

Brunswick County
Solid Waste Management Ordinance

1-11. Solid Waste

Table of Contents

ARTICLE I. INTRODUCTORY PROVISIONS	4 -
<i>Section 1-11-11. Title.....</i>	<i>4 -</i>
<i>Section 1-11-12. Jurisdiction.....</i>	<i>4 -</i>
<i>Section 1-11-14. Solid Waste Officer.....</i>	<i>4 -</i>
ARTICLE II. DEFINITIONS.....	5 -
ARTICLE III. SOLID WASTE COLLECTION AND DISPOSAL	11 -
Section 1-11-32.1 Acceptable Methods of Disposal.....	11 -
Section 1-11-32.2 Responsibility.....	11 -
Section 1-11-32.3 General Storage and Disposal Practices	12 -
Section 1-11-32.4 Receptacles and Container Regulations	14 -
Section 1-11-32.5 Collection and Disposal.....	15 -
Section 1-11-32.6 Neglect of Property and Unlawful Deposits	15 -
Section 1-11-32.7 Commercial Establishments	16 -
Section 1-11-32.8 Construction Sites and Demolition Sites	16 -
Section 1-11-32.9 Special Refuse Disposal Problems.....	17 -
ARTICLE IV LITTERING	17 -
Section 1-11-42 Littering.....	17 -
ARTICLE V OPEN BURNING	17 -
<i>Section 1-11-52 Definitions</i>	<i>17 -</i>
<i>Section 1-11-53 Regulated Activities</i>	<i>19 -</i>
ARTICLE VI. BURYING / SUBMERGING SOLID WASTE.....	21 -
ARTICLE VII. PUBLIC HEALTH NUISANCE ABATEMENT	21 -
Section 1-11-72.1 Identification of Public Health Nuisance	21 -
Article VIII. COUNTY SOLID WASTE FACILITY PRACTICES	23 -
ARTICLE IX. Regulated Recyclable Materials.....	25 -

ARTICLE X. Enforcement / Citations / Penalties- 25 -

Section 1-11-10.1 Enforcement..... - 25 -
Section 1-11-10.3.1 Bagging - 27 -
Section 1-11-10.3.2 Burning - 27 -
Section 1-11-10.3.3 Burying / Submersing - 31 -
Section 1-11-10.3.4 Littering - 33 -
Section 1-11-10.3.5 Landfill / County Solid Waste Facility Practices - 33 -
Section 1-11-10.3.6 SOLID WASTE COLLECTION AND DISPOSAL - 34 -

ARTICLE XI. MISCELLANEOUS.....- 34 -

Section 1-11-11.1 Remedies Cumulative - 34 -
The procedures set forth in this article shall be in addition to any other remedies that may
exist under law or article. - 34 -
Section 1-11-11.2 Conflicting Ordinance Repealed - 34 -
Section 1-11-11.3 Severability - 34 -
Section 1-11-11.3 Effective Date..... - 35 -

ARTICLE I. INTRODUCTORY PROVISIONS

Section 1-11-11. Title

This ordinance shall be known and may be cited as the Brunswick County Solid Waste Management Ordinance.

Section 1-11-12. Purpose

To promote the public safety, health and welfare of the citizens of Brunswick County through the regulation of the storage, collection, and disposal of solid waste, the regulation of open burning and the regulation of public health nuisances.

Section 1-11-12. Jurisdiction

This Ordinance shall govern the unincorporated areas of the County of Brunswick, North Carolina.

Section 1-11-13. Authority

This ordinance is adopted pursuant to the authority contained in N.C.G.S. 14-4, N.C.G.S. 153A-121, N.C.G.S. 153A-123, N.C.G.S. 153A-132.1, N.C.G.S. 153A-136, N.C.G.S. 153A-140, N.C.G.S. 143-215.112, 15A NCAC 2D.1901.

Section 1-11-14. Solid Waste Officer

There is hereby created the position of Solid Waste Officer (Environmental Enforcement Officer) who shall enforce the provisions of this chapter and who shall meet the requirements for the position as set down by the board of commissioners from time to time. N.C.G.S.153A-136 (6a)

ARTICLE II. DEFINITIONS

For purposes of this Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Failure to satisfy a mandate or obligation where the word "shall" is used shall be considered an unlawful violation of this Ordinance subjecting the responsible person to all appropriate penalties. Words used in this Ordinance that are not found in this definition section take the generally accepted meaning found in a standard dictionary. The following definitions shall apply in the interpretation and the enforcement of this Ordinance.
N.C.G.S.130A-290

Abandoned: Any accumulated junk or refuse which remains on the property of any person who is not the owner or former owner of such accumulated junk or refuse for a period of seventy-two (72) hours after notice of violation of this Ordinance shall be presumed to be abandoned.

Accumulated junk: shall mean wrecked, scrapped, disassembled, unusable, cannibalized, inoperable or un-repairable boats, boat trailers, manufactured homes, recreational vehicles, construction equipment, appliances, vehicle tires, engines, transmissions, frames, axles, as well as parts and accessories of these objects; used building materials and all other non-vegetative debris collected or stored at a private residence or property or business establishment, or any non-vegetative debris blown or otherwise deposited onto property owned by third persons, by flood, storm, or other natural event.

Bulky Waste: shall mean large items of solid waste such as household appliances, furniture, large auto parts, trees, branches, stumps, and other oversized wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.

Collection shall mean 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.

Commercial Solid Waste shall mean solid wastes generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities.

Commercial establishment: shall mean any retail, manufacturing, wholesale, institutional, religious, or governmental establishment at which garbage, business trash, salvage material, junk, or other refuse may be generated.

Construction and Demolition debris: shall mean solid waste resulting solely from construction, remodeling, repair, or demolition operation on pavement, buildings, or other structures, but does not include inert debris, land-clearing debris, or yard waste.

Construction and Demolition Landfill: shall mean a landfill created specifically to receive only debris resulting solely from construction, remodeling, repair, or demolition operation on pavement, buildings, or other structures, but not including inert debris, land-clearing debris, or yard debris. A construction and demolition landfill operating under a franchise from the County shall be primarily governed by the terms of its franchise and state permit, and secondarily by this Ordinance where it is otherwise not inconsistent.

Convenience sites: shall mean collection sites located within the County for persons other than commercial collection services to deposit garbage, household trash, household furniture, appliances, tires, and recyclables.

County: shall mean Brunswick County, North Carolina.

Detachable container: shall mean a commercially manufactured unit used for collecting, storing, and transporting construction debris, business trash, industrial waste, accumulated junk, hazardous waste, refuse, or yard waste. The unit may use an auxiliary stationary packing mechanism for compaction of materials into the container, and may be of the open or enclosed variety. The distinguishing feature of a detachable container is that it is picked up by a specially equipped truck and becomes an integral part of the truck for transporting the waste materials to a disposal site.

Garbage: shall mean the by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food, or other matter that is subject to decomposition, decay, putrefaction, or the generation of noxious or offensive gases or odors, or which after decay, may serve as breeding or feeding material for rodents, flies, insects, or animals.

Generator, solid waste: See solid waste generator

Hazardous waste: shall mean hazardous waste means a waste, or combination of wastes, 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; or any waste that falls within the definition provided by any applicable state or federal statute.

Household trash: shall mean any accumulation of paper, sweepings, dust, rags, bottles, cans, or other matter of any kind, other than garbage, that is attendant to normal residential housekeeping or maintenance.

Infectious waste shall mean equipment, instruments, utensils, and fomites (used bandages) of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease.

1. 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;
2. Surgical operating room pathologic specimens and disposal fomites attendant thereto, and similar disposable materials from outpatients areas and emergency rooms.

Industrial waste: shall mean all waste, including solids, semisolids, sludge, and liquids created by commercial companies, factories, processing plants, and manufacturing enterprises.

Inoperable equipment: shall mean any piece of equipment not currently awaiting repairs that is not capable of functioning and/or operating for the purpose in which it was manufactured or intended.

Junk: See “accumulated junk”.

Junkyard: shall mean a commercial facility that stores for a fee, for resale either in whole or in parts, or for salvage, more than six motor vehicles not having a current license plate that cannot move under their own power and are not currently awaiting repair, or a commercial facility that uses more than 600 square feet of any lot for the storage of accumulated junk, including scrap metals, or other scrap materials, or for the dismantling of automobiles or other vehicles, mobile homes, or machinery for a fee, for resale either in whole or in parts, or for salvage. In addition, a residence or lot that stores for personal use more than two vehicles not having a current license plate that cannot move under their own power and are not currently awaiting repair, or a residence or lot that contains more than 200 square feet on the premises for the storage of accumulated junk, including scrap metals, or other scrap materials, or for the dismantling or abandonment of automobiles or other vehicles or machinery for any use shall be considered a junkyard. For purposes of this Ordinance, this standard does not

apply to vehicles that are classified as antiques and registered pursuant to N.C.G.S. 20-137-14.

Landfill: shall mean County disposal facility or part of a disposal facility where solid waste is placed in or on land and 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.

Litter: shall mean any discarded, used, unconsumed, non-containerized substance or solid waste, including but not limited to, any garbage, household trash, business trash, refuse, debris, rubbish, yard waste, tree and shrubbery trimmings, newspaper, magazines, glass, metal, plastics, plastic or paper containers, or other packaging, construction debris, junk motor vehicle parts, furniture, dead animal carcasses, cloth, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, or solid waste that has been discarded, abandoned, or otherwise disposed of in a manner not in compliance with this Ordinance.

Littering: shall mean to scatter or cast, throw, place, sweep, or deposit anywhere within the County any litter in a manner that it may be carried or deposited by the elements upon any public or private property or upon any street, sidewalk, alley, sewer, parkway, waterway (including streams, creeks, rivers, lakes, or ponds) or other public place.

Loading and unloading area: shall mean any dock or ramp, space, or area used by any moving vehicle or watercraft for the purpose of loading/unloading, receiving, shipping, and transporting goods, wares, commodities, or persons.

Medical waste: shall mean any solid waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biological, but does not include any hazardous waste, radioactive waste, household waste as defined in 40 Code of Federal Regulations § 261.4(b)(1) in effect on 1 July 1989, or those substances excluded from the solid waste definition in N.C.G.S. § 130A-290

Nuisance: shall mean any action or condition that is dangerous or prejudicial to public health, welfare, or safety.

Out-of-County waste: shall mean any solid waste produced and collected from sources outside the boundaries of the County.

Person: shall mean any public or governmental instrumentality or office and any public or private individual, firm, company, partnership, corporation, or association.

Public vehicular area: shall mean any public road maintained by the state or local municipality for public travel, and all private roads that provide access to two or more residences or commercial establishments.

Public view: shall mean any area that may be seen from any public vehicular area.

Radioactive waste: shall mean any wastes that emit ionizing radiation spontaneously.

Receptacle, solid waste: See Solid waste receptacle

Recyclables: shall mean materials identified by appropriate governmental authority that are capable of being recycled at a recycling facility.

Recycling center: shall mean a facility that collects and separates recyclables, and then produces raw materials or products that can be reused or returned to use.

Refuse: shall mean all accumulations of solid waste consisting of, without limitation, garbage, household trash, or business trash as herein defined.

Refuse receptacle: shall mean a corrosion resistant metal or plastic container of substantial construction, with tight fitting lid, provided with wheels and/or handles sufficient for safe and convenient handling of refuse.

Responsible person: shall mean any owner, agent, tenant, lessee, or any other person in possession or control of solid waste, or a residence, commercial establishment, parcel of land, or motor vehicle that generates solid waste or from which solid waste is discarded or disposed.

Salvage: shall mean the dismantling, reclamation or storage of used components, parts, accessories, junk and similar materials for purposes of processing, resale, exchange, distribution or other disposition.

Salvage material: shall mean used materials, components, parts, accessories, equipment, construction supplies, or any other previously used materials stored on location for purposes of processing, resale, exchange, distribution or other disposition.

Salvage yard: shall mean those establishments or facilities that deal in salvage material, to include, without limitation, private yard sales conducted in excess of 48 continuous hours

Solid waste: shall mean useless, unwanted, or discarded material including, without limitation, accumulated junk, bulky waste, business trash, construction

debris, garbage, household trash, litter, medical waste, liquid waste, antifreeze, petroleum by-products, recyclables, abandoned and junked vehicles, refuse, and hazardous waste.

Solid waste disposal site: shall mean a location, at which solid wastes are disposed of by incineration, sanitary landfill, or other approved method.

Solid Waste Director: shall mean the Employee responsible for solid waste management.

Solid waste generator: shall mean any person who places, causes to be placed, abandons, litters, or generates solid waste.

Solid waste management: shall mean the purposeful, systematic control of the generation, storage, collection, transport, separation, processing, recovery, and/or disposal of solid waste.

Solid waste officer: shall mean the individual appointed pursuant to this chapter to enforce the provisions thereof.

Solid waste receptacle: shall mean a large container used for the temporary storage of solid wastes and capable of being automatically emptied into collection vehicles.

Unsecured: shall mean missing doors, windows or unable to lock as the original manufacture designed or any openings into which a person, animals and water may enter that may cause entrapment or injury, or be a breeding ground or nest for mosquitoes, insects, rats, or other pests.

Yard Waste: shall mean tree branches, tree limbs, parts of trees, bushes, shrubbery cuttings or clippings, or other items created as a result of trimming, cutting, or pruning trees or bushes, also the accumulation of lawn grass, shrubbery, vine cuttings or clippings, and/or dry leaf rakings.

ARTICLE III. SOLID WASTE COLLECTION AND DISPOSAL

Section 1-11-32.1 Acceptable Methods of Disposal.

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

- A. In an authorized sanitary landfill or transfer station.
- B. In an incinerator that has all the required local, state and federal air pollution control permits;
- C. In accordance with the list of generally approved methods of disposal published by Solid Waste Director; or
- D. By any method approved by the Solid Waste Director.

Section 1-11-32.2 Responsibility

- A. It shall be unlawful for any responsible person to maintain a residence, commercial establishment, or parcel of land where solid waste is permitted to accumulate in any manner that may:
 - 1. Become a nuisance;
 - 2. Cause injury to the health or welfare of residents in the vicinity;
 - 3. Detract from the value of the property or neighboring property; or
 - 4. Violate any provision of this ordinance.
- B. A generator of solid waste shall be responsible for the satisfactory storage, collection, and disposal of solid waste. No owner, occupant or tenant or lessee of a building or dwelling other than a licensed junk dealer, may place or leave or cause to be placed and left for longer than 7 days outside a building or dwelling any bulky wastes.
- C. The owner and occupants of a vehicle shall be responsible for any dumping, littering, or other violations of this article in which a vehicle was used. The addressees of first class mail found in solid waste may be considered as prima facie evidence that the person named thereon is the person

responsible for the improper disposal or management of that waste, however such prima facie evidence is not limited to mail.

- D. A solid waste generator shall ensure that hazardous waste is disposed of at a site or facility that is permitted in a manner approved by the Brunswick County Solid Waste Director. The Solid Waste Director shall publish a list of generally approved methods of disposal.
- E. The owner of an apartment building or mobile home park, or in the case of a town house or condominium, the property owner's association, shall be responsible to ensure the proper storage and disposal of all solid waste.

Section 1-11-32.3 General Storage and Disposal Practices

All solid waste shall be stored or placed for collection in accordance with the following provisions.

- A. Accumulations, unauthorized: Any accumulation of solid waste on any lot, property, premises, residence, establishment, public street, alley, or other public or private place in violation of any provision of this Ordinance is hereby declared to be a public nuisance and is prohibited. Failure to remove and properly dispose of any such unauthorized accumulation of solid waste is a violation of this Ordinance.
- B. Batteries, Lead-Acid: Lead-acid batteries shall be disposed of at a battery retailer or wholesaler, a secondary lead smelter, or at a collection or recycling facility authorized under the NC General Statutes or by the United States Environmental Protection Agency. No person shall knowingly place or dispose of a used lead-acid battery in an unauthorized site, landfill, incinerator, or in any waste-to-energy facility. Persons who knowingly place or dispose of lead-acid batteries in violation of this section shall be assessed a civil penalty not to exceed fifty dollars (\$50.00) per violation. Each battery improperly disposed of shall constitute a separate violation.
- C. Hazardous waste: No hazardous waste shall be placed in any solid waste receptacle, detachable container, or disposal site unless authorized by State or Federal regulation.
- D. Household trash / Garbage: All biodegradable liquid wastes shall be placed in sealed containers prior to disposal. All non-biodegradable liquid wastes shall be recycled or disposed in accordance with State and Federal regulations. Items that are too large for refuse receptacles shall be brought to an approved solid waste collection site.

1. Brunswick County provides residential trash pick-up service. Solid waste receptacles are the property of the vendor and may not be removed from the premises.
2. The following items are banned from residential pick-up: construction materials, yard waste, oil, antifreeze, tires, car batteries, appliances, and hazardous or medical waste.
3. The residential occupant is responsible for the following:
 - i. Placing the solid waste receptacle near the curb or road edge (not impeding traffic) before 6 am and removing it before 9 p.m. on scheduled pick-up days. The receptacle must be at least five feet from mailboxes, poles, parked cars, or other obstacles.
 - ii. Maintaining the cleanliness of the receptacle and to take steps to mitigate odors.
 - iii. Bagging and tying or otherwise securing trash placed in receptacle to prevent it from falling or blowing out. Bulky items such as large cardboard boxes are exempt from bagging requirements. Bags may be of any size, any thickness adequate for its contents, and any color.

E. Junk: It shall be unlawful for any person to place, abandon, or leave outside any building or dwelling, or upon the property of any other person, or within an open porch, open carport, or open lean-to, within public view, any accumulated junk or refuse, to include without limitation, solid waste, household trash, any dilapidated furniture, appliance, building material, or other items that are either wholly or partially rusted, wrecked, junked, dismantled, or inoperative and not currently awaiting repairs, and not completely enclosed within a building or dwelling.

F. Liquid Waste: All non-biodegradable liquid wastes including, but not limited to, petroleum by-products and antifreeze, shall be recycled or disposed in accordance with State and Federal regulations. All biodegradable liquid wastes shall be placed in sealed containers prior to disposal.

G. Medical Waste: No medical waste shall be placed in any solid waste receptacle, detachable container, or disposal site unless authorized by State or Federal regulations.

H. Recycle Containers: It shall be unlawful for any person to dispose of any type of banned solid waste items, such as but not limited to garbage, food, furniture, into a recycling container that is clearly marked for recycling products only.

I. Refrigerators, Abandoned: It shall be unlawful for any person to leave outside of any building or dwelling, any abandoned, unattended or discarded refrigerator.

J. Refuse: All solid waste shall be placed and maintained in refuse solid waste receptacles or detachable containers as specified herein. Refuse shall be stored in a manner that will not provide harborage to rodents and vermin and will not create a fire hazard. All refuse receptacles and containers shall be kept covered at all times with tight fitting covers until the solid waste is disposed.

K. Streets, public and private property: No person shall place any accumulation of solid waste in any street, median strip, alley, or other public place of travel, nor upon any public or private property except as stated herein.

L. Tires: Tires shall be transported by the owner, responsible person or agent to the County disposal area and disposed of as prescribed and only to the extent allowed by the Solid Waste Director. Fines and penalties; any person who knowingly hauls or disposes of a tire in violation shall be assessed a civil penalty of fifty dollars (\$50.00) per violation. Each tire hauled or disposed of in violation constitutes a separate violation.

M. Trash, dangerous items: All waste material of an injurious nature, including but not limited to broken glass, light bulbs, sharp pieces of metal, fluorescent tubes, and television tubes, shall be securely wrapped to prevent injury to collection crews and other persons.

N. Yard Waste: Yard Waste placed adjacent to or transported upon public roads shall be securely covered or tied to prevent the depositing thereof on such roads or the property of any person.

Section 1-11-32.4 Receptacles and Container Regulations

A. Adequate and Suitable: Every person in possession, charge, or control of any property or project from which construction debris, business trash, refuse generated from outdoor events and festivals, garbage, household trash, industrial waste, yard waste, or other solid waste is accumulated or produced shall provide adequate and suitable receptacles and/or containers capable of holding all such materials.

B. Unauthorized Deposits: It shall be unlawful for any person, firm or corporation to dump, deposit, dispose of, or otherwise place any garbage, refuse, debris or waste of any kind in any garbage can, dumpster or other type of container made or used to hold garbage, refuse, debris or waste of any kind unless:

1. Such person, firm or corporation is the owner or lessee of such garbage can, dumpster or other type of container; or

2. Such person, firm or corporation shall have first obtained permission from the owner or lessee of such garbage can, dumpster or other type of container to use it for the dumping, depositing, disposing or placing of such materials.

Section 1-11-32.5 Collection and Disposal

- A. No vehicle shall be driven or moved on any public road in Brunswick County unless the vehicle is constructed and loaded to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled, dumped, or spread on a roadway in cleaning or maintaining the roadway. For purposes of this subsection, load does not include water accumulated from precipitation.
- B. A truck, trailer, or other vehicle that is loaded with aggregates, or any material, other than sand, that could fall, blow, leak, sift, or drop shall not be driven or moved on any public road unless:
 1. The height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point; and
 2. The load is securely covered by tarpaulin or some other suitable covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.
- C. This section shall not be applicable to or in any manner restrict the transportation of seed cotton, poultry or livestock, or silage or other feed grain used in the feeding of poultry or livestock.

Section 1-11-32.6 Neglect of Property and Unlawful Deposits

It shall be unlawful for any responsible person to encroach on the rights of others through the neglect of property by:

- A. Using or allowing others to use an unpermitted dump site for disposal of solid waste.

- B. Causing or allowing unsightly litter, accumulated junk, foul odor, or potentially dangerous devices to remain in public view, or remain in view from adjoining properties.
- C. Operating a commercial or non-commercial junkyard or salvage yard except where authorized by the Brunswick County Zoning Ordinance.

Section 1-11-32.7 Commercial Establishments

Container requirements for all commercial establishments

- A. Containers: All commercial establishments shall store their refuse in receptacles or containers as specified herein so as to eliminate wind driven debris and unsightly litter in and about their establishments. Approved methods of containerization include refuse receptacles, bulk containers, and detachable containers. Commercial establishments shall clean up spillage and overflows immediately when they occur.
- B. Loading and unloading areas: All loading and unloading areas shall be provided with refuse containers for loose debris, paper, packaging materials, and other business trash or refuse. The number of containers necessary for each area shall be as required to maintain clean, neat, and sanitary premises.
- C. Restaurants: Drive-in restaurants and other food establishments that permit carry-out food service shall maintain on their premises sufficient receptacles for the disposal of business trash, garbage, and refuse at all times.

Section 1-11-32.8 Construction Sites and Demolition Sites

Every responsible person and every person in possession, charge, or control of a construction or demolition project for which a building permit or manufactured home set-up permit is required shall provide an on-site refuse receptacle, bulk container, covered vehicle, or detachable container for the collection of construction debris and other refuse that is produced by work performed on the site. All such materials shall be containerized by the end of each day, and the site shall be kept in a clean and litter-free condition. Construction debris and refuse blown or otherwise deposited in any manner upon any public or private property of a third person as a result of construction or demolition shall be immediately removed by the responsible person or person in possession, charge, or control of the construction or demolition project.

Section 1-11-32.9 Special Refuse Disposal Problems

- A. Contagious diseases refuse: The removal of clothing, bedding, or other refuse from homes or other places where highly infectious diseases have prevailed shall be performed pursuant to guidance provided by the Brunswick County Health Department.
- B. Ashes: Ashes transported to a County convenience site or County landfill shall be wet and cool to the touch prior to disposal.

ARTICLE IV LITTERING

Section 1-11-42 Littering

It shall be unlawful for any person to engage in littering as defined herein; or violate any provision of N.C.G.S. 14-399. Throwing, scattering, spilling, placing, dumping, depositing, causing or allowing to be blown, scattered, spilled, thrown or placed, or otherwise disposing of any solid waste upon any property with or without the consent of the property owner unintentionally or intentionally. See also 1-11-32.5 - unsecured loads.

ARTICLE V OPEN BURNING

Section 1-11-52 Definitions

The following words, terms, and phrases shall have the following meanings when used in this article:

Bona fide farms: shall mean an area of land intended primarily for the raising of animals and crops.

Household garbage: shall mean any garbage or rubbish in the nature and quantity of waste from an individual, residential source such as a single-family home. Household garbage is considered to be non-synthetic material for purposes of this penalty schedule.

Individual: shall mean residential or an otherwise non-corporate, non-business entity. The Solid Waste Director can recommend that very small "mom and pop" businesses be addressed as individuals instead of as businesses or contractors.

Initiated: shall mean to start or ignite a fire or re-ignite or rekindle a fire.

Land clearing: shall mean the uprooting or clearing of vegetation in connection with construction for buildings, right-of-way, agricultural, residential, commercial, or industrial development, mining activities, or the initial clearing of vegetation to enhance property value, but does not include routine maintenance or property clean-up activities.

Log: shall mean any limb or trunk whose diameter exceeds six inches.

Nuisance: shall mean actions causing physical irritation or exacerbation of a documented medical condition, noxious odors, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.

Open burning: shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.

Operator: shall mean the person in operational control over the open burning.

Person: shall mean the person in operational control over the open burning; or the landowner or person in possession or control of the land when he has directly or indirectly allowed the open burning or has benefited from it.

Prescribed burning: shall mean the deliberate use of fire under specified and controlled condition to achieve a resource management goal.

Public pick-up: shall mean the removal of refuse, yard trimmings, limbs, or other plant material from a residence by a governmental agency, private company contracted by a governmental agency, or municipal service.

Refuse: shall mean all accumulations of solid waste consisting of, without limitation, garbage, household trash, or business trash.

Salvageable item: shall mean any product or material that was first discarded or damaged and then all, or part, was saved for future use, and includes wire, electric motors, and electric transformers.

Synthetic material: shall mean man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood. For purposes of this penalty schedule, "synthetic material" does not include household garbage.

Section 1-11-53 Regulated Activities

- A. All open burning is prohibited except as provided herein. Any burning not specifically authorized by this article must be conducted in accordance with state law or regulation. This article does not relieve an operator from obtaining a permit where required by federal or state law or regulation. Non-vegetative materials, including, without limitation, garbage, refuse, household trash, lumber, or any synthetic material, may not be burned.
- B. The following types of open burning are permissible:
1. Open burning of leaves, tree trimmings or yard waste, excluding logs and stumps, if all the following conditions are met:
 - a. The material burned originated on the premises of a private residence and is burned on that premises;
 - b. There are no public pick-up services available for the material identified for burning;
 - c. The burning does not create a nuisance; and
 - d. Material is not burned when any state agency has banned burning for that time or area.
 2. Camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort and which do not create a nuisance and do not use synthetic materials or refuse or salvageable materials for fuel;
 3. Fires purposely set for the instruction and training of fire-fighting personnel, including fires at permanent fire-fighting training facilities.
 4. Prescribed burning that is conducted in accordance with State and Federal regulations.
 5. Open burning of agricultural fields on bona fide farms.
- C. Unless otherwise provided in State or Federal law, the authority to conduct open burning under this article does not exempt or excuse any person from the consequences, damages, or injuries that may result from his or her conduct. This Ordinance does not excuse or exempt any person from complying with all applicable laws, Ordinances, rules, or orders of any other

governmental entity having jurisdiction even though the open burning may be otherwise conducted in compliance with this article.

ARTICLE VI. BURYING / SUBMERGING SOLID WASTE

- A. It shall be unlawful to bury in the earth or submersing in a body of water solid waste material for the purpose of disposal. With the exception of beneficial fill - those materials excepted by the State to fill in a low lying area and which comply with the County's, State's and Federal building codes or any environmental laws / regulations. The types of beneficial fill excepted to fill in a low lying area are as followed; concrete, cinder block, brick, and asphalt.
- B. Permitted landfill sites which are approved by the Solid Waste Director which ether meet or exceed the State and Federal laws and regulations are exempt from the proceedings set forth in this article.

ARTICLE VII. PUBLIC HEALTH NUISANCE ABATEMENT

Section 1-11-72.1 Identification of Public Health Nuisance

Nuisance means any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the health or safety of others; or
- (2) In any way renders reasonable persons insecure in life or the use of property, or produces unreasonable, unwarrantable or material annoyance, discomfort or hurt to other persons.

Section 1-11-72.2 Illustrative enumeration

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are declared to be and constitute a nuisance; however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Accumulation of rubbish, garbage, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (2) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (3) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(4) The pollution of any waterway, creek, stream, pond, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

Section 1-11-72.3 Prohibited.

It shall be unlawful for any person to cause, permit, maintain, make or allow or contribute to the creation or maintenance of a nuisance.

Section 1-11-72.4 Notice to abate.

Whenever a nuisance is found to exist within the county, the solid waste/environmental compliance officer, or some other duly designated officer of the county shall give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing, maintaining or continuing the nuisance.

Section 1-11-72.5 Contents of notice.

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (2) The location of the nuisance, if it is stationary.
- (3) A description of what constitutes the nuisance.
- (4) A statement of facts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the county may abate such nuisance and assess the cost of abatement against such person.

Section 1-11-72.6 Service of notice.

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

Section 1-11-72.7 Abatement by county.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to abate the nuisance, the county shall proceed to abate such nuisance and shall prepare a statement of costs incurred in its abatement.

Section 1-11-72.8 County's costs declared lien.

Any and all costs incurred by the county in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed with the tax administrator and collected in the same manner as provided for the collection of ad valorem taxes up to and including foreclosure. Such lien shall be notice to all persons from the time of its filing with the tax administrator and shall bear interest at the legal rate thereafter until satisfied.

Section 1-11-72.9 Administrative hearing.

At any time before the expiration of the period specified in the notice to abate or specified for payment of the civil citation, the owner or occupant of the property or, in the instance of a citation the person cited, may request a hearing before the Solid Waste Director or the director's designee, at the director's election. The request for a hearing must be in writing and must be filed in the Operations Services, Solid Waste Director's office. The director or his/her designee shall fix a time for the hearing, and the initial abatement order or citation collection may be temporarily suspended pending such hearing. At the hearing, the individual affected by the order or citation shall be given the opportunity to present evidence to refute the findings that support the abatement order or citation. Upon completion of the hearing, the director or his/her designee shall consider the evidence before him/her and shall either revoke the initial order, issue a final order that differs from the initial order, or reinstate the initial order as a final abatement order.

Section 1-11-72.10 Obstructing justice.

Any person who, with intent to interfere with, obstruct or impede any official, employee, agent or contractor of the county engaged in the abatement of any nuisance set forth in this article shall be guilty of a class 3 misdemeanor, punishable by a fine of not more than \$500.00.

Article VIII. COUNTY SOLID WASTE FACILITY PRACTICES

- A. Unless otherwise provided by separate Ordinance, out-of-county waste shall not be disposed of in any Brunswick County convenience site or landfill.

- B. It shall be unlawful to deposit or dispose of solid waste in any place other than the County landfill, convenience sites, authorized construction and demolition landfills or permitted lot clearing collection site.
- C. It shall be unlawful for any person to enter any County landfill, convenience site, or authorized construction and demolition landfill without first having obtained express permission from the Solid Waste Director, except for the purpose of appropriately disposing authorized solid waste.
- D. It shall be unlawful for any person to scavenge, rummage, or remove any item from a County landfill, convenience site, or authorized construction and demolition landfill.
- E. It shall be unlawful for any commercial garbage or sanitation collection service or any other person who collects solid waste for a fee to dispose of solid waste at a County convenience site.
- F. It shall be unlawful for any person to deposit refuse outside a container at a County convenience site, or dispose of trees, stumps, tree limbs, poisons, caustic chemicals, concrete, asphalt, flammables or other publicly-posted prohibited materials at a County convenience site.
- G. It shall be unlawful for any person to dispose of used oil, yard waste, white goods, antifreeze, aluminum cans, whole scrap tires, lead acid batteries, paper, steel, #1 & #2 plastics, glass, cardboard, or any item identified in N.C.G.S. 130A-309.10(f) in a County landfill or convenience site except as may be authorized by the County in separate areas or a recycling facility specifically maintained for those purposes.
- H. Yard waste, white goods, whole scrap tires, used oil, and lead acid batteries shall be separated from all other solid waste prior to disposal at the County landfill.
- I. The following items are accepted at the landfill or at convenience sites for recycling and shall be clean and source separated from solid waste: plastics, glass, aluminum cans, steel cans, newspapers, magazines, cardboard, and others as may be determined by the Brunswick County Solid Waste Department.
- J. Ownership of all authorized solid wastes and recyclables shall pass to the County upon deposit or receipt at the County landfill or convenience site.
- K. It shall be unlawful for any person to loiter, congregate, or leave any vehicle unattended at or on any County landfill, convenience site, or authorized construction and demolition landfill.

- L. It shall be unlawful for any person unauthorized to enter any County landfill, convenience site, or authorized construction and demolition landfill after operating hours.
- M. The County shall not be liable for any damage or injury to personal property or person resulting from the use of the County landfill or a convenience site.
- N. No person shall deliver or cause to be delivered to any solid waste collection or disposal site or receptacle, or to the Sanitary Landfill, mixed solid waste which contains in excess of twenty five percent (25%) yard waste. Violation of this section shall result in penalty as set forth in section 1-11-3 as well as loss of use of solid waste facilities pending payment of fines.

ARTICLE IX. Regulated Recyclable Materials

This article is reserved for future Recover Recycle Materials (R.R.M. or Waste Reduction Plan)

ARTICLE X. Enforcement / Citations / Penalties

Section 1-11-10.1 Enforcement

Enforcement of this Ordinance shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399, N.C.G.S. 153A-123 and shall include, without limitation within Brunswick County, Solid Waste Director, Solid Waste Officers, Code Enforcement Officers, Sheriff Deputies, Fire Marshal(s), the Brunswick County Health Director or his designee(s), and Building Code Inspectors.

Section 1-11-10.2 Citations

Enforcement personnel are hereby empowered to issue citations to any person if there is probable cause to believe that such a person has violated any of the provisions of this Ordinance. Citations so issued may be served in person on the violator by the officials stated also they may be mailed to the person by certified mail if such a person cannot readily be found or if reasonable attempts have been made to effect service of the written citation upon the responsible person(s) by delivery or certified mail have been unsuccessful, then a citation

may be provided by posting the citation upon the dwelling in which the violator resides in a conspicuous place for a period of not less than fourteen days

Any citation so served shall direct the violator to make payment of the fine provided therein to Brunswick County Solid Waste & Recycling Department on or before a specific day and hour named in the citation and to present evidence of the remedy of any violation of this chapter in accordance with Article III and the period so specified shall not be less than seventy-two (72) hours after service or delivery to the violator. If the violator is served by mail, the violator shall have six (6) days after the return receipt date to respond to the citation. If the violator is served by posting the violator's dwelling, the violator shall have seventeen (17) days after the date of notice was posted to respond to the citation.

- A. To ensure proper disposal of solid waste and that the material is not relocated to an unapproved collection site. The violator shall show proof of proper disposal of material that is in violation by receipt or some form of verification from the attendant operating an approved Solid / Hazardous Waste collection site. Failure to show proper proof of disposal shall result in a separate offense which the violator will have to pay three (3) times the cost of the Brunswick County Landfill tip fee for that approximated weight of the material + \$100 for failure to comply to the articles set forth.
- B. If the violator does not appear in response to the above described citation, the officer shall forthwith have a complaint entered against such person and secure and issue a warrant for his or her arrest. The arrest shall be for the violation of the section of this chapter charged in the citation and upon conviction the defendant shall be subject to the penalties prescribed.
- C. The enforcement personnel above stated may issue a warning citation without fine in the case wherein the opinion of the officer a violation of this chapter may be remedied without the necessity for criminal prosecution. A warning citation may not be issued in the case where the public safety is endangered.
- D. Persons found to be in violation of the provision of this article may be allowed to perform remedial cleanup work in compliance with Article III in lieu of prosecution, injunctive action, or civil penalties when in the discretion of the Brunswick County Solid Waste Director.

Section 1-11-10.3 Penalties

Enforcement personnel are empowered to issue citations for penalties up to \$250.00. Citations issued for penalties for greater amounts must have the prior approval of the Solid Waste Director.

Section 1-11-10.3.1 Bagging

- A. Failure to properly bag residential trash before placing it in the approved receptacle could result in fines equal to the market cost of the trash pick-up (estimated to be \$40 per month). For the first offense, a warning notice will be affixed to the receptacle. For a second offense, a letter will be sent from the County's Solid Waste Officer. After the third offense, the customer will be billed for the past three month's cost of collection. Each subsequent offense will compound an extra month to the billing.
- B. Persons found to be in violation of the provision of this article may be allowed to perform remedial cleanup work in compliance with Article III in lieu of prosecution, injunctive action, or civil penalties when in the discretion of the Brunswick County Solid Waste Director.
- C. Enforcement personnel stated may issue a warning citation without fine in the case wherein the opinion of the officer a violation of this chapter may be remedied.

Section 1-11-10.3.2 Burning

Enforcement Response

- A. Verbal warnings or informational letter is an appropriate enforcement response to an open burning violation where the identity of the violator cannot be positively made or otherwise sufficiently documented and for cases involving first-time individual burners of non-synthetic material.
- B. A verbal warning or informational letter is appropriate for a suspected violation, while a Notice of Violation without further enforcement action is appropriate for any documented violation. If only a verbal warning is given to the violator, enforcement personnel shall note the warning and the date in the inspection report which can later be used to document prior knowledge of the open burning rules in case of a repeat violation.
- C. Note that 15A NCAC 2D .1900 provides for legal means of burning land clearing debris and other non-synthetic material. This enforcement response guidance and penalty schedule applies strictly to illegal burns.

Burning Penalty Schedule

A. Penalty Schedule

Penalty Code	Violation	Individual	Business or Contractor
<u>FIRST-TIME INDIVIDUAL BURNERS OF NON-SYNTHETIC MATERIAL</u>			
	<ul style="list-style-type: none"> • Typical burn barrel or small pile of material • Initial violation -- no demonstrated knowledge of the open burning rules • Individual violator (not appropriate for business, company, or contractor) 	no penalty	not applicable
<p>For first-time individual burners of non-synthetic material, an appropriate enforcement response is an informational letter, NOV, or verbal warning given to the violator along with a copy of the rules and a "Don't Get Burned" pamphlet. The "no penalty" response is only appropriate if there are no prior violations, no recorded warnings, and no demonstrated knowledge of the open burning rules on the part of the violator.</p>			

<u>CATEGORY 1. VEGETATION AND NON-SYNTHETIC MATERIAL</u>			
1.1OB	<u>Minor.</u> Typical burn barrel or small pile of material	\$125	\$500
1.2OB	<u>Significant.</u> Total amount of material burned did not exceed approximately 2 truck loads	\$250	\$750
1.3OB	<u>Excessive.</u> Total amount of material burned exceeded approximately 2 truck loads	\$500	\$1500
<p>This category applies to burns of vegetative and non-synthetic material, including burns of land clearing debris generated off site.</p>			
<u>CATEGORY 2. SYNTHETIC MATERIAL</u>			
2.1OB	<u>Minor.</u> Typical burn barrel or small pile of material	\$250	\$750
2.2OB	<u>Significant.</u> Total amount of material burned did not exceed approximately 2 truck loads	\$500	\$1000
2.3OB	<u>Excessive.</u> Total amount of material burned exceeded approximately 2 truck loads	\$750	\$2000 - \$3000
2.4OB	<u>Burning Tires.</u> Burns of up to approximately 20 tires. (Penalty amount for more than approximately 20 tires are at the discretion of the Director/Deputy Director.)	\$750	\$2000
<p>This category applies to all burns in which there are synthetic materials. Violation 2.1 is appropriate for minor amounts of vinyl siding, PVC pipe, asphalt shingles, and the like.</p>			

<u>CATEGORY 3. BURNING FOR PROFIT</u>			
3.1OB	<ul style="list-style-type: none"> • Vegetative material where the total amount of material did not exceed approximately 2 truck loads. 	\$500	\$1000
3.2OB	<ul style="list-style-type: none"> • Initial violation for burning synthetic material for profit • Less than approximately 2,000 lbs of synthetic material burned • Vegetative material where the total amount exceeded approximately 2 truck loads or more • No documented environmental impact 	\$750	\$2000
3.3OB	<ul style="list-style-type: none"> • More than 2,000 lbs of synthetic material burned • Significant environmental impact 	\$1000 - \$1500	\$3000
<p>This category applies to burns motivated by profit or cost savings. Examples include burning for the purpose of reclaiming salvageable materials such as coated wire; operating a de facto disposal site for other than self-generated wastes (or for fee), and bringing off-site land clearing debris to the burn location for disposal through burning.</p> <p>The amount of material being reclaimed or disposed may be considered an aggravating or mitigating factor.</p>			

<u>CATEGORY 4. BURNING BUILDINGS</u>			
4.1OB	No appreciable amount of asbestos insulation or siding	\$750 - \$1000	\$1500 - \$2000
4.2OB	Asbestos siding not removed or an appreciable amount of asbestos contained in building structure	\$1250 - \$1500	\$2500 - \$3000
4.3OB	Standing structure larger than a residential house, mobile home, trailer home; multiple structures	normal track	Normal track
<p>This category applies to burning standing structures not approved for fire training. This category includes mobile homes, trailer homes, and other buildings consisting of more than a simple shed or small out-building. This category also includes the burning of material in the amount and character of a house (such as the demolished remains of a house).</p>			

<u>CATEGORY 5. SPECIAL HARDSHIP OR OTHER EXTENUATING CIRCUMSTANCE</u>			
5.1OB	<ul style="list-style-type: none"> • Documented economic or personal hardship preventing payment of the full penalty amount • Extraordinary effort or expense is contributed by the violator in extinguishing an active fire or in cleanup of the open burning residual 	\$0 - \$100 plus investigative costs	\$0 - \$100 plus investigative costs
<p>Only use this category in special situations, determined on a case by case basis, where the violation cannot be dismissed but the least amount of penalty is appropriate.</p>			

<u>CATEGORY 6. LAND CLEARING CONTRACTOR KNOWINGLY BURNS TO SAVE COSTS</u>			
6.1OB	<ul style="list-style-type: none"> • Contractor has been provided copy of rules or has otherwise been made aware of the open burning rules by certified mail receipt or hand delivered to responsible party by DAQ staff (e.g., Sheriff's Office, Forest Ranger, or etc.) • Verifiable charges and costs typical for area and type of 	Total assessment calculated in response to the full amount of estimated costs avoided in hauling and disposal of land clearing debris. Enforcement response may include	

CATEGORY 4. BURNING BUILDINGS		
	material and all estimates and calculations are documented in the enforcement file	assessing per burn pile.
Use this category for land clearing contractors who knowingly burn after documented notification, when the burning is done to save hauling and disposal costs. This documentation can consist of multiple prior violations and/or assessments of a similar nature.		

If the violator does not appear in response to the above described citation, the officer shall forthwith have a complaint entered against such person and secure and issue a warrant for his or her arrest. The arrest shall be for the violation of the section of this chapter charged in the citation and upon conviction the defendant shall be subject to the penalties prescribed

Adjustment Factors

- A. Aggravating and mitigating penalty adjustment factors may be applied to increase or reduce the assessment amount listed in the Open Burning Penalty Tree. The penalties do not include investigative or inspection costs, which for a typical open burning case range from \$200 to \$300. Investigative or inspection costs can be higher if more than one site visit is required or case development is complicated.
- B. Cost savings in demolition, hauling, or disposal of structures, land clearing debris or other material can often exceed the recommended penalty amount. If clear documentation of the cost of non-compliance with the open burning regulations is available, then assessing the amount listed for the violation plus the amount of costs saved through non-compliance is an appropriate enforcement response.
- C. Repeat Violations: 2x or 3x base penalty for the second and third assessment. After the third assessment, the penalty amount is “beyond” the penalty tree and is determined at the discretion of the Solid Waste Director.
- D. Demonstrated Knowledge: 1.5x base penalty for initial violation with clear documentation that demonstrates the violator's knowledge of the open burning rules.

Section 1-11-10.3.3 Burying / Submersing

A. Burying in the earth or submersing in a body of water any solid waste material in quantity of less than 500 pounds of non-hazardous waste that is not permitted by proper and legal solid waste management and disposal regulations, and practices.

- 1st offense.....\$100.00
- 2nd offense..... \$200.00
- 3rd offense and subsequent violations..... \$400.00

Any violation of this article for a commercial purpose, hazardous waste or a quantity greater than 500 pounds

- 1st offense.....\$500.00
- 2nd offense..... \$1000.00
- 3rd offense and subsequent violations..... \$2000.00

B. To ensure proper disposal of solid waste and that the material is not relocated to an unapproved collection site. The violator shall show proof of proper disposal of material that is in violation by receipt or some form of verification from the attendant operating an approved Solid / Hazardous Waste collection site. Failure to show proper proof of disposal shall result in a separate offense which the violator will have to pay three (3) times the cost of the Brunswick County Landfill tip fee for that approximated weight of the material + \$100 for failure to comply to the articles set forth.

C. If the violator does not appear in response to the above described citation, the officer shall forthwith have a complaint entered against such person and secure and issue a warrant for his or her arrest. The arrest shall be for the violation of the section of this chapter charged in the citation and upon conviction the defendant shall be subject to the penalties prescribed.

D. When the County determines that an open dump exists, the County shall notify the owner or operator of the open dump of applicable requirements to take remedial action at the site of the open dump to protect public health and the environment. If the owner or operator fails to take remedial action, the County may record a Notice of Open Dump in the office of the register of deeds in the county or counties where the open dump is located. Not less than 30 days before recording the Notice of Open Dump, the County shall notify the owner or operator of its intention to file a Notice of Open Dump. The County may notify the owner or operator of its intention to file a Notice of Open Dump at the time it notifies the owner or operator of applicable requirements to take remedial action. An owner or operator may challenge a decision of the County to file a Notice of Open Dump by filing a contested case under Article 3 of Chapter 150B of the General Statutes. If an owner or operator challenges a decision of the County to file a Notice of Open Dump, the County shall not file the Notice

of Open Dump until the contested case is resolved, but may file a notice of pending litigation under Article 11 of Chapter 1 of the General Statutes. This power is additional and supplemental to any other power granted to the County. This subsection does not repeal or supersede any statute or rule requiring or authorizing record notice by the owner.

- (1) The County shall file the Notice of Open Dump in the office of the register of deeds in substantially the following form:

"NOTICE OF OPEN DUMP

The Brunswick County Solid Waste and Recycle Department has determined that an open dump exists on the property described below. The County provides the following information regarding this open dump as a public service. This Notice is filed pursuant to G.S. 130A-301(f).

Name(s) of the record owner(s):

_____ of the real property:

Description of the particular area where the open dump is located: _____

Any person who has questions regarding this Notice should contact the Brunswick County Solid Waste and Recycle Department. The contact person for this Notice is: _____ who may be reached by telephone at _____ or by mail at _____. Requests for inspection and copying of public records regarding this open dump may be directed to _____ who may be reached by telephone at _____ or by mail at _____.

_____ Solid Waste and Recycle Director by _____

Date: _____."

- (2) The description of the particular area where the open dump is located shall be based on the best information available to the County but need not be a survey plat that meets the requirements of G.S. 47-30 unless a survey plat that meets those requirements and that is approved by the County is furnished by the owner or operator.
- (3) The register of deeds shall record the Notice of Open Dump and index it in the grantor index under the name of the record owner or owners. After recording the Notice of Open Dump, the register of deeds shall return the Notice of Open Dump to the

County in care of the person listed as the contact person in the Notice of Open Dump.

- (4) When the owner removes all solid waste from the open dump site to the satisfaction of the County, the County shall file a Cancellation of the Notice of Open Dump. The Cancellation shall be in a form similar to the original Notice of Open Dump and shall state that all the solid waste that constituted the open dump has been removed to the satisfaction of the County. The Cancellation shall be filed and indexed in the same manner as the original Notice of Open Dump.

Section 1-11-10.3.4 Littering

- A. The citations issued pursuant to this section shall specify a fine in the amount of fifty dollars (\$50.00) for unintentional littering and two hundred fifty dollars (\$250.00) for the intentional littering of fifteen pounds or less of litter for each individual and five hundred dollars (\$500.00) for more than fifteen pounds of litter for each individual.
- B. To ensure the proper disposal of solid waste (intentional litter) and that the material is not relocated to an unapproved collection site. The violator shall show proof of proper disposal of material that is in violation by receipt or some form of verification from the attendant operating an approved Solid / Hazardous Waste collection site. Failure to show proper proof of disposal shall result in a separate offense which the violator will have to pay three (3) times the cost of the Brunswick County Landfill tip fee for that approximated weight of the material + \$100 for failure to comply to the articles set forth.
- C. Enforcement personnel may proceed with criminal charges as described in provision of N.C.G.S. 14-399.

Section 1-11-10.3.5 Landfill / County Solid Waste Facility Practices

- A. Persons found to be in violation of the provision of this article may be allowed to perform remedial cleanup work in lieu of prosecution, injunctive action, or civil penalties when in the discretion of the Brunswick County Solid Waste Director.
- B. Use denied: The Brunswick County Solid Waste Director may deny any person or business entity the use of County disposal areas for a period of up to one (1) week for failure to comply with ordinances or regulations relating to the County disposal areas. The director may deny any person or business

entity use of the County disposal areas for failure to pay the fees prescribed herein, until those fees have been paid.

Section 1-11-10.3.6 Solid Waste Collection and Disposal

- A. The citations so issued to this provision of this section shall specify a fine in the amount of one hundred dollars (\$100.00) for the first offense for each individual, two hundred dollars (\$200.00) for the second offense for each individual, and four hundred dollars (\$400.00) for each subsequent offense for each individual.
- B. To ensure proper disposal of solid waste and that the material is not relocated to an unapproved collection site. The violator shall show proof of proper disposal of material that is in violation by receipt or some form of verification from the attendant operating an approved Solid / Hazardous Waste collection site. Failure to show proper proof of disposal shall result in a separate offense which the violator will have to pay three (3) times the cost of the Brunswick County Landfill tip fee for that approximated weight of the material + \$100 for failure to comply to the articles set forth.

ARTICLE XI. MISCELLANEOUS

Section 1-11-11.1 Remedies Cumulative

The procedures set forth in this article shall be in addition to any other remedies that may exist under law or article.

Section 1-11-11.2 Conflicting Ordinance Repealed

All ordinances/regulations or parts of ordinances/regulations including the ordinance regulating the Operation of Brunswick County Landfills and Solid Waste Containers that may be in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect. In the event of conflict, the specific provisions or language of this ordinance shall control over the general or specific language of any other ordinance.

Section 1-11-11.3 Severability

If any provisions of this ordinance is for any reason to be invalid or unconstitutional by any court of competent jurisdiction such provision and such holding shall not affect the validity of any other provision and to that end, the provisions of this ordinance are hereby declared to be severable.

Section 1-11-111.3 Effective Date

This ordinance shall take effect and be enforced as of July 16, 2007.

_____.