

Chapter 11

SOLID WASTES, SCRAP MATERIALS, ABANDONED VEHICLES, WEEDS*

Article I. Definitions

- Sec. 11-1. Definitions.
Secs. 11-2–11-15. Reserved.

Article II. Control of Solid Wastes, Scrap Materials and Noxious Growth

- Sec. 11-16. Accumulation of solid wastes prohibited.
Sec. 11-17. Illegal dumping.
Sec. 11-18. Dumping by nonresidents.
Sec. 11-19. Containers required to reduce litter.
Sec. 11-20. Dumping of building and demolition materials.
Sec. 11-21. Transportation of loose materials and wastes.
Sec. 11-22. Scrap materials: Declaration of policy.
Sec. 11-23. Accumulation of scrap materials.
Sec. 11-24. Noxious growth.
Sec. 11-25. Obstruction of streams.
Sec. 11-26. Outside storage of used tires.
Secs. 11-27–11-50. Reserved.

Article III. Collection Services

Division 1. Collection Practices

- Sec. 11-51. Purpose.
Sec. 11-52. Solid waste collection services.
Sec. 11-53. Collection routes and schedules.
Sec. 11-54. Ownership of materials.
Sec. 11-55. Unauthorized collection prohibited.
Sec. 11-56. Physically disabled service.
Sec. 11-57. Residential curbside collection service.
Sec. 11-58. City-served nonresidential units.
Sec. 11-59. Recyclables.
Sec. 11-60. Rollout containers.
Sec. 11-61. Bulk containers.
Sec. 11-62. Unauthorized use of containers prohibited.
Sec. 11-63. Additional rollout container requests.
Secs. 11-64–11-85. Reserved.

***Editor's note**—Article IV has been amended in its entirety by Ordinance of 7-6-93 and has been replaced by a revised article IV. Articles I and III have been amended in their entirety by sections 1 and 2, respectively, of Ordinance of 10-4-94 and have been replaced by revised articles I and III.

Cross references—Vehicles, traffic, and trains, ch. 6; zoning, ch. 17; subdivisions, ch. 18.

GASTONIA CITY CODE

Division 2. Types of Solid Waste

- Sec. 11-86. Yard waste.
- Sec. 11-87. Building materials.
- Sec. 11-88. Ashes.
- Sec. 11-89. Fifty-five-gallon drums.
- Sec. 11-90. Contagious disease material.
- Sec. 11-91. Hypodermic instruments.
- Sec. 11-92. Industrial waste.
- Sec. 11-93. Hazardous waste.
- Secs. 11-94–11-115. Reserved.

Division 3. Special Collection Items

- Sec. 11-116. Bulky items and scrap materials.
- Sec. 11-117. Tires.
- Sec. 11-118. Dead animals.
- Sec. 11-119. Appliances.
- Sec. 11-120. Penalties for violation of article III.
- Secs. 11-121–11-150. Reserved.

Article IV. Abandoned, Junked and Hazardous Motor Vehicles

- Sec. 11-151. Administration.
- Sec. 11-152. Abandoned vehicle unlawful; removal authorized.
- Sec. 11-153. Hazardous vehicle unlawful; removal authorized.
- Sec. 11-154. Junked motor vehicle unlawful; removal authorized.
- Sec. 11-155. Permitted concealment or enclosure.
- Sec. 11-156. Pretowing notice required.
- Sec. 11-157. Removal of vehicles; post-towing notice.
- Sec. 11-158. Probable cause hearing prior to disposition.
- Sec. 11-159. Right to redeem.
- Sec. 11-160. Disposal of removed vehicles.
- Sec. 11-161. Conditions on removal of vehicles from private property.
- Sec. 11-162. Immunity from criminal and civil actions.
- Sec. 11-163. Exceptions.
- Secs. 11-164–11-190. Reserved.

Article V. Abatement of Public Nuisances

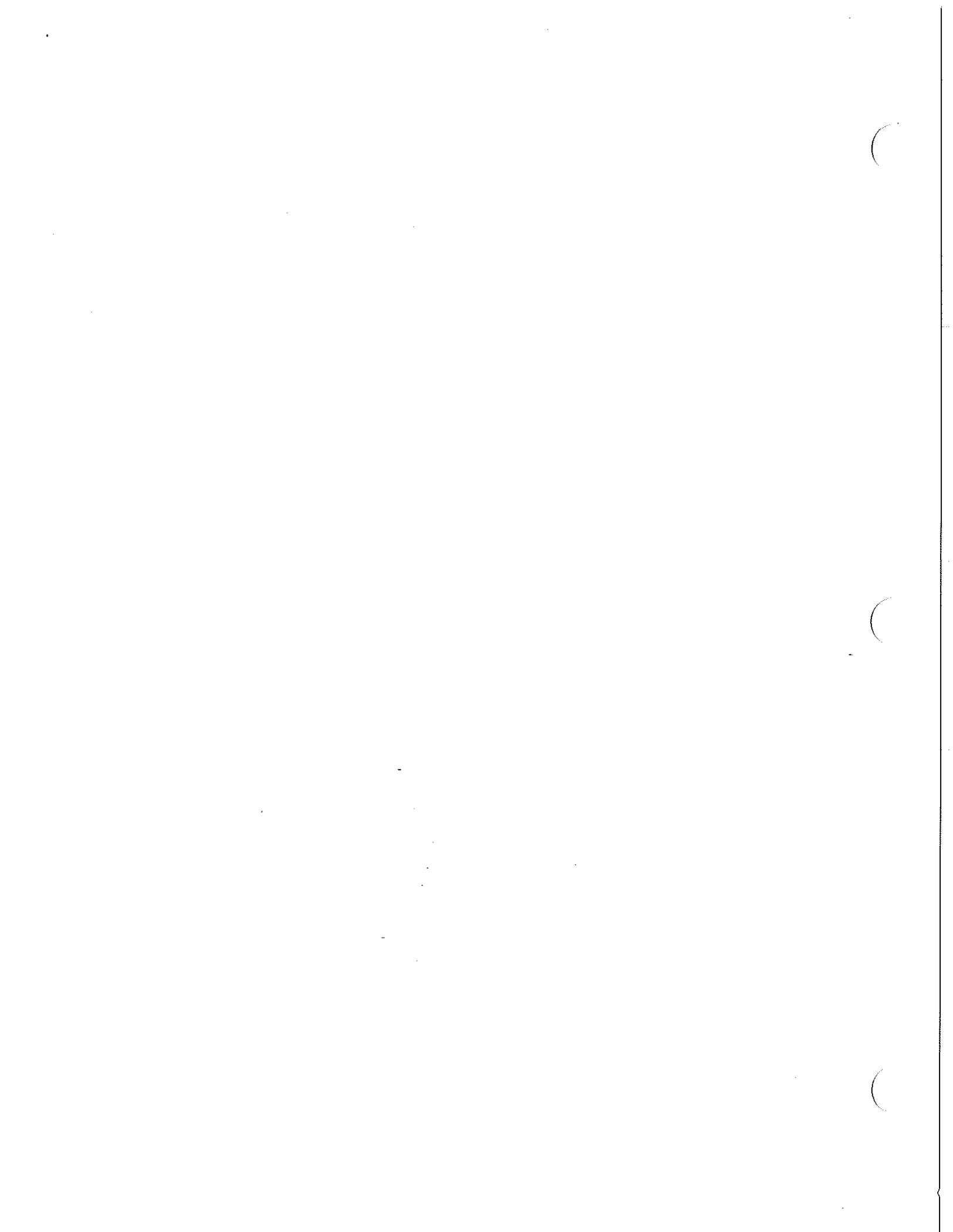
- Sec. 11-191. Public nuisances enumerated.
- Sec. 11-192. Notice and order to abate nuisance.
- Sec. 11-193. Appeal of order of abatement.
- Sec. 11-194. Abatement of nuisance by city.
- Sec. 11-195. Owner may request abatement by city.
- Sec. 11-196. Charges for abatement by city; lien.
- Sec. 11-197. Inspections.
- Secs. 11-198–11-225. Reserved.

Article VI. Enforcement

- Sec. 11-226. Litter control officer.
- Sec. 11-227. Right of entry onto premises.

SOLID WASTES, SCRAP MATERIALS, ETC.

- Sec. 11-228. Prima facie evidence of violation.
- Sec. 11-229. Notices of violation; civil citations.
- Sec. 11-230. Penalties and remedies.



ARTICLE I. DEFINITIONS**Sec. 11-1. Definitions.**

For the purpose of this chapter, except as otherwise provided, the following terms shall be defined as follows:

Abandoned motor vehicle. As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:

- (1) Is left upon a street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on property owned or operated by the city for longer than 24 hours; or
- (3) Is left on private property for longer than two hours without the written consent of the owner, occupant or lessee of the property; or
- (4) Is left for longer than seven days on a public street or highway.

Appurtenance. Any construction attached to a property and passing in possession with it, including, but not limited to, retaining walls, sidewalks, driveways, and remnants of old housing construction. (E.g., foundations, piers)

Administrator. The person or persons designated by the manager to perform the duties and responsibilities assigned by this chapter to the administrator.

Ashes. Residue resulting from the burning of wood, coal, coke or other combustible material.

Building material. Lumber, brick, stone, carpet, plumbing materials, plaster, concrete, floor coverings, gutters or other materials or substances accumulated as a result of construction, repairs or additions to existing structures or accessory structures or demolition of such.

Bulk container. A metal container of a minimum size of two cubic yards and a maximum of eight cubic yards, made of watertight construction with doors opening on two sides and top, constructed so that it can be emptied mechanically by specially equipped trucks.

Bulky items. Items such as household furnishings, household appliances, mattresses, box springs, lawn equipment (i.e., mowers, wheelbarrows), and similar household items.

Business trash. Any waste accumulation of paper, cardboard, packaging materials, rags or accumulations of incidental garbage other than household trash, which is associated with the operation of stores, offices and nonresidential units.

City. The City of Gastonia, North Carolina, or the city's authorized agent.

City-served nonresidential unit. Any nonresidential unit that generates no more garbage and/or trash per week than can be placed or stored in a total of three refuse containers totaling a capacity of 300 gallons.

Collection. The act of removing solid wastes from a point of generation to an approved disposal site. Collection shall be at the curb for rollout, yard waste and recyclable collection.

Contractor. Any individual, firm, partnership, corporation, association or joint venture that receives compensation for any work performed at a single family or special residential unit.

Curbside. Behind the pavement or curb that forms the edge of the street.

Designated collection area(s). That geographic location to which the city is responsible for providing solid waste collection services. Collection points shall be at the curb for rollout, yard waste and recyclables collection.

Establishments. Single-family units, special residential units, multifamily units, nonresidential units and city-served nonresidential units.

Foul odors. Offensive odors emanating from, but not limited to, garbage.

Garbage. The byproduct of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food or other matter which is subject to decomposition, decay, putrefaction and/or the generation of noxious or offensive gases or odors or which during and/or after decay may serve as breeding or feeding material for flies, insects and/or animals.

Hazardous motor vehicle. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, snakes, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over 12 inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials; or
- (5) One which has areas of confinement which cannot be opened from the inside, such as trunks, hoods, etc.; or
- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) A point of collection of garbage, food waste, animal waste, scrap materials, solid waste, hazardous waste, automobile parts or any other rotten or putrescible matter of any kind.
- (8) One which has sharp parts which are jagged or contain sharp edges of metal, glass or other rigid materials; or
- (9) One which creates any circumstances which expose the general public to a safety or health hazard.

Hazardous waste. The following is an explanation of hazardous as published in the North Carolina Hazardous Waste Management Law adopted for the Federal Environmental Protec-

tion Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The items defined are not inclusive of all items specified by the EPA regulations.

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Hazardous waste is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic wastes such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal), explosives and petroleum products, including all products used in the operation of a motor vehicle.

Household trash. Any waste accumulation of paper, sweepings, rags, bottles, cans or other matter of any kind, which is usually attendant to housekeeping, excluding recyclables and garbage.

Industrial waste. All waste, including solids, semisolids, sludges and liquids created by factories, processing plants or other manufacturing enterprises.

Junked motor vehicle. As authorized and defined in G.S. 160A-303.2, a junked motor vehicle is one that does not display a current license plate lawfully and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.00.

Litter. Any discarded manmade materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as such terms are defined in this chapter.

Motor vehicle. Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

Multifamily residential unit. Any apartment, group of apartments or condominiums used for dwelling places of more than six families.

Nonresidential unit. Any retail, manufacturing, wholesale, institutional, religious, non-profit organization, governmental or other unit not primarily used for residential purposes.

Noxious growth: Uncontrolled growth of grasses or vines (such as kudzu, honeysuckle, ivy or similar vines), any growth of poisonous plants (poison ivy, poison oak, or related vegetation).

Outbuilding: Any structure, other than a dwelling, including, but not limited to, storage buildings, carports, well houses, pump houses, greenhouses, and other accessory structures.

Person. Any natural person, owner, agent, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, occupant, lessee, tenant, or representative or group of individuals or entities of any kind.

Physical disability. A medical condition, verified by a registered physician, that makes an individual either physically unable to bring a rollout container to the curbside for collection and/or that makes undertaking such an act clearly and seriously threatening to that person's health.

Portable packing unit. A metal container not exceeding 4,500 pounds gross weight with a four to eight cubic yard capacity that contains a packing mechanism and an internal or external power unit.

Premises. Lots, sidewalks, rights-of-way, grass strips or curbs up to the edge of the pavement of any public street.

Private property. All of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street.

Public property. All that property except private property as herein defined, including but not limited to highways, streets, alleys, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public street or body of water.

Public right-of-way. Land that is dedicated or otherwise legally established for public use.

Recyclables. Newspapers and accompanying inserts, glass food and beverage containers, plastic soft drink and liquor bottles, spiral paper cans, aluminum cans, bi-metal cans, steel or tin cans, yard waste and other items determined to be recyclable by the solid waste services director.

Recyclables bin. An 18-gallon plastic container furnished by the city and distributed for use in the residential recyclables collection program.

Refuse. Solid waste accumulations consisting of garbage, household trash, yard waste and business trash as herein defined.

Refuse receptacle. A metal or plastic container resistant to rust, corrosion or rapid deterioration.

Rental property. Any property for which the owner receives consideration for the use of said property.

Residential solid waste. Garbage and trash, which may include glass jars, bottles, aluminum cans, steel cans, plastic soda and liquor bottles, newspapers and inserts, plastic milk and water jugs, spiral paper cans and other solid waste including yard waste. Residential solid waste shall not include discarded building materials, trees, brush and other material resulting from the activities of building contractors or lawn services, larger quantities of sod, dirt and trash from land clearing or other material requiring special handling.

Rollout container. The authorized wheeled garbage disposal container provided by the City of Gastonia for use by the residents for garbage collection services.

Scrap materials. Any item creating a littered condition including, but not limited to, dilapidated furniture, appliances, machinery, equipment, building material, automotive parts, tires, or other similar items which are either in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition.

Single-family residential unit. Any dwelling place occupied by one family.

Small animals. Cats, dogs, household pets and other animals of similar size that weigh less than 100 pounds.

Solid waste. Accumulations consisting of any combination of business trash, garbage, household trash, bulky items, yard waste, recyclables and scrap materials and shall be collected through curbside trash, rollout, recyclables, yard waste, bulky items or business trash collection activities.

Special residential unit. Any duplex, triplex, or quadruplex.

Unit. One single-family residence or an individual apartment or condominium in a multiple-family residence, unless otherwise specified by the city.

Wastes. All useless, unwanted, or discarded materials resulting from industrial, commercial, agricultural and residential activities.

Yard waste. Grass, weeds, leaves, tree trimmings, plants, shrubbery prunings, and such other similar materials which are generated in the maintenance of yards and gardens, and which are separated from other solid waste materials and placed in a designated recycling collection area. Yard waste shall not include trees, tree limbs, brush and other material resulting from commercial tree trimmers and/or commercial lawn care services.

(Ord. of 10-4-94, § 1(11-1); Ord. No. 01332, § 1, 2-20-01; Ord. No. 03-435, § 1, 5-6-03; Ord. No. 04-452, § 1, 2-3-04)

Cross reference—Definitions generally, § 1-1.

Secs. 11-2—11-15. Reserved.

ARTICLE II. CONTROL OF SOLID WASTES, SCRAP MATERIALS AND NOXIOUS GROWTH

Sec. 11-16. Accumulation of solid wastes prohibited.

(a) It shall be unlawful for any person owning or occupying property to cause or allow solid waste to be placed, deposited or to accumulate on his property except in proper solid waste receptacles authorized by this chapter. All solid waste shall be stored so as to eliminate wind-driven debris and unsightly litter on the property and any spillage or overflow shall be cleaned up and containerized immediately. Once properly stored, all solid waste which the city will collect shall be immediately placed in an appropriate location for removal by the city. All other waste not subject to city collection shall be immediately removed from the property. Any unauthorized accumulation of litter is hereby declared to be a public nuisance and is prohibited.

(b) The person in possession of property shall maintain such property, including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street in a clean and litter-free manner.

(c) All commercial establishments shall, particularly with respect to their loading and unloading areas, store their refuse in containers so as to eliminate wind-driven debris and litter in and about the establishments. Approved methods of containerization include refuse receptacles and bulk containers. Spillage and overflow shall be immediately cleaned up by said establishment when and as it occurs.

(d) Parking lots shall be maintained by the person in possession in a clean, litter-free manner, with all trash generated therein containerized and prevented from spreading to adjoining property. It shall be the responsibility of the person in possession of the parking lot to collect the refuse and trash deposited on the lot and place this material in containers serviced by the city or a private contractor.

(e) It shall be unlawful for any person undertaking any construction, renovation or demolition activities to fail to provide on-site receptacles for containerizing all debris and waste material produced by those working on site which is capable of being windblown or scattered from the site. Examples of appropriate receptacles shall include but not be limited to dump trucks, trailers, bulk containers, and containers made of fencing material. All waste material shall be containerized and secured so as to prevent being windblown by the end of each day, and the site shall be kept in a reasonably clean condition. The number of receptacles required shall be determined by the size of the job. Dirt, mud, construction materials or other debris deposited upon any public or private property as a result of the construction or demolition shall be immediately removed by the contractor (see also section 7-6). Construction sites shall be kept clean and orderly at all times.

(f) Every owner and every occupant of any premises shall maintain that area of the street right of way between the edge of the traveled road or curbline and the adjacent property line in a reasonably safe condition and shall remove dangerous plantings, shrubbery, limbs, tall grass and weeds and other noxious growth from such area of the street right of way.

(Code 1982, § 11-2; Ord. of 11-17-92; Ord. of 3-4-97(1), § 7; Ord. No. 01332, § 2, 2-20-01)

Sec. 11-17. Illegal dumping.

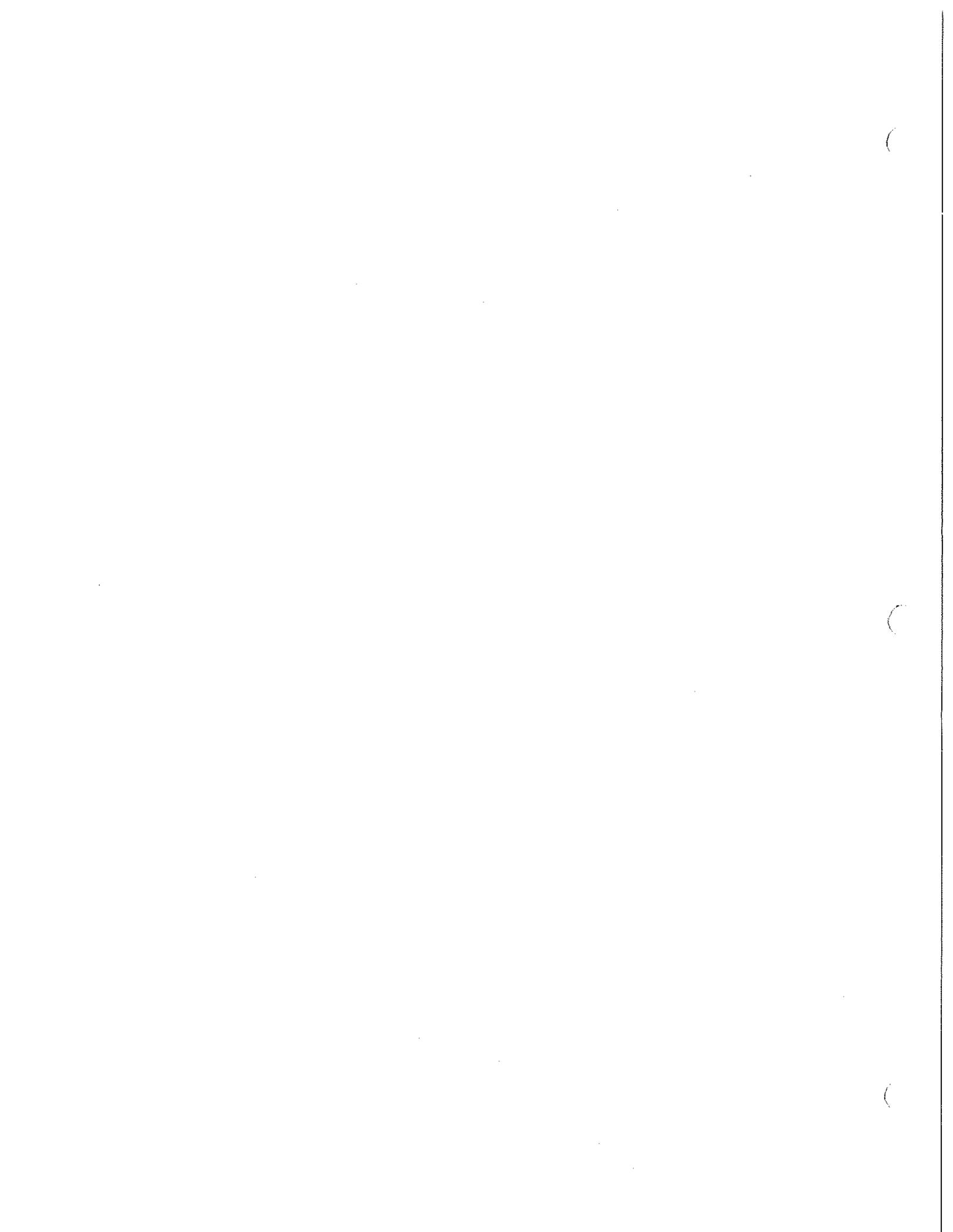
(a) It shall be unlawful for any person to place, discard, throw, drop or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid wastes (including hazardous waste) on:

- (1) Any public street, sidewalk or alley within the city or on any property owned or operated by the city or any other public property except in properly designated receptacles;
- (2) Any property not owned by him without the written consent of the owner, occupant, or lessee thereof; or
- (3) In any stream or body of water.

(b) When litter is thrown from a vehicle, the driver will be held responsible, regardless of who throws the litter.

(c) This section shall not prohibit the dumping or placing of fill on private or public property with the owner's permission of clean sand, dirt, broken brick, blocks, concrete, broken pavement and natural land debris, uncontaminated by other materials, or other material deemed suitable by the administrator which would not create a nuisance or health hazard. The consent of the city manager shall be deemed permission by the City of Gastonia for its own property.

(Code 1982, § 11-3; Ord. of 11-17-92; Ord. of 6-22-94, § 1; Ord. of 3-4-97(1), § 8; Ord. No. 03-435, § 2, 5-6-03)



Sec. 11-18. Dumping by nonresidents.

(a) It shall be unlawful for any person to bring any construction debris, business trash, garbage, hazardous refuse, household trash, industrial waste, litter, refuse, solid waste, yard trash, or any other kind of trash or rubbish into the City of Gastonia from a point outside the city for the purpose of disposing of such materials such that said materials will become subject to pickup by the City of Gastonia solid waste department.

(b) It shall be unlawful for any person to knowingly permit the use of his receptacles or any other portion of his property by any other person for the disposal of any construction debris, business trash, garbage, hazardous refuse, household trash, industrial waste, litter, refuse, solid waste, yard trash, or any other kind of trash or rubbish brought in to the City of Gastonia from a point outside the city for the purpose of disposing of such materials such that said materials will become subject to pickup by the city.

(Code 1982, § 11-4; Ord. of 11-17-92)

Sec. 11-19. Containers required to reduce litter.

(a) Whenever the administrator determines that, because of the nature of a commercial establishment or because of the type of activity that regularly occurs on any nonresidential premises, solid wastes are commonly or routinely deposited by the customers, employees, licensees, or invitees of such premises onto the parking areas or other open spaces of such premises or adjacent properties or streets, the administrator may require that the person in possession of such premises provide and locate containers on such premises, in locations specified by the administrator to be necessary to minimize the litter problem to the extent reasonably possible and practicable under the circumstances. This section is specifically intended to apply, but shall not be limited to, those establishments commonly known as fast food restaurants, strip shopping centers, and convenience stores.

(b) The presumptions established by this section are that, to satisfy the standard set forth in subsection (a), one refuse receptacle for every 20 parking spaces or fraction thereof, with a minimum of two receptacles per parking lot, will be required for establishments commonly known as fast food restaurants and convenience stores, and one refuse receptacle for every 30 parking spaces or fraction thereof, with a minimum of two receptacles per parking lot, will be required for establishments commonly known as strip shopping centers. However, these are only presumptive standards to guide the discretion of the administrator, and the administrator may find in any particular case that more or fewer receptacles are necessary to satisfy the standard set forth in subsection (a).

(c) Whenever premises served by bulk containers are required under subsection (a) to locate on such premises other refuse receptacles for the use of employees, customers, licensees, or invitees, or whenever such other refuse receptacles are furnished voluntarily, the person in possession of such premises shall collect the solid waste deposited in such containers and place this material in the bulk containers serviced by the city or by a private contractor.

(d) No person on the parking area or other open spaces of any premises may place, discard, throw, drop, or deposit, or cause to be placed, thrown, dropped, or deposited any solid wastes on such premises except in properly designated receptacles.

(Code 1982, § 11-5; Ord. of 11-17-92)

Sec. 11-20. Dumping of building and demolition materials.

It shall be unlawful to maintain or operate a disposal site for the burial of material resulting from building construction, renovation or demolition. Provided, however, this section shall not prohibit dumping or depositing clean fill materials as set forth in section 11-17(c) above.

(Code 1982, § 11-6; Ord. of 11-17-92)

Sec. 11-21. Transportation of loose materials and wastes.

(a) No person may transport or cause to be transported any solid wastes on the public streets of the city unless the solid wastes are secured so as not to escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

(b) No person may transport or cause to be transported on the public streets of the city any loose, solid or liquid materials capable of being easily blown, dropped, scattered or otherwise deposited on the streets or adjacent areas unless such materials are properly covered, secured and contained to prevent escape from the transporting vehicle. This subsection shall not apply to the transportation of poultry or livestock or silage or other grain used in the feeding of poultry or livestock.

(c) It shall be unlawful for any refuse collector to haul refuse over the streets of the city, unless he uses a watertight vehicle provided with a tight cover and so operates it as to prevent offensive odors escaping therefrom and refuse from being dropped, blown or spilled.

(Code 1982, § 11-7; Ord. of 11-17-92)

Sec. 11-22. Scrap materials: Declaration of policy.

The council hereby declares that the uncontrolled accumulation of scrap materials and dilapidated outbuildings, sheds, similar structures whether accessory to a principle structure or not, and appurtenances on any premises constitutes a danger to the health, safety, and welfare of the citizens of the city in that such accumulation and conditions can furnish shelter and breeding places for vermin; present physical dangers to the safety and well-being of children and other citizens; pose a danger of fire and depreciate property values or cause a loss of business by detracting from the appearance and character of residential and commercial neighborhoods.

(Code 1982, § 11-8; Ord. of 11-17-92; Ord. No. 01332, § 2, 2-20-01)

Sec. 11-23. Accumulation of scrap materials.

(a) No person may cause, suffer or permit scrap materials to accumulate or remain on premises under his control unless the scrap materials are placed on the premises in compliance with all federal, state and local laws and are stored within a structure so as to minimize substantially the dangers set forth in section 11-22.

(b) No person may cause, suffer, or permit debris or discarded items to accumulate within the yard or unenclosed porches. Appliances, upholstered furniture and other items not designed as "patio" or "lawn furniture" shall not be kept on unenclosed porches or in yard areas.

(Code 1982, § 11-9; Ord. of 11-17-92; Ord. of 3-4-97(1), § 9; Ord. No. 01332, § 2, 2-20-01)

Sec. 11-24. Noxious growth.

(a) No person may cause or allow on premises under his control, including: curbs, rights-of-way, one-half of alleyways and grass strips from the sidewalk abutting such premises any growth of weeds, grasses or other plants or bushes, noxious growth or overhanging shrubbery, that becomes or threatens to become a fire hazard, harboring place for rats, mice, snakes or other vermin, or otherwise poses a danger to the public health or safety.

(b) Without limiting the generality of the foregoing, no person may cause, suffer or permit on premises under his control the growth of weeds or grass to a height of 12 inches or more within 100 feet of any structure.

(c) Notwithstanding subsection (a) or (b), the city manager, through the department designated by him, may cause the immediate removal of any shrubbery and trees from street rights-of-way and may also cause the removal of dangerous plantings and limbs from such rights-of-way.

(d) Every railroad company whose tracks extend within the limits of this city shall keep the ditches or gutters on both sides of and between such tracks on its right-of-way clear of noxious growth, trash, garbage and filth of every kind and so graded that the water will not stink or become stagnant in such ditches or along such tracks.

(Code 1982, § 11-10; Ord. of 11-17-92; Ord. of 3-4-97(1), § 10; Ord. No. 01332, § 2, 2-20-01; Ord. No. 06-519, § 1, 10-3-06)

Sec. 11-25. Obstruction of streams.

No person shall fell any tree, or allow a naturally fallen tree or other debris to remain, or put any slabs, stumps, sawdust, shavings, lime, refuse, scrap materials or any other substances in any creek, stream, river or natural or artificial drainage, ravine or ditch or in any other outlet which serves to remove water from any land whatsoever where the natural and normal drainage of said land is impeded, delayed or prevented.

(Code 1982, § 11-11; Ord. of 11-17-92; Ord. of 2-1-00, § 1)

Sec. 11-26. Outside storage of used tires.

(a) A person shall not dispose of any used tire(s) on any property other than a permitted landfill site unless placed on property for purposes of removal by the city solid waste department.

(b) Unless tires are stored in an enclosed building, a person who accumulates more than 100 tires at a collection site shall comply with all of the following:

- (1) Tires shall be accumulated only in a tire storage area meeting the requirements set forth herein.
- (2) Tires shall be accumulated in piles no greater than eight feet in height with horizontal dimensions no greater than 100 feet by 20 feet.
- (3) The area in which the tires are accumulated shall be completely enclosed with an opaque woven wire fence or wooden fence such that tires are not visible. The fence shall be at least six feet tall with lockable gates. Gates shall be kept closed at all times unless the storage area is being accessed. Tires shall not be stored above the top elevation of the fence.
- (4) No tire storage area shall be allowed within 20 feet of any property line, street right-of-way or utility right-of-way.
- (5) To prevent the accumulation of precipitation and the potential of mosquito breeding, the tires shall be covered by plastic sheets or other impermeable barriers secured in such a way so as not to be moved or displaced by wind.
- (6) There shall be a minimum separation of 20 feet between tire piles and the fence as well as 20 feet between rows of tire piles. This open space shall at all times be free of rubbish, equipment, and other materials.
- (7) Tire piles shall be accessible to firefighting equipment on all sides.
- (8) The collection site shall contain sufficient drainage so that water does not pool or collect on the property.
- (9) The approach road to the tire storage site and access road to the tire storage area shall be of all-weather construction and maintained in good condition so that it is passable at all times for firefighting equipment vehicles.
- (10) Tire storage areas shall be mowed regularly or kept free of weeds, vegetation, and other growth at all times.
- (11) Any fenced tire storage area shall be screened in such a manner that the tires shall not be visible from roadways, rights-of-way, and adjacent properties. Screening shall be in accordance with the requirements of the city zoning ordinance.

(c) No person shall accumulate more than 1,000 used tires at a collection site unless they are stored in a building.

(d) Penalties. A citation in the amount of \$100.00 will be issued to any person in violation of this section for the first offense, in the amount of \$250.00 for the second offense at the same location, and \$500.00 for each subsequent violation at the same location.

(Code 1982, § 11-12; Ord. of 11-17-92)

Secs. 11-27—11-50. Reserved.

ARTICLE III. COLLECTION SERVICES

DIVISION 1. COLLECTION PRACTICES

Sec. 11-51. Purpose.

This article is determined and declared to be a health, sanitary and safety measure necessary for the promotion, protection and preservation of the health, safety and general welfare of the people of the City of Gastonia. Whenever this article conflicts with any other portion of the city Code, this article shall prevail with respect to any matters relating to solid waste services.

(Ord. of 10-4-94, § 2(11-16))

Sec. 11-52. Solid waste collection services.

(a) Solid waste collection shall be determined by ordinance. Collection services shall be applied consistently and uniformly to all citizens as specified herein.

(b) No owner or occupant of a residential premises shall prohibit or prevent weekly solid waste collection services, including recyclables collection, at the premises.

(Ord. of 10-4-94, § 2(11-17))

Sec. 11-53. Collection routes and schedules.

(a) The solid waste services director shall establish collection routes and schedules and may alter these routes and schedules from time to time. A copy of the current routes and schedules shall be kept on file in the office of the solid waste services director.

(b) The council may establish and revise from time to time a policy relating to the number of times per week the city will collect solid wastes from various classifications of premises and the maximum number of solid waste receptacles that the city will service on any one premises.

(Ord. of 10-4-94, § 2(11-18))

Sec. 11-54. Ownership of materials.

Recyclable materials, yard waste and bulky items, which are properly placed by an owner or occupant of a property at curbside for collection, are deemed to be abandoned by such person(s) and become the property of the city or its authorized agent.

(Ord. of 10-4-94, § 2(11-19))

Sec. 11-55. Unauthorized collection prohibited.

It shall be unlawful for any person not authorized by the city to collect, pick up, or cause to be collected or picked up any solid waste including recyclable, yard waste and/or bulky item materials.

(Ord. of 10-4-94, § 2(11-20))

Sec. 11-56. Physically disabled service.

(a) For physically disabled persons, rollout containers will be collected in the back yard on a scheduled curbside collection day provided that prior approval has been granted by the city, based upon a valid medical verification form submitted to the solid waste services department and a signed affirmation that no one else residing in the household is capable of rolling the container to the street.

(b) The city shall reserve the right to verify the need to continue physically disabled services to residents that have been approved to receive such services. The city shall reserve the right to continue or discontinue service.

(c) The solid waste services director or his designee shall have the authority to determine the proper location of rollout containers for disabled residents.

(Ord. of 10-4-94, § 2(11-21); Ord. No. 03-435, § 3, 5-6-03)

Sec. 11-57. Residential curbside collection service.

City-served residential curbside collection services will be provided under the following conditions:

- (1) City-served residential curbside collection services will be provided once a week on a day designated for collection by the solid waste services director or his designee.
- (2) Garbage shall not be placed at curbside prior to the day preceding the scheduled collection date. Any container placed at curbside shall be removed by midnight on the day of collection.
- (3) Any person receiving residential curbside collection service shall comply with all provisions pertaining to rollout containers set forth in section 11-60.

(Ord. of 10-4-94, § 2(11-22))

Sec. 11-58. City-served nonresidential units.

(a) Service to city-served nonresidential units shall be once a week. Such collection shall be limited to a maximum of 400 gallons per week from no more than four containers.

(b) Service to city-served nonresidential units shall comply with section 11-60 below.

(c) Designated representatives of the solid waste services division shall have the authority to determine whether a unit is generating more than the maximum capacity per collection and, if so, such units shall be required to convert from rollout service to bulk container service.

(d) Nonresidential units not utilizing bulk containers will be charged a monthly collection and disposal fee as established by the city council. The fee will be based upon the two cubic yard collection/disposal rate established for refuse bulk container customers.

(Ord. of 10-4-94, § 2(11-23); Ord. No. 03-435, § 4, 5-6-03)

Sec. 11-59. Recyclables.

The following regulations shall govern those persons in city-served residential units who are eligible to voluntarily participate in the city's recyclables collection program:

- (1) All recyclables, except yard waste, shall be placed in a city-authorized recyclables bin with the overflow being permitted in a brown kraft paper bag placed on top or beside the recyclables container.
- (2) Recyclables collection service will be provided once per week on the same day as designated by the solid waste services director or his designee for curbside collection service. The recyclables container and any overflow materials shall be placed at curbside separate from other items.
- (3) It shall be unlawful to place the recyclables bin at curbside for collection prior to the day preceding the collection date and to fail to remove the container by midnight on the day of collection.

(Ord. of 10-4-94, § 2(11-23.1))

Sec. 11-60. Rollout containers.

All premises served by rollout containers shall be subject to the following provisions:

- (1) It shall be unlawful for any person in possession, charge or control of any place where litter is accumulated or produced to fail to provide and maintain in a proper place adequate rollout containers which are accessible to the city's collection forces or agent and which are capable of holding all such waste materials which would ordinarily accumulate between the times of successive collections.
- (2) Rollout containers used in the residential and city-served nonresidential garbage collection program are property of the city.
- (3) A rollout container, when completely full, shall not exceed 200 pounds (excluding the weight of the container).
- (4) Spilled materials or overflow caused by the property owner or occupant shall be cleaned up immediately after such spillage or overflow occurs by such owner or occupant.
- (5) Spilled solid waste materials caused by city collection crews or the city's authorized collection agent shall be cleaned up immediately after such spillage occurs by said crew.
- (6) Rollout containers will be collected from the curbside provided they are easily accessible to collection personnel without having to unlock or open a door, unlock a

gate or similar obstacle or encounter a vicious animal. City collection personnel shall not provide service if required to ascend or descend multiple steps to obtain access to rollout containers, or if denied reasonable access by parked vehicles, equipment or other objects.

- (7) No rollout containers shall be stored in front of a home or in front of the building line closest to the street.
 - (8) Garbage placed in rollout containers shall be wrapped, bagged or enclosed in paper or plastic material. Any liquid waste, such as grease, shall be sealed in its own separate container before being placed in the rollout container.
 - (9) It shall be unlawful to place dangerous items such as broken glass, lightbulbs, sharp pieces of metal, fluorescent tubes and television tubes in rollout containers for collection. Hypodermic syringes, hypodermic needles or any instrument or device for making hypodermic injections shall not be disposed of except as defined in section 11-91.
 - (10) Containers are the property of the city and should not be damaged or defaced. House numbers, street names and residents' names shall not be painted or attached to the container. A fee of \$60.00 shall be assessed to the property owner to provide for the purchase of replacement containers in the event it is determined that the container has been defaced or damaged.
- (Ord. of 10-4-94, § 2(11-24); Ord. No. 03-435, § 5, 5-6-03)

Sec. 11-61. Bulk containers.

All premises served by bulk containers shall be subject to the following requirements:

(a) *Multi-family residential units.*

- (1) Any apartment, group of apartments, condominium, mobile home park or any structure containing six or more dwelling units shall provide one or more bulk containers for purposes of refuse collection.
- (2) The administrator or his designee shall have the authority to determine the quantity, size, and location of bulk containers and to determine whether such containers are serviceable. In making this determination, the administrator shall consider the needs of the occupants of the premises, the welfare of the occupants and neighbors and the city's need to facilitate collection and minimize the cost of service.
- (3) The owner of the premises shall provide one or more bulk containers so that the following criteria relating to capacity are satisfied:
 - a. Approximately one-half cubic yard of storage capacity shall be provided for each dwelling unit or fraction thereof.
 - b. The owner shall provide the smallest number of bulk containers capable of satisfying the requirements stated in subsection (3)a. of this section.

- (4) Such containers shall at all times be kept clean, neat, painted, in a good state of repair and easily accessible to collection personnel. No bulk containers shall be placed in front of a residence, in front of the building setback line closest to the street or in a public right-of-way. Container lids shall be kept closed at all times. All doors and lid springs will be in working condition. Service shall be discontinued to units failing to maintain containers properly. Businesses leasing such containers shall be responsible for notifying their service contractor of any damaged conditions. No service will be given to those units permitting objects, obstructions or vehicles to hinder in any way the servicing of such container. Cleaning up spilled material shall be the responsibility of the property owner or occupant and shall occur immediately after any such spillage or overflow occurs.
 - (5) The person in charge of the premises or the one disposing of materials shall collapse all cardboard boxes, cartons and crates prior to depositing them in authorized containers, receptacles or commercial containers for collection.
 - (6) Residential units using bulk containers will not receive residential curbside, yard waste or recyclables collection services by city collection forces. However, they are eligible for collection of Christmas trees, sofas and mattress/box springs by city collection forces or the city's authorized agent if the trees, sofas and mattress/box springs are placed in a designated location as determined by the Administrator or his designee and the management of the residential units.
 - (7) All containers served by the city shall have an all-weather access drive from the public street to the bulk container; such access drive may be paved, but must, at a minimum, be well graded and graveled. All bulk containers required under this section shall be compatible with the city's collection vehicles. Service will be provided a maximum of one time per week except during holiday schedules, which may vary.
- (b) *Nonresidential bulk containers.*
- (1) Any nonresidential unit requesting city refuse collection service is required to provide a bulk container, unless the administrator determines that it is not possible to place a bulk container on the premises. If a bulk container cannot be placed on the premises, the city will provide rollout curbside service.
 - (2) The administrator or his designee shall have the authority to determine the quantity, size, and location of bulk containers and to determine whether such containers are serviceable. In making this determination, the administrator shall consider the needs of the occupants of the premises, the welfare of the occupants and neighbors and the city's need to facilitate collection and minimize the cost of service.
 - (3) Such containers shall at all times be kept clean, neat, painted, in a good state of repair and easily accessible to collection personnel. No bulk containers shall be placed in front of a nonresidential unit, in front of the building setback line closest to the street or in a public right-of-way. Container lids shall be kept closed at all times. All doors and lid springs will be in working condition. Service shall be discontinued to units failing to

maintain containers properly. Nonresidential units leasing such containers shall be responsible for notifying their service contractor of any damaged conditions. No service will be given to those units permitting objects, obstructions or vehicles to hinder in any way the servicing of such container. Cleaning up spilled material shall be the responsibility of the property owner or occupant and shall occur immediately after any such spillage or overflow occurs.

- (4) The person in charge of the premises or the one disposing of materials shall collapse all cardboard boxes, cartons and crates prior to depositing them in authorized containers, receptacles or commercial containers for collection.
- (5) Nonresidential units using bulk containers will not receive residential curbside, yard waste or recyclables collection services by city collection forces.
- (6) All containers served by the city shall have an all-weather access drive from the public street to the bulk container. Such access drive may be paved, but must, at a minimum, be well graded and graveled. All bulk containers required under this section shall be compatible with the city's collection vehicles. Service will be provided a maximum of six times per week except during holiday schedules, which may vary.
- (7) Raw or uncooked seafood waste (i.e., fish heads) generated by commercial seafood establishments will not be collected by city collection forces and shall not be placed in bulk containers.
- (8) Nonresidential bulk container customers will be charged a monthly collection and disposal fee as established by the city council.

(Ord. No. 03-435, § 6, 5-6-03)

Editor's note—Ord. No. 03-435, § 6, adopted May 6, 2003, repealed § 11-61, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 11-61 pertained to similar subject matter and derived from Ord. No. 10-4-94, § 2(11-25).

Sec. 11-62. Unauthorized use of containers prohibited.

No person shall use or permit the use of any rollout container, bulk container, wheeled container or recyclables bin provided by the city or the city's authorized collection agent except for such container's intended use.

(Ord. of 10-4-94, § 2(11-26))

Sec. 11-63. Additional rollout container requests.

Requests for additional rollout containers at the same property address shall be reviewed on a case-by-case basis. Approval of additional container(s) shall be contingent upon an investigation by the city to determine whether an actual need exists. The administrator shall determine the lease rate for additional rollout containers approved as herein provided.

(Ord. of 10-4-94, § 2(11-27); Ord. No. 03-435, § 7, 5-6-03)

Secs. 11-64—11-85. Reserved.

DIVISION 2. TYPES OF SOLID WASTE

Sec. 11-86. Yard waste.

(a) Yard waste collection shall be provided only to single-family and special residential units served by the city. Yard waste collection shall be provided once a week on the same day as curbside collection service designated by the solid waste services director.

(b) Yard waste shall be separated from curbside trash and shall be placed together to constitute a single, separate collection in order for the city to carry out its recyclables collection program. Collection forces shall collect an amount of yard waste that is customarily and reasonably associated with the residential unit(s) served so long as it is properly prepared or containerized and in compliance with these regulations. Collection of tree and shrubbery trimmings shall be limited to one truckload per week per residence. Additional service may be approved by the solid waste services director.

(c) Grass clippings shall be collected at curbside provided that they are placed in plastic bags for collection. Such bags shall be clear or transparent, in good condition and of such size and weight that, when full, do not weigh more than 50 pounds each and are such that one individual can easily pick up each bag, one at a time, for disposal. Plastic bags shall not be secured at the top when placed at curbside for collection.

(d) Containers used for yard waste shall have all lids removed and shall not exceed 32 gallons in size. Each container shall be equipped with handles.

(e) Limbs collected by city collection forces shall be no larger than four inches in diameter and no longer than five feet in length. Tree shrubbery and limbs shall have all protruding branches trimmed. Limbs must be stacked in small, neat piles such that a reasonable person would expect one individual to easily pick up each pile, one at a time, for disposal. Each pile shall weigh no more than 50 pounds and shall not exceed four feet in height nor five feet in length.

(f) Tree trunks larger than four inches in diameter will not be collected by city collection forces. Tree stumps will not be collected by city collection forces or its authorized agent.

(g) Loose leaves may be placed pending collection by the city at the front of the premises in the grass strip between the street and the sidewalk where such strips are available. Otherwise loose leaves should be placed curbside. At no time shall material be placed on any portion of a public street.

(h) The city vacuum leaf loading equipment from the period October 1st through December 31st of each leaf collection season shall collect accumulations of loose leaves placed as required by subsection (g). During this period, leaves shall not be mixed with other waste material, and shall not be placed in the street. During the period of January 1st through September 30th, leaves shall be containerized either in clear plastic bags or 32-gallon waste containers.

(i) The solid waste division may decline to collect any yard waste that is not prepared or placed for collection in accordance with these regulations or exceeds the maximum amount. The solid waste division shall not collect any tree or tree limbs when the service has been performed for a fee or results from land clearing work by a commercial yard service. (Ord. of 10-4-94, § 2(11-28); Ord. No. 03-435, §§ 8, 9, 5-6-03)

Sec. 11-87. Building materials.

(a) Building materials will be collected at curbside by city collection forces under the following conditions:

- (1) No materials resulting from work performed by a contractor shall be collected. No new certificate of compliance shall be issued until such material has been removed by the owner or contractor. Building materials shall not be collected by the special services division for any multifamily residential unit or nonresidential unit.
- (2) Building materials resulting from work performed by homeowner repair or renovation that will be collected include plumbing materials, lumber, hot water heaters, collapsed accessory buildings with a maximum size limitation of ten feet by ten feet and capable of being handled by two individuals when collected, guttering no longer than four feet in length, doors, and windows.
- (3) Lumber and boards that are eligible for collection shall be no longer than four feet and plywood, paneling and pressboard shall be no wider than two feet, no longer than four feet and no thicker than one inch.
- (4) Landscape timbers are eligible for collection if they are no longer than four feet, no wider than four inches and no thicker than four inches.
- (5) Carpet and padding shall be collected provided the carpeting is rolled and tied in sections no longer than four feet so that two individuals can easily pick up the sections for disposal.
- (6) Small gauge fence wire shall be in rolls and large gauge fence wire shall be in sections no longer than four feet so that two individuals can easily pick up the section for disposal.
- (7) Any building materials collected which contain glass, such as windows and mirrors, shall have the glass taped with an "X" mark so it will not shatter as the collectors handle it for disposal.
- (8) The volume of building materials placed at curbside for collection shall not exceed on any designated collection day an amount that would exceed four feet by four feet by eight feet in size (approximate size of a pickup truck bed).

(b) The city will not collect the following dirt; rocks; nails; boards with nails protruding; propane and oxygen tanks, glass blocks; marble or simulated marble countertops; cross ties (i.e., railroad ties) duct or sheetmetal material; concrete blocks; brick; floor coverings except for carpeting; fence or pipe posts with concrete adhered to them; sand; concrete; central air

conditioning or heating units; pallets; ceramic tile; sheetrock; unbagged insulation; roofing or plaster nor will the city collect any building materials resulting from contractual work or commercially related activities.

(Ord. of 10-4-94, § 2(11-29); Ord. No. 03-435, § 10, 5-6-03)

Sec. 11-88. Ashes.

It shall be unlawful to place ashes or live coals in rollout containers for collection unless said ashes or coals have been wetted; are cool to the touch; have been enclosed in plastic bags; and are securely tied prior to collection.

(Ord. of 10-4-94, § 2(11-30))

Sec. 11-89. Fifty-five-gallon drums.

(a) It shall be unlawful to use 55-gallon drums as rollout, yard waste or recyclables containers for collection by city collection forces or the city's authorized collection agent. It shall be the responsibility of the person in possession, charge or control of the premises at which such container is being used for such purposes to discontinue such use.

(b) Collection forces will not collect whole 55-gallon drums placed at curbside for disposal. The solid waste services division will collect, as a part of their bulky item trash collection service, 55-gallon drums placed at curbside for collection provided that both ends have been removed and the drum is flattened.

(Ord. of 10-4-94, § 2(11-30.1))

Sec. 11-90. Contagious disease material.

(a) It shall be unlawful to remove clothing, bedding, mattresses, springs or other solid waste from homes or other places where highly infectious diseases have occurred unless such removal is performed under the supervision and direction of the Gaston County health department. Such solid waste shall not be placed in rollout containers or at curbside for disposal. Bulky item collection service shall not be provided for such items.

(b) When the health department finds and declares the existence of an epidemic or finds and declares that an epidemic is threatened, all solid waste collected by city-authorized collection crews or its agents, which the health department finds and declares to be dangerous to the public, shall be taken by the collection crew(s) immediately to the disposal site and shall be disposed of as the health department and solid waste services director may order.

(c) Penalty. A citation in the amount of \$100.00 will be issued to any person in violation of this section.

(Ord. of 10-4-94, § 2(11-30.2))

Sec. 11-91. Hypodermic instruments.

(a) It shall be unlawful for any person to dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering such instrument or device inoperable and incapable of reuse and without further safeguarding the disposal thereof by placing in either a milk jug, coffee can with a lid or such similar containers.

(b) Penalty. A citation in the amount of \$100.00 will be issued to any person in violation of this section.

(Ord. of 10-4-94, § 2(11-30.3))

Sec. 11-92. Industrial waste.

(a) It shall be unlawful to place industrial waste in rollout containers, bulk containers or at curbside for collection by city collection forces. Industrial waste shall be collected, removed and disposed of by the operator of the factory, plant or enterprise creating or causing the same.

(b) Penalty. A citation in the amount of \$100.00 will be issued to any person in violation of this section.

(Ord. of 10-4-94, § 2(11-30.4))

Sec. 11-93. Hazardous waste.

(a) It shall be unlawful to place hazardous waste in any refuse receptacle for disposal except as follows:

- (1) Paint cans shall have lids removed and contain no wet paint. Cat litter or sand may be added to solidify material for collection.
- (2) Soiled cat litter shall be enclosed in double plastic bags and securely tied prior to placing the bag in containers at curbside for disposal.
- (3) Soiled infant diapers shall be placed inside double plastic bags and securely tied prior to placing the bag in containers at curbside for disposal.

(b) Penalty. A citation in the amount of \$100.00 will be issued to any person in violation of this section.

(Ord. of 10-4-94, § 2(11-30.5))

Secs. 11-94—11-115. Reserved.

DIVISION 3. SPECIAL COLLECTION ITEMS

Sec. 11-116. Bulky items and scrap materials.

(a) Household furnishings, mattresses, box springs, lawn equipment and similar items shall be collected on the scheduled collection day. Household appliances and large items that require special handling shall be collected on a day(s) as established by the administrator. Residents shall notify the solid waste services division prior to placing these items onto the curb. Eligible items shall be placed at curbside separate from any other items placed at curbside for city collection.

(b) Special services collection for bulky items and/or scrap materials shall only be provided to single-family and special residential units. This service is not available for:

- (1) Appliance and equipment changes that are related to the operation of a business. Such business-related activities are the responsibility of the rental agent and/or owner of the property.
- (2) Items from businesses operated from a residential unit.
- (3) Items that are the consequence of a fire at a business or residential structure. The solid waste services director shall have the authority to provide special services collections when, as a result of a fire, there is only a single bulky item or what would otherwise be a normal collection amount as opposed to clearing the premises of burned bulky or scrap material items.
- (4) Oxygen tanks and other medical equipment; propane tanks; large oil tanks used for household purposes; parts of campers, boats, camper shells, trailers; automotive parts, including but not limited to motors, doors, fenders, car seats or batteries from a residentially used premises, etc.

(c) The solid waste services director shall have the authority to determine whether bulky items or scrap material are subject to city pickup and shall have the discretion to determine whether a request for service is consistent with the eligibility standards as described above. Special collection service requirements are as follows:

- (1) No bulky item or scrap materials shall be collected if it is too large to be placed on the solid waste services division collection vehicle.
- (2) Any appliance accepted for collection must be empty of its contents.
- (3) Large furniture items shall be dismantled prior to collection such that a reasonable person can expect two individuals to easily load them onto the special collection vehicle. The only exception to this policy is for pianos which do not have to be dismantled for such collections.
- (4) Gasoline must be removed from all lawn mowers prior to collection.
- (5) All glass in windows, doors, mirrors and other items with large expanses of glass must have the glass taped with an "X" mark so it will not shatter in the collection process.
- (6) Any bulky item or scrap material collected shall be of such weight or size that a person would reasonably expect two individuals to easily pick each item up for disposal.

(d) The solid waste services director shall have the authority to require items to be prepared for ease of collection or and to ensure the safety of the employees performing the collection task. An item not prepared properly may be refused for collection at the director's discretion.

(e) It shall be unlawful to place dangerous items such as broken glass, lightbulbs, sharp pieces of metal, fluorescent tubes and television tubes out for collection unless they are securely wrapped and marked so as to prevent injury to the collection personnel. Hypodermic syringes, hypodermic needles or any instrument or device for making hypodermic injections shall not be disposed of except as set forth in section 11-91.

(Ord. of 10-4-94, § 2(11-30.6); Ord. No. 03-435, § 11, 5-6-03)

Sec. 11-117. Tires.

(a) Collection of rimless tires shall occur once a week on a day designated by the solid waste services division for collection at curbside. A request for collection of tires shall be made to the solid waste services division. A date will be given when the collection will occur. Tires shall not be placed at curbside for collection prior to the day preceding the collection date.

(b) Tires shall be placed at curbside separate from other items placed at curbside for collection. The special services division will only collect tires from single-family and special residential units. The city will not collect tires that are generated from any nonresidential and/or commercially related uses.

(c) Tires eligible for collection shall not be over 19.5 inches in size. No more than four tires per month will be collected from single family and special residential units.

(Ord. of 10-4-94, § 2(11-30.7); Ord. No. 03-435, § 12, 5-6-03)

Sec. 11-118. Dead animals.

It shall be unlawful to place dead animals at curbside prior to scheduling for collection by city forces. A request for this service shall be made to the solid waste services division for scheduling the collection of the dead animal. This service is provided five days a week during normal business hours. When practical, the bodies should be placed in front of the premises upon the grass strip between the street and sidewalk. Dead animals weighing in excess of 100 pounds shall be removed by their owners. Dead animals already in a street or on the edge of the street, when the owner is not identified, will be scheduled for collection by the city upon notification of their existence.

(Ord. of 10-4-94, § 2(11-30.8))

Cross reference—Regulation, control and care of animals, ch. 10.

Sec. 11-119. Appliances.

It shall be unlawful to place junk appliances at curbside for collection except as stated under section 11-116. It shall be unlawful for any person to leave outside any building in a place accessible to children any appliance, refrigerator or container without its being strapped or locked so that it is impossible for a child to obtain access to it. Any appliance accepted for collection must be completely empty prior to collection. The city council may establish a fee for the collection of appliances.

(Ord. of 10-4-94, § 2(11-30.9); Ord. No. 03-435, § 13, 5-6-03)

Sec. 11-120. Penalties for violation of article III.

(a) Unless otherwise provided in this article, violation of any provisions of this article shall subject the violator to civil penalties in the following amount:

- (1) Fifty dollars for the first offense;
- (2) Seventy-five dollars for the second offense at the same location; and
- (3) One hundred dollars for each subsequent offense at the same location.

(b) Any violation shall have been corrected by the time payment of the citation is due.

(c) The solid waste services director or his designee shall have authority to issue notices of violation and/or civil citations to any person if there is reasonable cause to believe that the person has violated any of the provisions of this article.

(d) Any notice of violation or citation shall be delivered personally to the violator or shall be sent by registered or certified mail to the last known address of the violator.

(e) If the violator fails to pay the citation by the due date, the solid waste services director or his designee shall have authority to file a civil complaint for the unpaid citation, or alternatively, to have a criminal summons issued against the violator.

(f) Additional penalties and remedies set forth in section 11-230 of this chapter shall apply for violations of this article.

(Ord. of 10-4-94, § 2(11-30.10))

Secs. 11-121—11-150. Reserved.**ARTICLE IV. ABANDONED, JUNKED AND HAZARDOUS MOTOR VEHICLES*****Sec. 11-151. Administration.**

(a) The city police and code enforcement division shall be responsible for the administration and enforcement of this article. The police department shall be responsible for administering the removal of vehicles determined to be "abandoned" on public property, including streets and highways within the city limits. The code enforcement division shall be responsible for administering the removal of abandoned, junked and hazardous vehicles located on private property in the city.

(b) The city may contract with private towing operators to remove, store and dispose of abandoned, junked and hazardous vehicles in compliance with all state and local laws. Nothing in this article shall be construed to limit the legal authority and powers of the city police and fire department officers in enforcing other laws or in otherwise carrying out their duties.

(Code 1982, § 11-31; Ord. of 3-4-97(1), § 11)

***Cross reference**—Vehicles, traffic, and trains, ch. 6.

Sec. 11-152. Abandoned vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(b) Upon investigation, the administrator may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Code 1982, § 11-31.1)

Sec. 11-153. Hazardous vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a hazardous vehicle.

(b) Upon investigation, the administrator may determine and declare that a vehicle is a hazardous vehicle and order the vehicle removed.

(Code 1982, § 11-31.2)

Sec. 11-154. Junked motor vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this article.

(c) Subject to the provisions of section 11-155 below, upon investigation, the administrator may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(d) In determining whether a vehicle constitutes a "junked motor vehicle," the administrator, in applying the specific criteria in the definition of a "junked motor vehicle," shall take into consideration, but not be limited to, whether the vehicle has a valid inspection decal as evidence of the stationary character of the vehicle; whether the vehicle displays a current state license plate as evidence of being maintained; whether the tires, wheels and other essential parts of the vehicle are present for the operation of the vehicle; flat tires; removed parts; the condition of the exterior or any other specific evidence that would support a finding that the vehicle violates this section. If such a determination is made, the administrator shall state that basis in writing.

(e) The city may require any person requesting removal of a junked motor vehicle from private property to indemnify and hold harmless the city against any loss, expenses or liability incurred because of the removal, storage or sale thereof.

(Code 1982, § 11-32; Ord. of 3-4-97(1), § 12)

Sec. 11-155. Permitted concealment or enclosure.

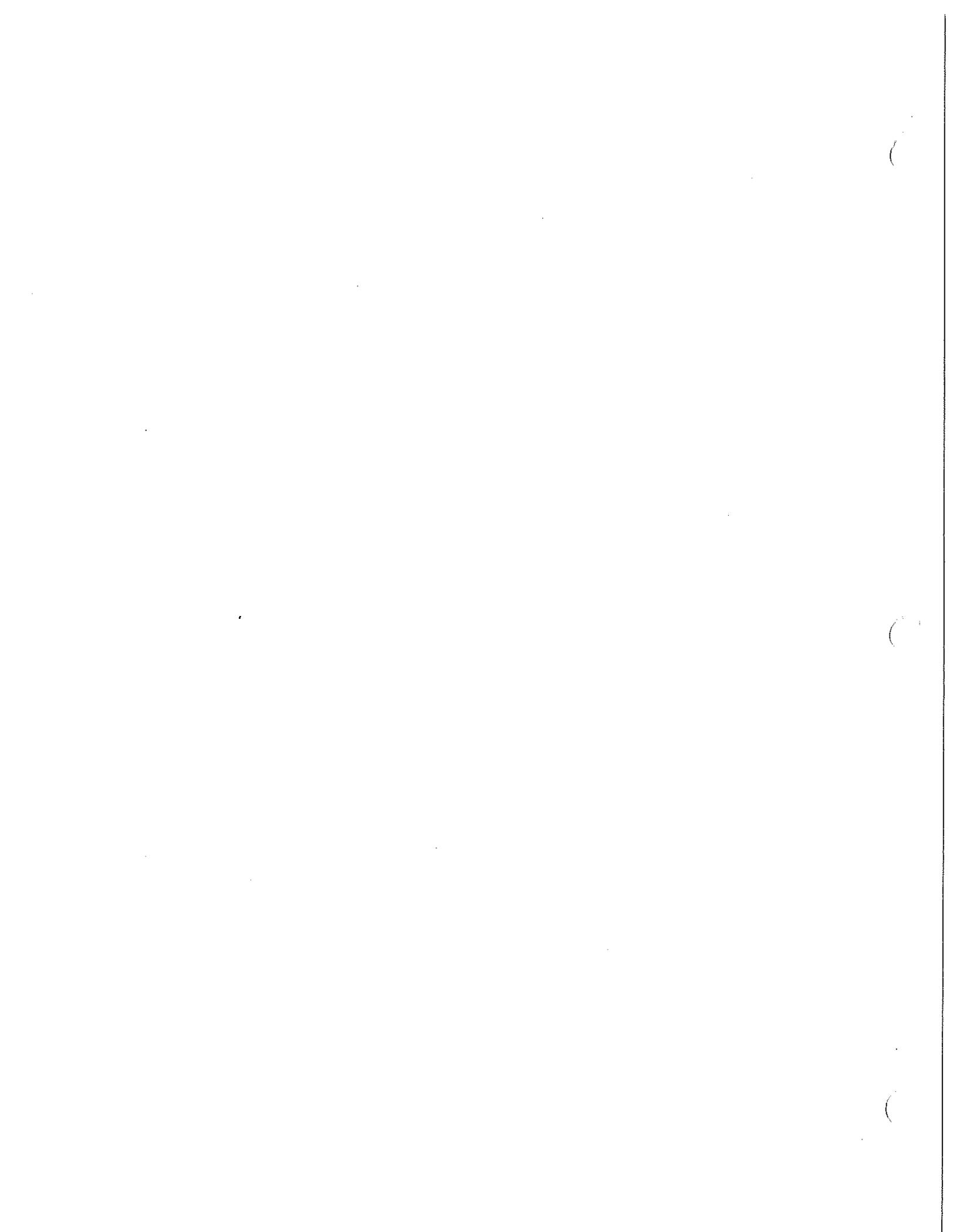
(a) One junked motor vehicle, in its entirety, can be located in the rear yard (as defined by the city's zoning ordinance) of any property being lawfully used for one or two-family residential purposes, if the vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering. A tarp shall not be deemed to be an acceptable covering. Such covering shall be kept in good repair and shall not be allowed to deteriorate. The administrator is authorized to determine whether any junked motor vehicle is adequately concealed by an acceptable covering as required by this provision.

(b) Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A "garage or building structure" means either a lawful, nonconforming use or garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

(Code 1982, § 11-33; Ord. No. 03-435, § 14, 5-6-03)

Sec. 11-156. Pretowing notice required.

(a) Except as set forth in subsection (c) below, a junked, abandoned, or hazardous vehicle which is to be removed shall be towed only after notice has been given to the registered owner or to the person entitled to possession of the vehicle. In the case of a junked or hazardous vehicle, if the names and mailing addresses of the registered owner or person entitled to possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be sent by first class mail. If such information cannot be so ascertained, or if the vehicle to be removed is abandoned, notice shall be affixed to the vehicle in a conspicuous place.



(b) The notice required by subsection (a) shall state why the vehicle is subject to removal and that the vehicle will be removed within seven days after the postmarked date or date of affixation of the notice unless removed prior to that time. Except in those instances where pretowing notice is not required to be given, if the owner or person entitled to possession does not remove the vehicle but wishes to appeal the administrator's determination that the vehicle is abandoned, is a safety or health hazard, or, in the case of a junked vehicle, that the aesthetic benefits of removing the vehicle outweigh the burdens, he may submit a written request to do so to the administrator before the seven-day period has expired. Such appeal shall be heard by the city manager within 30 days of the appeal and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(c) The requirement that notice be given prior to the removal of an abandoned, junked or hazardous vehicle may, as determined by the administrator, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to business and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property. Such findings shall, in all cases, be entered by the administrator in the appropriate daily records.

(Code 1982, § 11-34)

Sec. 11-157. Removal of vehicles; post-towing notice.

(a) The city may have vehicles removed under this article by private towing operators. Any abandoned, junked or hazardous vehicle which has been ordered removed may be removed to a storage area by the tow truck operator or towing business contracting to perform such services for the city.

(b) Whenever a vehicle with a valid registration plate or registration is removed, the administrator shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure which the owner must follow to redeem the vehicle; and
- (5) The procedure to be followed to request a probable cause hearing.

(c) If the vehicle is registered in North Carolina, notice shall be given within 24 hours from removal of the vehicle. Otherwise, notice shall be given to the registered owner within 72 hours from removal of the vehicle. This notice shall, if feasible, be given by telephone. Regardless of whether the owner is reached by phone, notice shall be sent to the owner at his last known address unless he or his agent waives this notice in writing.

(d) Whenever an abandoned, junked or hazardous vehicle is removed and such vehicle has no valid registration or registration plate, the administrator shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner and to notify the owner of the information listed in subsection (b).
(Code 1982, § 11-35)

Sec. 11-158. Probable cause hearing prior to disposition.

(a) After removal of an abandoned, junked or hazardous vehicle and within ten days from receipt of the notice set forth in section 11-157 above, the owner or any other person entitled to possession may file a request with the county magistrate for a hearing to determine if probable cause existed for removing the vehicle. The magistrate will set the hearing within 72 hours of the receipt of the request and the hearing will be conducted in accordance with G.S. 20-219.11 as amended.

(b) If the magistrate determines that the vehicle was towed in error, the city shall:

- (1) If the hearing is held before the vehicle is reclaimed, notify the person in possession of the vehicle to release it and (if the vehicle is in the possession of a private towing operator) pay all charges; or
- (2) If the hearing is held after the vehicle is reclaimed, reimburse the owner for all charges incurred incident to the towing and storage of the vehicle.

(c) Any aggrieved party may appeal the magistrate's decision to district court.
(Code 1982, § 11-35.1)

Sec. 11-159. Right to redeem.

At any stage in the proceedings, even before a probable cause hearing, the owner may obtain possession of the removed vehicle by paying all towing and storage fees accrued to date or by posting bond for double the amount of such fees to the towing operator or business having custody of the vehicle.
(Code 1982, § 11-35.2)

Sec. 11-160. Disposal of removed vehicles.

Any abandoned, junked or hazardous motor vehicle which is not claimed by the owner or other party entitled to possession may be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in accordance with article 1 of chapter 44A of the North Carolina General Statutes.
(Code 1982, § 11-35.3)

Sec. 11-161. Conditions on removal of vehicles from private property.

(a) The city will not remove a vehicle from private property if the owner, occupant or lessee could have the vehicle removed under applicable state law procedures.

(b) Unless determined to be a hazardous or junked motor vehicle by the administrator, no vehicle shall be ordered removed by the city without prior written request from the owner, occupant or lessee.

(c) The city may require any person requesting the removal of a junked, abandoned, or hazardous vehicle from private property to indemnify the city against any loss, expense or liability incurred because of the removal, storage, or sale of such vehicle.

(Code 1982, § 11-35.4)

Sec. 11-162. Immunity from criminal and civil actions.

No person shall be held to answer in any criminal or civil action to any owner or other person legally entitled to possession of any junked, abandoned or hazardous motor vehicle for disposing of such vehicle as provided in this chapter.

(Code 1982, § 11-36)

Sec. 11-163. Exceptions.

(a) Nothing in this article shall apply to any vehicle:

- (1) Which is located in a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143, in accordance with the "Junkyard Control Act," G.S. 136-141 et seq.; or
- (2) Which is in an enclosed building; or
- (3) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- (4) Which is used regularly for personal use; or
- (5) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the city or private towing operator contracting with the city for removal of vehicles.

(b) For the purposes of this section, the term "lawful place and manner" shall include, but not be limited to, strict compliance with the city's zoning ordinance. "A vehicle is necessary to the operation of the enterprise" shall mean, but not be limited to, the clear, active use or involvement of the vehicle in the operation of the business enterprise. Mere storage or idle standing of a vehicle does not constitute "a vehicle necessary to the operation of the business."

(Code 1982, § 11-37)

Secs. 11-164—11-190. Reserved.

ARTICLE V. ABATEMENT OF PUBLIC NUISANCES**Sec. 11-191. Public nuisances enumerated.**

The existence of any of the following conditions on any parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) The uncontrolled growth of weeds, grass or noxious growth to a height of 12 inches or more within 100 feet of any residential structure or any occupied nonresidential structure.
- (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- (3) Any accumulation of solid wastes or scrap materials not in compliance with articles II and III of this chapter.
- (4) An accumulation of stagnant water causing or threatening to cause the inhabitation thereof by mosquitos.
- (5) Any condition detrimental to the public health, safety and welfare or which violates the rules and regulations of the Gaston County health department.

(Code 1982, § 11-41; Ord. of 7-6-93; Ord. of 12-19-95(2), § 1; Ord. of 3-4-97(1), § 13; Ord. No. 01332, § 3, 2-20-01)

Sec. 11-192. Notice and order to abate nuisance.

(a) For purposes of this article, the respondent is the person in possession of the property where a public nuisance (as described in section 11-191 or section 10-21) is located, as well as the owner of such property, if different from the former.

(b) Upon determination by the administrator that there exists on any property conditions constituting a public nuisance (as described in section 11-191, subsections 2 through 5), the administrator shall notify the respondent by first class mail postage prepaid of such conditions and shall order the abatement thereof within 15 days of the receipt of such notice. The notice required by this subsection shall also be posted conspicuously on the offending property.

(c) Upon determination by the administrator that there exists on any property conditions constituting a public nuisance (as described in section 11-191, subsection 1), the administrator shall notify the respondent by first class mail postage prepaid of such conditions and shall order the abatement thereof within 10 days of the receipt of such notice. The notice required by this subsection shall also be posted conspicuously on the offending property. When a person has failed to comply with a notice of violation as described above, the code enforcement division shall not be required to provide further notice of violation to that person with regard to the same property before taking any of the enforcement actions authorized by article VI.

(Code 1982, § 11-42; Ord. of 3-4-97(1), § 14; Ord. No. 01332, § 3, 2-20-01; Ord. No. 05-493, § 1, 6-21-05)

Sec. 11-193. Appeal of order of abatement.

At any time before the expiration of the 15-day abatement period specified in section 11-192(b), the respondent may request a hearing before the city manager or his designee to appeal the finding of the administrator that a public nuisance as defined in section 11-191 exists on the premises. The request for a hearing must be in writing and must be filed in the office of the city manager. The city manager or his designee shall fix a time for the hearings, and the initial abatement order shall be temporarily suspended pending such hearing. The hearing must be held by the city manager or his designee within 31 calendar days following receipt of the request for hearing by the office of the city manager. At the hearing, the



individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the city manager or his designee shall consider the evidence before it/him and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.

(Code 1982, § 11-43; Ord. of 12-19-95(2), § 2)

Sec. 11-194. Abatement of nuisance by city.

Upon the occurrence of either of the following conditions the administrator shall cause said condition to be removed or otherwise remedied by having employees of the city go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the administrator:

- (1) A hearing is requested and held under section 11-193 above resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within 15 days from adjournment of the hearing.
- (2) No hearing is requested or held, and the respondent having been ordered to abate such a public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of said order.

(Code 1982, § 11-44)

Sec. 11-195. Owner may request abatement by city.

The owner of property where a public nuisance has been found to exist under this article may request the city in writing to remove such condition, and the city may remove the offending condition pursuant to such request.

(Code 1982, § 11-45)

Sec. 11-196. Charges for abatement by city; lien.

(a) The actual cost incurred by the city in removing or otherwise remedying a public nuisance pursuant to sections 11-194 or 11-195 shall be charged to the owner of the offending property, and the owner shall pay these charges within 30 days after receiving from the city a statement of charges.

(b) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges under subsection (a), such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. 160A-193.

(Code 1982, § 11-46)

Sec. 11-197. Inspections.

Whenever it is necessary to make an inspection in the course of an investigation required by this article, the administrator is hereby empowered to enter upon property upon which

there is alleged to exist a public nuisance at any reasonable time to inspect the same, but only if the consent of the person in possession of the premises is freely given or a search or inspections warrant is obtained as hereinafter provided:

- (1) If such property is occupied, the administrator shall first present credentials to the occupant and request entry, explaining the reasons therefor.
- (2) If such property is unoccupied, the administrator shall first make a reasonable effort to locate the person having charge or control of the property, present proper credentials and request entry, explaining the reasons therefor.
- (3) If such entry is refused or cannot be obtained because the person having charge or control of the property cannot be found after due diligence, the administrator shall obtain a warrant to conduct a search or inspection of the property.

(Code 1982, § 11-47; Ord. of 7-6-93)

Secs. 11-198—11-225. Reserved.

ARTICLE VI. ENFORCEMENT

Sec. 11-226. Litter control officer.

The city litter control officer shall have the authority to enforce those sections of this chapter as the administrator shall designate.

(Code 1982, § 11-53; Ord. of 11-17-92)

Sec. 11-227. Right of entry onto premises.

(a) Whenever it is necessary to make an inspection in the course of an investigation required by this chapter, the administrator and the litter control officer are hereby empowered to enter upon property upon which there is reasonable cause to believe a violation exists at any reasonable time to inspect the same, but only if the consent of the person in possession of the premises is freely given or a search or inspections warrant is obtained as hereinafter provided:

- (1) If such property is occupied, the administrator or litter control officer shall first present credentials to the occupant and request entry, explaining the reasons therefor.
- (2) If such property is unoccupied, the administrator or litter control officer shall first make a reasonable effort to locate the person having charge or control of the property, present proper credentials and request entry, explaining the reasons therefor.
- (3) If such entry is refused or cannot be obtained because the person having charge or control of the property cannot be found after due diligence, the administrator or litter control officer shall obtain an administrative search warrant to conduct a search or inspection of the property.

(b) The administrator shall have the authority to enter upon or authorize an agent to enter upon and abate violations on the property if there is no compliance with a notice of violation. (Code 1982, § 11-54; Ord. of 11-17-92)

Sec. 11-228. Prima facie evidence of violation.

If any material discarded in violation of this chapter can be identified as having last belonged to, been in the possession of, sent to or received by or to have been the property of any person prior to its being dumped, discarded, thrown, dropped or deposited, such identification shall be prima facie evidence that such owner dumped or caused to be dumped such matter and material in violation of this chapter. (Code 1982, § 11-55; Ord. of 11-17-92)

Sec. 11-229. Notices of violation; civil citations.

(a) The administrator and litter control officer have authority to issue notices of violation and/or civil citations to any person if there is reasonable cause to believe that the person has violated any of the provisions of this chapter.

(b) The notice of violation and/or the civil citation shall have an initial warning period of 15 days to bring the property into compliance with the provisions of this chapter. The violation/citation shall specify the nature of the violation and what must be done to correct it, and inform the responsible person of the possible consequences of his failure to comply.

(c) If compliance has not occurred within the period specified above, or if a violation of this chapter is a single, discreet event, a civil citation shall be issued and either delivered in person to the violator or sent by registered or certified mail. The citation shall direct that the citation be paid to the city collections department within ten days of the date of issuance and shall inform the violator that if this amount is not paid within the allotted time, a civil action will be initiated to collect the citation.

(d) Such violation shall have been corrected by the time payment of the citation is due.

(e) If the violator fails to pay the citation by the due date, the administrator or litter control officer shall have the authority to file a civil complaint for the unpaid citation, to be recovered by the city in the nature of a debt or, alternatively, to have a criminal summons issued against the violator.

(Code 1982, § 11-56; Ord. of 11-17-92; Ord. of 7-6-93; Ord. of 3-4-97(1), § 15)

Sec. 11-230. Penalties and remedies.

(a) Unless otherwise stated, a violation of any provision of this chapter shall subject the offender of a civil penalty of the following:

- (1) Up to 15 pounds, first offense, \$100.00
- (2) Up to 15 pounds, each subsequent offense, \$250.00
- (3) Fifteen pounds or more, first offense, \$200.00

(4) Fifteen pounds or more, each subsequent offense, \$300.00

(b) Upon a determination by the administrator pursuant to articles II and V that conditions constituting a public nuisance exist on property and after proper notice is given pursuant to [section 11-192,] shall be subject to a civil penalty of \$100.00.

(c) A violation of any provision of this chapter shall constitute a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment for not more than 30 days.

(d) Each day that any violation continues after a person has been notified that such violation exists shall constitute a separate offense.

(e) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(f) The city may enforce this chapter by any one or any combination of the foregoing remedies.

(Code 1982, § 11-57; Ord. of 11-17-92; Ord. of 7-6-93; Ord. of 8-17-93; Ord. of 3-4-97(1), § 16)