

CHAPTER 9
Health and Sanitation

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ARTICLE 1
General Health Regulations

Section 9.1 Unlawful to violate county health regulations.

It shall be unlawful for any person, firm, or corporation to violate any lawfully adopted rule or regulation of the County Board of Health. The enforcement of this Section shall be under the supervision of the County Health officer.

Section 9.2 Unlawful to interfere with health officer.

It shall be unlawful for any person to hinder, obstruct or delay the Health Officer or any of his assistants in the lawful discharge of their duties.

Section 9.3 Right of entry.

The Health Officer or any of his assistants shall have the right to enter at any reasonable time any premises for the purpose of making the inspections or investigations as required by this Chapter.

Section 9.4 Human and animal waste; dead animals.

(a) It shall be unlawful for any person to urinate or deposit any human waste on any street lot or premises except in approved sanitary facility. No butcher, fishmonger, huckster, or vendor of merchandise of any kind shall leave any refuse on the streets, or uncovered by earth, on the lots of the Town. All putrid or decayed animals or vegetable matter must be removed from all cellars and out buildings at least once in every forty eight hours during the months of May, June, July, August and September, and at least once a week during the other months of the year. No animal that died by disease or accident and no meat therefrom nor any animal or meat therefrom killed while feverish, bruised, disabled, injured with broken bones, or otherwise heavy with young, jaded or fatigued from long driving or shipping, or killed or kept in some building or in so close proximity with fumes of gas, or disease or spoiled meat as to become contaminated therefrom or rendered unwholesome or unhealthy thereby, or manipulated with tools used on diseased or other dead carcasses as aforesaid, shall be brought into Town, held or offered for sale as food therein.

(b) Owners of animals dying in the Town shall, upon notice of their death, immediately remove same.

(d) Any animal killed by a railroad train or rail car within the corporate limits of the Town shall be removed by said railroad. For failure to observe this Section, after having been notified by the Chief of Police or Mayor, a fine shall be imposed on said company as provided in Section 1.5 hereof.

Section 9.5 Septic tanks and privies regulated.

(a) No privy of any kind shall be permitted in the Town of Hudson where a town sewer is reasonably accessible. When privies are permitted they shall be constructed in accordance with the regulations of the North Carolina State Board of Health. Privies altered or reconstructed shall also conform to these regulations.

(b) Septic tanks may be installed where sewer is not reasonably accessible provided such tank is constructed in accordance with the specifications of the North Carolina State Board of Health, and a permit therefor is issued by the Town Clerk.

Section 9.6 Planting and protection of trees.

(a) No person shall cut or damage any tree of the Town without the permission of the Town or shall dig or injure any tree or shall tack or post any advertisement upon said trees in the Town.

(b) Planting of shrubs and/or trees may not be of a type or in a location which would be hazardous to public health and/or safety. Existing growth must be removed or trimmed to meet this requirement.

Section 9.7 Milk.

It shall be unlawful for any person to sell or offer for sale within the Town any impure, adulterated or unwholesome milk, or sell, or offer to sell as pure milk, any milk to which water has been added or any other substance which in its effect, injures its quality or lessens its value, or to sell or offer to sell, the milk from any cow that may be sick, diseased or suffering from any bodily condition, or disorder liable to render her milk unfit, or unsafe to use or food, or milk obtained from a cow kept in a filthy or unventilated stable or building, or in an offensive, filthy lot or pen or shed, or that may be fed upon food or allowed to drink any liquid with risk of sickness or disease therefrom.

Section 9.8 Butchering restricted.

No person shall butcher any cattle, hogs or sheep within the corporate limits of the Town: Provided this shall not apply to persons that may butcher cattle or hogs or sheep for home purposes.

Section 9.9 Removal of stagnant waters.

No person or occupant of any property shall allow stagnant water to accumulate or remain in cellars or anywhere on their property.

Section 10 Sale of Food

Eating establishments, all persons, firms or corporations selling food of any kind or serving prepared meals shall comply with all requirements pertaining thereto of the North Carolina State Board of Health.

Section 9.11 Town water tank.

It shall be unlawful for any person (other than persons employed by the Town) to climb up the water tank in the Town.

Section 9.12. Keeping of hogs, etc.

- (a) No hog sty or pig pen, stall, stable, shed, barn, chicken roost, chicken lot or like building of any person shall be located within one hundred feet of any dwelling other than his own, or within fifty feet of any well, spring or any other source of water used for drinking or culinary purposes, or any natural drain or gutter within the Town, or within fifty feet of property lying in the Town possessed or owned by another person. Fenced pasture must contain not less than one-half acre for each head of livestock. (Ord. of 12/1/70).
- (b) The offal from such pens, sites, etc., shall be heaped in a pile and carried off the premises at least twice a week; no water shall be allowed to collect and stand around such pen or sty; and the owner of any such building shall keep such pen, stall or shed in an absolute sanitary condition in every respect, so as not to offend any persons within the Town.
- (c) If a complaint is filed in writing at the Town hall or to an officer of the Town by an adjoining property owner or tenant thereof, setting forth the basis for his complaint, and if the basis thereof is in violation of the restrictions herein set forth, and if the person offending shall fail to comply with the restrictions herein set forth within two days on being notified to do so by the sanitary inspector, or any officer of the Town, he shall be subject to a penalty of a fine not to exceed fifty dollars (\$50.00) or to be im-

prisoned for a period not to exceed thirty days, one or both, within the discretion of the court.

(d) Any sty, stall or pen within the Town that shall be declared a menace to health upon the certificate of a practicing physician in good standing in the county medical association shall be removed outside of the Town by the owner thereof, after forty-eight hours' notice shall have been given him by the sanitary inspector. All persons failing to remove such nuisance after such notice shall be subject to a penalty of a fine not to exceed fifty dollars (\$50.00) or to be imprisoned for a period not to exceed thirty days, or both, within the discretion of the court. (Ord. of 8/4/70)

Section 9.13 Definitions (Ord. 5/15/12)

(1) **Livestock is defined as:** All equine species, including horses, ponies, donkeys, and mules; all bovine species including cows and cattle; all ruminates, including goats and sheep.

(2) **Poultry** – shall be defined as any species, including chickens, ducks, and turkeys kept for productive or useful purposes other than as pets. This definition excludes domestic fowl that are kept for non-productive purposes including but not limited to guineas, peacocks and like species.

(1) It shall be unlawful for the owner or keeper of any chicken, turkey, duck or domestic fowl of whatever description to run at large in the Town.

(2) No person shall keep or maintain poultry in the Town unless the fowl

will be on a tract of land and/or maintained as follows:

- a) The tract shall consist of at least twenty thousand (20,000) square feet under single ownership or control.
- b) Such poultry must be contained in a secure fence enclosure at all times.

- c) The enclosure shall have a minimum of ten square feet (10) for each fowl.
- d) No enclosure shall be erected or maintained within the front or side yard (as defined by the Zoning Ordinance) within fifty (50) feet of any property line or within one hundred (100) feet of another residence.
- e) The enclosure shall be kept clean, sanitary and free from accumulations of excrement and objectionable odor.
- f) There shall be no more than four (4) fowl kept on any property at any time. No roosters will be permitted.

Sections 9.14 through 9.16 reserved.

ARTICLE 2**Growth of Weeds and Accumulation of Refuse Regulated (Amended 7/18/2017)****Section 9.17 Uncontrolled growth of weeds and accumulation of refuse declared public nuisance.**

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(1) The uncontrolled growth of noxious weeds or grass to a height in excess of twenty-four inches causing or threatening to cause a hazard detrimental to the public health or safety.

(2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(3) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(4) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

Section 9.18 Complaint and investigation.

The Town Code Enforcement Officer, upon notice from any person of the existence of any of the conditions described in Section 9.17, shall cause to be made by the appropriate County Health Department official, or Town official, such investigation as may be necessary to determine whether, in fact such conditions exist as to constitute a public nuisance as declared in Section 9.17.

Section 9.19 Notice to abate nuisance.

Upon a determination that such conditions constituting a public nuisance exist, the Town Code Enforcement Officer shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within fifteen days from the receipt of such written notice.

Section 9.20 Failure of Owner to abate nuisance.

If any person, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the

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Garbage, Refuse Collection and Disposal.

nuisance within fifteen days from receipt of said order, the Town Code Enforcement Officer shall cause said condition to be removed or otherwise remedied by having employees of the Town go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Board.

Any person who has been ordered to abate a public nuisance may within the time allowed by this Article request the Town in writing to remove such condition, the cost of which shall be paid by the person making such request.

Section 9.21 Cost incurred by owner.

The actual cost incurred by the Town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land and it shall be the duty of the tax collector to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty days from the receipt thereof.

Section 9.22 Charges become a lien.

In the event charges for the removal or abatement of a public nuisance are not paid within thirty days after the receipt of a statement of charges as provided for in Section 9.23, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G. S. 160A-193.

Section 9.23 Procedure is alternative to other authorized procedures.

The procedure set forth in this Article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this Article shall not prevent the Town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this Article as provided in G. S. 14-4.

Section 9.24 Debris from new construction.

All refuse, lumber and debris, remaining both as a result of the repair of any buildings, or of the erection and completion of any new buildings, shall be removed by the property owner within ten days from the completion of the aforesaid work.

Section 9.25 Purpose and definitions.

- a) The purpose of this article is for the protection of the public health, welfare, safety, and interest through the facilitation and enforcement of proper solid waste management.
- b) For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Commercial and residential establishment.** A commercial establishment is any office in or from which is conducted a service; retail or wholesale stores; bottling plants; printing establishments; apartment complexes; religious, charitable, or governmental offices; schools; nonprofit organizations; private clubs; hospitals; and restaurants. A residential establishment is any establishment designed or used wholly or in part for private purposes.

2. **Container.** A waterproof, odor-proof receptacle approved by the Town for use in commercial, business, industrial, residential and other approved areas.

3. **Disposal site.** The site used for discharging, depositing, injecting, dumping, spilling, leaking, or placing of any solid waste into or on any land so that the solid waste or any constituent thereof may enter the environment or emit into the air, or discharge into any waters, including ground waters.

4. **Dump.** The consolidation or collection of solid waste from one or more sources at a disposal site which has unsanitary conditions. Includes any disposal area which has not been approved by applicable health regulations.

5. **Garbage.** The organic waste matter, both animal and vegetable, from houses, kitchens, restaurants, hotels, hospitals, and the like. Comprises chiefly waste food, and does not include liquid that may be drained into the sewer, or ashes, cinders, and the like from fireplaces, stoves, heaters, and the like.

6. **Hazardous waste.** A solid waste or combination of solid wastes, which because of their 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 pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

7. Industrial establishment. An industry engaged in manufacturing products from raw materials.

8. Nonprofit organization. An organization not conducted or maintained for the purposes of making a profit.

9. Refuse. Solid waste accumulations consisting of garbage, household trash, yard trash, and business trash.

10. Sanitary landfill. A method of disposing of solid waste on land in a sanitary manner without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduced it to the smallest practical volume, and to cover it with a layer of compacted earth at the conclusion of each day's operation or at more frequent intervals as may be necessary.

11. Solid waste. Garbage, refuse, rubbish, trash, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but not including solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants. (Ord. of 6/4/85)

Section 9.26 Responsibility for administration.

The administration of the provisions of this article shall be the responsibility of the Town Code Enforcement Officer. It shall be their duty to enforce all of the provisions of this article. (Ord. of 6/4/85)

Section 9.27 Function and power of the responsible department.

The Town Code Enforcement Officer shall:

- a) Aid and assist the county and state in the application and enforcement of rules and regulations pertaining to solid waste management.
- b) Enforce local rules and regulations pertaining to solid waste management.
- c) Issue warning notices and initiate proceedings against violators of local regulations. (Ord. of 6/4/85)

Section 9.28 Standards and regulations for collection.

The level of garbage service provided by the Town shall not exceed three 32-gallon cans per residential or commercial establishment picked up one time per week. Any establishment that exceeds this level of service shall use commercial garbage collection provided by private collectors as franchised by the Town. Industrial garbage or trash will not be collected by the Town; private collectors must be used as franchised by the Town. When private collection is required, it shall be at 100% cost to the generator of the waste. (Ord. of 6/4/85)

Section 9.29 Standards and regulations for storage prior to collection.

Every owner, occupant, tenant, or lessee shall provide adequate, approved containers for receiving and holding refuse. The following rules and regulations for storage shall be observed:

- a) Containers shall be kept in a sanitary condition at all times.
- b) Pick-up schedules for each area of the Town are available at the Municipal Building. Containers must be placed at curbside on the day of pickup by 7:00 a.m. Plastic bags may be used, but must be kept in containers except for the day of the pickup.
- c) Garbage (food waste) and rubbish shall be stored in a container which shall have a tight-fitting cover, have suitable handles, be watertight and fly-proof, and be able to be carried easily by the collector.
- d) Garbage (food waste) shall be drained of Liquids.
- e) Containers shall be kept tightly covered at all times.
- f) Containers shall be of not less than 20 gallons nor more than 32 gallons in capacity for households.
- g) Containers shall be stored on the owner's property and not left on a public right-of-way after pickup. (Ord. of 6/4/85)

Section 9.30 Standards and regulations for disposal.

- a) All non-hazardous solid waste shall be disposed of in the Caldwell County sanitary landfill.
- b) No burning of solid waste is permitted except in approved incinerators or by permit.
- c) All hazardous waste shall be collected and disposed of in accordance with state laws. (Ord. of 6/4/85)

a) It shall be unlawful for any person to scavenge any materials delivered and deposited for disposal.

b) It shall be unlawful for any person to salvage to reclaim any solid wastes except at a properly permitted facility in which salvage is an integral plan of operation.

c) It shall be unlawful to make refuse available for animal consumption unless the refuse has been heat-treated to kill any disease agent therein.

d) It shall be unlawful for any person to use, maintain, or operate an open dump.

e) It shall be unlawful for any person to burn any solid waste except in an approved incinerator, or by permit.

f) It shall be unlawful for any person to throw, place, or deposit, or cause to be thrown, placed, or deposited, any solid waste, trash, tree limbs, or leaves in or upon any street, alley, sidewalk, body of water, public or private property, except as provided in this article. (Ord. of 6/4/85)

Section 9.32 through 9.40 reserved.

Cemeteries

Section 9.41 Cemetery use.

No person shall be interred or disinterred therein without lawful authority and permission obtained.

Section 9.42 Conduct.

No person shall disturb the quiet, repose and good order of the cemetery, nor shall any person deface, remove, disturb, injure or destroy any tree, plant, or shrub therein except in the manner herein provided; trespassing within said cemetery is hereby prohibited, and no person shall commit any immoral act therein under penalty of the law herein prescribed.

Section 9.43 Vehicles.

No vehicle shall enter said cemetery except for the purpose of attending funerals, visiting graves or other lawful mission.

Section 9.44 Cleanliness.

No person shall deposit any rubbish, filth, waste, or other unclean or unsightly substance in said cemetery, and all materials carried within said cemetery and not used in the erection of monuments, markers or other lawful structures authorized herein, shall be promptly removed therefrom by the owner of the lot upon which such monument, marker or structure shall be located.

Section 9.45 Burial regulated.

a) It shall be unlawful for any person to bury any human being on any lot or premises within the corporate limits except within an approved cemetery and in accordance with all applicable laws and regulations.

b) No person shall dig any grave, put up any gravestone or board or make any erections, or dig up any sod on any private burial lot, except under the direction or by the consent of the owner thereof.

Section 9.46 Damaging gravestones, etc. prohibited.

No person shall remove the stakes from a burial lot or any board, gravestone, or other monument which may have been erected at any grave, nor deface, injure or destroy any such board, gravestone, or monument in any manner.

ARTICLE 5**Smoking in Municipal Buildings
and Vehicles****Section 9.51 Definitions.**

Smoking. The inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product. The use of any electric oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
(Ord. of 9/14/93 - Amended 10/21/2014)

**Section 9.52 Smoking Prohibited in
Municipal Buildings.**

It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the Town.
(Ord. of 9/14/93)

**Section 9.53 Smoking Prohibited in
Municipal Vehicles.**

It shall be unlawful for any person to smoke in any vehicle now or hereafter owned or leased by the Town.
(Ord. of 9/14/93)

Section 9.54 Exemptions.

This article shall not apply to individual dwelling units in public housing complexes.
(Ord. of 9/14/93)

Section 9.55 Penalty.

Violation of this article shall constitute a misdemeanor punishable in accordance with N.C.G.S. 14-4.
(Ord. of 9/14/93)

ARTICLE 6.

NUISANCES

DIVISION 1. - General

Section 9.56. - Definitions

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates that a different meaning is intended:

Agent means the person who manages or has custody of a business building or the person to whom rent thereon, if any, is paid.

Apartment or apartment house or tenement house means every house, building, or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the house, home or residence of more than two families, living independently of each other and doing their cooking on the premises, or by more than one family upon a floor, so living and cooking, but having no common right in the halls, stairways, yards, water closets or privies.

Ashes means the residue from the burning of wood, coal, coke or other combustible material. "Ashes" shall not include cremated human remains.

Attached business unit means a structure of two or more business offices constructed as one unit, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Brushwood means large, heavy yard trimmings resulting from heavy pruning or shrub removal with maximum six-inch diameter at large end;

Building material means lumber, brick, stone, dirt, carpet, plumbing materials, plaster, concrete, floor coverings, roofing material, gutters and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing structures or accessory structures or demolition of such.

Bulk container means a commercially made metal container designed to store and hold rubbish and solid waste until the same can be collected for disposal, generally having a capacity of not less than four cubic yards nor more than eight cubic yards and capable of being serviced and emptied by automated machinery.

Bulk service means a customer that stores and disposes of rubbish and solid waste in a bulk container.

Business building means any structure, whether public or private, in the Town that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise or for the performance of work or labor, including, but not being limited to, hotels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories in business areas and all outhouses, sheds, barns and other structures on premises used for business purposes.

Collection means the act of removing solid waste from a point of generation to an approved disposal site.

Collection on private property means the act of removing solid waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the property manager and the Town manager or appointed designee for automated collection.

Commercial establishment means any structure or location, whether public or private, that is adapted for occupancy for the transaction of business, for the rendering of professional services, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotel rooms, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, sheds, barns and other structures on premises used for business purposes. "Commercial establishment" shall also include churches, houses of worship or

other religious or eleemosynary institutions, regardless of size.

Construction and demolition waste means solid waste incident to maintenance, remodeling or new construction, including, but not limited to, mineral matter, wood, sheetrock, shingles and metal, but specifically excluding any substance which is contaminated by asbestos, lead based paint, or any other substance the disposal of which is regulated as a toxic or hazardous material.

Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Disabled person means any person who by reason of infirmity, or other physical or mental impairment is incapable of complying with the provisions of this chapter as it relates to the placement of refuse containers curbside. Included in the definition are children 12 years of age and under;

Family living unit means, but is not limited to, single-family residences, single mobile homes, single-family living units in duplexes, apartments, and other multifamily dwellings, but shall not include hotels or motels;

Fee means that charge by the Town associated with a good or service provided to or for the benefit of a customer.

Garbage means all putrescible wastes except sewage and body wastes, including all meat, vegetables and fruit refuse commonly resulting from the handling, preparation, cooking and consumption of food, from or on any premises within the Town limits.

Graffiti shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye, or other similar substances on public or private buildings, sidewalks, streets, structures, or places which such marking are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or

inscriptions regardless of the content or the nature of the materials used in the act.

Nothing in this chapter shall be construed to prevent temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with typical children's activities, such as drawings, or bases for stick ball, kickball, handball, hopscotch or other similar activities. Nothing in this chapter shall be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connections with any lawful business or public purpose or activity.

Hazardous household waste means any of the following materials, existing in a home because of their use in that home: pesticides; herbicides; petroleum products (epoxy resins, coal tar, polishes, thinners, mineral spirits, varnish, grease, caulking materials); solvents; acids (muriatic, hydrochloric, sulfuric, phosphoric); poisons (arsenic, lead, chrome and warfarin compounds); alkaline material (photo developers, sodium hydroxide, bleaches); oil based paints and stains, but not latex paints; batteries of all kinds, for cars, flashlights, smoke detectors, hearing aids, toys, watches and similar batteries; antifreeze; and used motor oil.

Hazardous material or hazardous waste. The following is an explanation of hazardous waste as published in the North Carolina Hazardous Waste Management Law adopted for the Federal Environmental Protection Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The terms defined are not inclusive of all items specified by the EPA regulations. Hazardous waste is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal), and explosives.

Health official means the chief health official of the County Health Department or any

health department including County or any person whom he has authorized to perform any of the powers or duties conferred upon him by this article.

Hotels and motels means places of business whose primary business and the one in which they are normally and customarily engaged in supplying temporary living quarters with limited family living facilities for short periods of time.

Household sharp medical waste means any type of product capable of puncturing or lacerating the skin that is designed or used to treat, diagnose, or prevent a disease or medical condition, including, but not limited to, scalpels and hypodermic needles.

Industrial and commercial waste means those wastes, including solids, semisolids, sludge and liquids generated by an industry, commercial establishment or other manufacturing enterprise that is not classified as a hazardous waste or requires special handling such as oils, acids, etc.

Infectious waste means a solid waste capable of producing an infectious disease. Examples of waste designated as infectious are: micro-biological waste, pathological waste, blood products, improperly packaged sharps and all other waste as defined in the medical waste management regulation under 15A NCAC 13B.1200 in North Carolina Solid Waste Management rules.

Liquid waste means any waste material that is determined to contain free liquid as defined in Method 9095, Paint Filter Liquid Test, as described in Test Methods for Evaluating Solid Waste, Physical/Chemical Method, as published in the Environmental Protection Agency Publication No. SW-846 or any successor or equivalent publication.

Litter means any discarded man-made materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as such terms are defined in this chapter and not properly containerized or prepared for collection and disposal.

Multifamily residential unit means two or more single-family dwellings constructed as one unit, such as apartment houses, motels, mobile home parks, townhouses, patio houses, or condominiums. Duplexes/triplexes built on public streets are not considered multifamily residential units.

Nuisance means any condition or use of property, or any act or omission affecting the condition or use of property, which directly threatens the safety of citizens; adversely affects the general health, happiness, security and welfare of others; or is detrimental to the rights of others to the full use of their own property and their own comfort, and happiness because of decreased property values and the unattractiveness and livability of neighborhoods. Further, the Town Commission finds and declares that the following specific conditions are prejudicial to the general health, safety and welfare of the Town and its citizens; lessen the attractiveness and livability of the Town; and, when located on any lot or parcel of land within the Town limits, are a nuisance.

Occupant means the individual, firm, partnership or corporation that has the use of, controls or occupies any business building, apartment house or tenement house, or any portion thereof, whether owner or tenant. In the case of vacant business buildings, apartment houses or tenement houses, or any vacant portion of a business building, apartment house or tenement house, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

Occupant means the person who has the use of or occupies any business building or any part thereof, or who has the use or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, or in case of occupancy in whole or in part by the owner and agent of the building, such owner or agent shall be deemed to be and shall have the responsibility of an occupant of such building.

Opening means any opening in foundation, sides or walls, ground or first floor or basement, including chimneys, eaves, grills, windows,

ventilators, walk grates, elevators and any pipes, wires or other installations through which a rat may enter.

Open place shall constitute any portion or area of a property not enclosed by walls, this shall include, but not be limited to, carports, patios, porches, decks, terraces, lean-tos, outbuildings, and the like, which are exposed to the exterior and/or public view, including, but not limited to, front, side, and/or rear yards. Tarps, plastic sheeting, canvas sheeting, unfinished building materials or the like shall not constitute walls.

Owner means the person owning the business building or premises, or agent of the building or premises, or the person to whom rent is paid; whether an individual, firm, partnership or corporation. In the case of business buildings leased or rented with a covenant in the lease or other agreement under which the lessee is responsible for maintenance and repairs, the lessee shall also be considered in such cases as the owner for the purpose of this chapter.

Physical disability means a medical condition, verified by a registered physician, that makes an individual physically unable to bring the automated refuse/automated recycling container to the curbside for collection and where there is no one else residing in the household capable of taking the containers to the curbside.

Premises means business houses, boardinghouses, rooming houses, offices, theaters, hotels, tourist camps, apartments, restaurants, cafes, bars, eating houses, hospitals, schools, private residences, mobile home parks, vacant lots and other places where garbage, trash or rubbish accumulates.

Private street means a street not open to public use, on private property, and not maintained by any governmental agency.

Private property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street.

Public street means the entire width between property lines, whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

Public property means all that property except private property as herein defined, including but not limited to highways, streets, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public street or body of water.

Qualifying customer means a single-family detached home, duplex, or condominium regardless of the size of complex, or an apartment, tenement house or townhome which, when combined with all other units located on the premises, is comprised of not more than six family living units.

Rat eradication means the removal, killing, destruction and extermination of rats by systematic use of traps or by poisons and by other methods.

Rat harborage means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind, including, but not limited to, conditions on vacant lots, creeks, branches, ditches, rubbish heaps, junkyards and any other places inside or outside of structures which afford shelter or provide a place or situation favoring the breeding, multiplication or continued existence of rats.

Rat stoppage or rat-proofing means a form of construction to prevent ingress of rats into business buildings from the exterior or from one building to another; it consists essentially of the closing, with material impervious to rat gnawing, of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground, by climbing or by burrowing.

Refuse means all solid wastes, including garbage, rubbish and trash.

Rollout container means a plastic or fiberglass container, having wheels for ease of movement and a lid which securely covers the bin

designed to keep flies and other vermin from refuse, which is approximately 95 gallons in size and designed for the automatic collection of refuse by Town machinery.

Rubbish or trash means matter that is worthless or useless or of no substantial, practical value or matter that is of value only when it has decayed or has been recycled. Rubbish is solid waste, exclusive of garbage or ashes, including, but not limited to, leaves, pine needles, twigs, limbs and other such parts of trees not useful as timber and shall include the trunks and limbs of trees, even though useful for timber, when the same have been blown down or felled, either partially or totally, and which have become dried and flammable; tin or aluminum cans, bottles, papers, paper boxes or cartons, small light wood or crafting materials, rags, excelsior, rubber, leather, metals, wire or wire scraps, glass and crockery, but shall not include salvage automobiles, buses, or other items which in the judgment of the Town is likely to cause damage to equipment of the Town or injury to employees of the Town, or is likely because of the nature, size or weight of the material, to handicap or overburden the automated equipment.

Sharps container means a container specifically manufactured for the disposal of sharp medical waste.

Single business unit means any single nonresidential unit that generates no more garbage per week than can be placed or stored in a maximum of one rollout container with a total capacity of no more than 95 gallons when accumulated between collections, such as a dental office, medical office, insurance office or another business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Single-family residential unit means any dwelling place occupied by one family and not defined as a multifamily residential unit.

Solid waste means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example and not by limitation, rubbish, garbage, commercial and industrial waste, scrap materials, junk, refuse, demolition and construction debris

and landscape refuse, but shall not include sludge from air or water pollution control facilities, septic tank sludge or agricultural or unacceptable waste.

Solid waste disposal facility means any land or structure or combination of land area and structures, including dumps, landfills and transfer stations used for storing, transferring, collecting, separating, processing, recycling, recovering, treating, salvaging, reducing, incinerating or disposing of solid wastes.

Stationary bulk compactor means any Town approved container made of watertight construction that contains a packing mechanism and an internal or external power unit, and constructed so that the container can be emptied mechanically by means of automated equipment for the purpose of collection of solid waste.

Town home or town house means an apartment or other family living unit which is capable of ownership separate and apart from other portions of the structure to which it is conjoined or of which it may be a part, but of which there is no ownership interest in the common areas of the facility in the owner of the individual dwelling unit.

Unacceptable waste means items which are not appropriate for disposal through this means and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

Unit means one single-family residence or an individual apartment, motel room or suite, mobile home, townhouse, patio house, condominium, cluster home in a multifamily residence, unless otherwise specified by the Town.

Waste means all useless, unwanted, or discarded materials resulting from industrial, commercial, agricultural and residential activities.

White goods means large household appliances, regardless of actual color, including, but not limited to, refrigerators, stoves, washers, dryers, etc.

Yard waste means vegetative matter and other materials generated while providing normal maintenance to the yard areas adjacent to a single-family residential unit without earth, soil or other mineral matter attached thereto, including, but not limited to, leaves, grass, twigs, limbs, hedge trimmings, plant trimmings, and shrubs. This shall not include plastic or synthetic fibers, lumber, rocks, gravel, dirt or tree or shrubbery remains except as specifically authorized herein, or soil contaminated with hazardous waste.

Section 9.57. – Nuisance

Any condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the Town and a public nuisance by the Town Commission or is in violation of any Town, county or state health regulation is considered to be a nuisance, as follows, but not limited to:

(1) Unfit Habitat

- (a) Whatever renders the air, food or water unwholesome.
- (b) Whatever building, erection, structure or part of cellar thereof is overcrowded or not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, drained, cleaned or lighted.
- (c) An occupied or used improvement thereon without utility services resulting in conditions which are detrimental to the health, safety or welfare of citizens and the peace and dignity of the Town.

(2) Unsanitary, stagnant, or inhibited water

- (a) Any stagnant water, to include all cellars and foundations of houses whose bottoms contain stagnant or putrid water.
- (b) Disease vectors. An open place of collection of water where insects tend to breed; permitting of any stagnant water, filth or any other

matter harmful to health or comfort to remain on the premises of the owner or premises under control by the owner or person in control within the corporate limits after twenty-four (24) hours' notice of such condition;

- (c) All business organizations, such as public motor vehicle garages, service stations, dry cleaning establishments, and any other businesses or industrial organizations which shall discharge any petroleum products, chemicals or other such substances which would or could pollute any creek or stream within the zoning jurisdiction of the Town.
- (d) It shall be unlawful for any person to obstruct the flow of water in any stream or drainage way within the Town by throwing or placing stumps, brush, rubbish, litter or other material within or along the banks of any such stream or natural drainage way.
- (e) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other Town-owned property of any kind; provided, that the notices required and powers conferred by this chapter by and on the public official in abating the nuisances defined by this paragraph shall be given and exercised by the Town manager or the director of public works;

(3) Rats, snakes, carcass and feral animals:

- (a) Any building or premises which is constructed or maintained in such a manner so as to provide food, shelter or protection for rats.

- (b) Firewood, if stored outdoors, shall be stacked orderly to prevent wildlife habitat.
- (c) Hides, dried or green, provided the same may be kept for sale in the Town when thoroughly cured and odorless;

(4) Junk:

- (a) Any furniture originally intended for indoor or interior use, outdoor furniture in disuse or disrepair,
- (b) Seating removed from motor vehicles,
- (c) Storage containers,
- (d) Automotive parts and/or supplies,
- (e) Inoperable appliances, exercise equipment.
- (f) Other metal products of any kind or nature kept within an open place which have jagged edges of metal or glass, or areas of confinement.
- (g) Junked motor vehicles on public grounds and private property (Reference Section 2: Abandoned, Junk and Nuisance Motor Vehicles).

(5) Plant Overgrowth

- (a) Weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 8 inches in height on the average or to permit such lot to serve as a breeding place for mosquitoes, as a refuge for rats and snakes, as a collecting place for trash and litter or as a fire hazard.. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this section.

This provision shall not apply to lots greater than one acre, but shall be maintained in accordance with this provision to a depth of 20 feet from its property lines if and only if the adjacent property is occupied by a dwelling or other structure located within 50 feet of such property. This provision will not apply to wooded vacant lots that are more than 75 percent covered with mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance dangerous or unsafe. Furthermore this provision will not apply to vacant lots that are larger than three acres in size (i.e. Golf courses, farmland, vineyards, etc...). Natural means of plant removal is permitted on parcels of land greater than 200 acres;

- (b) A place of vines, shrubs or other vegetation over eight inches in height when such vines, shrubs or vegetation are a focal point for any other nuisance enumerated in this Code; provided, the nuisance herein defined by this subsection shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;
- (c) A place of growth of noxious vegetation, including poison sumac (*Rhus vernix*), poison ivy (*Rhus radicans*) or poison oak (*Rhus Toxicodendron*), in a location likely to be accessible to the general public;
- (d) Any hedge, shrubbery, tree or plant along any street, alley or sidewalk planted closer than 18 inches or extending closer than 12 inches or lower than 14.5 feet to such street, alley or sidewalk,

or any of the above-mentioned vegetation that obscures clear vision as located within the protected sight distance triangle.

(6) Trash and waste.

The storage of garbage and trash in containers as prescribed by this chapter and the regular collection thereof by the Town upon payment of fees and charges as provided in this chapter are hereby declared to be essential to the efficient operation of the Town and to the prevention of disease and protection to the public health. Any accumulation of rubbish or trash causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind.

- (1) Scattering of garbage or trash, storage of garbage or trash except in containers as provided by this chapter, or the accumulation of trash by reason of nonpayment of fees or charges for its removal is hereby declared to be a nuisance and a violation of this chapter.
- (2) Under no circumstances shall trash or garbage be allowed to accumulate or be stored for a period longer than 30 days.
- (3) Under no circumstances shall trash or garbage be dumped or stored on any right of way or in any alley or on any lot without being placed in proper containers as prescribed herein.
- (4) No industrial wastes, manure, debris from construction or repair work, leaves, trees or tree trimmings may be dumped or stored on any within any right of way or in any alley.
- (5) No owner or occupant of any premises shall prohibit or prevent weekly solid waste collection services at the premises.
- (6) An open place of collection of garbage, food waste, animal waste

or any other rotten or putrescible matter of any kind.

(7) Public streets maintenance

- (a) Failure to clean or clear a public street, property, and adjoining sidewalks of any earth, sand or mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the Town for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the Town that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable. This provision does not preempt any applicable federal, state, or county regulations applicable to said events.
- (b) Property owners are required to maintain any area of their property which is located between a public sidewalk and the curb of a paved street in accordance with the guidelines set forth in this section.

(8) Odor

- (a) Unsightly litter, foul or offensive odors which remain upon or emanate from a property.
 - (b) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person.
- (9) Construction materials:** Lumber and building supplies, earth, sand and/or gravel on construction sites where the work is discontinued for a period of 60 days
- (10) Graffiti,** It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti.

(11) Animals sanitation:

- (a) Any person owning, harboring, walking, in possession of or in charge of a dog, which defecates on public property, public park property, public right-of-way property or any private property without the permission of the private property owners, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposed of in a lawful manner.
- (b) Any person, while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property without the permission of the private property owner, shall have in possession a bag or other container that closes, which is suitable for removing feces deposited by the dog.
- (c) The provisions of this Section shall not apply to visually impaired persons using dogs as guides.

(12) Abandoned Manufactured Homes, reference Article 2.

State Law reference- Similar provisions, G.S. § 160A-193

Section 9.58. – Exceptions

Exceptions. The provisions contained in subsection 1.02. 4: Junk and 6: Trash and debris, shall not apply to commercial property owners, including, but not limited to, junk yard dealers, salvage companies, yard waste recycling operations, cement, quarry or other mining type businesses, whose operations include the accumulation, storage, sale, repair, or maintenance of such materials or objects and who have obtained all applicable zoning and operating permits and are following all applicable ordinances contained within the Code of Ordinances and the Zoning Ordinance. In addition, the provision

contained in subsection 1.02.7.a. shall not apply to stockpiled rock, stone, gravel, sand, earth, or other similar materials on sites utilized and maintained by the North Carolina Department of Transportation or the municipality.

Section 9.59. – Notice.

- (a) Whenever the code official or appointed designee have determined that the conditions on a particular lot or parcel of land are a nuisance and should be abated or otherwise corrected, the code official or appointed designee shall give notice to the owner, lessee or other person in possession of the premises in writing setting forth the findings and describing the appropriate corrective action. The code official or appointed designee may establish a deadline, not to exceed sixty (60) days, for the abatement of the nuisance.
- (b) The notice may be served upon the owner, occupant or person in possession of the premises by at least one (1) of the following methods:
 - (1) By delivering a copy of the notice to the person or by leaving copies of the notice at the person's residence with some person of suitable age and discretion then residing on the premises;
 - (2) By mailing a copy of the notice by registered or certified mail, return receipt requested, addressed to the person to be served and delivered to the addressee;
 - (3) By delivering a copy of the notice to any official, employee or agent of a corporation, partnership or business; or
 - (4) If, after a due and diligent effort, the person cannot be located, by posting a copy of the written notice in a prominent place upon the real property.

Section 9.60. - Removal or abatement of nuisances.

Upon investigation and discovery of any of the conditions deemed a nuisance, the code official or appointed designee shall make a written report of his findings and may order that appropriate corrective action be taken, including the removal or abatement of such conditions by the person creating the nuisance or by the owner, occupant or other person in possession of the premises on which the nuisance is located. Prompt abatement is required within 10 days from the receipt of such written notice.

Section 9.61. – Chronic Violator.

The Town may notify a chronic violator of the Town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town gave notice of violation at least three times under any provision of the public nuisance order.

State Law reference- Similar provisions, G.S. § 160A-200.1

Section 9.62. – Removal or abatement of other conditions.

Prior to ordering the removal of conditions which do not threaten the public safety or pose a general threat to the health, safety and general welfare of the citizens of the Town, the code official or appointed designee shall first determine that such conditions are visible from adjacent property or from a nearby street or highway and that the benefits of removing or correcting the conditions outweigh the burdens imposed upon the private property owner. Such findings shall be based upon a balancing of the monetary loss of the owner against the corresponding gain to the public by promoting or enhancing the community, neighborhood or area appearance, including protection of property

values, indirect protection of public health, and safety, preservation of the character and integrity of the community and the promotion of comfort and quality of life of area residents.

Section 9.63. – Appeal.

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the code official to the Board of Adjustment (BOA) by appearing before the BOA at the appeal hearing date and time given on said notice. The abatement of the nuisance will be postponed by the code official until the final determination for the appeal is made by the BOA. The BOA will need to make a 4/5 finding to overturn the code official's ruling. In the event no appeal is taken within the time period stated to abate, the code official may proceed to abate the nuisance.

Section 9.64. – Removal by Town.

If any person, having been ordered to abate a public nuisance pursuant to this chapter, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such order, the designee may cause such condition to be removed or otherwise remedied by having employees of the Town or contracted work/workers go upon such premises and remove or otherwise abate such nuisance under the supervision of an official or employee designated by the code official. Any person who has been ordered to abate a public nuisance may, within the time allowed by this chapter, request the Town, in writing, to remove such condition, the cost of which shall be paid by the person making such request. The Town may require such requestor to deposit some or all of the estimated cost of such removal prior to doing the work or may require the requestor to execute an agreement giving security for the payment of such costs.

Section 9.65. – Emergency action.

Notwithstanding the provisions of Section 1.09, the code official or appointed designee shall have authority to summarily remove, abate or

remedy or cause to be removed, abated or remedied, any condition that is dangerous or prejudicial to the public health or public safety.

Section 9.66. – Penalties.

- (a) Any violation of the articles of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00). Violators shall be issued a written citation which must be paid within seventy-two (72) hours of receipt. Such citation shall be served by either first class mail, personal service or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.
- (b) Each day's continuing violation shall be considered a separate and distinct offense.
- (c) Notwithstanding subsection (a) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.
- (d) In addition to or in lieu of remedies authorized in subsections (a) and (c), violations of any articles of this chapter may be prosecuted as a misdemeanor or otherwise in accordance with G.S. § 160A-175.

Section 9.67. – Right of entry.

The code official or appointed designee is hereby given full power and authority to enter upon the premises upon which a nuisance is found to exist under the provisions of this chapter for the purpose of abating the nuisance as provided in this chapter.

Section 9.68. – Cost of abatement declared lien.

- (a) The actual cost incurred by the Town in removing or otherwise remedying a public nuisance shall be charged to the

owner of such lot or parcel of land, and it shall be the duty of the finance department or public services department to mail a statement of such charges to the owner or other person in possession of such premises, with instructions that such charges are due and payable within 30 days from the receipt thereof.

- (b) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.
- (c) The procedure set forth in this chapter shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this chapter shall not prevent the Town from proceeding in a criminal action against any person violating the provisions of this chapter.
- (d) All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any part of this ordinance shall be adjudged invalid, such adjudication shall apply only to such part so adjudged and the remainder of the ordinance shall be deemed valid and effective.

State Law reference- Authority for abatement of public nuisances, G.S. § 160A-193.