



MCDOWELL COUNTY ILLEGAL SOLID WASTE ORDINANCE

The purpose of this ordinance is to address solid waste that is not properly disposed at approved public or private waste handling facilities.

Section 1. Title

McDowell County Illegal Solid Waste Ordinance

Section 2. Background and Purpose

The purpose of this ordinance is to:

1. Provide guidelines to insure proper handling, disposal, and storage of litter, trash, garbage, and debris in McDowell County
2. Deter unlawful disposal of solid waste, trash, garbage, litter or debris
3. Abate illegal dump sites: and
4. Encourage reporting of littering and illegal dumping of solid waste

Section 3. Authority

The McDowell County Board of Commissioners has been authorized by the State of North Carolina to enact this ordinance pursuant to the following General Statutes of North Carolina.

1. 153A-121 General ordinance making power
2. 153A-123 Enforcement of ordinance
3. 153A-136 Regulation of solid waste
4. 14-4 Violation of local ordinance misdemeanor

Section 4. Jurisdiction

Pursuant to G.S. 153-122. This ordinance applies to all areas of unincorporated McDowell County which are not within the corporate limits of any municipality. All municipalities and their respective corporate limits shall be exempt from this ordinance, unless they choose to adopt this ordinance or some form thereof.

The intent of this ordinance is to promote and encourage proper and lawful solid waste management including but not limited to waste reduction and disposal.

Section 5. Administration and Enforcement:

The McDowell County Board of Commissioners authorizes the administration and enforcement of this ordinance. The administration and enforcement of this ordinance shall be vested to the McDowell County Sheriff's Department.

Section 6. Definitions

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

Construction or Demolition - When used in connection with waste or debris, means solid waste resulting solely from construction, remodeling, repair or demolition operations on pavement, buildings or other structures.

Corrugated Cardboard – Un-waxed paper boxes and other thick layered brown paper, formed with grooves and ridges, used in shipping or in which shipped goods are received.

County - McDowell County

Covered - Encased by a tarpaulin, camper cover, metal cover, rigid cover, plastic, canvas or other suitable material, which is secured to prevent spillage, leakage or materials from blowing from the vehicle.

Commercial Hauler - Any who collects and transports refuse or other solid waste or recyclable materials on public or private streets in McDowell County for a fee.

Debris – worthless remains that result from the destructions or breaking down of anything.

Department - The North Carolina Department of Environment, Health and Natural Resources

Dwelling - Any residential unit housed in a building used for residential purposes or manufactured home or a structure used for residential purposes on any property.

Enforcement - By any certified law enforcement officer.

EPA - The United States Environmental Protection Agency

Facility - Solid waste management facility, including the landfill, transfer station, recycling center, wood waste mulching area and other designated areas.

Garbage - All putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

Hauler - Any person who collects and transports refuse or other solid wastes or recyclable materials in McDowell County.

Hazardous Refuse - Includes any rusted, jagged appliances or machinery, specifically, iceboxes and refrigerators, whose doors have not been properly dismantled, or which has been determined by the Solid Waste Director to constitute a health or safety hazard.

Hazardous Waste –

1. A solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating reversible illness or pose a substantial problem or potential hazard to human health or the environment if improperly treated, stored, transported or disposed of or otherwise managed.

2. Any substance classified as a hazardous waste by EPA

Individual - Any person, organization, business or other entity.

Industrial Waste - All waste, including garbage, solids, semisolids, sludge and liquids created or generated by factories, processing plants or other manufacturing enterprises.

Litter – Worthless rubbish or refuse scattered about

Microbiological Waste - cultures and stocks of infectious agents, including but not limited to specimens from medical, pathological, pharmaceutical, research, commercial and industrial laboratories.

Mixed Load - Materials entering solid waste disposal facilities that are not properly separated for disposal (See 127-9). Mixed load will be determined by the Solid Waste Director or his representative.

Mixed Paper - Envelopes, catalogs, bulk mail, magazines, computer paper, copy paper, file folders, phone books, gray cartons, adding machine tapes, letters, scratch pads, soft-covered books and other material as defined by the Recycling Center Manager.

Offal - Waste parts, especially of a butchered animal.

Open Burning - Any fire whose products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney, approved incinerator or other similar device.

Open Dump - The consolidation or collection of solid waste from one or more sources at a disposal site which has unsanitary conditions, insignificant or no cover or insignificant or no management. This term shall include any disposal area which has not been approved by and does not have a permit from the Department.

Pathological Waste - Human tissues, organs and body parts and the carcasses and body part of all 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.

Permit - Written authorization from the Solid Waste Director to haul solid waste or recyclable material in McDowell County for hire or compensation.

Permitted Hauler - Any solid waste or recyclable material hauler authorized by the Solid Waste Director to transport refuse, solid waste or recyclable material for hire or compensation.

Person - Any individual, firm, organization, partnership, corporation, company or unincorporated association. Putrescible

Trash - Any accumulation of waste materials no longer of any use, including but not limited to paper, sweepings, dust, rags, bottles, cans, cardboard, excelsior, grass or shrubbery cuttings, leaf rakings, etc.

Waste - Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisance from odors and gases, such as kitchen wastes, offal and carcasses.

Radioactive Material - Any material, which emits ionizing radiation spontaneously. Recycle,

Recyclables or Recyclable Material - Those materials or that 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.

Refuse - All no putrescible waste.

Refuse Receptacle or Receptacle - A metal or plastic (or other material approved by the Solid Waste Director) container for the storage of solid waste. **Regulated Medical Waste** - Blood and body fluids in individual containers in volumes greater than 20 milliliters, microbiological waste and pathological waste that have not been treated.

Rubbish - Solid or liquid waste from residences, commercial establishments or institutions.

Sharps - Needles, syringes with attached needles, capillary tubes, slides and cover slips, scalpel blades, test tubes and blood collection tubes.

Secured - Solid waste shall be confined or fastened and will not fall, leak, blow or spill from the vehicle.

Solid Waste - Any hazardous or nonhazardous garbage or other refuse, rubbish, litter, trash, tires and other discarded solid materials and solid or semisolid waste materials resulting from industrial, commercial and agricultural operations and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent, dissolved materials in irrigation return flows or other common water pollutants. As used herein, "solid waste" shall refer collectively to any or all of the aforementioned waste materials, unless otherwise specified.

Transfer Station - A permanent structure with mechanical equipment used for the collection or compaction of solid waste prior to the transportation of solid waste for final disposal.

Unsanitary Accumulation - Any amount of solid waste, which is odoriferous, pestiferous, or otherwise threatening to human health as determined by the Solid Waste Department. Used

Motor 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.

White Goods - Inoperative or discarded refrigerators, ranges, water heaters, freezers and other similar domestic and commercial large appliances.

Section 7. Open Dumps Prohibited

No person shall permit an open dump on any private land owned, occupied, or leased by him/her for the purpose of disposing of solid waste.

Section 8. Disposal - Storage and Accumulation

A. Municipal solid waste shall be disposed of only by one of the following methods:

1. At any solid waste disposal facility that has been approved by State and local authority.
 - a. At the McDowell County Solid Waste Disposal Facility/Transfer Station (former landfill site)
 - b. At the county facility's white goods/scrap metal area
 - c. Bagged household waste and recyclables may be accepted at the various staffed (manned) convenience centers located throughout the county
2. By any other method including recycling and resource recovery that has been approved by State and local solid waste authority.

B. Hazardous, regulated medical, radioactive waste shall be disposed of according to written procedures approved by the Environmental Protection Agency/North Carolina Department of Health, Environmental and Natural Resources.

C. Littering/dumping prohibited. No person shall intentionally discard, dispose, leave or dump any solid waste on or along any street or highway or on public or private property unless it is a permitted disposal site.

D. No person, owner, tenant, or lessee of any property may deposit, store or permit to accumulate any solid waste on property owned or occupied by the person, owner, occupant, tenant, or lessee that is not stored or disposed of as required by this Ordinance.

E. No person shall throw, spill, place, cause, or allow to be blown, scattered, spilled, thrown or placed, or otherwise dispose of any litter upon any public property or private property not owned by said violator within McDowell County or into the waters of McDowell County including but not limited to, upon public highways, public parks, lakes, rivers, streams, campgrounds, forest lands, recreational areas, mobile home parks, roads, street, or alleys; the occurrence of any of the foregoing acts resulting from the transport of solid waste in a vehicle shall constitute a violation.

F. Disposal of tires. The disposal of tires on public or private owned property is prohibited unless it is a facility approved by State and local laws.

G. Disposal of sharps. Sharps shall be placed in a sealed, labeled, puncture resistant plastic container prior to disposal. A beverage container is not a recommended container for disposing of sharps.

H. Burning of solid waste is prohibited based on EPA and State of NC regulations.

I. Storage.

1. Storage container requirements. Solid waste shall be stored in a container that is durable, rust resistant, nonabsorbent, watertight and easily cleaned, with a close-fitting, fly-tight cover in place. Container shall be kept clean so that no insect breeding, odor or other nuisance will exist.

2. Storage of refuse. Refuse must be stored in such manner that it will not provide harborage to rats, cause a fire or safety hazard or become windblown. **Solid waste/ Rubbish should not be stored for longer than 30 days without disposal.**

3. Airtight containers prohibited. No person shall leave outside of the building or dwelling, or in any place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container of any kind with an airtight door without first removing the door from such icebox or refrigerator.

J. Accumulation. Improper storage of waste prohibited. No owner, occupant, tenant or lessee of any property, jointly or severally, may deposit, store or permit to accumulate any solid or hazardous waste upon such property that is not stored or disposed of in a manner prescribed by this article. Further, it shall be the duty of each owner, occupant, tenant or lessee to provide approved receptacles as specified in 127-8 G

Section 9. Definition and Abatement of Solid Waste Nuisances

1. By the authority of the provisions of N.C.G.S 153A-140, the storage, accumulation or presence of solid waste on public or private property in the area of jurisdiction of this ordinance which is:
 - a. A breeding ground or harbor for mosquitoes, or other insects, snakes, rats, or other pests
 - b. A point of collection of pools or ponds of water; or
 - c. A point of concentration of gasoline, oil, or other flammable, toxic, or explosive materials, or
 - d. So located that there is danger of falling, sliding or turning over;, or
 - e. Source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces or metal, glass, or other rigid materials.

Is hereby proclaimed and declared to be unlawful and a public nuisance. Such public nuisance shall be subject to abatement as provided by this Ordinance.

2. Upon reasonable cause to believe that a public nuisance as defined above exists, the Enforcement Officer or his/her designee, and upon not less than ten (10) days' notice to the occupant and owner of the property on which the alleged nuisance is located, shall make a determination of whether or not such nuisance exists, he/she shall enter and serve upon the owner and occupant an order to remove, abate, or remedy the nuisance within a reasonable period of time not to exceed **thirty (30) days**. Such order may be appealed by the owner or occupant to the **Board of Adjustments**. As provided in Section 10 of this ordinance.
3. Upon failure of the owner or occupant of the property, or of the person responsible for placing solid waste on the property to remove, abate or remedy the nuisance within the period of time allowed by

the Enforcement Officer or his/her designee, pursuant to N.C.G.S 153A-140 an Enforcement Officer or his/her designee shall have the nuisance removed as provided in the order and have the charge the cost of removal to the owner or occupant. If such expenses are not paid by the owner or occupant within ten (10) business days, it shall be a lien upon the land or premises where the nuisance arose and shall be collected as unpaid taxes.

Section 10. Enforcement of Ordinance

A. 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. 153-A-132. 1. **Each day or portion thereof that this ordinance is violated shall constitute a separate offense as provided in G.S. 153A132.1. Violations of this ordinance which are subject to the provisions of G.S. 14-399 shall be punishable according to the provision of that Statute.**

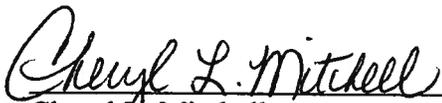
B. **Civil Penalty. Any person who is found in violation of this ordinance shall be subject to a civil penalty of not more than \$50 as provided in G.S. 153A-123. Each day's violation shall be treated as a separate offense.**

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 with G.S. 153A-123. This Ordinance shall take effect and be in force from and after the day of May 10, 2021.

This Ordinance shall take effective upon date of adoption.

Adopted this 10th day of May, 2021

Attest:


Cheryl L. Mitchell
Clerk to the Board


Tony G. Brown
Chairman

