

CHAPTER 11

SOLID WASTES, SCRAP MATERIALS, ABANDONED VEHICLES, WEEDS

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Article I

DEFINITIONS

Section 11-1 Definitions

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- (1) Abandoned Motor Vehicle: A motor 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 (other than the farmers' market property) for longer than twenty-four hours; (iii) is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; (iv) is left on any public street or highway for longer than seven days; (v) is left on the premises leased by the town for the operation of the farmers' market contrary to Section 6-19(b) of the code; (vi) is left on any privately owned public vehicular area contrary to an ordinance adopted under authority of G.S. 160A-301(d); (vii) is left on private property in a properly designated fire lane; (viii) 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 (ix) is on town property in violation of Section 14-13 of this Code; or (x) may for any other reason lawfully be towed by a law enforcement officer (except that vehicles seized for evidence or pursuant to a levy under execution or otherwise seized or forfeited under any state statute shall not be considered abandoned vehicles under this chapter). (Amend. 10/11/83, 3/14/89)
- (2) Extra Trash: Refuse such as yard waste, furniture, paint cans with tops removed and the paint dried, tires, and other discarded odds and ends that the town will pick up on a regularly scheduled basis but that are not stored within the mobile containers described in subsection 11-17(d). (Amend. 12/15/92,12/2/08)
- (3) Garbage: All solid wastes capable of being rapidly decomposed by micro-organisms, including but not limited to animal and vegetable wastes resulting from

handling, preparation, cooking, and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.

- (4) Junked Motor Vehicles: An abandoned motor vehicle that also: (i) is partially dismantled or wrecked, or (ii) cannot be self-propelled or moved in the manner in which it was originally intended to move, or (iii) is more than five years old and appears to be worth less than one-hundred dollars (\$100.00), or (iv) does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on the public roads.
- (5) Motor Vehicles: Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.
- (6) 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.
- (7) Refuse: All solid wastes except (i) garbage, and (ii) solids that are dissolved or suspended in domestic, commercial, or industrial waste water effluent.
- (8) Scrap Materials: Scrap materials are:
 - (a) Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper, or any 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, and (iv) 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.
- (9) Solid Wastes: Wastes that are nongaseous and non-liquid (except that liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter).
- (10) Wastes: All useless, unwanted, or discarded materials resulting from domestic, industrial, commercial or community activities.

- (11) White Goods: Refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances. (Amend. 12/13/94)

- (12) Yard Waste: Organic materials commonly consisting of leaves, pine straw, wheat straw, grass, weeds, hedge clippings, dirt, rocks, yard and garden waste, branches, logs, twigs, and all vegetative matter resulting from landscaping or land clearing activities (e.g., stumps, trees, etc.) (Amend. 12/15/92)

Article II

CONTROL OF SOLID WASTES, SCRAP MATERIALS, NOXIOUS GROWTH

Section 11-2 Accumulation of Solid Wastes

(a) Subject to the qualifications contained in subsection (b), no person may cause, suffer, or permit solid wastes to accumulate or remain on premises under his control except in accordance with the provisions of Article III of this chapter (Storage and Collection of Solid Wastes).

(b) Yard waste 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. (Amend. 12/15/92)

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

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 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

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.

Section 11-5 Burning or Burying Solid Wastes

(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 Section 12-14 of this code.

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

Section 11-6 Scrap materials; Declaration of Policy

The Board 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 such 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.

Section 11-7 Accumulation of Scrap Materials

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

- (1) 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
- (2) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in Section 11-7.

Section 11-8 Noxious Growth

No persons may cause, suffer, or permit on premises under his 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.

Sections 11-9 through 11-15 Reserved

Article III
STORAGE AND COLLECTION OF SOLID WASTES

Section 11-16 Responsibility for Providing Adequate Solid Waste Receptacles (Amend. 10/14/80)

(a) The owner of every premises shall bear the ultimate responsibility for providing adequate solid waste receptacles to store the solid wastes that are typically generated by activities taking place on those premises pending removal (by town crews or otherwise).

(b) Every premise shall be served either by one or more mobile containers (described in subsection 11-17(d)) or by one or more dumpsters. The town shall assist the owners of premises in fulfilling the obligation set forth in subsection (a) by making such container and dumpster available for purchase. In addition, the town may make the mobile containers available without charge under the circumstances and according to the regulations set forth in Section 11-21. All persons shall be free to acquire necessary dumpsters or mobile containers from sources other than the town, so long as such dumpsters or mobile containers are compatible with town collection equipment and otherwise comply with the terms of this article. Persons exercising this option are urged to check with the public works director concerning the compatibility with town collection equipment before purchasing mobile containers. The town will not pick up or otherwise be responsible for collection of solid wastes stored in dumpsters, roll-off containers, or other solid wastes storage containers that are not compatible with town collection equipment. (Amend. 2/12/85)

Section 11-17 Size, Number, and Type of Solid Waste Receptacles Required (Amend. 10/14/80)

(a) Subject to the provisions of this section, and whenever possible after consultation with the owner of the premises concerned, the public works director shall determine the size, number and type of solid waste receptacles (mobile containers or dumpsters) that must be provided for all premises in accordance with Section 11-16. In making this determination, the public works director shall consider the type of activities on each premises and the amount of solid wastes 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 cost of this service.

(b) Unless otherwise determined by the public works director for good cause shown, 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 relating to capacity are satisfied:

- (1) Two cubic yards of storage capacity are provided for every eight (8) 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 one of this subsection.

(c) Unless otherwise determined by the public works director for good cause shown, whenever any nonresidential premises requires more than three of the containers described in

subsection (d) to satisfy the requirement stated in subsection 11-16(a) or whenever any residential premises requires more than five such containers to satisfy this requirement, one or more dumpsters of an appropriate size will be required. As provided in subsection 11-16(b), all dumpsters must be compatible with town collection equipment.

(d) Unless otherwise determined by the public works director for good cause shown, the owners of all premises not required to be served by dumpsters shall provide at least one, eighty-five gallon capacity mobile container made of heavy duty plastic, rubber, or their material resistant to rust, corrosion, or rapid deterioration. Each container shall be water-tight and provided with a tight fitting cover. As indicated in subsection 11-16(b), each container must be compatible with town collection equipment. (Amend. 12/15/92)

(e) If any dumpster or mobile container deteriorates to such an extent that, in the judgment of the public works director, it no longer adequately serves its intended function, the public works director shall so inform the owner of the premises involved and the owner shall either have the dumpster or mobile container repaired to the reasonable satisfaction of the public works director or replaced.

Section 11-18 Storage and Collection Practices; Premises Served by Dumpsters (Amend. 10/14/80)

(a) All dumpsters serviced by the town shall contain a sign permanently visible to those using the dumpster, stating that no recyclable corrugated cardboard or aluminum cans may be placed in the dumpster. Such signs shall be placed on all such dumpsters by no later than March 1, 1996. (Amend. 11/21/95)

(b) With respect to premises served by dumpsters:

- (1) The location of dumpsters shall be determined by the public works director and, whenever possible, this determination shall be made after consultation with the owner of the premises concerned. In making this determination, the public works director shall consider the welfare of the occupants of the premises, neighbors and passersby, and the town's need to facilitate collection and minimize the cost of service.
- (2) Solid wastes shall be collected from the dumpsters by the town where the dumpsters are located by the public works director.
- (3) The public works director may require that screening be provided around dumpsters if he determines that such screening is necessary to prevent solid wastes from being scattered about the site or 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 occupants of the site, neighboring properties or passersby by: (Amend. 9/22/82)

- a. Being severely rusted;
 - b. Having functioning parts either missing or not in workable condition;
 - c. Being in disrepair to the extent that solid waste contents are spilled out when a dumpster is serviced by the collection vehicle;
 - d. Having solid wastes routinely around the dumpster for whatever reason;
 - e. Having the doors routinely left open;
 - f. Having a poster or posters attached to it;
 - g. Having a message painted on the dumpster in an unorganized form; for example, "No parking in front of dumpster" should be placed with a stencil;
 - h. Having the paint severely chipped, faded, or otherwise worn off; or
 - i. Being located within 45 feet of an existing residential structure on adjoining property.
- (4) All solid wastes shall be stored in dumpsters pending collection by the town. No solid wastes not placed in dumpsters will be collected by the town, except in accordance with Section 11-20.
- (5) 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.
- (6) No person may place within any dumpster any solid waste without the permission of the owner or occupant of the premises on which the dumpster is located. (Amend. 12/15/92)
- (7) No person may place within any dumpster any solid waste that may not be placed for collection within mobile containers, as specified in Section 11-19. (Amend. 12/15/92)
- (8) No person may place within any dumpster serviced by the town any recyclable corrugated cardboard. For purposes of this subsection, corrugated cardboard means cardboard that has three layers, including any inner wavy layer, and is the type generally used for most boxes, and recyclable corrugated cardboard means cardboard that is not waxed and is not

contaminated with other materials (e.g., pizza boxes with food and oil).
(Amend. 11/21/95)

Section 11-19 Storage and Collection Practices: Premises Not Served by Dumpsters (Amend.
10/14/80, 12/15/92,09/06/11)

- (a) The provisions of this section shall apply to premises not served by dumpsters.
- (b) Except as otherwise provided in this section, all solid wastes may be stored, pending collection by the town, only in the mobile containers described in subsection 11-17(d), and the top of such containers shall at all times be kept securely fastened. Such mobile containers shall be kept between scheduled pickups either within a completely enclosed substantial structure such as a house, garage, or shed, or:
 - (1) If a lot has frontage on only one street, then such mobile containers shall be located behind the building line of the side of the principal building on that lot that faces the street;
 - (2) If a lot is a corner lot, then such mobile containers shall be located behind the building line of the side of the principal building on that lot that faces the street;
 - (3) If a lot has frontage on two streets that are more or less parallel, then such mobile containers shall be located behind the building line of the front of the principal building on that lot but (if possible) not closer than forty-five feet to the center line of the street that runs along the rear of such lot. If mobile containers stored behind the front building line must be located within forty-five feet of the center line of the street that runs along the rear of such lot, then such mobile containers shall be located along the side of the principal building.
- (c) Mobile containers shall be placed adjacent to the street (on the street side of any drainage ditch or swale) 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 subsection (b) of this section by 6:00 a.m. on the day following the collection day.
- (d) If the public works director determines that, because of the physical infirmity of the occupant of any premises, the occupant cannot without severe hardship transport the solid wastes from the storage location required by subsection (b) of this section to the collection point required by subsection (c) of this section, he may do one of the following:
 - (1) Authorize the occupant to store solid wastes at or near the pickup location between scheduled pickups; or
 - (2) Provide rear yard pickup service.

(e) Containers other than those described in Section 11-17(d) will be treated as solid wastes and collected by the town. However, except as otherwise provided in this article, the town reserves the right to refuse to collect solid wastes not placed in the approved containers.

(f) No person may cause, suffer, or permit any garbage can or solid waste receptacles other than described in Subsection 11-17(d) to be stored in any location that does not comply with the provisions of subsection (b) of this section dealing with the storage location of mobile containers.

(g) The Public Works Department provides yard waste collection services to residential properties, as described in the town's residential solid waste services guidelines available at the Public Works Department. Yard waste may be placed in the mobile containers specifically designated for yard waste only. Household trash and other refuse may not be placed in mobile containers specifically designate for yard waste only. Yard waste (as defined in subsection 11-1(12)) may not be placed in the household trash mobile containers described in Subsection 11-17(d) for collection by the town. (Amend. 11/17/2009)

(h) The town provides for the collection of leaves in accordance with the following schedule: Between the first Monday of November and the Friday that falls closest to February 28th, loose leaves and bagged leaves placed adjacent to the street (on the street side of any drainage ditch or swale) so they may be easily handled by the collector shall be collected according to the town's solid waste services guidelines available at the Public Works Department. . (Amend. 11/17/2009)

(i) Extra trash will be collected by the town according to a schedule designated by the public works director in accordance with Subsection 11-23(a), if placed adjacent to the street (on the street side of any drainage ditch or swale) so that it may be easily handled by the collector. Extra trash (other than yard waste) may be stored pending collection only in a location where a mobile container could be stored under subsection (6) of this section. (Amend. 11/17/2009)

(j) In addition to the items specified in Subsections 11-19 (g) & (h), the following items may not be placed within the mobile containers described in Subsection 11-17(d);

- (1) Any liquid waste. Solidified grease is permissible.
- (2) Hot ashes or hot coals;
- (3) White goods; (Amend. 12/13/94)
- (4) Aluminum cans; (Amend. 12/13/94)
- (5) Animal carcasses; (Amend. 12/13/94)
- (6) Recyclable corrugated cardboard (as defined in Section 11-18(8));
(Amend. 11/21/95, 12/2/08)
- (7) Recyclable rigid plastic containers, including beverage containers that have a neck smaller than the body of the container and that accept a screw top, snap cap, or other closure. This prohibition shall not apply to rigid plastic containers that are used in the sale or distribution of motor oil, or that have a capacity of less than eight fluid ounces or more than five gallons;

- (8) As provided by G.S. 18B-1006.1, empty bottles and cans resulting from a business that serves alcohol pursuant to an ABC permit, that are required to be recycled by the permittee;
- (9) Building materials, including but not limited to such items as
lumber, shingles, bricks, sheetrock, insulation, wooden pallets, etc.;
- (10) Paint, gasoline, diesel fuel, heating oil, kerosene, transmission fluid, gear oil, brake fluid, antifreeze, flammable liquids, solvents, or other liquids containing hazardous chemicals;
- (11) Motor oil or motor oil filters;
- (12) Wet cell batteries;
- (13) Whole scrap tires, including all whole pneumatic rubber covering;
- (14) Oyster shells;
- (15) Asbestos.
- (16) Computer equipment as defined in GS130A-309.131, and includes, any desktop computer, notebook computer (also referred to as a laptop computer), monitor or video display unit for a computer system and the keyboard, mice, other peripheral equipment, and a printing device such as a printer, a scanner, a combination print-scan-fax machine, or other device designed to produce hard paper copies from a computer. (Amend. 09/06/11)
- (17) Television as defined in GS130A-309.131. (Amend. 09/06/11)

(k) The Town will collect the following items listed above as part of its Special Collections as provided in Subsection 11-20: white goods; animal carcasses. Residents are encouraged to utilize the recycling services provided by Orange County to dispose of the other items listed in Subsection 11-19(j). (Amend. 11/17/2009)

Section 11-20 Special Collections (Amend. 10/14/80, 12/15/92)

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, including but not limited to appliances and yard wastes described in subsection 11-19(g)(3), may be collected by the town pursuant to a request made to the public works director and payment of a fee for this service. The fee will be determined by the public works department, based upon the nature and amount of the materials to be collected and the estimated time required to perform the service, but in all cases a fee of at least \$5.00 shall be charged. This fee must be paid in advance of the service. The town reserves the right to refuse any request made pursuant to this section, and failure of the town to provide this service shall not relieve any person of any of the obligations imposed by this chapter.

Section 11-21 Town Assistance in Providing Mobile Containers (Amend. 10/14/80)

(a) The town shall provide to all premises that receive (or are entitled to receive) solid waste collection service from the town on the date (September 23, 1980) this article became effective (except those premises required to be served by dumpsters in accordance with Section 11-

17), and without charge to the owners of such premises, the following number of mobile containers described in subsection 11-17(d):

- (1) For residential premises, one mobile container per dwelling unit.
- (2) For non-residential premises, the number of mobile containers deemed necessary by the public works director in accordance with Section 11-17.

(b) To assist persons who desire mobile containers in addition to or as replacements for containers distributed in accordance with subsection (a), as well as persons who occupy premises that did not receive trash collection service from the town on the effective date of this article, the town shall keep an inventory of mobile containers and make such containers available at cost to those who wish to purchase them. In cases where the purchase of such containers poses a severe financial hardship, the town may provide an installment purchase option whereby a person may pay the purchase price over a period not in excess of twelve months.

(c) The public works department may assist persons who own mobile containers to repair such containers if they are reparable and may provide spare parts. No charge shall be made for any labor involved in this service.

Section 11-22 Appeals of Discretionary Determinations (Amend. 10/14/80)

(a) Subject to subsection (b), whenever this article authorizes the public works director to make a discretionary determination, all persons affected by the determination shall comply with it within fifteen days after receiving written notice of the determination.

(b) Any person who receives a written determination in accordance with section (a) may appeal that determination to the manager by filing a written notice of appeal within fifteen days after receiving such written determination. An appeal stays any further enforcement until the appeal is disposed of in accordance with this section.

(c) The manager shall hear the appeal in any manner that fairly gives the appellant and the public works director an opportunity to present their respective sides of the matter at issue. The appeal shall be heard and decided as expeditiously as possible and the manager shall inform the appellant in writing of his decision.

(d) The manager may refer the appeal to the public works committee of the board of aldermen to obtain the committee's recommendation on the appeal.

(e) If an appeal is taken as provided in subsection (a), and a decision is entered and delivered as provided in subsection (c), then all persons shall comply with that decision within ten days after receipt of notice of such decision.

Section 11-23 Miscellaneous (Amend. 10/14/80)

(a) Collection routes and schedules. 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 routes or schedules shall be published in the local newspaper at least ten days before the changes are to become effective.

(b) 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.

(c) To assist the town in the enforcement of this article the owner of any premises that is occupied by another shall provide to the town upon request the name of such lessee or occupant.

(d) In addition to other enforcement remedies set forth in Article V of this chapter, the town may refuse to provide collection service to any premises where violations of this article exist. Without limiting the generality of the foregoing, the town may refuse to service any dumpster or mobile container that contains wastes that are not permitted to be stored therein. (Amend. 12/15/92)

Section 11-24 Recycling (Amend. 12/15/92)

(a) The town strongly encourages recycling efforts. Recycling containers (one per dwelling) are provided by the town at no charge and remain the property of the town. Additional or replacement containers will be provided by the town upon payment of a fee established by the town.

(b) Recycling containers shall be stored and placed for collection in accordance with the same requirements applicable to mobile containers (see subsection 11-(b)).

(c) Only those materials that are acceptable for recycling shall be placed within the recycling containers. The public works department shall provide adequate public notice of the types of solid wastes that may be placed within these recycling containers for collection by the town.

Section 11-25 Reserved

Article IV

ABANDONED, JUNKED AND UNLICENSED MOTOR VEHICLES (Amend. 7/28/81, 1/10/89)

Section 11-26 Removal of Abandoned and Junked Vehicles Authorized

(a) Subject to subsection (b), the town may have abandoned or junked motor vehicles within the town removed in accordance with the provisions of this article.

(b) No motor vehicle classified as abandoned because it is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours may be removed without the written request of the owner, occupant, or lessee of the premises. The town may require any person requesting the removal of such vehicle to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. (Amend. 10/11/83)

Section 11-27 Notice Required Before Vehicle Removed (Amend. 10/11/83)

(a) Before removing a vehicle under the circumstances specified herein, the town shall attempt to notify the owner of its intent to tow such vehicles as provided in subsections (b) and (c). This pre-towing notification is required before removing a vehicle:

- (1) That is classified as abandoned because it is (i) left on property owned or occupied by the town (other than the farmers' market) for longer than twenty-four hours, or (ii) left on any public street or highway for longer than seven days.
- (2) That is classified as abandoned for any reason if such 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, except that notification before towing such 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.

(b) The notice required under subsection (a) 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 that, 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 required in subsection (a) shall be sent by mail or posted on the vehicle as follows:

- (1) If notice is required under subsection (a)(1), the notice shall be sent by mail to the owner of the vehicle at his last known address according to information derived from the registration number or identification number.
- (2) If notice is required under subdivision (a)(2), the notice shall be posted on the vehicle's windshield or some other conspicuous place.

Section 11-28 Notice Required When Vehicle Removed (Amend. 10/11/83)

(a) Whenever any junked or abandoned motor vehicle is towed in accordance with this article, the town shall promptly give notification to the owner of the matters set forth in subsection (c) if the owner can, with reasonable diligence, be identified and contacted.

(b) If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within twenty-four hours. If the vehicle is not registered in this state, notice shall be given to the owner within seventy-two hours. This notice shall, if feasible, be given by telephone, but in any case notice shall also be mailed to the owner's address unless the owner or his agent waives this notice in writing.

(c) If the vehicle has neither a valid registration plate nor registration, then a reasonable effort shall be made (including checking the vehicle identification number) to identify the owner and notify him as promptly as possible of the matters set forth in subsection (d).

(d) The notice required under this section shall be sent by mail (certified receipt requested if the owner has not previously been reached by telephone) and shall:

- (1) Contain a description of the vehicle;
- (2) State why and under what authority the vehicle was removed and identify any violation with which the owner is charged;

- (3) Explain where the vehicle is stored and what the owner must do to obtain possession (including paying the towing fee or posting a bond for double the amount of the fee);
- (4) 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.

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 of G.S. Chapter 44A.

Section 11-30 Certain Vehicles Exempt

The provisions of this article shall not 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 any appropriate storage place of depository maintained in a lawful place and manner by the town.

Section 11-31 Motor Vehicles Dangerous or Prejudicial to the Public Health and Safety

Nothing contained in this article shall be construed to limit the authority of the town to effect the removal or abatement of any motor vehicle, regardless of whether it is located on private property with the consent of the owner, lessee, or occupant thereof, if the motor vehicle is found to constitute a situation dangerous or prejudicial to the public health or safety in accordance with Part 2 of Article V of this chapter because it is found to be:

- (1) A breeding ground or harbor for mosquitos or other insects, snakes, rats, or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over 8 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.

Section 11-32 Storage of Unlicensed Motor Vehicles (Amend. 1/10/89, 4/18/95)

(a) No person may cause, suffer or permit, on premises under the control of such person, the storage, outside a fully enclosed structure, of a motor vehicle that does not display current license plates and a current inspection sticker unless a permit has been issued for such vehicle under this section, provided that:

- (1) The restrictions of this section shall not apply to any person until 45 days after the administrator initially notifies the responsible person that a permit is required under this section; and
- (2) This section shall not apply to persons lawfully engaged in a business necessitating such storage so long as such business has received all legally required state and local permits and licenses.

(b) An application or an initial permit under this section shall be made to the administrator on a form prescribed by the town within thirty (30) days after the administrator notifies the responsible person that a permit is required under this section. Permits shall be valid for a period of one year from the date of issuance. The administrator shall send to the permittee an application for a renewal permit at least thirty (30) days prior to the expiration of the permit, and an application for a renewal permit must be submitted to the administrator at least fifteen (15) days prior to expiration of the permit.

(c) Any person who submits a completed permit application pursuant to subsection (b) shall be issued a permit under this section if:

- (1) The applicant pays an annual permit fee of \$25.00;
- (2) The applicant demonstrates to the reasonable satisfaction of the administrator either that (i) the vehicle is operable or (ii) the vehicle is capable of being made operable and the applicant is in the process of repairing the vehicle such that it will be made operable within a period of not more than one year. When a vehicle has remained inoperable for a continuous period of one year or more after the issuance pursuant to this subsection of a permit that was premised upon a finding of compliance with subdivision (ii) of this subsection, the administrator shall regard this in subsequent applications as conclusive evidence of the applicant's inability to satisfy subdivision (ii); and

- (3) The applicant demonstrates that he or she owns or leases the property on which the vehicle is stored or has the written permission of the owner or lessee of such property to store the vehicle at that location.

(d) If the administrator denies an application for an initial or renewal permit on the basis that the applicant has failed to demonstrate that the vehicle is operable or can be made operable within a period of one year, the applicant may appeal this determination to the board of adjustment. The board shall hear and decide this appeal in the same manner as an appeal of a decision of the zoning administrator, except that no appeal fee shall be required of the applicant and the board shall decide the appeal by majority vote, a quorum being present. The board may find that a vehicle is capable of being made operable within a period of one year even if the vehicle has remained inoperable for a period of one year or more after the issuance of a previous permit under this section.

(e) For purposes of this section, the "administrator", shall be the town manager or any person designated by the manager to perform the functions and exercise the responsibilities assigned by this section to the administrator.

Sections 11-33 through 11-35 Reserved

Article V

ENFORCEMENT

Part 1. Ordinary Penalties and Remedies

Section 11-36 Penalties and Remedies

(a) Any violation of any of the following provisions of this chapter shall constitute a misdemeanor punishable as provided in G.S. 14-4: Section 11-5, 11-6 (Amend. 12/9/80)

(b) A violation of any of the provisions of Article II, Article III or Section 11-32 of this Chapter shall subject the offender to a civil penalty of \$25.00, except that, if as a result of violation of the foregoing provisions, a monetary penalty greater than \$25.00 is imposed on the town by the Orange Regional Landfill, then the offender who has caused the town to become subject to such monetary penalty shall be subject to a civil penalty of an equal amount. 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 a debt. (Amend. 1/10/89, 11/21/95)

(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) of this section 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 of 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 subsection (a) has expired.

Part 2. 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 in 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 from town officials to summarily remove, abate, or remedy everything so found within the town limits or within one mile thereof, and impose a lien upon the land affected to recover the costs of the nuisance abatement.

Section 11-39 Notice Required

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 (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. This notice shall be sent by mail (certified, deliver to addressee only, 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. 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, conclusions, and order shall be reduced to writing and a copy sent by mail or delivered to the respondent within three days following the hearing.

Section 11-41 Order

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 of this article; 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.