

AN ORDINANCE TO RUDULATE PUBLIC USE OF MITCHELL COUNTY SOLID WASTE CONTAINERD AND CONTAINER SITES.

ARTICLE I TITLE

This Ordinance shall be know and may be cited as “The Mitchell County Solid Waste Container Ordinance” .

ARTICLE II AUTHORITY

The Mitchell County Board of Commissioners has been authorized by the State of North Carolina to enter this Ordinance pursuant to the following General Statutes of the State of North Carolina:

153A-121	(General ordinance-making power)
153A-122	(Territorial jurisdiction of county ordinances)
153A-123	(Enforcement of ordinances)
153A-132.1	(Removal and disposal of trash garbage, etc.)
153A-136	(regulation of solid wastes)
153A-292	(County collection and disposal; tax levy)
14-4	(Violation of local ordinances misdemeanor)

ARTICLE III JURISDICTION

Pursuant to G.S. 152A-122, this Ordinance shall apply to any part of Mitchell County not within a municipality. In addition, may, by resolution, permit this Ordinance to apply to said municipality.

ARTICLE IV BACKGROUND AND PURPOSE

Mitchell County, North Carolina has established a solid waste collection system consisting of centrally-located bulk-storage container units of less than 10 cubic yard capacity. Such container units are alternately known as “green boxes” or by the trade name “Dumpster”. This system is intended for the collection of customary items of household solid waste and is serviced at least weekly by front-loading solid waste collection vehicles.

The purpose of this Ordinance is to define and abate nuisances within Mitchell County and to define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of the citizens of Mitchell County and the peace and dignity of Mitchell County. It is the intent of this Ordinance to accomplish this purpose through the regulation of Mitchell County’s solid waste containers and container sites, with such regulation including but not being limited to: materials allowed to be placed into solid waste containers using solid waste containers and container sites.

ARTICLE V DEFINITIONS

Person—an individual, corporation, company, association, partnership, unit of local government or other legal entity.

Solid Waste—any hazardous or non-hazardous garbage, refuse sludge from a waste 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, and from community activities. Such 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 of more than 3000 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 Federal Water Pollution Control Act, as amended (PL92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission; or
- (c) oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
- (d) any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through G.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 (as defined under G.S. 143-290).

Solid Waste Containers (Containers)—the solid bulk-storage container units (“green boxes”, “Dumpsters”) which are owned and/or operated and/or maintained by Mitchell County for the purpose of collecting solid wastes.

Solid Waste Container Sites (Container Sites, Sites)—the land upon which solid waste containers are located, including but not being limited to: pull-off areas, access ramps and parking spaces.

ARTICLE VI USE OF SOLID WASTE CONTAINERS AND CONTAINER SITES

Section 1. Authority of Mitchell County to Regulate Use

Mitchell County’s solid waste containers are financed by revenues generated within and/or allocated expressly to Mitchell County. Accordingly, it shall be unlawful for any said solid waste is generated on property located within the boundaries of Mitchell County.

Due to the diverse sources and composition of solid waste generated on property located within the boundaries of Mitchell County and the specific characteristics of each, the Mitchell County Board of Commissioners shall possess the authority to restrict the use of solid waste containers to certain persons with Mitchell County on the basis of source and/or composition as specified in Sections 3 and 4 of this Article. In no event, however, shall any person who is otherwise in compliance with the provisions of this Ordinance, and any other applicable regulations, be arbitrarily or capriciously denied the right to use said containers.

Section 2. General Regulations Governing Use of Solid Waste Containers and Container Sites

Subsection A

Solid waste material shall be placed directly into a solid waste container, solid waste material which is acceptable as provided in this Ordinance shall not be placed at a container site unless it is placed within a solid waste container. Unacceptable solid waste material as provided in this Ordinance shall be placed either within a solid waste container nor at any other point on the container site. All acceptable solid waste materials which are dropped either prior to or following the act of placement of material into a solid waste container shall be retrieved and placed into a solid waste container. In the event that acceptable solid waste materials fall from a container due to the container waste materials fall from a container due to the container having reached capacity, such material shall be cleaned from the site and removed from the premises. It shall be the explicit responsibility of the person utilizing the solid waste containers and/or container sites to ensure that these provisions are carried out. A violation of this Subsection shall be punishable according to the provisions of G.S. 14.399(d) as amended.

Subsection B

To the maximum extent possible, solid waste material placed into a container should be bagged or otherwise bound in order to prevent blowing or scattering of such material.

Subsection C

It shall be unlawful for any person to perform any of the following acts:

- i. Intentionally defile, deface, destroy or otherwise vandalize or abuse solid waste containers, container sites, or any other equipment or facilities allocated at the container site.
- ii. Loiter and/or congregate on any container site.
- iii. Leave a vehicle unattended on any container site. Any vehicle left so unattended shall be towed away at the owner's expense.
- iv. Set or cause to be set any fire in a solid waste container or at a container site.
- v. Remove any item from a solid waste container, exception unacceptable materials as described in section 4 of this Article.
- vi. Climb on, around, or inside of a solid waste container.
- vii. Move a solid waste container from its assigned location.
- viii. Open bags or other bindings which contain solid waste material either inside a container or at a container site.

Section 3 Restrictions by Source of Solid Waste

The materials deposited into solid waste containers shall be limited to customary items of household solid waste which otherwise comply with the provisions of this Ordinance and any other applicable regulations. Such containers shall not be utilized by persons engaged in the collection of solid waste for compensation or by persons engaged in the collection of solid wastes from commercial campgrounds, hotels, motels and other forms of short-term living

accommodations. In no event, however, shall this restriction be construed to deny the use of such containers to non-permanent residents of Mitchell County provided that such persons are otherwise in compliance with the provisions of this Ordinance and any other applicable regulations.

Section 4 Restrictions by Composition of (Solid) waste

The following materials are unacceptable and it shall be unlawful for any person to place into a solid waste container any of the following items:

Fire, embers, ashes and other such fire causing materials Liquids other than those contained in customary household solid waste.

Poisons

Herbicides

Pesticides

Tires or other bulky materials composed of rubber chemicals

Explosives or other volatile substances

Dead animals

Concrete, cement, lumber, bricks, blocks or other construction materials

Soil, rock, or any type of mining refuse

stumps, logs, limbs, leaves or lawn clippings

Industrial or commercial wastes of any type

Pathological wastes

Toxic wasted

Household appliances, including but not limited to refrigerators, stoves, washers, dryers, etc.

Road construction material including but not limited to asphalt, gravel, etc.

Sludges or semi-solid fluids

Gasoline, oils, or other liquid hydrocarbons

Motor vehicles or motor vehicle parts/remnants

Metal wire

Bicycles or tricycles

Animal wastes

Nuclear or radioactive waste

Chairs, sofas, tables, mattresses or other large items of furniture

All other materials occupying a volume of one cubic yard or greater

All other materials not included in the definition of solid waste

All other hazardous wasted

ARTICLE VII PENALTIES

If any person shall violate this Ordinance, he or she shall be guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days, or both, for each offense, as provided in G.S. 14-4 and G.S. 153A-132.1. Each day or portion thereof that this Ordinance is violated shall constitute a separated offense as provided in G.S. 153A-

132.1. Violations of this Ordinance which are subject to the provisions of G.S. 14-399 shall be punishable according to the provisions of that Statute.

ARTICLE VIII SEVERABILITY

if any article, section, subsection or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE IX EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the 12th day of May, 1980.

Duly adopted by the Board of Commissioners of the County of Mitchell, North Carolina, this the 12th day of May 1980.

Attest: J. Wayne Hall, Chairman
J.D. Hollifield, Member
Albert L. Canipe, Member
Charles F. Buchanan, Member
Robert B. Hughes, Member
Charlie Hunt, Attorney
David P. Huskins. Manager

