

Section I. Purpose and Statutory Authority

The purpose of this ordinance is to regulate the storage, collection, and disposal of solid wastes in Johnston County. This ordinance is adopted pursuant to the authority contained in G.S. 153A-121, - 132.1 and -136.

Section II. Definitions

A. Board: Board of Commissioners of Johnston County.

B. Bulky waste: Large items of solid waste such as household appliances, furniture, automobiles, 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 wastes from a point of generation to a central storage point or to a disposal site, and from a central storage point to a disposal site.

D. Commercial Solid Waste: Solid wastes generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities.

E. Construction and Demolition Waste: Waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.

F. Division of Health Services: Division of Health Services of the N.C. Department of Human Resources.

G. Garbage: All putrescible solid wastes, including food wastes and food containers, animal and vegetable matter, animal offal, carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.

H. Hazardous Wastes: Wastes, or a combination of wastes, in a solid, liquid, contained gaseous, or semisolid form that may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability, its potential for accumulation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other organisms.

I. Health Director: The director of the Johnston County Health Department, or her authorized representative.

J. Industrial Solid Waste: Solid wastes generated by industrial processes and manufacturing.

K. Infectious Waste: (1) Equipment, instruments, utensils, and fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must therefore, be isolated as required by public health agencies; (2) laboratory wastes, such as pathological specimens (e.g., all tissues, specimens of blood elements, excreta, and secretions from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; (3) surgical operating room pathologic specimens and disposable fomites attendant thereto, and similar disposable materials from outpatient areas and emergency rooms.

L. Institutional Solid Waste: Solid wastes generated by educational, health care, correctional, and other institutional facilities.

M. Person: Any individual, firm, partnership, corporation, association, governmental unit or agency, or other legal entity.

N. Radioactive Waste: Any wastes that emit ionizing radiation spontaneously.

O. Refuse: Solid wastes, excluding garbage and ashes, collected from residents, commercial establishments, and institutions.

P. Solid Waste: Hazardous or non-hazardous garbage, refuse, sludge from a solid treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include: (a) fowl and animal fecal waste; (b) solid or dissolved material in (i) domestic sewage and sludges generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity or more than 3,000 gallons or which discharge effluents to the surface waters; (ii) irrigation return flows; and (iii) wastewater discharges and the sludges incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under section 402 of the Clean Water Act, as amended (P.L.92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission; (c) oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143, North Carolina General Statutes; (d) any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through B.S. 104E-23; or (e) mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through G.S. 74-68, and regulated by the North Carolina Mining Commission.

Q. Solid Waste Collector: Any person who collects, transports, or disposes of solid wastes for hire.

R. Solid Waste Disposal Site: A location at which solid waste are disposed of by incineration, sanitary landfill, or other approved method.

S. Solid Waste Receptacle: Large metal container used for the temporary storage of solid wastes and capable of being automatically emptied into collection vehicles.

* Section III. Storage, accumulation and disposal of garbage and solid waste.

*A. No owner, occupant, tenant, or lessee of any property shall deposit, store, or permit to accumulate any garbage or solid waste upon such property that is not stored or disposed of in the following manner:

*B. It shall be unlawful for any person to store any garbage in any container that is not durable, rust resistant, nonabsorbent, watertight, rodentproof, and easily cleanable with a close-fitting, fly-tight, cover in place with adequate handles or bails to facilitate handling, not to exceed thirty-five (35) gallons capacity, or other types of containers conforming to the intent of this law. It shall also be unlawful for any person to store garbage of a perishable or offensive nature for more than one week in any type of container.

*C. Solid waste or garbage shall not be deposited, stored or permitted to accumulate on any property in such a manner that it will provide food or harborage for rodents and vermin or will create a fire or safety hazard.

*D. It shall be unlawful for any occupant of any dwelling or dwelling unit to place or leave outside of any building longer than seventy-two (72) hours any dilapidated furniture, icebox, refrigerator, stove or other appliance, machinery, equipment, building material, or other item which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition, which in the opinion of the health director constitutes a potential public health problem. This section shall not apply to a licensed junk dealer.

*E. It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snap lock or other device thereon without first removing the said snap lock or doors from said icebox, refrigerator or any other container of any kind which is crated, strapped or locked to such an extent that is impossible for a child to obtain access to any airtight compartment thereof.

*F. No person shall throw, dump, deposit or cause to be thrown, dumped, or deposited solid waste on property owned by himself or another person or on any public highway, street or road, upon public parks or recreation areas, or upon any other public property except that property specifically designated for that use.

G. Solid waste shall be disposed of only in one of the following ways:

1. In a sanitary landfill approved by the Division of Health Services;
2. In an incinerator that has all required local, state, and federal air pollution control permits;
3. A householder may dispose of solid wastes generated at his residence on his property in a manner approved by the health director, and the health director shall publish a list of generally approved methods of disposal.
4. By any other method, including reclamation and recycling processes, that has been approved by the Division of Health Services.

H. In addition to the methods listed in Section III.G., above, refuse may be disposed of in solid waste receptacles provided by the county.

I. Construction and demolition wastes may be disposed of a disposal sites approved by the Division of Health Services and the health director.

J. Infectious, hazardous, and radioactive wastes shall be disposed of according to written procedures approved by the Division of Health Services.

K. Any person collecting and transporting solid wastes generated on his property for disposal at an approved disposal site shall comply with Section VI.F.1. and 2. of this ordinance concerning vehicles and containers.

This section does not contain any prohibition on littering (depositing solid wastes on street or highway rights-of-way or on the property of another) because it is already made a criminal offense by G.S. 14-399, and a county ordinance provision covering the same conduct would be preempted under State v. Tenore, 280 N.C. 238, 185 S.E. 2d 644 (1972). The text of G.S. 14-399 is set forth below for information only.

§ 14-399. Littering.-- (a) No person, firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

- (1) When such property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or
- (2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters.

(b) When litter is so blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense.

(c) As used in this section, the word "litter" shall be defined as any rubbish, waste material, cans, refuse, garbage, trash, debris, dead animals or discarded material, of every kind and description; the word "vehicle" shall be defined as in G.S. 20-4.01 (49); and the word "watercraft" shall be defined as any boat or vessel used for transport upon or across the water.

(d) A violation of this section is a misdemeanor punishable by a fine of fifty dollars (\$50.00) for the first offense. Any second or subsequent offense is punishable by a fine of not more than two hundred dollars.

Section IV. Landfill Management

A. The sanitary landfill of Johnston County may be used for the disposal of solid wastes by any person who is a resident of Johnston County during regular hours of operation of the landfill. Solid wastes shall be disposed of at the landfill in the manner and according to the procedures required by the landfill manager or his representative.

B. The following list must be followed:

ACCEPTABILITY OF MATERIAL FOR LANDFILL

ACCEPTABLE	CONDITIONAL ACCEPTANCE (See Landfill Supervisor)	NOT ACCEPTABLE
1. Garbage and rubbish from routine collection services at residences and commercial establishments.	1. Dead animals.	1. Any liquid or semi-liquid waste
2. Household appliances, furniture, bedding.	[Faded text]	2. Any chemicals that may be dangerous to employee or equipment or that may pollute the ground water
3. Brush, tree trimmings, leaves and general refuse from residences.	Metal filings, cuttings, trimmings.	3. Any fire or highly inflammable material.
4. Cardboard and wooden containers from businesses and industry.	Plastic cuttings and trimmings.	4. Demolition and construction waste in quantities
5. Demolition and construction waste in small quantities.	Plastic bags of wrappers in quantities.	5. Waste from land clearing operations.
6. Cardboard drums (empty).	Textile waste not boxed or bagged, particularly long thread waste.	6. Radioactive waste.
7. Textile cones and tubes.	Metal bands in quantities.	
8. Textile waste when boxed or baled.		
9. Street refuse and litter.	Metal drums, if ends cut out.	
	Wire in quantities.	

Section V. Solid Waste Receptacles

A. Solid waste receptacles are maintained at numerous sites throughout the county for the convenience of county residents on land owned or leased by the county. Solid wastes may be deposited in the solid waste receptacles only in accordance with the provisions of this ordinance.

B. All solid wastes shall be deposited inside the solid waste receptacle. No solid waste may be left at the solid waste disposal site outside the receptacle.

C. Commercial, industrial, and institutional solid wastes may be deposited in solid waste receptacles only with the permission of the health director.

D. The following wastes may not be deposited in solid waste receptacles:

1. Hazardous waste;
2. Liquid wastes;
3. Infectious wastes;
4. Radioactive wastes;
5. Bulky wastes;
6. Tires;
7. Construction and demolition wastes;
8. Burning or smoldering materials, or any other materials that would create a fire hazard.

*E. It shall be unlawful for any person to remove any item from a solid waste receptacle, climb on or into a receptacle, or damage any receptacle, or set fire to or attempt to set fire to the contents of any receptacle.

Section VI. Licensing of Solid Waste Collectors

A. No person shall engage in business as a solid waste collector except under a license issued by the health director pursuant to this ordinance.

B. Applications for licenses to engage in the business of solid waste collector shall be filed with the health director on forms approved by the health director. 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;
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 plans to charge;

C. Before issuing a license pursuant to this section, the health director 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 health director 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 regulations of the Commission for Health Services 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 health director denies an applicant a license, the applicant may request a hearing before the health director. The health director shall keep summary minutes of the hearing and at least one week after the hearing shall give the applicant written notice of this decision either granting the license or affirming his denial of the license. The applicant may appeal the health director's decision to the board of county commissioners by giving written notice of appeal to the county manager within 10 days of receipt of the health director's decision following the hearing. After a hearing on the appeal, the board shall either affirm the denial or direct the health director to use the license.

3. A license shall be valid for a period of one year from the date of issuance.

E. A licensee shall submit a monthly report to the health director containing the following information:

1. Number of customers added or deleted;
2. Changes of routes;
3. New and replacement equipment;
4. Any other information requested by the health director and pertinent to the solid waste collection business.

F. 1. Vehicles and containers used for the collection and transportation of solid wastes shall be covered, leakproof, durable, and easily cleanable. 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 letters at least three inches high the name and address of the licensee and the cubic yardage of the vehicle.

2. 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 health director finds that a licensee has violated this ordinance of the conditions of his license, he shall give the licensee 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 health director shall give the licensee written notice that his license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting, or disposing of solid wastes. The health director may reinstate a revoked license after the revocation has been in effect for thirty days if he finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the board by giving written notice of revocation from the health director. After a hearing on the appeal, the board shall either affirm the revocation or direct the health director to reinstate the license.

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

I. The licensing fee will be \$50.00 per licensee.

Section VII. Franchising Solid Waste Collectors

A. No person may engage in the business of solid waste collector unless he holds a franchise issued by the board of county commissioners authorizing him to collect, transport, and dispose of solid wastes and describing the area for which the franchise is issued.

B. No person may be issued a franchise by the board unless he holds a license to engage in the business of solid waste collector issued by the health director.

C. Applications for franchises shall be filed with the board, through the county manager, or forms prescribed by the county manager and shall include a copy of the applicant's license application to the health director and any other information the board deems pertinent.

D. The board may grant a franchise only upon finding that the applicant will render prompt, efficient, and continuing service to the area for which the franchise is granted and that the applicant has sufficient equipment and personnel to render service to all persons generating solid wastes within the service area.

- E. The board shall determine the area for which a franchise is granted.
- F. The board shall set or approve all fees charged by solid waste collectors before granting a franchise. The board may classify fees according to whether residential, commercial, institutional, or industrial customers are served, so that reasonable compensation may be provided in accordance with the public interest. Fee schedules may be amended by the board from time to time.
- G. A franchise shall be for a term of four years and shall be renewable. [G.S. 153A-136 (a) (3) authorizes a term of not to exceed seven years; given to capital investment involved, a term of three to five years does not seem excessive.]
- H. A solid waste collector franchised under this ordinance shall present to each prospective customer, in advance of any agreement with that customer, a schedule of his fees, as authorized by this ordinance, to be charged. All solid wastes shall be removed from the customer's premises at least once a week, provided the customer is no more than thirty days in arrears in payment of the required collection fees.
- I. The board may grant temporary franchises for the collection, transportation, or disposal of solid wastes to provide service in the event of abandonment of an existing franchise or for other cause.
- J. Notwithstanding any other provision to this ordinance to the contrary, the board may grant nonexclusive franchises for the collection of commercial, industrial, institutional, and construction and demolition wastes throughout the county.
- K. All disputes regarding the granting of a franchise and disagreements concerning franchised areas shall be determined by the board.
- L. No franchise shall be assignable.
- M. A solid waste collector granted a franchise under this ordinance shall give thirty days' written notice to the board before abandoning the franchise.
- N. The board may terminate or suspend all or any portion of a franchise for any of the following reasons:
 - 1. Loss of the franchisee's license to operate as a solid waste collector;
 - 2. Failure of the franchisee to comply with the authorized fee schedules;
 - 3. Failure of the franchisee to render prompt and effective service to persons within his service area;
 - 4. Failure of the franchisee to comply with any provision of this ordinance or applicable regulations of the Division of Health Services.

* Section VIII. Violation and Penalties.

In addition to and separate from the specific remedies set forth in this chapter, any person who violates any provision of the Johnston County Solid Waste Ordinance shall be guilty of a misdemeanor and shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and cost and/or imprisonment for a maximum of thirty (30) days, or both. A separate and distinct violation shall be deemed to have occurred upon each and every day during which such violation continues.

Section IX. Enforcement

This ordinance shall be enforced by the Board of County Commissioners along with help from the County Manager and Health Director. Policing of this ordinance shall be carried out by the Johnston County Sheriff's Department.