

AMENDED RULES AND REGULATIONS GOVERNING THE STORAGE, COLLECTION, TRANSPORTING, AND DISPOSAL OF SOLID WASTE PRIOR TO ACCEPTANCE INTO THE HAYWOOD COUNTY SOLID WASTE COLLECTION AND DISPOSAL SYSTEM OF SOLID WASTE IN HAYWOOD COUNTY, NORTH CAROLINA

Be It Ordained by the Haywood County Board of Health:

That the following regulations for the protection of public health are hereby adopted pursuant to authority granted by Section 39 of Chapter 130A of the General Statutes of North Carolina, and shall govern the storage, collection, transporting and disposal of solid waste prior to acceptance into the Haywood County Solid Waste collection and disposal system. These regulations amend and supercede the Rules and Regulations Governing the Storage, Collection, Transporting, and Disposal of Refuse adopted by the Haywood County Board of Health on January 26, 1970, amended on September 20, 1976 **and March 13, 1989.**

SECTION I-DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of these regulations:

- A. **SOLID WASTE**-Means garbage, refuse, rubbish, trash, and other discarded solid materials, including solid 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 industrial waste water effluents.
- B. **GARBAGE**-Means all putrescible wastes, including animal and vegetable matter, animal offal and carcasses and recognizable industrial by-products, but excluding sewage and human wastes. Other discarded food containers that are not dry and clean shall be included in this definition.
- C. **RUBBISH**-Means non-putrescible solid wastes.
- D. **PERSON**-Means any individual, firm, governmental unit, organization, partnership, corporation, or company.
- E. **HEALTH DIRECTOR**-Means the Director of the Haywood County Health Department, or his authorized representative.
- F. **IMMINENT HAZARD**-Means **a situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.**
- G. **SOLID WASTE COLLECTOR**-Means any person who collects or transports solid wastes for compensation of any type, other than one who removes solid wastes from his own premises.

- H. PUTRESCIBLE-Means solid waste capable of being decomposed by micro-organisms, with sufficient rapidity as to cause nuisances from odors or gases, such as kitchen waste, offal, and carcasses not to include appropriately composted materials as defined in the Solid Waste rules.
- I. VECTOR-Means an insect, rodent, or other animal that transmits infectious diseases from one person or animal to another.
- J. PREMISES-Means a parcel(s) of land and the buildings on it.

SECTION II-APPLICABILITY AND GENERAL CONDITIONS

These rules shall apply to the management of solid waste prior to acceptance into the Haywood County Solid Waste collection and disposal system. Solid waste management methods implemented through these rules shall be based upon public health practices and procedures, including applicable epidemiological research and other scientific knowledge. All solid waste shall be stored, collected, transported, treated, utilized, processed, reclaimed, recycled, and disposed of in a manner consistent with the requirements of federal, state and county laws and ordinances. In addition to these rules and regulations, the health director may determine and utilize other applicable public health statutes to address solid waste violations.

SECTION III-SOLID WASTE STORAGE

- A. The owner, occupant, tenant, leasee, or person in charge of any premise, shall be responsible for the sanitary storage of all solid waste accumulated at that premise.
- B. Garbage shall be stored or managed to minimize putrescible odor. Containers shall be a quality leak proof container. Containers shall be stored in such a manner and of duration so as not to create a public health risk.
- C. Rubbish shall be stored in such a manner to prevent:
 - 1. Harborage for rodents.
 - 2. The collection or confinement of water to breed mosquitoes, flies, or other vectors.

SECTION IV-SOLID WASTE COLLECTION AND TRANSPORTATION

Solid waste shall be collected and transported in such a manner so as not to create a public health risk. Transportation shall comply with Haywood County Solid Waste Ordinance.

SECTION V-SOLID WASTE DISPOSAL

All solid waste shall be disposed of by methods consistent with local ordinances, federal and state rules addressing public health risk.

SECTION VI-PENALTY AND ENFORCEMENT

- A. Any person who violates **these rules** adopted by the Haywood County Board of Health shall be guilty of a **criminal** misdemeanor, pursuant to Section 25 (a) of Chapter 130A **and Section 3(a) of Chapter 14** of the General Statutes of North Carolina.
- B. Any person who violates **these rules** may be subject to an action for injunctive relief in the Superior Court of Haywood County, pursuant to Section 18 of Chapter 130A of the General Statutes of North Carolina.
- C. The Haywood County Health Director may issue an order of abatement directing the owner, lessee, operator or other person in control of property to take any action necessary to abate a public health nuisance including the power to abate the nuisance and file a lien on the property, pursuant to Section 19 of Chapter 130A of the General Statutes of North Carolina.
- D. **In order of priority, except in the case of an imminent hazard, the Health Director or designee shall make a reasonable effort to abate the public health risk through voluntary compliance with corrective instructions to the property owner or person in lawful possession of the property. If denied permission to enter the property by the property owner, the Health Director shall first apply for and obtain an administrative search warrant before entering the premises except in cases of an imminent hazard as specified in GS 130A-20 and defined in GS 130A-2(3). Thereafter the Health Director shall proceed with formal abatement procedures as authorized under GS 130A-19 giving the person a period of at least 30 days to comply with the order. If the person fails to comply, the injunction remedy under GS 130A-18 or the criminal misdemeanor authorized under GS 130A-25 shall then be appropriate.**
- E. Where the Haywood County Health Director determines that an imminent hazard **as defined and as amended from time to time, in Section 2 (3) of Chapter 130A of the General Statutes of North Carolina** exists, he or she may **after making a reasonable attempt to give notice to the owner or a person in possession of the premises** enter upon any property and take any action necessary to abate the imminent hazard, pursuant to Section 20 of Chapter 130A of the General Statutes of North Carolina.

SECTION VII-CONFLICTING REGULATIONS REPEALED

All regulations or parts of regulations in conflict herewith are repealed, as of the effective date of these amended regulations, but only to the extent necessary to give these regulations full force and effect. **If any provision of these rules and regulations, or the application thereof to any person or circumstance, is held to exceed the authority of state statutes or to not be pursuant to the power and duty of the Health Director to carry out the responsibilities delegated under Section 39 of Chapter 130A of the General Statutes of North Carolina to the Board of Health to protect and promote the public health and to adopt rules necessary for that purpose, the Health Director may only proceed as necessary to enforce state statutes and rules as an agent of the state in pursuit of state actions.** Where a state statute or County ordinance provides a lesser penalty for an offense than is provided for by a violation of this Rule, the lesser degree or class of criminal penalty shall take precedence and control.

SECTION VIII-SEVERABILITY

If any provision of these rules and regulations, or the application thereof to any person or circumstance, is held invalid, the remainder of the rules and regulations, or the

application of such provision to other persons or circumstances shall not be affected thereby.

SECTION IX- APPEAL

1. Appeals concerning the enforcement of these Rules adopted by the Haywood County Board of Health and concerning the imposition of administrative penalties by the Haywood County Health Director shall be conducted in accordance with Subsections (b), (c), and (d) of Section 24 of Chapter 130A of the General Statutes of North Carolina. Pursuant to those subsections, the procedure for an appeal by an aggrieved person from a penalty or enforcement action taken by the Haywood County Health Director shall be as follows:
 - A. The aggrieved person shall give written notice to the Haywood County Health Director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect.
 - B. Upon filing of a notice of appeal, the Haywood County Health Director shall, within 5 working days, transmit to the each member of the Haywood County Board of Health the notice of appeal and the papers and materials upon which the challenged action was taken.
 - C. The Haywood County Board of Health shall hold a hearing within 15 days of the receipt of the notice of appeal. The Board of Health shall give the appealing party not less than 10 days notice of the date, time and place of the hearing.
 - D. On appeal, the Haywood County Board of Health shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.
 - E. A person who wishes to contest a decision of the Haywood County Board of Health made pursuant to this Section shall have a right of appeal to the District Court having jurisdiction within 30 days after the date of the decision by the Board.

SECTION X-EFFECTIVE DATE

These amended regulations were adopted on -----, at a regular meeting of the Haywood County Board of Health and shall be in full force and effect immediately.

Link to NC General Statutes: <http://www.ncga.state.nc.us/>