expired.

(B) *Summary abatement of conditions dangerous or prejudicial to the public health.*

(1) If the Council concludes, after notice and hearing as provided in its part, that any condition or situation prohibited by this chapter or any other condition or situation is dangerous or prejudicial to the public health or safety, it may order town officials to summarily remove, abate or remedy everything so found within the town limits or within 1 mile thereof.

(2) The expense of this action shall be paid by the person in default and, if not paid, shall be a lien upon the land or premises where the trouble arose and shall be collected as unpaid taxes.

(C) *Notice required.*

(1) Before the action authorized by division (B) above is taken, notice shall be sent to the respondent, informing him or her:

(a) What condition or situation is alleged to be dangerous or prejudicial to the public health or safety;

(b) When and where the Council will meet to hold a hearing on the issue of whether the condition cited is dangerous or prejudicial to public health;

(c) That if the Council determines that the cited condition is dangerous or prejudicial to public health or safety, it may order town officials to summarily abate, remedy or correct the offending condition; and

(d) That the expenses incurred by the town in connection with the actions described in division (C)(1)(c) above, if not paid by the respondent, shall become a lien upon the land where the offending condition is located, to be collected as unpaid taxes.

(2) If after due diligence, the respondent's address cannot be determined, then the notice required by this section shall be posted conspicuously on the offending property not later than 3 days before the scheduled hearing. This notice shall be sent by certified mail, return receipt requested, not later than 5 calendar days prior to the scheduled hearing or delivered to the respondent by a town officer or employee, not later than 3 days prior to the scheduled hearing.

(3) For purposes of divisions (B) through (E) of this section, the **RESPONDENT** is the person who is responsible for the offending condition, as well as the owner of the property where the offending condition is located, if different from the former.

(D) *Hearing procedures.*

(1) At the hearing held pursuant to this part, the town administration shall be responsible for presenting sufficient evidence to the Council to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety.

(2) The Council may consider all reliable evidence and need not be bound by the strict rules of evidence applicable to courts of law, but all witnesses shall be sworn. The respondent may be represented by counsel and may present evidence.

(3) All parties may cross-examine adverse witnesses.

(4) At the conclusion of the hearing, the Council shall make findings of fact, state its conclusions and enter an appropriate order. The Council's findings of fact, conclusion and order shall be reduced to writing and a copy sent by mail or delivered to the respondent within 30 days following the hearing.

(E) *Order.* If the Council concludes that a situation or condition exists that is dangerous or prejudicial to the public health or safety, it may:

(1) Order appropriate town officials or employees to summarily remove, abate or remedy everything so found and to assess the cost of this action against the respondent in accordance with division (B) above; or

(2) Order the respondent to correct the situation within a specified time period and order town officials to abate, correct or remedy the offending condition if the respondent fails to act within the prescribed time limits. If town officials are required to take corrective action, the costs shall be assessed against the respondent in accordance with division (B) above.

(1981 Code, §§ 11-37 through 11-41)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A violation of any of the following provisions of this chapter shall constitute a misdemeanor, punishable as provided in G.S. § 14-4: Article II (except § 91.03), and Article III.

(C) A violation of any of the provisions specified in division (B) above (as well as §91.03) shall also subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 15 calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

(D) Each day that any violation continues after a person has been notified that a violation exists and that he or she is subject to the penalties specified in divisions (B) and (C) above shall constitute a separate offense.

(E) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(F) The town may enforce this chapter by any 1 or any combination of the foregoing remedies.

(1981 Code, § 11-36)