

CHAPTER 11 - SOLID WASTES, SCRAP MATERIALS, ABANDONED VEHICLES, WEEDS

Article I - Definitions

Section 11-1 Definitions.

(A) Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases as used in this chapter are defined as follows:

(1) ***Abandoned motor vehicle.*** A vehicle that: (i) is left upon a street or highway in violation of a statute or town ordinance prohibiting parking; (ii) is left on property owned or operated by the town for longer than twenty-four (24) hours; (iii) is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two (2) hours; (iv) is left on any public street or highway for longer than seven (7) days; (v) is left on any privately owned public vehicular area contrary to an ordinance adopted under authority of G.S. 160A-301d; (vi) is left on private property in a properly designated fire lane; (vii) is left on public or private property in a space properly designated as reserved for handicapped or visually impaired persons or in a manner that obstructs a curb cut or curb ramp for handicapped persons; or (viii) may for any other reason lawfully be towed by a law enforcement officer (except that vehicles seized for evidence pursuant to a levy under execution or otherwise seized or forfeited under any state statute shall not be considered abandoned vehicles under this chapter).

(2) ***Bulk container or dumpster.*** A waterproof metal container of not less than two (2) cubic yards, nor more than eight (8) cubic yards, designed for solid waste storage and to be lifted and emptied by mechanical means into a solid waste transportation vehicle. *[Amended September 10, 1996]*

(3) ***Bulky wastes.*** Household furniture, mattresses, bedding, and bundled carpet. *[Amended September 10, 1996]*

(4) ***Clearing, construction, and demolition waste.*** Discarded or unused construction materials resulting from the construction, demolition, reconstruction, remodeling, and repair of houses, commercial buildings, and other structures. Such waste shall include, but not be limited to, excavated earth, stones, brick, plaster, lumber, concrete, shingles, insulation, stumps, trees, brush, fixtures, and waste parts generated by installation and replacement of structures and facilities, or from land clearing activities. *[Amended September 10, 1996]*

(5) ***Curbside.*** A ten-foot area parallel and immediately adjacent to the paved or traveled roadway of a public street or private street passable by the solid waste collector. *[Amended September 10, 1996]*

(6) ***Division of Health Services.*** The Division of Health Services of the North Carolina Department of Environment, Health, and Natural Resources. *[Amended September 10, 1996]*

(7) ***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.

(8) **Hazardous waste.** Waste or combination of wastes, in any form, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or which poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. *[Amended September 10, 1996]*

(9) **Junked motor vehicle.** A vehicle that does not display a current license plate and that: (i) is partially dismantled or wrecked; or (ii) cannot be self-propelled or moved in the manner in which it originally was intended to move; or (iii) is more than five years old and appears to be worth less than one hundred dollars (\$100.00). *[Amended September 10, 1996]*

(10) **Medical waste.** Waste generated in conjunction with the testing, treatment, or care of medical patients who have or may have communicable diseases, such as bedding or clothes, used instruments or utensils, pathological specimens, or other similar material. *[Amended September 10, 1996]*

(11) **Motor vehicle.** Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

(12) **Occupant.** Any person who, alone or jointly with others, is in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant. *[Amended September 10, 1996]*

(13) **Radioactive waste.** Any waste that emits ionizing radiation spontaneously. *[Amended September 10, 1996]*

(14) **Recyclable waste.** Non-putrescible waste, segregated into its respective waste categories, that can be readily reprocessed into a form that can be re-used by a manufacturer, as opposed to the its manufacture from raw materials. Such waste categories may include cardboard, glass, newspaper and other paper products, plastic, and aluminum cans. *[Amended September 10, 1996]*

(15) **Refuse.** All solid wastes except (i) garbage and (ii) solids that are dissolved or suspended in domestic, commercial, or industrial waste effluent.

(16) **Sanitary.** Conditions or methods promoting or insuring cleanliness, health, hygiene, and prevention of disease. *[Amended September 10, 1996]*

(17) **Scrap materials.** Scrap materials are:

(a) 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; or

(b) Objects or things including, but not limited to, machines, tools, equipment, hardware, furniture, appliances, etc., or parts of the same that are no longer in serviceable condition or are valuable only as raw material for reprocessing; or

(c) Motor vehicles or remnants thereof that: (i) do not display current license plates, and (ii) cannot without substantial repairs be made to operate in the manner originally intended, but that do not constitute solid wastes as herein defined because they are or may be useful to, or wanted by, or have not be discarded by the person in control of the premises where they have been located.

(18) **Solid waste.** Unwanted or discarded waste materials in a solid or semi-solid state including, but not limited to, garbage, ashes, refuse, rubbish, animal waste, plant material waste, and trash. *[Amended September 10, 1996]*

(19) **Solid waste collector.** An employee of the Town who collects and/or transports solid waste or recyclable materials. *[Amended September 10, 1996]*

(20) **Solid waste container.** A receptacle, including a bulk container, used by any person to store solid waste for collection by the town. Said container shall be of a type approved by the town. Containers shall be leakproof, waterproof, and shall be properly covered at all times, except when depositing waste therein or removing the contents thereof. *[Amended September 10, 1996]*

(21) **Storage.** Keeping or maintaining solid waste from the time of its production until the time of its collection. *[Amended September 10, 1996]*

(22) **Transportation.** The transporting of solid waste from the place of collection to a solid waste processing facility or solid waste disposal area. *[Amended September 10, 1996]*

(23) **Trash.** Non-putrescible solid waste including, but not limited to, paper, rags, wood, rubber, leather, glass, and crockery. *[Amended September 10, 1996]*

(24) **Wastes.** All useless, unwanted, or discarded materials resulting from domestic, industrial, commercial, or community activities.

(25) **White goods.** Inoperative or discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. *[Amended September 10, 1996]*

(26) **Yard waste.** Grass clippings, leaves, tree trimmings, shrubbery trimmings, and other yard maintenance waste. *[Amended September 10, 1996]*

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Article II - Control of Solid Wastes, Scrap Materials, Noxious Growth

Section 11-2 Accumulation of Solid Wastes and Debris Prohibited.

(A) No property owner or occupant shall allow the accumulation of garbage, refuse, solid waste, construction waste, yard waste, scrap materials, or bulky waste upon property owned or occupied by him so that such accumulation is dangerous or prejudicial to the public health. Furthermore, it shall be unlawful for any person to permit garbage, refuse, solid waste, construction waste, yard waste, or bulky waste to accumulate or remain on any premises longer than is reasonably necessary to remove and deposit the same in approved solid waste containers in accordance with the provisions of Article III of this Chapter (Storage and Collection of Solid Wastes).

(B) Natural solid waste materials resulting from lawn or garden work, such as brush or 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.

(C) The Board hereby declares that the uncontrolled accumulation of garbage, refuse, solid waste, construction waste, yard waste, scrap materials, or bulky waste on any premises constitutes a danger to the health, safety, and welfare of the citizens of the Town in that such accumulation 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, depreciate property values, and/or cause a loss of business by detracting from the appearance and character of residential and commercial neighborhoods.

(D) Where such an accumulation exists for any reason, the Town may summarily remove, abate, or remedy such accumulation and the expense of the 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.

[Amended September 10, 1996]

Section 11-3 Dumping or Littering on Public or Private Property.

(A) No person may place, discard, throw, drop, 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 on any other public property, except in properly-designated receptacles; or,

(2) Any property not owned by him, without the consent of the owner, occupant, or lessee thereof. *[Note: G.S. 14-399 makes the acts prohibited in this section a misdemeanor, punishable by a fine of not more than \$200.00. Therefore, this section may be enforced by the town only through civil penalties or injunctive relief.]*

Section 11-4 Transportation of Solid Waste Within Town.

(A) 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.

(B) All solid waste transportation vehicles will be maintained in a safe, clean, and sanitary condition and shall be so constructed, maintained, and operated to prevent spillage of solid waste therefrom. Each vehicle to be used for the transportation of solid waste shall be constructed with a watertight body and:

- (1) with a cover that is an integral part of the vehicle; or
- (2) with a separate cover of a suitable material that has fasteners designed to secure all sides of the cover to the vehicle and that is secured whenever the vehicle is transporting solid waste; or
- (3) the entire body is enclosed, with only the loading hopper exposed.

(C) No solid waste shall be transported in loading hoppers unless securely covered.

[Amended September 10, 1996]

Section 11-5 Burning or Burying Solid Wastes.

(A) Solid waste may be disposed of only in one of the following ways:

- (1) In a sanitary landfill approved by the Division of Health Services;
- (2) In an incinerator that has received all necessary local, state, and federal permits;
- (3) In a solid waste container as provided in Article III of this Chapter (Storage and Collection of Solid Wastes);
- (4) By any other method approved by the Division of Health Services.

[Amended September 10, 1996]

(B) No person may burn or cause to be burned any garbage for purposes of disposal. No person may burn or cause to be burned any refuse except as specifically authorized by Section 12-12 of this Code (Open Burning).

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

Section 11-6 Accumulation of Scrap Materials.

(A) No person may cause, suffer, or permit scrap materials to accumulate or remain on premises owned, occupied, or leased by him unless the scrap materials:

- (1) Do not constitute a danger to the health, safety, and welfare of the citizens of the Town in violation of the provisions of Section 11-2 above; and,

(2) Are 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 view of them; or

(3) Are so stored within a completely-enclosed structure (with permanent walls and roof) or within a completely-enclosed container outside a structure as to minimize substantially the dangers set forth in Section 11-2.

[Amended September 10, 1996]

Section 11-7 Noxious Growth.

No person may cause, suffer, or permit on premises under his control any growth or 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.

Sections 11-8 through 11-9 Reserved.

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Article III - Storage and Collection of Solid Wastes

Section 11-10 Administration and Regulations.

(A) Administration and enforcement of this article shall be the duty of the Town Manager or his designee.

(B) The Public Works Director, subject to the review and approval of the Town Manager, may make, amend, revoke, and enforce reasonable and necessary regulations, not inconsistent with Town ordinances, governing the storage, collection, transportation, and disposal of solid waste and recyclable materials, including, but not limited to:

- (1) Preparation, draining, and wrapping of garbage deposited in solid waste containers;
- (2) Specifications for solid waste containers, including the type, composition, size and shape thereof;
- (3) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers;
- (4) Storage of solid waste in solid waste containers;
- (5) Sanitation, maintenance, and replacement of solid waste containers;
- (6) Schedules of and routes for collection and transportation of solid waste;
- (7) Collection points of solid waste containers;
- (8) Collection, transportation, processing, and disposal of solid waste;
- (9) Handling of special wastes, such as sludge, ashes, agricultural, construction and demolition wastes, bulky wastes, tires, automobiles, dead animals, oils, greases, and other materials;
- (10) Assessment of fees for the collection of extraordinary volumes of trash or any solid waste that requires the use of extra manpower or equipment; and,
- (11) Collection, separation, transportation, and processing of recyclable materials.

(C) Whenever this article authorizes the Public Works Director to make a discretionary determination, all persons affected by that determination shall comply within fifteen (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 such notice to comply with the determination shall constitute a violation of this chapter.
[Amended September 10, 1996]

Section 11-11 General Prohibitions.

(A) It shall be unlawful for any person to:

- (1) Deposit solid wastes in any solid waste container that is not assigned to that person without the consent of the possessor of such container;
- (2) Leave outside any building in a place accessible to children an appliance such as a refrigerator, freezer, or other container designed to be airtight, without first removing the door from the appliance; provided, however, that this prohibition shall not apply to appliances that are crated, strapped, or locked in such manner that a child cannot obtain access to the airtight compartment thereof;
- (3) Interfere in any manner with solid waste collectors or solid waste collection and transportation equipment;
- (4) Dispose of solid waste in any manner that is not authorized by the health director, division of health services, or the Town;
- (5) Permit any dirt, rocks, sand, brick, broken concrete, lumber, tree trunks, limbs or trimmings, cinders, plaster, gravel, ashes, or solid waste to fall, be scattered, or blown upon any street from any vehicle transporting such materials, or to fail to remove such material immediately from the street if such material falls upon the street;
- (6) Place any solid waste or solid waste container in, upon, or over any storm drain opening;
- (7) Place, discard, dispose, or leave any garbage or solid waste upon a street or highway within the Town, or upon any property owned or operated by the Town, unless such garbage or solid waste is placed in a designated location or in a designated solid waste container; or
- (8) Place, discard, dispose of, or leave any garbage, refuse, solid waste, construction waste, or bulky waste upon private property within the Town except under the following circumstances: (i) solid waste stored in approved containers and/or placed for immediate pickup and disposal off-premises, not to exceed a period of seven (7) days; (ii) recyclable solid waste stored in approved recycling containers as specified in this chapter; and (iii) solid waste generated by salvage operations that are clearly accessory to the ongoing principle use on the premises provided that such solid waste or salvage material be concealed from view from adjacent parcels or rights-of-way.

[Amended September 10, 1996]

Section 11-12 Property Owners To Provide Adequate Solid Waste Receptacles.

(A) The owner or occupant of every premises shall be responsible for providing adequate solid waste receptacles to store the solid waste generated by the activities taking place on those premises between scheduled pickups.

(B) Subject to the provisions of this section, and after consultation with the owner or occupant of the premises, the Public Works Director shall determine the size, number, and type of solid waste receptacles that must be provided for each premises. In making this determination, the Public Works Director shall consider the type of activities on the premises, the amount of solid waste likely to be generated by those activities, the frequency of solid waste collection, the welfare of the occupants and neighbors of those premises, and the Town's need to facilitate collection and minimize the cost of this service.

(C) Unless otherwise determined by the Public Works Director after applying the criteria set forth in paragraph (B) above, when five or more dwelling units are located on a single lot, the owner of the premises shall provide one or more dumpsters so that the following criteria related to capacity are satisfied:

- (1) Two cubic yards of storage capacity shall be provided for every eight dwelling units or fraction thereof;
- (2) If more than one dumpster is required, the owner shall provide the smallest number of dumpsters capable of satisfying the requirements stated in subdivision (1) of this section.

Any dumpsters to be provided, as required by this section, shall be of a type approved by the Public Works Director and compatible with Town collection equipment.

(D) Unless otherwise determined by the Public Works Director after applying the criteria set forth in paragraph (B) above, the owner or occupant of every other premises not served by a dumpster shall provide at least one 30-32 gallon container made of galvanized metal, plastic, rubber, or other material resistant to rust, corrosion, or rapid deterioration.

Unless otherwise approved by the Public Works Director, when any nonresidential premises requires more than four such containers to meet the solid waste needs of that premises, as stipulated by Section 11-19(A), one or more dumpsters of an appropriate size shall be required.

(E) The owner or occupant of each premises shall maintain the solid waste container in good repair and shall keep the area in which the container is stored in a clean, neat, and sanitary condition. All solid waste shall be stored in the containers between collection days. The containers shall be waterproof, leakproof, and shall be covered at all times except when depositing waste therein or removing the contents thereof. All solid waste containers shall be cleaned periodically by the owner or occupant to minimize odors.

[Amended September 10, 1996]

Section 11-13 Storage and Collection Practices: Premises Served by Dumpsters.

(A) With respect to premises served by dumpsters:

- (1) The location of the dumpster(s) shall be determined by the Public Works Director after consultation with the owner of the premises. In making the 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 to minimize the cost of service.
- (2) The Public Works Director shall require that screening be provided around dumpsters if he determines that such screening is necessary to prevent solid wastes from being blown 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 passersby. The screening shall be a "Type A, Opaque Screen", as described in Section 16-307 of the Land Use Ordinance.

(3) All solid wastes shall be stored in the dumpsters between collection days. Solid wastes not placed in a dumpster will not be collected by the Town, except in accordance with Section 11-15 (Special Collections).

[Amended September 10, 1996]

Section 11-14 Storage and Collection Practices: Premises Not Served by Dumpsters.

(A) With respect to premises not served by dumpsters:

(1) No person shall store solid waste outside of their premises except in those containers specifically authorized by the Town in Section 11-12(D) above.

(2) Containers other than those described in Section 11-12(D) will be treated as solid waste and collected by the Town.

(3) The solid waste containers shall be placed within ten (10) feet of the paved portion of the street or road serving the property by 7:00 a.m. on the days of collection. Town employees will not retrieve or empty any solid waste container that is not street-side with the exception of any customer, specifically approved by the Public Works Director, who cannot take the container to the street because of age, illness, or physical impairment. Any person requesting to be exempt from the requirement of taking the solid waste container to the street shall make application to the Public Works Director, who shall rule on the requested exemption.

(4) Town employees will not pick-up, empty, or collect solid waste from any container that is located in the ground (in-ground container).

(5) Solid waste, which will not fit into a container, may be placed at curbside and adjacent to the solid waste container. However, the excess solid waste must be securely bagged, boxed, or bundled to prevent spillage and to aid in collection; provided, however, that such bags, boxes, or bundles shall not be heavier than fifty (50) pounds. Bundles shall not be more than four (4) feet in length and eighteen (18) inches in diameter.

(6) Any solid waste that is dangerous to handle by the solid waste collectors, such as glass, fluorescent tubes, vacuum tubes, light bulbs, sharp pieces of metal, knives, or needles, shall be securely wrapped and marked with a visible warning.

[Amended September 10, 1996]

Section 11-15 Special Collections.

(A) At least once each year, on a date determined and publicized in advance by the Town, the Town shall pick up solid wastes that are too bulky, heavy, or cumbersome to be collected by the Town as part of its regular collection service, including such items as furniture, white goods, tree trimmings, hedge cuttings, etc. Exceptions: Residents that contract with licensed arborists or a tree removal contractor/service shall be solely responsible for hauling and disposing tree trimmings and brush. The Town will not haul debris from these activities. [Amended October 10, 2006]

(B) Leaves may be collected by the Town between November 1 and April 1 on days specified for such collection if placed adjacent to the street so that they may easily handled by the collector. No tree limbs, shrubs, or other materials may be mixed with the leaves.

(C) Christmas trees may be placed at curbside between December 26 and January 10 of each year.

[Amended September 10, 1996]

(D) In addition to the waste collections listed above, other pick-ups on request are available. These pick-ups on request may result in a special collection fee as established from time to time. Any resident who has large, bulky waste items such as furniture, white goods, tree trimmings, hedge cuttings, etc., should contact Town Hall to schedule a pick-up by the Public Works Department. At such time a request is made, the Public Works Department will provide the resident an estimate of the amount that will be charged for the pick-up. The Public Works Department will make every effort to pick-up the bulky waste within 72 hours. The pick-up on request special collection fee shall be added to the customer's bi-monthly town services bill or billed through an invoice.

[Amended October 10, 2006]

Section 11-16 Wet Garbage.

All wet garbage shall have the liquid drained off and shall be wrapped in paper or other combustible material before it is placed in the solid waste container, thus preventing smell and the breeding of flies in summer, and freezing and adhesion to the container in winter.

[Amended September 10, 1996]

Section 11-17 Construction and Demolition Waste.

Construction and demolition wastes shall be collected, removed, and disposed of by the contractor or builder, or in event of their failure, by the owner or occupant of the property. Said wastes shall be removed from the property in no less than seven-day intervals unless the wastes are stored in a bulk container on the site. A bulk container shall be installed on site if the Public Works Director determines that it is necessary due to the volume of waste being generated on the site. Bulk containers containing construction and demolition waste shall be emptied as necessary. [Amended September 10, 1996]

Section 11-18 Contents of Solid Waste Containers; Restrictions.

(A) The following items are prohibited to be placed in Town-authorized solid waste containers that are part of the regular solid waste collection system of the Town:

- (1) Motor vehicle tires;
- (2) Construction and demolition wastes;
- (3) Yard waste;
- (4) White goods;
- (5) Hazardous, radioactive, or medical wastes;
- (6) Burning or smoldering materials or any other materials that would create a fire hazard; or
- (7) Rocks, dirt, sod, paint, or motor oil.

[Amended September 10, 1996]

Section 11-19 Maintenance of Public Access.

(A) An occupant or owner of a commercial establishment or premises that maintains any paved or unpaved areas for the use of the public, either for parking or for access to the commercial establishment, shall keep and maintain such areas clean and free from garbage or solid waste.

(B) Suitable receptacles for the deposit of garbage or solid waste shall be provided in all parking or access areas within the meaning of this section. Such receptacles shall be plainly marked and shall be constructed to prevent the scattering of any garbage, solid waste, or other materials deposited therein.

[Amended September 10, 1996]

Section 11-20 Access to Private Property.

Solid waste transportation vehicles operated by the Town are hereby authorized to utilize public streets, private streets, and private roads, as necessary, to accomplish the curbside collection of solid waste as provided by this Chapter. In addition, the solid waste vehicles are authorized to go onto private property, as necessary, to service the dumpsters that are part of the Town's solid waste collection system. Likewise, solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Chapter. *[Amended September 10, 1996]*

Section 11-21 Ownership and Control of Solid Waste.

(A) 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.

(B) Upon collection of solid waste by the Town or an authorized solid waste collector, the owner shall relinquish all claims of ownership and control, provided that nothing in this section shall be construed as to relieve the owner of liability resulting from the placement, possession, use, and disposal of toxic, hazardous, or other dangerous wastes.

[Amended September 10, 1996]

Section 11-22 Purpose and Intent of Recycling Program.

In compliance with SB III 1989 Session of the North Carolina General Assembly, and in recognition of the Town of Blowing Rock's commitment to set a standard of environmental consciousness which all Town residents may follow, the Town of Blowing Rock does hereby set for itself a goal of 25% reduction in the solid waste stream being landfilled by initiating a recycling program. The program shall consist of commercial and residential collections implemented in such a manner as to promote the most cost effective method of compliance with local goals and state mandates.

Section 11-23 Recycling of Solid Wastes.

(A) Every commercial/non-residential establishment required to purchase a privilege tax license from the Town of Blowing Rock and doing business therein shall be required to participate in the Town's recycling program and to recycle items set forth in the "Schedule of Recycled Items". The schedule shall be established and maintained by the Town Manager and shall be available in the Office of the Town Clerk for inspection by the public during regular office hours. *[Amended September 10, 1996]*

(B) Residential solid waste should be separated and carried to the nearest convenience center until such time as the Town determines that curbside collection is cost-effective.

Section 11-24 Manner of Collection.

(A) The Town shall operate a materials recovery facility where all recycled materials may be separated and packaged for sale to a recycling marketer.

(B) Recycled materials shall be collected at scheduled intervals from all commercial customers in containers provided by the customer. Commercial customers shall separate all recyclable items that are listed on the "Schedule of Recycled Items" into the containers.

(C) Residential customers are encouraged to voluntarily participate in recycling. At such time as the Board of Commissioners determines it is necessary, this section may be amended to require mandatory residential recycling.

Section 11-25 Penalties for Failure to Recycle.

If it is determined by the Director of Public Works that a commercial establishment is not participating satisfactorily in the mandatory recycling program, he may direct the sanitation crew to suspend solid waste pick-up until they resume participation.

Section 11-26 Rates.

(A) The Board may adopt and amend from time to time a schedule of rates and charges related to the collection and/or disposal of solid waste. A copy of this schedule shall be maintained by the Town Clerk and shall be available for public inspection during the regular business hours of the Town offices. *[Amended September 10, 1996]*

(B) The solid waste charges may be added to the Town's utility bill and collected in the same manner as water and sewer fees. A late penalty charge in the amount of ten percent (10%) on the unpaid balance may be added to all delinquent accounts. *[Amended June 10, 1997]*

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Article IV - Abandoned and Junked Motor Vehicles

Section 11-26.01 General Provisions.

(A) It shall be unlawful to abandon a motor vehicle on the public streets or on public or private property within the Town.

(B) The Town Council hereby finds that the regulation and prohibition of junked motor vehicles is necessary and desirable to promote or enhance community and neighborhood appearance. Therefore, it shall be unlawful to have, keep, or allow a junked motor vehicle to remain on the public streets or on public or private property within the Town. However, nothing in this section shall be construed to authorize the Town to require the removal or disposal of a motor vehicle kept or stored at a bona fide “automobile graveyard” or “junkyard” as defined in Section 136-143 of the North Carolina General Statutes; or to require the removal or disposal of a motor vehicle that is used on a regular basis for business or personal use. Furthermore, nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

(C) Subject to the provisions of this article, the Town may order any owner, lessee, occupant or person responsible for any junked or abandoned vehicle found to be in violation of this article to remove the vehicle. Alternatively, the Town may have any such junked or abandoned motor vehicle removed to a storage garage or area and, thereafter, may dispose of the vehicle in accordance with the provisions of this article.

(D) No abandoned motor vehicle shall be removed from private property without the written consent of the owner, lessee, or occupant of the premises unless the Town Council, the Town Manager, or the Zoning Officer has found that the motor vehicle constitutes a situation that is dangerous or prejudicial to the public health or safety because it is found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
- (3) A point of collection for pools or ponds of water; or
- (4) A point of concentration of gasoline, oil, or other flammable or explosive materials; or
- (5) So located that there is danger of the vehicle's falling or turning over; or
- (6) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other materials; or
- (7) A danger to the public health or safety for other reasons.

(E) No junked motor vehicle shall be removed from private property without the written consent of the owner, lessee, or occupant of the premises unless the Town Council, the Town Manager, or the Zoning

Officer has declared it to be a health or safety hazard [see subsection (D)] or has found in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community;
- (5) Promotion of the comfort, happiness, and emotional stability of area residents.

(F) The Town may require any person requesting the removal of an abandoned or junked vehicle from private property to indemnify the Town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

[Amended May 13, 1997]

Section 11-27 Notice Required Before Vehicle Removed.

(A) Before removing an abandoned or junked vehicle, the Town shall attempt to notify the owner of its intent to tow such vehicle.

(B) The notice shall:

- (1) Identify the vehicle;
- (2) Specify its location;
- (3) State why the vehicle is subject to removal;
- (4) Inform the owner that, unless the vehicle is removed by a specified date and time [which shall be at least seven days after the date the notice is mailed or posted under subsection (C)], the Town shall have the vehicle removed, and, in that event, all charges incident to the removal and storage of such vehicle will have to be paid before the vehicle may be reclaimed.
- (5) Provide the owner with the name and phone number of a representative of the Town who may be contacted to discuss any matter contained in the notice.

(C) The notice shall be sent by mail or posted on the vehicle as follows:

- (1) Notice shall be sent by mail to the owner of the vehicle at his last known address according to information derived from the registration plate, registration, or vehicle identification number.
- (2) If the vehicle has neither a valid registration plate nor registration and the officer authorizing the vehicle to be towed has made a reasonable but unsuccessful effort (including checking the vehicle identification number) to determine the owner of such vehicle, the notice shall be posted on the vehicle's windshield or some other conspicuous place.

(D) Notification before towing a vehicle shall not be required if the vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate towing is necessary.

[Amended May 13, 1997]

Section 11-28 Notice Required When Vehicle Removed.

(A) Whenever any junked or abandoned motor vehicle with a valid registration plate or registration is towed in accordance with this article, the Town shall immediately notify the last known registered owner of the vehicle of the following:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to have the vehicle returned to him or her; and
- (5) Inform the owner that he or she is entitled to request in writing a hearing before a magistrate to determine if probable cause existed for the towing. The notice shall further explain that if the magistrate finds probable cause did not exist, the tower's lien is extinguished and if the owner has already paid the towing fee, he or she will be entitled to reimbursement from the Town.

(B) If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours. If the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone; but in any case notice shall also be mailed to the owner's address (certified mail, return receipt requested) unless the owner or his or her agent waives this notice in writing.

(C) If the vehicle has neither a valid registration plate nor registration, than a reasonable effort shall be made (including checking the vehicle identification number) to identify the owner and notify him or her as promptly as possible of the items specified in subsection (A).

[Amended May 13, 1997]

Section 11-29 Use of Private Towing Operators.

The Town may have vehicles removed under this article by private towing operators. Such private towing operators shall have a lien on the vehicles towed and may dispose of such vehicles in accordance with the provisions of Article I, Chapter 44A of the North Carolina General Statutes.

Sections 11-30 through 11-35 Reserved.

CHAPTER 11 - SOLID WASTES, SCRAP MATERIALS, ABANDONED VEHICLES, WEEDS

Article V - Enforcement

Part I. Ordinary Penalties and Remedies

Section 11-36 Penalties and Remedies.

(A) 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 Section 11-3), Article III, and Article IV. *[Amended May 13, 1997]*

(B) A violation of any of the provisions specified in subsection (A) (as well as Section 11-3) shall also subject the offender to a civil penalty of one hundred dollars (\$100.00). If the offender fails to pay this penalty within fifteen 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. *[Amended July 13, 1993]*

(C) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (A) and (B) shall constitute a separate offense.

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

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

Section 11-37 Violations Resulting from Continuing Conditions.

(A) 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 ten calendar days after delivery of the notice, and informing the responsible person of the possible consequences of his failure to comply.

(B) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, the penalties and remedies provided for in Section 11-36 may not be invoked until after the ten-day correction period specified in this section has expired.

Part II. Extraordinary Remedies

Section 11-38 Summary Abatement of Conditions Dangerous or Prejudicial to the Public Health.

If the Board concludes, after notice and hearing as provided this 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 one mile thereof. 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.

Section 11-39 Notice Required.

(A) Before the action authorized by Section 11-38 is taken, notice shall be sent to the respondent, informing him:

- (1) What condition or situation is alleged to be dangerous or prejudicial to the public health or safety;
- (2) When and where the Board will meet to hold a hearing on the issue of whether the condition cited is dangerous or prejudicial to public health;
- (3) That if the Board 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;
- (4) That the expenses incurred by the town in connection with the actions described in subdivision (A)(3) of this section, 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.

(B) 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 three days before the scheduled hearing. This notice shall be sent by certified mail, return receipt requested, not later than five calendar days prior to the scheduled hearing or delivered to the respondent by a town officer or employee, not later than three days prior to the scheduled hearing.

(C) For purposes of this part, 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.

Section 11-40 Hearing Procedures.

At the hearing held pursuant to this part, the town administration shall be responsible for presenting sufficient evidence to the Board to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety. The Board 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. All parties may cross-examine adverse witnesses. At the conclusion of the hearing, the Board shall make findings of fact, state its conclusions, and enter an appropriate order. The Board's findings of fact, conclusion and order shall be reduced to writing and a copy sent by mail or delivered to the respondent within thirty days following the hearing.

Section 11-41 Order.

(A) If the Board 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 Section 11-38; 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 Section 11-38.