

CHAPTER 10 - HEALTH AND SANITATION

ARTICLE I. - IN GENERAL

Sec. 10-1. - Definitions.

The following words, terms and phrases, and their derivatives, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Appliances means refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial appliances.
- (b) Administrative Policy means the SWS document that provides guidance, information, and procedures to have items collected by SWS or its agents.
- (c) Building Material means any items, materials, or substances used in the construction, demolition, or renovation of a structure. Examples of building materials include, but are not limited to, lumber, brick, stone, carpet, plumbing materials, plaster, concrete, roofing, floor coverings, or gutters.
- (d) Bulky Waste means items that cannot be placed securely within a Container. Examples of Bulky Waste include, but are not limited to, items such as household furnishings, household appliances, mattresses, box springs, tires, lawn equipment (i.e. mowers, rototillers, wheelbarrows), and similar household items.
- (e) Business Enterprise means a sole proprietorship, corporation, professional corporation, nonprofit corporation, limited liability company, limited partnership, limited liability partnership, or any other partnership whether or not formed under the laws of the State of North Carolina. All foreign Business Enterprises must be licensed by the Secretary of State of North Carolina to do business in North Carolina.
- (f) Chronic Offender means, as set forth in North Carolina General Statutes § 160A-200.1, four or more violations of article III in the previous calendar year by the same property owner on any Premise within the city.
- (g) Code Enforcement means the division of the City's Housing and Neighborhood Services Department or any subsequent City department.
- (h) Commingled Waste means any Residential Solid Waste or Small Business Garbage mixed with Hazardous Waste, Industrial Waste, or Nonresidential Waste.
- (i) Container means Large Waste Container, Personal Container, and Small Waste Container.
- (j) County Tax Administrator means the Mecklenburg County Assessor's Office, the Mecklenburg County Tax Collector's Office, or any of their successors or assigns.
- (k) Curbside means the portion of property that is adjacent to or adjoining a Roadway.
- (l) Department Head means the manager of a city department.
- (m) Fee means the solid waste fees imposed by the City.
- (n) Foul odors mean offensive odors emanating from, but not limited to, garbage, or dead animals.
- (o) Garbage means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- (p) Graffiti means any imagery made by a perpetrator that defaces a structure, or place. Examples of graffiti include, but are not limited to, writings, drawings, inscriptions, figures or marks of paint, ink, chalk, dye, or other similar substances regardless of the content, or other similar substances regardless of the nature of materials used in the commission of the defacing act.

- (q) Hazardous Vehicle means a Motor Vehicle exhibiting any of the following:
- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests.
 - (2) A point of weed or other vegetation overgrowth.
 - (3) A point of collection for pools or ponds of water.
 - (4) A point of concentration of gasoline, oil or other flammable or explosive materials.
 - (5) So located that there is a danger of the Motor Vehicle falling or turning over.
 - (6) A place in which debris, bottles, or other Solid Waste is discarded and is present within or around the Motor Vehicle.
 - (7) A source of danger for children either through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other rigid materials.
 - (8) The creation of another similar condition or circumstance which exposes the general public to safety or health hazards.
- (r) Hazardous Waste means a Solid Waste, or combination of Solid Wastes, which because of its quantity, concentration, physical characteristics, chemical characteristics, or infectious characteristics may (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or (ii) may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (s) Heavily Wooded Lots means any Premise being densely wooded with trees, shrubs, and overgrowth where equipment cannot maneuver because of the density of the area.
- (t) Industrial Waste means Solid Waste generated by manufacturing processes or industrial processes that is not Hazardous Waste.
- (u) Junk means any item which creates a littered condition outside of an enclosed structure and in whole or part is rusted, wrecked, broken, junked, dismantled, or in inoperative condition. Any Junk item completely enclosed in a structure is not subject to this definition. Examples of Junk include, but are not limited to, dilapidated furniture, appliances, machinery, equipment, Building Materials, automotive parts, tires, or other similar items.
- (v) Large Multi-family Development means thirty (30) or more residential units in a neighborhood or development approved by the City prior to January 1, 2018, or twelve (12) or more residential units in a neighborhood or development approved by the City after January 1, 2018.
- (w) Large Waste Container means a dumpster, compactor, open-top container, and detachable container that is used for collecting, storing, or transporting Residential Solid Waste. A Large Waste Container has a minimum capacity of two cubic yards and picked up by a specially equipped truck for transporting the waste materials to the disposal site.
- (x) Lawful Place and Manner means strict compliance with the city's zoning ordinance.
- (y) Litter means any discarded materials that accumulate on a premise in an untidy manner.
- (z) Maximum Allowance means the total amount of Solid Waste generated by a Residential Unit or Nonresidential Unit to be eligible for collection services by the City.
- (aa) Motor Vehicle means all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.
- (bb) Nonresidential Unit means any place or area that is not a dwelling, domicile, or used as a residence. Examples of Nonresidential Unit include, but are not limited to, any use that is retail, manufacturing, wholesale, institutional, religious, government, or a nonprofit organization.

- (cc) Nonresidential Waste means any Solid Waste generated by a Nonresidential Unit. Examples of Nonresidential Waste include, but are not limited to, discarded Building Materials, any byproduct resulting from land disturbing activities, and large quantities of sod.
- (dd) Nuisance means something that is dangerous or prejudicial to the public health or public safety.
- (ee) Person means any natural person, owner, agent, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, occupant, lessee, tenant, or representative or group of individuals or entities of any kind.
- (ff) Personal Waste Container means any Container that is not a City-issued Container, is used by a Person for collection services of garbage and recyclables, and is smaller than a Large Waste Container.
- (gg) Persons With Disabilities means any person who has a physical or mental impairment which substantially limits one or more major life activities and has a record of such an impairment.
- (hh) Premise means private or public lots or parcels of land, sidewalks, rights-of-way, grass strips, or curbs up to the edge of the pavement of any Roadway.
- (ii) Public Rights-of-Way means land that is dedicated or otherwise legally established for public use.
- (jj) Recyclables means any process by which Solid Waste or materials which would otherwise become Solid Waste are collected, separated, or processed, and reused or returned to use in the form of raw materials or products. Recyclables include glass jars, bottles, aluminum cans, steel cans, plastic soda and liquor bottles, newspapers and inserts, plastic milk and water jugs, spiral paper cans.
- (kk) Repeat Offender means, as set forth in North Carolina General Statutes § 160A-200.1, four or more repeated violations of article III in the previous calendar year by the same property owner on the same Premise within the City.
- (ll) Residential Solid Waste means any Solid Waste generated by a Residential Unit. Examples of Residential Solid Waste include, but are not limited to, Recyclables and other Solid Waste, including Yard Waste.
- (mm) Residential Unit means a dwelling used by one or more natural persons as a residence, home, or domicile. The term does not include hotels, motels, inns, tourist camps, or other similar places that are required to collect a room occupancy tax.
- (nn) Responsible Person means, except as specified in section 10-141, any Person owning the property, acting as manager or agent for the property, or in possession or control of the property (i.e. tenant, occupant, or lessee) shall be responsible for complying with this article and correcting any violation.
- (oo) Roadway means, pursuant to G.S. 20-4.01(13), the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms "highway" and "street" and their cognates are synonymous.
- (pp) Sign means the displaying of any symbol, logo, insignia, handbill, or advertisement for a Person to read.
- (qq) Small Business Garbage means any accumulation of paper, cardboard, packaging materials, rags, or accumulations of incidental Garbage other than household trash, which is associated with the operation of stores, offices, churches, and commercial establishments.
- (rr) Small Multi-family Development means five (5) to twenty-nine (29) Residential Units in a neighborhood or development approved by the City prior to January 1, 2018, or five (5) to eleven (11) Residential Units in a neighborhood or development approved by the City after January 1, 2018.

- (ss) Small Waste Container means the City-issued receptacle for use by a Person for collection services of Garbage and Recyclables.
- (tt) Solid Waste means accumulations consisting of any combination of Small Business Garbage, Garbage, Residential Solid Waste, Bulky Waste, Yard Waste, Recyclables, and Junk and may be collected by SWS.
- (uu) Solid Waste Services means the City's department responsible for the collection of Garbage, Recyclables, Yard Waste, and Bulky Items from Residential Units and the collection of Small Business Garbage from business enterprises. This may also be identified as SWS.
- (vv) Special Tax District #1 means a section of the city bounded by I-77, Brookshire Freeway, and the John Belk Freeway (I-277).
- (ww) Yard Waste means Solid Waste consisting solely of vegetative matter resulting from landscaping maintenance. Examples of yard waste include, but are not limited to, grass, weeds, leaves, tree trimmings, plants, shrubbery prunings, and such other similar materials.

Sec. 10-2. - Smoking in city-owned buildings.

- (a) As used in this section, the term "smoking" shall mean the inhaling, exhaling, burning or carrying of a lighted pipe, cigarette or other combustible tobacco product.
- (b) Smoking shall not be permitted within any building owned by the city or within any building or space leased by the city. The manager or person in charge of the building shall conspicuously post signs within the building stating that smoking is not permitted. For example, the foregoing shall apply, but shall not be limited to, the following buildings and facilities: the Charlotte-Mecklenburg Government Center, Old City Hall Building, fire stations, Ovens Auditorium, the old and new Convention Center, the Coliseum, the Independence Arena, the North Carolina Blumenthal Performing Arts Center, the Mint Museum, Discovery Place, the Afro-American Cultural Center and Charlotte-Douglas International Airport. However, the manager or person in charge of a city-owned or -leased building may, in his discretion, designate smoking areas within the facility if he determines that it is feasible to adequately contain and ventilate the smoke from such smoking areas. The location and size of the smoking areas, if any, shall be determined by the manager or person in charge. Signs shall be conspicuously posted in any area designated as a smoking area.
- (c) No person shall smoke in a nonsmoking area in a city-owned or -leased building or smoke in any city-owned or -leased vehicle in violation of subsection (c). Any person who continues to smoke in any nonsmoking area or in any city-owned or -leased vehicle in violation of subsection (c) following notice by the person in charge or his designee that smoking is not permitted shall be subject to a civil penalty in the amount of \$50.00. If the penalty is not paid or appealed within 30 days of its issuance, a delinquency charge of \$25.00 shall be added to the amount of the penalty. This civil penalty and delinquency charge may be recovered by the city in a civil action in the nature of a debt if the violator does not pay the full amount within 15 days after the imposition of the delinquency charge. This subsection shall not apply to public transportation vehicles, which shall be governed by section 15-272.

Secs. 10-3—10-24. - Reserved.

ARTICLE II. - SOLID WASTE SERVICES

Sec. 10-25. - Purpose; conflicts.

This article is determined and declared to be a health, sanitary, and safety measure necessary for the promotion, protection, and preservation of the health, safety, and general welfare of the people of the city. Whenever this article conflicts with any other portion of the city Code, this article shall prevail with respect to any matters relating to solid waste services.

Sec. 10-26. – Authority of Department Head

- (a) The Department Head shall have the discretion to implement the aim and intent of this ordinance by determining:
 - (1) the appropriate type, quantity, or size of any Container for the provision of service pursuant to section 10-30 by the city.
 - (2) Whether any item constitutes Bulky Waste or Junk under section 10-33.
 - (3) whether the collection of an item could impair or affect the health and safety of city employees or its agents.
 - (4) the Maximum Allowance permitted to be placed in a Container for collection service.
 - (5) the Maximum Allowance permitted to be placed at Curbside.
- (b) When evaluating a property and/or neighborhood for service eligibility by the city, the Department Head may take into consideration its size, density, configuration, and the approval date for its zoning or subdivision. Any zoning or subdivision approval, which fails to set aside space for Containers in accordance with section 12.403 of the Zoning Ordinance, shall not be eligible for service by the city or its agents.
- (c) Any changes to the initial approval of development configurations, lot lines, phase lines, or variations in forms or timing of ownership, which may be approved under any provisions of the Subdivision Ordinance and/or the Zoning Ordinance, will not enable a Person to receive a different form of service under section 10-30 and 10-31 than the service the Person received after the initial approval.
- (d) Collection schedules shall be determined by the Department Head and may be altered to observe holidays or for emergency situations.
- (e) The Department Head shall have the authority to decline to perform any collection services if the Solid Waste:
 - (1) is not prepared in accordance with this article.
 - (2) exceeds the maximum weight and/or amount that two (2) collection personnel would be reasonably expected to lift and load into a collection vehicle.
 - (3) cannot be placed on or in the collection vehicle due to its size.
- (f) The Department Head shall have the authority to investigate whether a Person is exceeding the Maximum Allowance. Any Solid Waste above the Maximum Allowance will not be collected by the city or its agents.
- (g) The Department Head shall have the authority to assess a purchase price for a Small Waste Container at an amount that shall be equal to the city's per unit purchase cost.
- (h) The Department Head shall have the authority to develop an Administrative Policy which explains how items shall be prepared to facilitate collection services.

Sec. 10-27. - Interference with authorized personnel prohibited.

It shall be unlawful to interfere, harass, or otherwise impede any Person authorized by the city to carry out the duties and responsibilities set forth in this article. A law enforcement official shall have the authority to arrest a Person for violation of this section.

Sec. 10-28. - Unauthorized collection prohibited.

It shall be unlawful for any Person to collect, pick up, or cause to be collected or picked up, any solid waste unless the Person is authorized by the City.

Sec. 10-29. - Ownership of materials.

All Solid Waste, which is properly placed at Curbside for collection, is deemed to be abandoned and become the property of the city or its agents.

Sec. 10-30. - Types of Primary Service.

(a) *Residential solid waste services.*

- (1) This service shall be provided to city facilities and the following Residential Units: single-family detached homes, duplexes, triplexes, quadplexes, Small Multi-family Development, and Large Multi-family Development.
- (2) Any Residential Solid Waste shall be in an amount less than the Maximum Allowance.
- (3) If a Premise includes both Residential Units and Nonresidential Units, then the Nonresidential Units on the Premise are prohibited from receiving service pursuant to section 10-30(a).

(b) *Small Business Garbage.*

- (1) This service shall be provided to any Business Enterprise only generating Nonresidential Waste and in an amount less than the Maximum Allowance.
- (2) If a Premise includes both Residential Units and Nonresidential Units, then the Nonresidential Units on the Premise are prohibited from receiving service pursuant to section 10-30(a) but may receive service pursuant to section 10-30(b) if deemed eligible.

(c) *Special tax district #1 Small Business Garbage*

- (1) Personal Waste Containers and cardboard boxes shall be placed at any designated location between 7:00 a.m. and 10:00 a.m., Monday through Friday. Any Personal Waste Containers left at the Curbside shall be removed within one (1) hour after collection.
- (2) This service shall be provided to any Business Enterprise only generating Nonresidential Waste and in an amount less than the Maximum Allowance.
- (3) Nothing in this section shall mandate or imply an entitlement to multiple same-day collections or more than once per day collection service.
- (4) If a Premise includes both Residential Units and Nonresidential Units, then the Nonresidential Units on the Premise are prohibited from receiving service pursuant to section 10-30(a) but may receive service pursuant to section 10-30(c) if deemed eligible.

(d) *Persons with disabilities solid waste service.*

- (1) This service allows backyard collection of Small Waste Containers in an amount less than the Maximum Allowance for a person with a disability, where undertaking such an act would clearly and seriously threaten that person's health.
- (2) A valid medical verification form must be submitted to SWS and must be approved before a Person can receive this service.
- (3) A valid medical verification may be requested subsequently by the city to determine a Person's continued eligibility. If more than sixty (60) days have passed since the city requested a medical verification and a medical verification has not been provided, then the city may discontinue this service.

Sec. 10-31. - Types of Waste Container.

(a) *Small Waste Container.*

- (1) Residential Units that are single-family detached homes, duplexes, triplexes, and quadplexes are eligible to receive Small Waste Containers for service pursuant to section 10-30(a) and section 10-30(d).

- (2) Small Multi-family Developments are eligible to receive Small Waste Containers for service pursuant to section 10-30(a).
 - (3) Any other Residential Units that have been issued a Small Waste Container and have been receiving service pursuant to section 10-30(a) prior to January 1, 2018.
 - (4) No Person shall use or permit the use of any Small Waste Container except for its intended use.
 - (5) Garbage shall be drained of all liquid and enclosed in securely tied plastic bags before it is placed into the Small Waste Containers.
 - (6) Small Waste Containers shall be placed at the Curbside no earlier than the day before collection and shall be removed by 11:59 p.m. on the day of collection.
 - (7) A Small Waste Container must be placed at ground level, within six (6) feet of the Curbside and at least three (3) feet away from each other or other obstacles such as mailboxes, telephone poles, automobiles, Bulky Waste, trees, etc., or in a location specified by the Department Head. A Person should use reasonable care and caution when placing a Small Waste Container along the Curbside and should avoid interfering with the access to or denying the use of a sidewalk by others.
 - (8) A Small Waste Container will not be collected if collection personnel:
 - i. have to unlock or open a door.
 - ii. have to unlock a gate or similar obstacle and lack the necessary access code.
 - iii. encounter a vicious or aggressive animal.
 - iv. are denied reasonable access by parked Motor Vehicles, equipment, or other objects.
 - v. would be required to ascend or descend multiple steps to obtain access to any Small Waste Container.
 - vi. observe that damage to the Small Waste Container would prevent collection service from occurring.
- (b) Personal Waste Container
- (1) A Business Enterprise must obtain a Personal Waste Container in order to receive service pursuant to section 10-30(b) and section 10-30(c).
 - (2) A Personal Waste Container must be placed at ground level, within six (6) feet of the Curbside and at least three (3) feet away from each other or other obstacles such as mailboxes, telephone poles, automobiles, Bulky Waste, trees, etc., or in a location specified by the Department Head. A Person should use reasonable care and caution when placing a Personal Waste Container along the Curbside and should avoid interfering with the access to or denying the use of a sidewalk by others.
 - (3) Garbage shall be drained of all liquid and enclosed in securely tied plastic bags before it is placed into the Personal Waste Containers.
- (c) Large Waste Container.
- (1) Large Multi-family Developments and city facilities must obtain Large Waste Containers in order to receive service pursuant to section 10-30(a).
 - (2) Large Waste Containers should be kept in a good state of repair.
 - (3) No objects, obstructions, or Motor Vehicles should hinder Large Waste Container collection service.
 - (4) Garbage shall be drained of all liquid and enclosed in securely tied plastic bags before it is placed into the Large Waste Containers.

Sec. 10-32. – Types of Secondary Collection Services

(a) Yard Waste collection service.

- (1) Items shall be placed at the Curbside no earlier than the day before collection.
- (2) This service shall be provided to the following Residential Units: single-family detached homes, duplexes, triplexes, and quadplexes. This service may be provided to Small Multi-family Development if the Small Multi-Family Development uses Small Waste Containers pursuant to section 10-31(a) for any service pursuant to section 10-30(a).
- (3) Yard Waste shall be placed in Personal Containers or bags as required by the Department Head at the Curbside for collection. Any bag containing Yard Waste shall not be secured or tied. Any Personal Container used for Yard Waste shall have all lids removed.
- (4) Yard Waste must be placed at ground level, within six (6) feet of the Curbside and at least three (3) feet away from each other or other obstacles such as mailboxes, telephone poles, automobiles, Bulky Waste, trees, etc., or in a location specified by the Department Head. A Person should use reasonable care and caution when placing a Yard Waste along the Curbside and should avoid interfering with the access to or denying the use of a sidewalk by others.

(b) Recyclables

- (1) Requirements for single-family detached homes, duplexes, triplexes, and quadplexes
 - i. Small Waste Containers shall be placed at the Curbside no earlier than the day before collection and shall be removed by 11:59 p.m. on the day of collection.
 - ii. A Small Waste Container must be placed at ground level, within six (6) feet of the Curbside and at least three (3) feet away from each other or other obstacles such as mailboxes, telephone poles, automobiles, Bulky Waste, trees, etc., or in a location specified by the Department Head. A Person should use reasonable care and caution when placing a Small Waste Container along the Curbside and should avoid interfering with the access to or denying the use of a sidewalk by others.
 - iii. A Small Waste Container will not be collected if collection personnel:
 1. have to unlock or open a door.
 2. have to unlock a gate or similar obstacle and lack the necessary access code.
 3. encounter a vicious or aggressive animal.
 4. are denied reasonable access by parked Motor Vehicles, equipment, or other objects.
 5. would be required to ascend or descend multiple steps to obtain access to any Small Waste Container.
 6. observe that damage to the Small Waste Container would prevent collection service from occurring.
- (2) Requirements for Large Multi-family Development
 - i. All Recyclables shall be placed in Containers authorized by the city and provided by a private contractor.
 - ii. Any Container and any overflow materials shall be segregated from all other Solid Waste at the collection location.
 - iii. Any Container is the responsibility of the property or management company to maintain or replace.
- (3) Requirements for Small Multi-family Development

- i. A Small Multi-family Development shall be subject to section 10-32(b)(1) if it receives Small Waste Containers pursuant to section 10-31(a) for service pursuant to section 10-30(a).
- ii. A Small Multi-family Development shall be subject to section 10-32(b)(2) if it receives Large Waste Containers pursuant to section 10-31(c) for service pursuant to section 10-30(a).

Sec. 10-33. – Collection service for Bulky Waste and Junk.

- (a) Collection service for Bulky Waste and Junk must be scheduled with the city before collection can occur. Any Person requesting collection service for Bulky Waste and Junk must obtain a date for collection from the city.
- (b) Bulky Waste and Junk shall be placed at the Curbside no earlier than the day before the collection day.
- (c) Bulky Waste and Junk must be placed at ground level, within six (6) feet of the Curbside and at least three (3) feet away from each other or other obstacles such as mailboxes, telephone poles, automobiles, trees, etc., or in a location specified by the Department Head. A Person should use reasonable care and caution when placing Bulky Waste and Junk along the Curbside and should avoid interfering with the access to or denying the use of a sidewalk by others.
- (d) No collection service for Bulky Waste and Junk will be provided for:
 - (1) Commercially related activities involving, but not limited to, Building Material, Appliances, and equipment. Such commercially related activities are the responsibility of the Person owning, leasing, or possessing the Premise.
 - (2) Items from Business Enterprises operated from a Residential Unit.
 - (3) Oxygen tanks and other medical equipment.
 - (4) Propane tanks or large oil tanks used for household purposes.
 - (5) Parts of campers, boats, camper shells, and trailers.
 - (6) Automotive parts including, but not limited to, motors, doors, fenders, car seats, or batteries.

Sec. 10-34. – Restrictions on the collection of specific items

- (a) *Appliances.* An Appliance shall be emptied of its contents before it will be collected pursuant to section 10-33.
- (b) *Ashes.* Any ashes must be wetted, cool to the touch, and placed in a plastic bag that is securely tied. No collection of ashes will occur unless this provision is met.
- (c) *Building Materials.*
 - (1) The following Building Materials may be collected pursuant to section 10-33 if they are the result of a Residential Unit's repair or renovation:
 - i. Wooden pallets only if they are broken into smaller pieces (i.e. the size of boards or lumber) with nails removed or bent down.
 - ii. Large plumbing materials.
 - iii. Space heaters.
 - iv. Hot water heaters.
 - v. Collapsed accessory buildings.
 - vi. Guttering.
 - vii. Doors.

- viii. Windows.
 - ix. Lumber and boards.
 - x. Plywood, paneling, and pressboard.
 - xi. Carpet and padding.
 - xii. Gauge fence wire.
- (2) The city will not collect the following: dirt; rocks; boards with nails protruding; natural stone countertops; duct or sheet metal material; concrete blocks; brick; natural stone floor coverings; fence posts with concrete adhered to them; pipe posts with concrete adhered to them; sand; concrete; central air conditioning; heating units; pallets not prepared pursuant to section 10-34(c)(1); ceramic tile; sheet rock; roofing or plaster; or any Building Materials resulting from contractual work or commercially related activities.
- (c) *Broken & Sharp Items.* All dangerous items and/or waste materials of an injurious nature shall not be placed in a Container for disposal or collected pursuant to section 10-33 unless they are securely wrapped and marked so as to prevent injury to the collection personnel. These dangerous items and/or waste materials of an injurious nature include, but are not limited to, broken glass, light bulbs, sharp pieces of metal, fluorescent tubes, and television tubes.
- (d) *Christmas Trees.* Any artificial Christmas trees shall be collected pursuant to section 10-33. All natural Christmas trees shall be collected as Yard Waste pursuant to section 10-32(a).
- (e) *Contagious disease material.*
- (1) If highly infectious diseases have occurred in a Residential Unit or at other places, then any items exposed to highly infectious diseases shall not be placed in Containers for collection nor scheduled for Bulky Waste collection service pursuant to section 10-33.
 - (2) Any items exposed to highly infectious diseases shall be removed pursuant to the supervision and direction of the local health department.
 - (3) Where the local health director finds and declares the existence of an epidemic, or finds and declares that an epidemic is threatened, all Solid Waste collected by city or its agent shall be taken immediately to the disposal site and shall be disposed of as the local health director and Department Head may order.
- (f) *Dead animals.*
- (1) A Person owning or possessing a dead animal, which weighs in excess of one hundred (100) pounds, shall be responsible for the removal and disposal of the dead animal.
 - (2) If a Person's ownership or possession of the dead animal cannot be identified and the dead animal is in the Roadway or near the Curbside, then SWS shall remove the dead animal upon notification of its existence.
- (g) *Fifty-five-gallon drums.* No fifty-five-gallon drum or larger shall be collected or used as a Container for any collection service under section 10-31.
- (h) *Glass.* All glass in windows, doors, mirrors, and other items with large expanses of glass must have the glass taped at minimum with an "X" mark from corner to corner and with a "t" from top to bottom so it will not shatter in the collection process pursuant to section 10-33.
- (i) *Hazardous waste.*
- (1) Paint cans shall have lids removed and contain no wet paint. Kitty litter or sand may be added to solidify paint material for collection pursuant to section 10-33.
 - (2) Soiled kitty litter and soiled diapers shall be enclosed in double plastic bags and securely tied prior to placement in any Container.

- (j) *Hypodermic instruments.* Any hypodermic syringe, hypodermic needle, or any instrument or device for making hypodermic injections shall be:
 - (1) broken, disassembled, destroyed, or otherwise rendering such device inoperable and incapable of reuse; and,
 - (2) placed in either a milk jug, coffee can with a lid, or such similar containers with a sealed top; and,
 - (3) prepared for collection in a manner to avoid the possibility of causing injury to collection personnel.
- (k) *Industrial waste.* No industrial waste shall be placed in Containers or collected by the city or its agents. Industrial waste shall be collected, removed, and disposed of by the operator of the factory, plant, or business enterprise creating or causing the same.
- (l) *Large furniture items.* Any large furniture items shall be dismantled prior to collection pursuant to section 10-33.
- (m) *Lawn mowers.* Gasoline and oil must be removed from all push mowers prior to collection pursuant to section 10-33.
- (n) *Tires.* All tires from the following shall be eligible for collection pursuant to section 10-33: bicycles, automobiles, motorcycles, large vans, mini vans, and small pickup trucks. Tires from large trucks, from farm equipment, or on any rim shall not be eligible for collection.

Sec. 10-35. - Solid waste services fee.

- (a) *Purpose.* This Fee is for the provision of services set forth in section 10-30 and section 10-32.
- (b) *Eligibility and Ownership date.*
 - (1) The Fee shall be imposed upon any Premise receiving service pursuant to section 10-30 by the city or by the city's contractor as of January 1.
 - (2) The Premise's ownership shall be determined as of January 1 for each successive fiscal year.
 - (3) Any changes to the Premise's ownership between January 2 and December 31 will not cause the Premise to lose its eligibility for imposition of the Fee.
 - (4) No refunds will be issued to a property owner after imposition of the Fee.
 - (5) No Fee shall be imposed upon any Premise if the city does not provide service pursuant to section 10-30 and the Premise receives service from a business enterprise providing Solid Waste collection service.
- (c) *Administration.*
 - (1) The Fee shall be:
 - i. billed with property taxes; and,
 - ii. payable in the same manner as property taxes; and
 - iii. collected in any manner by which delinquent personal or real property taxes can be collected.
 - (2) The County Tax Administrator may promulgate additional rules and regulations necessary for the implementation of this section not inconsistent with the specific provisions set forth in this section.
 - (3) The Fee may be billed by a separate bill if:
 - i. property taxes are not levied upon the Premise.
 - ii. the structure is exempted from property taxation.

- iii. For the provision of Small Business Garbage pursuant to section 10-30(b) and section 10-30(c).
 - (4) If a Fee should have been assessed during a fiscal year but was not assessed, then the city may levy the unassessed Fee for the year in which discovered and for any of the preceding five years during which it escaped assessment.
 - (5) If there are multiple owners of a Premise and such multiple owners are assessed separately for the property taxes, then the Fee shall be levied on a ratable basis in accordance with the percentage of interest owned by the multiple owners.
 - (6) The Fee shall be a lien on real and personal property under the same rules as set forth in G.S. 105-355, 160A-314.1, and other sections of the Machinery Act.
- (d) *Appeals*
- (1) Any property owner, whom is assessed a Fee, may file a notice of exception with the County Tax Administrator. The notice of exception should include documentation supporting the property owner's argument. The County Tax Administrator shall provide a copy of the notice of exception to the SWS Department Head and shall seek input from the SWS Department Head before making a decision. A hearing may be scheduled if the County Tax Administrator deems it necessary. The County Tax Administrator shall determine if the Fee is or is not owed by the property owner. The County Tax Administrator shall issue a written decision to the property owner and provide a copy to the SWS Department Head.
 - (2) If the County Tax Administrator determines the Fee is owed, the property owner shall have fifteen (15) days from the receipt of the written decision to appeal to the city manager.
 - (3) The filing of a notice of exception shall not relieve a property owner of the obligation to pay the Fee prior to the date interest accrues. If a written decision is favorable to the property owner, then the city shall issue a refund with interest.
 - (4) If the city council determines that a Fee has been assessed in an amount that is in excess of the Fee, the city council shall refund, rebate, or credit an appropriate amount to any affected property owner.

ARTICLE III. – PUBLIC HEALTH NUISANCES

DIVISION 1. – ADMINISTRATION AND ENFORCEMENT

Sec. 10-100. - Authority.

- (a) Code Enforcement shall be responsible for the administration and enforcement of the provisions of this article, except as otherwise stated. Nothing in this article shall be construed to limit the legal authority of the officers of the city's police department to enforce ordinances or carry out their other duties.
- (b) Each and every violation of this article shall constitute a separate and distinct offense.
- (c) A Code Enforcement inspector shall have the following authority:
 - (1) to enter upon a Premise.
 - (2) to obtain an administrative search and inspection warrant, if necessary, as provided in G.S. 15-27.2 in order to conduct any necessary inspection of Premises and to obtain evidence to determine whether there are any violations of the provisions of this article.
 - (3) to issue a notice of violation pursuant to section 10-101 and/or impose civil penalties pursuant to section 10-102.

- (4) to enter upon or authorize an independent contractor to enter upon and clean up Premises in violation of this article.
- (5) to enter upon a Premise to summarily remove, abate, or remedy everything in the city limits that is considered by ordinance to be either dangerous or prejudicial to the public health or which has been declared to be a nuisance.
- (6) to determine whether any violation of this article has been fully remedied.
- (7) to charge the Responsible Person with a misdemeanor and subject the violator to any penalty prescribed by § 2-21.
- (8) to apply to the appropriate court for an injunction and order of abatement which would require the Responsible Person correct any unlawful condition relating to this article existing on the Premise.

Sec. 10-101. - Notice of violation.

- (a) Except as provided in subsection (c) of this section, Code Enforcement shall notify the Responsible Person of any violation of this article and give the Responsible Person a specified time to correct the violation. If the violation is not corrected within the time specified, Code Enforcement shall initiate enforcement proceedings as described in this article.
- (b) A notice of violation shall be given in writing and mailed or hand delivered to the address listed for the Responsible Person in the Mecklenburg County real estate records. Service of any written notice of violation is complete by hand delivering the notice or by depositing the notice in first class mail.
- (c) Exceptions.
 - (1) Any notice of violation for a junked motor vehicle, abandon motor vehicle, or hazardous motor vehicle shall conform to section 10-168.
 - (2) No written notice of violation is required for section 10-115.
 - (3) No written notice of violation will be given when Code Enforcement has the authority to summarily remove, abate, or remedy a violation of this article.
 - (4) When a Person has failed to comply with a notice of violation as described above, Code Enforcement shall not be required to provide subsequent further notices of violation to that person with regard to the current violation on the Premise before taking any of the enforcement actions authorized by this article.
 - (5) No notice of violation or time to correct a violation shall be provided for any Chronic Offender or Repeat Offender for all subsequent violations.

Sec. 10-102 – Civil penalty

- (a) A written notice of assessment shall be delivered to the Responsible Person at the address listed in the Mecklenburg County real estate records. Service of any written notice of assessment is complete by hand delivering the notice or by depositing the notice in first class mail.
- (b) A civil penalty issued to a Chronic Offender or Repeat Offender shall be \$250.00 for the fourth offense and \$500.00 for the fifth offense and subsequent offenses.
- (c) Code Enforcement's investigative and administrative costs and any independent contractor's costs may be assessed as a civil penalty to the Responsible Person for the violation.
- (d) Such civil penalty shall be due and payable to the city no later than thirty (30) days after the notice of assessment has been served. Failure to pay the civil penalty or file an appeal within thirty (30) days of service of the notice assessment shall result in an additional penalty of \$50.00.
- (e) If the civil penalty is not paid, the city shall levy a lien against the Premise in an amount equal to the civil penalty as provided by the authority of charter section 6.103. The city shall provide notice, by regular mail, to the property owner within five (5) days of levying a lien on the Premise.

- (f) Code Enforcement may collect civil penalties in a civil action in the nature of a debt.

Sec. 10-103. - Interference with authorized personnel prohibited.

- (a) It shall be unlawful for any Person to interfere, harass, or otherwise impede a Code Enforcement inspector when conducting an investigation under the authority of a lawfully issued administrative search warrant or when otherwise carrying out the enforcement provisions of this article. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) A law enforcement official shall have the authority to arrest any natural person in violation of this section.

Sec. 10-104. - Adjudicatory hearing.

- (a) Any Person who has been assessed a civil penalty for a violation of this article or who is a Person entitled to claim possession of a towed Motor Vehicle may request an appeal hearing. Such request must be made in writing, filed with Code Enforcement within thirty (30) days of the notice of assessment or Motor Vehicle tow, and state the reasons why the civil penalty or Motor Vehicle tow should not have occurred. Failure to request an appeal hearing in the time and manner specified shall constitute a waiver of the right to contest the penalty or Motor Vehicle tow.
- (b) A Person requesting a hearing must post a bond equal to the amount of the civil penalty and must submit the bond with the Person's request for a hearing. No bond is required for any appeals of towed Motor Vehicle.
- (c) Any hearing shall be scheduled within a reasonable amount of time after the Person's notice of appeal and bond has been received by Code Enforcement.
- (d) Each hearing officer shall: be appointed by the Department Head; preside over the appeal hearing; receive evidence and testimony during the appeal hearing; and render a determination upon the evidence presented during the appeal hearing. For towed Motor Vehicles only, the issue is whether or not probable cause existed for the towing. If the hearing officer finds that probable cause did exist, the charge for towing and storage continues. If the hearing officer finds that probable cause did not exist, the charge for towing and storage is rescinded.
- (e) Any aggrieved party may seek judicial review of the decision by filing a written petition in the nature of certiorari within thirty (30) calendar days after receipt of the decision, but not thereafter, with the Mecklenburg County Superior Court.
- (f) For towed Motor Vehicles only, any aggrieved party may seek judicial review of the decision by appealing within thirty (30) calendar days after receipt of the decision, but not thereafter, to Mecklenburg County District Court.

Secs. 10-105—10-114. - Reserved.

DIVISION 2. - COLLECTION SERVICES

Sec. 10-115. – Placing or removing items from Curbside.

- (a) Any Person who places Solid Waste, Building Materials, Yard Waste, Bulky Waste, Junk, dead animals, Small Waste Containers, or Personal Waste Containers at Curbside more than one day before the day of the scheduled collection may be issued a civil penalty the amount of \$150.00.
- (b) Any Person who fails to remove Solid Waste, Building Materials, Yard Waste, Bulky Waste, Junk, dead animals, Small Waste Containers, or Personal Waste Containers from curbside by 11:59 p.m. on the day of scheduled collection may be issued a civil penalty the amount of \$150.00.
- (c) Any Person who fails to properly prepare or containerize Solid Waste for Curbside collection may be issued a civil penalty in the amount of \$150.00.

Sec. 10-116. - Large Waste Containers.

- (a) No Large Waste Containers shall be stored in front of a business, a residence, the building line closest to the Roadway or on Public Rights-of-Way. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) Cleaning up spilled materials shall be the responsibility of the property owner or occupant and shall occur immediately after any such spillage or overflow occurs. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

Sec. 10-117. - Unauthorized use of Small Waste Containers prohibited.

No Person shall use or permit the use of any Small Waste Container except for its intended use. A civil penalty in the amount of \$150.00 may be issued to any Person who violates this section.

Sec. 10-118. – Improperly prepared items or items ineligible for collection.

- (a) Any Person who improperly prepares Appliances, ashes, fifty-five gallon drums, tires, or hypodermic instruments for collection may be issued a civil penalty in the amount of \$150.00.
- (b) Any Person who places any contagious disease material, industrial waste, or hazardous waste out for collection shall be issued a civil penalty in the amount of \$150.00.

Sec. 10-119. - Appliances.

It shall be unlawful for any Person to leave outside any building in a place accessible to children any Appliance without it being strapped or locked so that it is impossible for a child to obtain access to it. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

Sec. 10-120. - Hazardous waste.

- (a) It shall be unlawful for any Person to dispose of hazardous waste or to hire or otherwise arrange for a Person to dispose of hazardous waste upon another Person's Premise without the consent of the owner of that Premise. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) The Responsible Person shall be strictly liable, without regard to fault or negligence, for damages or for any equitable remedies to Persons or Premise resulting from such unlawful disposal of hazardous waste. Damages shall include the cost of the removal of such hazardous waste to a lawfully designated disposal site.

Secs. 10-121—10-134. - Reserved.

DIVISION 3. - MAINTENANCE OF PREMISES AND LITTER CONTROL

Sec. 10-135. - Unauthorized accumulations.

It shall be unlawful for any Person to scatter, cast, throw, blow, place, sweep, or deposit anywhere within the city any litter in such a manner that it may be carried or deposited upon any Roadway, sidewalk, alley, body of water, sewer, parkway, lot, or Premise. Any unauthorized accumulation of litter is hereby declared to be a public nuisance and is prohibited. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

Sec. 10-136. - Neglect of a Premise.

It shall be unlawful for a Person to neglect a Premise or create a dilapidated condition on property. Violation of this section may be evidenced by

- (i) causing or allowing the accumulation of unsightly litter, overgrown weeds and grass, Yard Waste, foul odor, dead animals, Junk, unsecured Appliances, or potentially dangerous devices to remain on or emanate from a Premise. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

- (ii) creating a littered condition by leaving materials which are partially or wholly rusted, wrecked, dismantled, junked or otherwise in an inoperative condition and which are not completely enclosed within an enclosed structure. Examples of such materials include, but are not limited to, dilapidated furniture, Appliances, machinery, equipment, Building Materials, automotive parts, tires, or any other items. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

This section shall not apply to authorized Junk dealers or establishments permitted to engage in repair, rebuilding, reconditioning, or salvaging of equipment.

Sec. 10-137. - Uncovered Motor Vehicles.

- (a) It shall be unlawful for a Person to operate a Motor Vehicle transporting loose materials that lacks a suitable cover to prevent offensive odors from escaping and loose materials from being dropped, blown, or spilled. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) It shall be unlawful for any Person to operate, park, stand, or use upon a Roadway any Motor Vehicle used to transport loose materials for commercial purposes, unless the Motor Vehicle is properly identified by lettering on both sides indicating the name of the Business Enterprise or Person. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (c) This section shall not apply to the transportation of poultry or livestock or silage or other feed grain used in the feeding of poultry or livestock.

Sec. 10-138. - Illegal dumping.

It shall be unlawful to dispose of or discard any litter, Junk, and etc. on any Premise without the owner's permission. A civil penalty in the amount of \$500.00 may be issued to any Person in violation of this section.

Sec. 10-139. - Construction and demolition sites.

It shall be unlawful for any construction contractor, demolition contractor, and/or property owner to fail to provide on-site Containers for loose debris, paper Building Material waste, scrap Building Material, and other trash produced by those working on the site. All such material shall be kept in a reasonably clean and litter-free condition. Construction sites shall be kept clean and orderly at all times. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

Sec. 10-140. - Obstruction of rights-of-way.

- (a) It shall be unlawful to allow vegetation on any Premise to protrude or hang so as to obstruct the safe passage of pedestrians or Motor Vehicles. This section shall not apply to the removal of fallen trees, dead trees, shrubbery, bushes, etc., on a Premise where such do not protrude into the pedestrian/Motor Vehicle passageway. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) It shall be unlawful to park a Motor Vehicle upon a Roadway at any time or for a limited time during restricted collection times as posted by the city department of transportation and referred to in section 14-216. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (c) It shall be unlawful to allow Yard Waste, Bulky Waste, and/or Junk to obstruct the safe passage of pedestrians or Motor Vehicles. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.

Sec. 10-141. - Signs within Public Rights-of-Way and on public property.

- (a) It shall be unlawful for any Person to attach, place, paint, write, stamp, or paste any Sign within 11 feet of the edge of the pavement of any Roadway or alley.

- (b) It shall be unlawful for any Person to attach, place, paint, write, stamp, or paste any Sign within any Public Rights-of-Way.
- (c) It shall be unlawful for any Person to attach, place, paint, write, stamp or paste any Sign upon any post, pole, tree, tree stake or guard, shrub, or fire hydrant.
- (d) It shall be unlawful for any Person to attach, place, paint, write, stamp or paste any Sign upon anything else within 11 feet of the edge of any Public Rights-of-Way, upon any bridge or overpass within the city limits, or upon other public property including, but not limited to, traffic medians.
- (e) *Exceptions.* This section shall not apply to the following Signs:
 - (1) Signs regulating traffic.
 - (2) Signs required to be posted by law.
 - (3) Warning Signs and no trespassing Signs.
 - (4) Signs indicating bus stops, Metered Vehicle Stands under Code section 22-159, and similar transportation facilities.
 - (5) Signs not exceeding four (4) square feet in area giving information concerning the location or use of accessory off-street parking facilities or loading and unloading facilities.
 - (6) Signs established by governmental agencies.
 - (7) Signs permitted by the state board of transportation along Roadways. Proof of permission must be shown upon request.
 - (8) Nothing in this section shall apply to the painting of house numbers on the Curbside done with the prior approval of the city.
 - (9) Nothing in this section shall apply to the installation of a plaque, plate, statue, or monument on public property with the approval of the city council.
 - (10) Nothing in this section shall apply to the removal of an illegally placed Sign which is in violation of this section.
 - (11) A violation of any provision of this section shall not constitute an infraction or misdemeanor punishable under G.S. 14-4.
- (f) *Responsible person.* The Responsible Person for any Signs in violation of subsection (a) through (d) is defined as follows:
 - (1) In the case of a Sign advertising a service, product, dwelling, or event, the Responsible Person shall be deemed the Person hosting or organizing the event or the Person attaching, placing, painting, writing, stamping, or pasting any Sign. Violation of this section shall subject the Responsible Person to a civil penalty of \$100.00 per Sign.
 - (2) In the case of a campaign Sign for political office, the individual whose candidacy the Sign supports shall be deemed the Responsible Person for posting campaign Signs. Violation of this section shall subject the Responsible Person to a civil penalty of \$100.00 per Sign.
 - (3) In the case of a campaign Sign regarding a ballot measure, the Responsible Person shall be deemed the president or chief officer of the organization advocating its position concerning the ballot measure. Violation of this section shall subject the Responsible Person to a civil penalty of \$100.00 per Sign.
 - (4) In the case of any other Sign not described in subsections (1)—(3), the Responsible Person shall be deemed to be the Person who is named on the Sign or whose phone number, web site address, physical address, or electronic mail ("e-mail") address appears on the Sign. Violation of this section shall subject the Responsible Person to a civil penalty of \$100.00 per Sign.

- (5) Any person deemed the Responsible Person, as set forth in subsections (1)—(4) above, may notify Code Enforcement that another Person is liable. In such case, the Person shall provide the name, address, and signed consent of such other Responsible Person within seven (7) calendar days after a notice of assessment is issued.

Sec. 10-142. - Graffiti.

- (a) *Graffiti prohibited.* It shall be unlawful for any Person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure, sidewalk, or any other real or personal property. It shall be unlawful for any Responsible Person to fail to remove or effectively obscure any graffiti upon such property.
- (b) *Exemption.* Subsection (a) shall not be construed to prohibit temporary, easily removable chalk or other water-soluble markings on public or private sidewalks, Roadways, or other paved surfaces which are used in connection with traditional children's activities. Traditional children's activities include drawings or bases for stickball, kickball, handball, hopscotch or similar activities. Nor shall subsection (a) be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.
- (c) *Emergency removal.* The city may remove or cause the graffiti to be removed at its expense if the city determines that any graffiti is a danger to the health, safety, or welfare of the public and is unable to provide a notice of violation to the Responsible Person, or if the city determines that any graffiti contains profanity, obscene language, or obscene imagery.
- (d) *Costs and liens.* If the Responsible Person fails to remove or effectively obscure the graffiti within seven (7) days from receipt of the notice of violation, the city may cause the graffiti to be removed or effectively obscured and charge the Responsible Person for the expenses incurred by the city in removing the graffiti. The city may sue in a court of competent jurisdiction to recover all such expenses, which shall include, but not be limited to, all administrative personnel costs, attorney's fees and costs related to enforcing this section; and/or the city may record a lien in the public records of the county, which lien shall be for all such expenses, and the amount of the lien shall bear interest from the date of recording.
- (e) *Repair/restoration.* In no case shall the city paint or repair any area obscured by graffiti more extensively than where the graffiti itself is located. The city shall not be required to restore the obscured area to its original condition (i.e., color, texture, etc.).
- (f) *Action by Court.* Any Person convicted of a violation shall be fined not less than \$250.00 for a first offense and \$500.00 for second and subsequent offenses. In determining the fine to be imposed, the court may consider the efforts, if any, taken by the Responsible Person to remove or effectively obscure the graffiti during the preceding calendar year. The mandatory fine provided in this section shall not apply to a property owner, agent, manager, or possessor of property if such property owner, agent, manager or possessor has been victimized two (2) or more times by graffiti within any calendar year and, during such time, has removed or effectively obscured such graffiti from the property in a timely manner.
- (g) *Restitution.* In addition to any other punishment imposed, the court shall order the Person convicted of a violation of this section to make restitution to the victim for the damage or loss suffered by the victim as a result of the offense. The court may determine the amount, terms, and conditions of the restitution.

Secs. 10-143—10-154. - Reserved.

DIVISION 4. - WEEDS, GRASS, LEAVES AND UNDERGROWTH

Sec. 10-155. – Overgrown vegetation.

- (a) It shall be unlawful for the owner and/or occupant of a Premise to fail to cut overgrown grass, weeds, and other vegetation when the grass, weeds, and other vegetation is of a height greater than twelve inches. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) Vacant lots adjacent to improved property, except as defined as Heavily Wooded Lots, shall be cut in their entirety. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (c) Vacant lots over one acre shall have a 100-foot buffer area cut adjacent to the nearest Premise. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (d) It shall be the duty of the owner and occupant to cut and remove all grass, weeds, and other overgrowth vegetation as often as necessary so as to comply with this provision of this division.

Sec. 10-156. - Accumulation of leaves, grass clippings, etc., on public ways.

- (a) It shall be unlawful for any Person to blow, place, allow to be placed, or to permit the accumulation of Yard Waste within Public Rights-of-Way, or on an area that pedestrians would be expected to use to walk upon parallel to a Roadway. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) This section shall not apply to the accumulation of leaves along a Curbside of a Public Rights-of-Way for the purpose of collection by a private leaf-collecting contractor.

Sec. 10-157. - Heavily Wooded Lots.

- (a) It shall be unlawful for a Person to restrict the visibility of a Heavily Wooded Lot if the Heavily Wooded Lot is used for the purpose of assignation, prostitution, gambling, illegal possession of alcoholic beverages, illegal sale of alcoholic beverages, illegal possession of narcotic drugs as defined in the North Carolina Controlled Substances Act, illegal sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (b) It shall be the duty of the owner to cut and remove all trees, grass, weeds, and other vegetation as often as necessary so as to comply with this provision of this code and to improve the visibility of the Heavily Wooded Lot. A civil penalty in the amount of \$150.00 may be issued to any Person in violation of this section.
- (c) This section shall apply only to Heavily Wooded Lots that are located in residentially zoned districts of the city as specified by the zoning ordinance. Residentially zoned districts include, but are not limited to single-family, multifamily, urban residential, and UMUD zoning districts.

Secs. 10-158—10-164. - Reserved.

DIVISION 5. - REMOVAL AND DISPOSITION OF ABANDONED VEHICLES, HAZARDOUS VEHICLES AND JUNKED MOTOR VEHICLES

Sec. 10-165. - Abandoned vehicles.

- (a) It shall be unlawful to leave a Motor Vehicle on any Roadway if the Motor Vehicle has not moved for seven (7) days or more.
- (b) It shall be unlawful to leave a Motor Vehicle on property owned or operated by the city for longer than twenty-four (24) hours.

- (c) It shall be unlawful to leave a Motor Vehicle on private property without the consent of the owner, occupant, or lessee for longer than two (2) hours.

Sec. 10-166. - Hazardous vehicles.

It shall be unlawful for the owner of a Motor Vehicle or for the owner, lessee, or occupant of the Premise upon which the Motor Vehicle is located to leave or allow to remain on the Premise any Motor Vehicle which is a Hazardous Motor Vehicle.

Sec. 10-167. - Junked Motor Vehicles.

- (a) *Purpose.* G.S. 160A-303.2 authorizes the city to regulate and to prohibit junked Motor Vehicles on public grounds and on private property. Pursuant to that authority, the city council finds that such regulation, restraint or prohibition is necessary and desirable to promote or enhance the:
 - (1) Quality of urban attractiveness and the aesthetic appearance of the city.
 - (2) Protection of property values throughout the city.
 - (3) Preservation of the livability and the attractiveness of neighborhoods.
 - (4) Promotion of tourism, conventions and other opportunities for economic development for the city.
 - (5) Attractiveness of the city's Roadways which present the primary, public visibility to visitors and to passersby of the city.
- (b) *Determination.* In determining whether a Motor Vehicle constitutes a junked Motor Vehicle, Code Enforcement shall take into consideration, but not be limited to, whether the Motor Vehicle cannot be self-propelled or moved in the manner in which it was originally intended to move, whether the Motor Vehicle is partially dismantled or wrecked, whether the Motor Vehicle does not display a current license plate, or whether any other specific evidence would support a finding that the Motor Vehicle violates this section. If such a determination is made, then the inspector shall state that basis in writing.
- (c) *Unlawful acts.*
 - (1) It shall be unlawful to have more than one (1) junked Motor Vehicle on a Premise.
 - (2) It shall be unlawful for anyone to fail to comply with the locational requirements or the concealment requirements of this section.
- (d) *Permitted concealment or enclosures.*
 - (1) *One junked motor vehicle.* One (1) junked Motor Vehicle in its entirety can be located in the rear yard, as defined by the city's zoning ordinance (appendix A to this Code), if the junked Motor Vehicle is entirely concealed by an acceptable canvas covering. A canvas covering must remain in good repair and must not be allowed to deteriorate.
 - (2) *More than one junked motor vehicle.* Any additional junked Motor Vehicles must be kept in a garage or building structure that provides a complete enclosure so that the junked Motor Vehicle cannot be seen from a Roadway or abutting Premise.

Sec. 10-168. - Notice prior to removal; pretow notice.

- (a) Any junked Motor Vehicle, abandoned Motor Vehicle, or Hazardous Motor Vehicle found to be in violation of this division may be removed to a storage area.
- (b) Such Motor Vehicle shall be towed after notice is provided by posting a notice of violation on the Motor Vehicle. Such notice of violation shall be affixed to the windshield or some other conspicuous place on the Motor Vehicle. The notice shall state that the Motor Vehicle will be removed by the city on a specified date, no sooner than seven (7) days after the notice of violation is affixed to the Motor Vehicle, unless the vehicle is brought into compliance by the owner or legal possessor prior to that time.

- (c) The requirement that the notice of violation be affixed to an abandoned Motor Vehicle, Hazardous Motor Vehicle, or junked Motor Vehicle at least seven (7) days prior to removal may be omitted in those circumstances where there is a special need for prompt action.

Sec. 10-169. – Post tow notice and probable cause hearing.

When an abandoned Motor Vehicle, junked Motor Vehicle, or Hazardous Motor Vehicle is removed, the city shall give notice to the registered owner as required by G.S. 20-219.11 (a) and (b). Such notice shall inform the owner of the owner's right to a probable cause hearing.

Sec. 10-170. - Removal of vehicle reclamation.

- (a) When any junked Motor Vehicle, abandoned Motor Vehicle, or Hazardous Motor Vehicle is removed, Code Enforcement shall provide in its notice the information required by G.S. 44A-4(f), 20-114(c) and 44A-4(c).
- (b) A Person reclaiming a towed Motor Vehicle shall make payment to the city for the costs of removal and storage. When a Person presents payment to reclaim a Motor Vehicle, the city shall not accept such payment until and unless the Person signs a form that states that the Person understands that the Motor Vehicle must be removed on the release date shown on the receipt.
- (c) If the Person wishes to pay for additional days of storage beyond the date of payment, then the Person shall be permitted to do that and such payment for additional days shall be nonrefundable. A Person shall not be permitted to reclaim a Motor Vehicle after the release date shown on the receipt. If a Person has not reclaimed the Motor Vehicle by the release date, then the Person shall have to return to the city and make further payment for the days of storage beyond the release date shown on the receipt.
- (d) Upon presentation of a paid receipt from the city and a driver's license, registration card, or proof of title to a towing contractor by a Person, the towing contractor shall be authorized to release the Motor Vehicle to that Person if the Person is reclaiming the Motor Vehicle on or before the release date shown on the paid receipt.

Sec. 10-171. - Disposition of vehicles.

- (a) The city shall have the authority to authorize the disposition of abandoned Motor Vehicles, junked Motor Vehicles, and Hazardous Motor Vehicles by a sales procedure as provided in G.S. 44A-4(c) and, as applicable, G.S. 44A-5 and 44A-6, except that no hearing in addition to a probable cause hearing is required. If no one purchases the Motor Vehicle at the sale, and if the value of the Motor Vehicle is less than the amount of the lien, the city may authorize the destruction of the Motor Vehicle.
- (b) Code Enforcement shall have the authority to authorize the disposition of a Motor Vehicle immediately if the owner of the Motor Vehicle signs a consent form authorizing Code Enforcement to sell or to dispose of the Motor Vehicle immediately without complying with any statutory requirements pertaining to the disposition of such Motor Vehicles.

Sec. 10-172. - Protection against criminal and civil liability.

No Person shall be held to answer to any civil or criminal action to any owner or other Person legally entitled to the possession of any abandoned Motor Vehicle, lost or stolen Motor Vehicle, for disposing of such Motor Vehicle as provided in this division.

Sec. 10-173. - Exceptions.

- (a) This division shall not apply to any Motor Vehicle in an enclosed building or any Motor Vehicle on the premises of a business enterprise being operated in a lawful place and manner if the Motor Vehicle is necessary to the operation of the business enterprise,

- (b) This division shall not apply to any Motor Vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.
- (c) This division shall not apply to a Motor Vehicle kept or stored at a bona fide automobile graveyard or junkyard, as defined in G.S. 136-141 et seq.

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