

NORTH CAROLINA

MITCHELL COUNTY

MITCHELL COUNTY ORDINANCE FOR THE MANAGEMENT OF SOLID WASTE

BE IT ORDAINED, by the Board of Commissioners of Mitchell County, State of North Carolina;

1) **Short Title:** This Ordinance shall be known as the Mitchell County Ordinance for the Management of Solid Waste, and shall be codified as a chapter of the Mitchell County Code.

Section I: Purpose and Statutory Authority

The purpose of this ordinance is to regulate the storage collection and disposal of solid waste in Mitchell County. This ordinance is adopted pursuant to the authority contained in G.S. 153A-121, -132.1, -136, -274 through -278 and -291 through -293, and 130A-309.09, 309-09A, -309.09B, and 309.09D. Unless otherwise indicated, the ordinance applies to both publicly-owned and privately-owned municipal solid waste management facilities located in Mitchell County.

Section II. Definitions

The following definitions apply in the interpretation and enforcement of this ordinance:

- A. **Board:** Board of Commissioners of Mitchell County.
- B. **Bulky Waste:** Large items of solid waste such as furniture, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.
- C. **Collection:** The act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.
- D. **Commercial Solid Waste:** All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste.
- E. **Construction and Demolition Waste:** Solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings, or other structures, but does not include inert debris, land clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar non-hazardous material.
- F. **Department:** The Department of Environment, Health and Natural Resources.

- G. **Garbage**: All putrescible waste, including animal offal carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- H. **Hazardous Waste**: Solid waste, or a combination of solid waste, that because of its quantity, concentration or physical, chemical or infectious characteristics may:
- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- I. **Incineration**: The process of burning solid, semi-solid, or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.
- J. **Industrial Solid Waste**: Solid waste generated by industrial processes and manufacturing.
- K. **Inert Debris**: Solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.
- L. **Institutional Solid Waste**: Solid waste generated by educational, health care, correctional, and other institutional facilities.
- M. **Land-Clearing Debris**: Solid waste that is generated solely from land-clearing activities.
- N. **Landfill**: A disposal facility or part of a disposal facility where waste is placed in or on land that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.
- O. **Medical Waste**: Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, household waste as defined in 40 C.F.R. 261.4(b) (1), or those substances excluded from the definition of "solid waste" in this ordinance.
- P. **Municipal Solid Waste**: Solid waste resulting from the operation of the residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or solid waste from mining or agricultural operations.

- Q. **Municipal Solid Waste Management Facility**: Any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal.
- R. **Pathological Waste**: Human tissues, organs, and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.
- S. **Person**: Any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- T. **Putrescible**: Solid waste capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal, and animal carcasses.
- U. **Processing**: Any technique designed to change the physical, chemical, or biological character of composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.
- V. **Radioactive Waste**: Waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.
- W. **Recycling**: The process by which solid waste or recovered materials are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
- X. **Refuse**: Solid waste, other than garbage or ashes, from residences, commercial establishments and institutions.
- Y. **Regulated Medical Waste**: Blood and body fluids in individual containers in volumes greater than 20 ml., microbiological waste and pathological waste that has not been treated pursuant to rules promulgated by the Department.
- Z. **Resource Recovery**: The process of obtaining material or energy resources from discarded solid waste that no longer has any useful life in its present form and preparing the solid waste for recycling.
- AA. **Sanitary Landfill**: A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to G.S. Chapter 130A, article 9.
- BB. **Scrap Tire**: A tire is no longer suitable for its original, intended purpose because of wear, damage, or defect.

CC. **Septage**: Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a septic tank system.

DD. **Sharps**: Needles, syringes, and scalpel blades.

EE. **Sludge**: Any solid, semi-solid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

FF. **Solid Waste**: Any hazardous or non-hazardous garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:

(1) Fecal waste from fowls and animals other than humans;

(2) Solid or dissolved material in:

a. Domestic sewage and sludge generated by treatment thereof in sanitary sewage collection, treatment, and disposal systems that are designed to discharge effluents to the surface waters;

b. Irrigation return flows; and

c. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition;

(3) Oils, and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition;

(4) Any source, special nuclear or by-product material defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011);

(5) Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission. However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purpose of this definition.

- GG. **Solid Waste Collector**: Any person who collects or transports solid waste.
- HH. **Solid Waste Disposal Site**: A location at which solid waste is disposed of by incineration, sanitary landfill, or other approved method.
- II. **Solid Waste Receptacle**: Container used for the temporary storage of solid waste while awaiting collection or transporting.
- JJ. **Source Separation**: Setting aside recyclable materials, construction and demolition debris and discarded metal products at their point of generation by the generator.
- KK. **Tire**: A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S.20-4.01(23).
- LL. **Transfer Station**: A site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.
- MM. **Used Oil**: Any oil that has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose.
- NN. **White Goods**: Inoperative and discarded refrigerators, ranges, water heater, freezers, and other similar domestic and commercial large appliances.
- OO. **Yard Trash**: Solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

Section III. **Storage and Disposal**

- A. No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid waste on his property that is not stored or disposed of in a manner prescribed by this ordinance.
- B. The owner, occupant, tenant, or lessee of any property shall remove or cause to be removed all solid waste from this property at least once each week (7-day period).
- C. Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close-fitting, fly-tight cover in place, with adequate handles or bails to facilitate handling. The capacity of the container may not exceed 35 gallons. Solid waste receptacles, as defined by

this ordinance, may also be used for storage provided they meet the requirements of this subsection. The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.

- D. Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this subsection includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture, and other bulky waste and white goods. Useful materials, such as firewood and building materials, may be stored on the premises, provided they are stored in a safe manner at a reasonable height above ground.
- E. No owner, occupant, tenant, or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave, or cause to be placed or left, outside the building or dwelling any bulky waste for longer than 72 hours.
- F. No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator, or other receptacle that has an airtight door without first removing the door.
- G. Solid waste shall be disposed of only in one of the following ways and locations:
 - (1) At the Yancey/Mitchell County Solid Waste Transfer Station which is approved by the Department and located in the Booneford Community at the former landfill site off N.C. Highway 80.
 - (2) At the Yancey/Mitchell County owned Construction and Demolition Debris Landfill located in the Booneford Community at the former landfill site off N.C. Highway 80.
 - (3) At the area specifically developed and designed for disposal of white goods and discarded metal products which is located in the Booneford Community at the former landfill site.
 - (4) By any other method, including recycling and resource recovery, that has been approved by the Department and Mitchell County.
- H. In addition to the methods listed in subsection G above, refuse may be disposed of in solid waste receptacles provided by the county which are located at the new Solid Waste and Recyclables Collection Sites in the Red Hill, Bakersville and Spruce Pine areas of Mitchell County. These collection centers shall be open and accept solid waste and recyclable materials during business hours as established by the Mitchell County Board of Commissioners. In emergencies these collection sites may be opened for additional hours as directed by the County Manager or the Mitchell County Solid Waste Director. These sites will be fenced and locked at all times except during normal business hours and entry

shall not be permitted. It is hereby specifically designated that no waste shall be deposited at these sites except during hours of operation. Any waste deposited in or around these sites during the hours that the sites are closed will be fully investigated in an effort to determine the origination of such waste. In the event a determination of the generator of the illegally deposited waste can be made such violator will be prosecuted.

- I. No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.
- J. Construction wastes must be disposed of at The Mitchell/Yancey Construction and Demolition Debris Landfill.
- K. Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the Department.
- L. Any person collecting and transporting solid waste generated on such person's property for disposal at an approval disposal site shall comply with Sections VIII. F. 1 and 2 of this ordinance concerning vehicles and containers.
- M. All sharps shall be placed in a sealed, puncture-proof container prior to disposal.
- N. Open burning of solid waste is prohibited.

Section IV. Solid Waste Management

- A. The county sanitary transfer station may be used for the disposal of solid waste by county residents and commercial and industrial entities within Mitchell County. The transfer station shall be open during business hours as established by the board. In emergencies, the transfer station may be opened for additional hours as directed by the county manager or the manager's representative. Except when open during regular business hours, the transfer station shall be kept locked and entry shall not be permitted. Solid waste shall be disposed of at the transfer station in the manner and according to procedures established by the county manager or the manager's representative.
- B. The following wastes may not be disposed of in the county sanitary landfill or in any privately-owned municipal solid waste landfill:
 - (1) Burning or smoldering materials, or any other materials that would create a fire hazard;
 - (2) Hazardous waste;
 - (3) Lead-acid batteries;

- (4) Liquid waste;
 - (5) Untreated regulated medical waste;
 - (6) Radioactive waste;
 - (7) Tires; unless they have been halved or shredded;
 - (8) Used oil;
 - (9) White goods;
 - (10) Yard trash.
- C. The following wastes may be accepted on a conditional basis only, (state regulations require that these wastes receive special treatment before they are placed in a landfill):
- (1) Asbestos;
 - (2) Barrels;
 - (3) Sludges;
- D. No person may loiter or rummage about the landfill or collection centers and remove articles therefrom.
- E. No person may deposit material at any point in the landfill collection sites or transfer station, except where indicated by authorized employees of the landfill or by official signs.
- F. No person may discharge firearms, fireworks, or explosives on landfill property or at the collection sites.
- G. The maximum allowable speed of vehicles at the landfill is ten miles per hour.
- H. The Mitchell County Board of Commissioners do hereby establish supplemental solid waste tipping fees on all non-residential solid waste generated in Mitchell County, excluding construction and demolition waste generated within Mitchell County. These tipping fees shall be determined at the transfer station site through a measurement system using either weight or volume, depending upon the type of solid waste being disposed of. The tipping fee shall be in the initial amount of \$37.00 per ton. The solid waste tipping fee so determined shall be invoiced monthly by the Mitchell County Finance Officer. All waste delivered to the transfer station must be separated to assure that residential and non residential waste is not mixed in any load or delivery.

- I. Pursuant to recycling requirements, as hereinafter set out, all residents and generators of solid waste in Mitchell County shall be required to deliver all recyclable items to the solid waste collection convenience centers or transfer station operated by Mitchell County. Failure of any generator to deliver properly separated recyclable materials shall result in the imposition of a fee in the amount of \$1.00 per bag or container of such unseparated recyclable material. This recycling fee shall be changed or modified from time to time by the Mitchell County Board of Commissioners.

Section V. **Solid Waste Receptacles**

- A. Solid Waste receptacles are maintained at sites throughout the county for the convenience of county residents, and non-resident property owners, on land owned or leased by the county. Solid waste may be deposited in the receptacles only in accordance with the provisions of this ordinance.
- B. The following wastes may not be deposited in solid waste receptacles:
 - (1) Asbestos;
 - (2) Burning or smoldering materials, or any other materials that would create a fire hazard;
 - (3) Commercial waste;
 - (4) Construction waste;
 - (5) Hazardous waste;
 - (6) Industrial waste;
 - (7) Institutional waste;
 - (8) Lead-acid batteries;
 - (9) Liquid waste;
 - (10) Radioactive waste;
 - (11) Regulated medical waste;
 - (12) Tires;
 - (13) Used oil;
 - (14) White goods;

- (15) Yard trash;
 - (16) Sludges;
 - (17) Barrels;
 - (18) Sharps not properly contain.
- C. All solid waste intended for disposal in a solid waste receptacle shall be deposited inside the container. No solid waste may be left at the solid waste receptacle site outside the receptacle.
- D. No person may remove any item from a solid waste container, climb on or into a container, or damage any container.

Section VI. Source Separation and Recycling

- A. Each person who owns, leases, or manages a residence, residential unit, or place of business, industry, commerce, or other place providing goods or services or institution, church, or school shall remove recyclable materials from the solid waste generated as required in subsection B and make them available for recycling as required in subsection C. Nothing in this ordinance is intended to prevent any person from donating or selling recyclable materials to any other person.
- B. All recyclables material shall be separated from other solid waste and made available for recycling. Recyclable material shall not be mixed with or disposed of with other solid waste. Recyclable material shall consist of the following items and shall be prepared for recycling as directed:
- (1) Glass: All brown, green, and clear glass shall be rinsed.
 - (2) Cans: Except for aluminum cans, all metal cans shall be rinsed.
 - (3) Plastic milk jugs: All plastic milk jugs shall be rinsed and either securely bound together or placed in plastic bags. The caps shall be removed.
 - (4) Other plastic bottles: Other plastic bottles shall be separated by resin type and rinsed.
 - (5) Cardboard: Cardboard of all types shall be flattened and tied together in bundles.
 - (6) Newsprint: All newsprint shall be bundled together and protected so that it does not become wet from rain or other form of precipitation.

- C. All recyclable material shall be placed in boxes or bins at the convenience centers during normal hours of operation, or shall be placed in recycling collection centers provided by the county.
- D. Ownership of recyclable materials:
 - (1) After recyclable material has been placed in a designated container at a collection center designated by the County of Mitchell, or its authorized agent, or has been placed at curbside in designated containers for collection, the recyclable materials shall become the property of Mitchell County or its authorized agent.
 - (2) No person, other than a county employee or the county's authorized agent, may remove recyclable material from a recycling collection center.

Section VII. Flow Control

- A. All solid waste generated within the designated geographic area of the county solid waste management plan that is placed in the waste stream for disposal or recycling shall be collected, transported, and disposed of at the county resource recovery facility or the county landfill. The removal of solid waste from within the geographic area for disposal is prohibited. The disposal of solid waste generated in areas outside the boundaries of the county in county-owned municipal solid waste management facilities is prohibited. This section shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.
- B. No persons, except licensed private collectors and county or municipal collectors, shall collect or remove any solid waste within the county for disposal.
- C. The county manager shall establish a system of classification for classes of solid waste that shall be consistent with a system of classification in the solid waste management plan. The classification system shall be used as a basis for requiring that solid waste be delivered to an appropriate county disposal facility in accordance with the solid waste management plan.

Section VIII. Licensing of Solid Waste Collectors

- A. No person may engage in business as a solid waste collector except under a license issued by the county pursuant to this ordinance.
- B. Applications for licenses to engage in the business of solid waste collector shall be filed with the county manager on forms approved by the county manager. The applicant shall furnish the following information:

- (1) Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
 - (2) A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag number;
 - (3) Number of employees the applicant expects to use in the business;
 - (4) Experience of the applicant in solid waste collection;
 - (5) Balance sheet or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the business;
 - (6) Planned routes and areas of the county the applicant expects to serve;
 - (7) Schedule of fees the applicant expects to charge;
 - (8) Evidence of liability insurance coverage;
 - (9) Name and location of the facility where collected waste is to be disposed of.
- C. Before issuing a license pursuant to this section, the county manager shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.
- D. (1) The county manager may issue the applicant a license only when he finds that the applicant's facilities, equipment, and proposed operating methods are in compliance with this ordinance and applicable rules of the Department and that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this ordinance.
- (2) If the county manager denies an applicant a license, the applicant may request a hearing before the county manager. The county manager shall keep summary minutes of the hearing and at least one week after the hearing shall give the applicant written notice of his decision either granting the license or affirming his denial of the license. The applicant may appeal the county manager's decision to the Board of Commissioners, by giving written notice of appeal to the county manager within two days of receipt of the county manager's decision following the hearing. After a hearing on the appeal, the board shall either affirm the denial or direct the county manager to issue the license.
- A license shall be valid for a period of one year from the date of issuance.
- E. A licensee shall submit a quarterly report to the county manager containing the following information:

- (1) Number of customers added or deleted;
- (2) Change in routes;
- (3) New and replacement equipment;
- (4) Any other information requested by the county manager and pertinent to the solid waste collection business.

F. Vehicles and containers used for the collection and transportation of solid waste shall be covered, leakproof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in numbers at least three inches high the county license number of the licensee and the license sticker issued by the county manager.

Vehicles and containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.

G. When the county manager finds that a licensee has violated this ordinance or the conditions of the license, the county manager shall give the licensee a written notice of the violation and inform him that if another violation occurs within thirty days, or in the case of a continuing violation, if it is not corrected within ten days, the license will be revoked. If another violation occurs within the thirty-day period, or, if the continuing violation is not corrected within ten days, the county manager shall give the licensee written notice that the license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting, or disposing of solid waste. The county manager may reinstate a revoked license after the revocation has been in effect for thirty days if the manager finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the Board of County Commissioners by giving written notice of appeal to the county manager within ten days of receiving notice of revocation from the county manager. After a hearing on the appeal, the board shall either affirm the revocation or direct the county manager to reinstate the license.

H. No license issued pursuant to this chapter shall be assignable.

Section IX. Enforcement

A. **Criminal Penalty:** Any person violating this ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed \$500, or imprisonment for not more than 30 days, or both. Each day's violation shall be treated as a separate offense.

- B. Civil penalty: Any person who is found in violation of this ordinance shall be subject to a civil penalty of not to exceed \$500 as provided in G.S. 153A-123. Each day's violation shall be treated as a separate offense.
- C. Remedies: This ordinance may be enforced by equitable remedies, and any unlawful condition existing or in violation of this ordinance may be enforced by injunction and order of abatement in accordance G.S. 153A-123.

This ordinance shall become effective upon adoption, as provided by law.

This the _____ day of _____, 1995.