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Solid Waste Management Ordinance

of the

County of Onslow, North Carolina

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ARTICLE I. INTRODUCTORY PROVISIONS

Section 101. Title

This ordinance shall be known and may be cited as the Solid Waste Management Ordinance of the County of Onslow, North Carolina.

Section 102. Purpose

The purpose for this ordinance is to promote the public safety, health, and welfare of the citizens of Onslow County through regulation of the storage, collection, and disposal of solid waste in the county.

Section 103. Authority

This ordinance is adopted pursuant to the authority contained in N.C.G.S. 14-4, N.C.G.S. 153A-121, N.C.G.S. 153A-123, N.C.G.S. 153A-132.1, N.C.G.S. 153A-132.2, N.C.G.S. 153A-136, N.C.G.S. 153A-140, N.C.G.S. 143-215.112, 15A NCAC 2D.1901.

Section 104. Jurisdiction

This ordinance shall govern those areas of Onslow County that are outside of the jurisdiction of any incorporated municipality.

Editor's Note: Former chapter, §§ 10-26, 10-31 through 10-37, and Chapter 14, §§ 14-31 through 14-52 are superceded by this chapter.

ARTICLE II. DEFINITIONS

Section 201. Definitions

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

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

Abandoned motor vehicle: See Article IV.

Accumulated junk: Wrecked, scrapped, disassembled, unusable, cannibalized, inoperable or unrepairable boats, boat trailers, manufactured homes, recreational vehicles, construction equipment, appliances, vehicle tires, engines, transmissions, frames, axles, as well as parts and accessories of these objects; used building materials and all other non-vegetative debris collected or stored at a private residence or property or business establishment, or any non-vegetative debris blown or otherwise deposited onto property owned by third persons, by flood, storm, or other natural event. See Article IV for specific reference to abandoned, junked, or nuisance vehicles.

Bulk container: A commercially manufactured container that can be picked up and emptied mechanically.

Bulky waste: Large items of solid waste such as household appliances, furniture, mattresses, bedding, automobiles, large vehicle or machinery parts, trees, branches, stumps and other waste whose large size precludes or complicates its handling by normal solid waste collection, processing, or disposal methods.

Burning: See "open burning", Article VI.

Business trash: Any waste accumulation of dust, paper, cardboard, rags, or other accumulations that is usually attendant to the operation of stores, offices, and similar businesses.

Cannibalize: To dismantle a machine or device for parts to be used as replacements in another machine or device.

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

Commercial vehicle wrecker or towing service: Any person that provides wrecker or towing service for a fee within Onslow County.

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

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

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

County: Onslow County, North Carolina.

Currently awaiting repairs: A period of time during which active effort is expended to place a device, equipment, or mechanism back in operation through replacement of parts, repair of operating systems and circuits, or fabrication and repair of broken structural members and testing. **If** parts or materials are not available or on order, the device, equipment, or mechanism shall not be considered currently awaiting repairs. A device, mechanism, or piece of equipment that has remained unrepaired for 90 days is considered unrepairable unless procurement of a longer lead time for replacements parts can be demonstrated by written purchase order from a commercial vendor showing a delivery date within 90 days.

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

Garbage: The by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food, or other matter that is

subject to decomposition, decay, putrefaction, or the generation of noxious or offensive gases or odors, or which after decay, may serve as breeding or feeding material for rodents, flies, insects, or animals.

Hazardous waste: Hazardous waste means a solid waste, or combination of solid wastes, that because of its quantity, concentration or physical, chemical, or infectious characteristics may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed; or
3. Any waste that falls within the definition provided by any applicable state or federal statute.

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

Industrial waste: All waste, including solids, semisolids, sludges, and liquids created by commercial companies, factories, processing plants, and manufacturing enterprises.

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

Junk: See "accumulated junk".

Junked motor vehicles: See Article IV.

Junkyard: A commercial facility that stores for a fee, for resale either in whole or in parts, or for salvage, more than six motor vehicles not having a current license plate that cannot move under their own power and are not currently awaiting repair, or a commercial facility that uses more than 600 square feet of any lot for the storage of accumulated junk, including scrap metals, or other scrap materials, or for the dismantling of automobiles or other vehicles, mobile homes, or machinery for a fee, for resale either in whole or in parts, or for salvage. In addition, a residence or lot that stores for personal use more than two vehicles not having a current license plate that cannot move under their own power and are not currently awaiting repair, or a residence or lot that contains more than 200 square feet on the premises for the storage of accumulated junk, including scrap metals, or other scrap materials, or for the dismantling or abandonment of automobiles or other vehicles or machinery for any use shall be considered a junkyard. For purposes of this ordinance, this standard does not apply to vehicles that are classified as antiques and registered pursuant to N.C.G.S. 20-137-14.

Landfill: County disposal facility or part of a disposal facility where solid waste is placed in or on land and that is a not land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility, or a surface storage facility.

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

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

Loading and unloading area: Any stream, river, or lakeside, landing dock or ramp, space, or area used by any moving vehicle for the purpose of loading/unloading, receiving, shipping, and transporting goods, wares, commodities, or persons.

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

Motor vehicle: See Article IV.

Non-Operational Vehicle: A motor vehicle that is partially damaged, dismantled, or wrecked; or cannot be self-propelled or moved in the manner in which it was originally intended to move.

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

Nuisance vehicle: See Article IV.

Open burning: See Article VI.

Out-of-County waste: Any solid waste produced and collected from sources outside the boundaries of the county.

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

Public view: View from a passenger vehicle driven along any public road maintained by the state or local municipality for public travel, or along any private road that provides access to two or more residences or commercial establishments.

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

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

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

Refuse receptacle: A corrosion resistant metal or plastic container of substantial construction, with tight fitting lid, provided with wheels and/or handles sufficient for safe and convenient handling of refuse. Such receptacles shall have a capacity of not less than ten (10) gallons and shall be kept in serviceable condition at all times.

Repair facility: A repair facility is any building or premises maintained and operated for the purpose of restoring equipment, machinery, a device, or mechanism to operating condition by replacing parts, modifying its function, or rebuilding components.

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

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

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

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

Service station: Any establishment maintained and operated for the primary purpose of making retail sales of fuels, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, and/or for making mechanical repairs, servicing and/or washing of motor vehicles, and that is not used to store

more than six (6) motor vehicles that are not capable of being driven under their own power, or are not currently awaiting repair.

Solid waste: Useless, unwanted, or discarded material including, without limitation, accumulated junk, bulky waste, business trash, construction debris, garbage, household trash, litter, medical waste, liquid waste, antifreeze, petroleum by-products, recyclables, abandoned and junked vehicles, refuse, and hazardous waste.

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

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

Tree and shrubbery trimmings: Accumulation of tree branches, tree limbs, parts of trees, bushes, shrubbery cuttings or clippings, or other items created as a result of trimming, cutting, or pruning trees or bushes.

Yard trash: Accumulation of lawn grass, shrubbery, vine cuttings or clippings, and/or dry leaf rakings that are free of dirt, rocks, large branches, bulky waste, or noncombustible materials.

ARTICLE III. SOLID WASTE

Section 301. Purpose

The purpose for this article is to promote the public safety, health, and welfare of the citizens of Onslow County through regulation of the storage, collection, and disposal of solid waste in the county. This article is adopted pursuant to the authority contained in N.C.G.S. 153A-121, N.C.G.S. 153A-132.1, and N.C.G.S. 153A-136.

Section 302. Regulated Activities

Section 302.1. Responsibility

- A. It shall be unlawful for any responsible person to maintain a residence, commercial establishment, or parcel of land where solid waste is permitted to accumulate in any manner that may:
1. Become a nuisance;
 2. Cause injury to the health or welfare of residents in the vicinity;
 3. Detract from the value of the property or neighboring property; or
 4. Violate any provision of this ordinance.
- B. A generator of solid waste shall be responsible for the satisfactory storage, collection, and disposal of solid waste as provided in this article.
- C. A solid waste generator shall ensure that hazardous waste is disposed of at a site or facility that is permitted to receive the waste.
- D. Persons are responsible for the proper management of their own waste and all acts involving vehicles and equipment owned by them. The owner and occupants of a vehicle shall be responsible for any dumping, littering, or other violation of this article in which the vehicle is used. The addressees of first class mail found in solid waste may be considered as prima facie evidence that the person named thereon is the person responsible for the disposal or management of that waste.

Section 302.2. Receptacles and containers required

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

Section 302.3. Storage and disposal practices

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

- A. *Public streets and private property.* No person shall place any accumulation of solid waste in any street, median strip, alley, or other public place of travel, nor upon any public or private property except as stated herein.
- B. *Unauthorized accumulations.* Any accumulation or burying of solid waste on any lot, property, premises, residence, establishment, public street, alley, or other public or private place in violation of any provision of this ordinance is hereby declared to be a public nuisance and is prohibited. Failure of a responsible person to remove and correct any such accumulation of solid waste shall be deemed a violation of this article.
- C. *Refuse.* All solid waste shall be placed and maintained in refuse receptacles or detachable containers as specified herein. All refuse receptacles and containers shall be kept covered at all times with tight fitting covers until the solid waste is disposed.
- D. *Garbage.* All garbage being placed in refuse receptacles or detachable containers for collection shall have been drained of all free liquid, and shall be wrapped, bagged, or enclosed in paper or plastic material.
- E. *Household trash.* All household trash shall be drained of all liquids prior to its deposit in refuse receptacles. Any items of household trash that are too large for receptacles and cannot be reduced to a size that can be placed in a receptacle may be placed in securely bagged or bound packages next to the receptacles. Liquids shall be placed in leak proof containers.
- F. *Junk.* It shall be unlawful for any person to place, abandon, or leave outside any building or dwelling, or upon the property of any other person, or within an open porch, open carport, or open lean-to, within public view, any accumulated junk or refuse, to include without limitation, solid waste, household trash, any dilapidated furniture, appliance, machinery, equipment, farm machinery, building material, non-operational vehicle, or other item that is either wholly or partially rusted, wrecked, junked, dismantled, or in inoperative condition and not currently awaiting repairs, and that is not completely enclosed within a building or dwelling.
- G. *Dangerous trash items.* All waste material of an injurious nature, including but not limited to broken glass, light bulbs, sharp pieces of metal, fluorescent tubes, and television tubes, shall be securely wrapped to prevent injury to collection crews and other persons.
- H. *Tree and shrubbery trimmings.* Tree and shrubbery trimmings placed adjacent to or transported upon public roads shall be securely covered or tied to prevent the depositing thereof on such roads or the property of any person.

1. *Hazardous waste.* No hazardous waste shall be placed in any receptacle, detachable container, or disposal site unless authorized by State or Federal regulation.
1. *Medical Waste.* No medical waste shall be placed in any receptacle, detachable container, or disposal site unless authorized by State or Federal regulations.
- K. *Liquid Waste.* All non-biodegradable liquid wastes including, but not limited to, petroleum by-products and antifreeze, shall be recycled or disposed in accordance with State and Federal regulations. All biodegradable liquid wastes shall be placed in sealed containers prior to disposal.

Section 302.4. County solid waste facility practices

- A. Unless otherwise provided by separate ordinance, solid waste produced and collected from sources outside the boundaries of Onslow County or from within any federal military facility shall not be disposed of in any Onslow County convenience site or landfill.
- B. It shall be unlawful to deposit or dispose of solid waste in any place other than the county landfill, convenience sites, or authorized construction and demolition landfills.
- C. It shall be unlawful for any person to enter any county landfill, convenience site, or authorized construction and demolition landfill, except for the purpose of appropriately disposing authorized solid waste. It shall be unlawful for any person to scavenge, rummage, or remove any item from a county landfill, convenience site, or authorized construction and demolition landfill.
- D. It shall be unlawful for any commercial garbage or sanitation collection service or any other person who collects solid waste for a fee to dispose of solid waste at a county convenience site.
- E. It shall be unlawful for any person to deposit refuse outside a container at a county convenience site, or dispose of trees, stumps, tree limbs, poisons, caustic chemicals, concrete, asphalt, flammables or other publicly-posted prohibited materials at a county convenience site.
- F. It shall be unlawful for any person to knowingly dispose of in a county landfill those solid wastes prohibited under N.C.G.S. 130A-309.10 (f), except as may be authorized by the county in separate areas or a recycling facility specifically maintained for those purposes.
- G. Yard trash, white goods, whole scrap tires, used oil, and lead acid batteries shall be separated from all other solid waste prior to disposal at the county landfill.

- H. The following items are accepted at the landfill or at convenience sites for recycling and shall be clean and source separated from solid waste: plastics, glass, aluminum cans, steel cans, newspapers, magazines, cardboard, and others as may be determined by the Onslow County Solid Waste Department.
- I. Ownership of all authorized solid wastes and recyclables shall pass to the county upon deposit or receipt at the county landfill or convenience site.
- J. It shall be unlawful for any person to loiter, congregate, or leave any vehicle unattended at or on any county landfill, convenience site, or authorized construction and demolition landfill.
- K. The county shall not be liable for any damage or injury to personal property or person resulting from the use of the county landfill or a convenience site.

Section 302.5. Commercial collection and disposal

It shall be unlawful for commercial collectors of solid waste to use vehicles not equipped with tight covers or to operate a vehicle that does not prevent liquids from escaping or that does not prevent solid waste from being dropped, blown, or deposited upon public or private roads or the property of any person.

Section 302.6. Neglect of property and unlawful deposits

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

- A. Causing or allowing unsightly litter, accumulated junk, foul odor, or potentially dangerous devices to remain in public view, or remain in view from adjoining properties, on or emanate from a property for any period in excess of seven (7) days following notice by an authorized enforcement officer;
- B. Discarding or abandoning any solid waste on public property or the private property of others;
- C. Operating a commercial or non-commercial junkyard or salvage yard except where authorized by the Onslow County Zoning Ordinance;

Section 302.7. Littering

- A. It shall be unlawful for any person to engage in littering as defined herein; or violate any provision of N.e.G.s. 14-399.
- B. It shall be unlawful for any person not under a government contract for scientific or meteorological purposes to release within a twenty-four (24) hour period five (5) or more helium or lighter-than-air balloons.

Section 302.8. Commercial establishments

A. Container requirements for all commercial establishments

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

Section 302.9. Junkyard and salvage yard screening

A. Screening shall be required for all junkyards and salvage yards as provided herein.

B. Screening conditions

1. Junkyards and salvage yards in existence on the effective date of this ordinance shall have twelve (12) months in which to comply with the screening requirements established herein.
2. Junkyards and salvage yards created after the effective date of this ordinance must immediately comply with all screening requirements established herein.
3. Commercial vehicle wrecker services that store non-operational vehicles not currently awaiting repair are exempt from the screening requirements upon presentation of written documentation that they are processing a change of ownership or sale of impounded vehicles. The storage of vehicles impounded for 90 days or more must comply with the screening requirements. No more than six vehicles currently awaiting repairs shall be in public view at any time-any excess vehicles shall be screened from public view as provided herein.
4. An existing junkyard or salvage yard is not required to provide screening between it and land that *is* subsequently developed so as to create a situation that might otherwise require screening under this Section - for example, where a new road, residence, school, or church is constructed on land adjoining an existing junkyard or salvage yard.

C. Screening requirements

1. All junkyards and salvage yards must screen accumulated junk from the view of a passenger vehicle driven along any state-maintained public road or any private road providing principal access to ten (10) or more residences or three (3) or more commercial establishments. Screening shall also be required between accumulated junk within any junkyard or salvage yard created after the effective date of this ordinance and any adjoining existing residence, school, or church for the full length of the adjoining property lines.
2. The following types of screening shall be deemed sufficient to provide required screening:
 - a. An opaque fence or wall that is at least six (6) feet high and installed no closer than one (1) foot from the property line; or
 - b. A vegetative buffer that is eight (8) feet deep and consists of two (2) staggered rows of evergreen plantings, each of which includes, per one hundred feet of length, at least six (6) trees, that will grow to a height of at least six (6) feet within three (3) years and twenty (20) shrubs; such trees and shrubs to be among those varieties deemed effective for required screening and suitable for the area climate by the Planning and Development Department; or
 - c. A natural wooded barrier that is at least twenty (20) feet deep; or
 - d. Any combination of the above deemed equally effective screening by the Planning and Development Department.
3. An opaque fence or wall may be comprised of decorative masonry, wood, or polyethylene plank, or basket weave construction. Where evergreen plantings are used, they shall be in containers of no less than three (3) gallons. The Planning and Development Department shall make periodic inspections to ensure plantings are being properly maintained and that appropriate replacements are installed as needed. A natural wooded barrier shall be comprised of undisturbed, natural bushes, shrubs, or trees of sufficient density year-round to be the equivalent of an opaque fence or wall.
4. Screening fences and walls shall be free-standing and extend from ground level. Accumulated junk shall not be used to support screening materials or compromise any part of the screen itself. Tarpaulins, tents, or other temporary screens are not acceptable screening materials. Accumulated junk may be stacked or piled above the height of the provided screening only to the extent the stack or pile is located where it would remain screened in accord with the requirements in Section 302.9.C.1, above and its collapse would not pose a safety threat to adjoining property-this requirement does not apply to single pieces of machinery or equipment whose original manufactured height exceeds that concealed by the screening provided.

5. Deteriorated screening materials and dead, dying, or stunted buffer vegetation shall be replaced to ensure complete screening. Junkyards and salvage yards have two (2) months from the date of notification that screening has deteriorated to complete restoration of screening consistent with seasonal planting conditions.
6. Screening shall not be placed in the right-of-way or where it will interfere with vehicular safety.

Section 302.10. Construction sites and demolition sites

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

Section 302.11. Special refuse disposal problems

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

Section 303. Enforcement

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399 and shall include, without limitation, Environmental Enforcement Officers within the Onslow County Planning and Development Department and the Onslow County Sheriff's Department.
- B. The provisions of this article shall be enforced by the inspection of property and by the observation of persons who are suspected of violating any the provisions contained herein. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.

- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation may be issued. Such letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Onslow County Planning and Development Department shall cause all citation forms to be serially numbered and accounted. The Onslow County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Onslow County Manager. For the purpose of this inspection, the Onslow County Auditor shall have access to all necessary records and files.
- E. Persons found to be in violation of the provision of this article may be allowed to perform remedial cleanup work in lieu of prosecution, injunctive action, or civil penalties at the sole discretion of the Onslow County Planning and Development Department.

Section 304. Penalties

Section 304.1 Penalties

- A. Civil penalty: The county may assess a civil penalty of \$100.00 per ton or portion thereof with a maximum penalty of \$500.00 for the unlawful disposal of solid waste by any person in violation of this article, which amount may be recovered by the county in a civil action in the nature of debt. The county may assess a civil penalty of \$100.00 for first offense violations of all other provisions of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to receipt of notice of violation by citation or letter. The county may, at its discretion, additionally seek retribution for the cost of cleanup incurred by the county or its agents resulting from any violation of this article.
- B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.
- C. Criminal penalties: Except as provided herein, any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense, \$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day a violation occurs shall be a separate violation. Pursuant to N.C.G.S. 153A-132.1, any person who engages in littering on a public street within the county or property owned by the county shall be subject to a fine of not more than \$50.00 or imprisonment of not more than thirty (30) days.

Section 304.2 Article cumulative

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned or junked motor vehicles.

ARTICLE IV. ABANDONED, JUNKED, AND NUISANCE VEHICLES

Section 401. Purpose

The purpose of this article is to promote the public safety, health, and welfare of the citizens of Onslow County through the regulation of abandoned, junked, and nuisance vehicles in the county. This article is adopted pursuant to the authority contained in N.C.G.S. 136-141 et.seq., N.C.G.S. 153A-132, N.C.G.S. 153A-132.2, and N.C.G.S. 153A-140.

Section 402. Definitions

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

Abandoned motor vehicle: A motor vehicle that:

1. Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
2. Is left for longer than seven (7) days on public grounds; or
3. Is left on property owned or operated by the county for longer than twenty-four (24) hours; or
4. Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

Antique vehicle: Any motor vehicle classified as an antique and registered under the laws of the State of North Carolina. N.C.G.S.20-137.14.

Garage: A state licensed business that is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, and that is not a junkyard as defined in Article II. This term includes the terms "service station" and "body shop".

Junked motor vehicle: A motor vehicle that:

1. Is partially damaged 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 (5) years old and appears or has a tax value or appraised value of less than one hundred dollars (\$100); or
4. Does not display a current license plate.

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

Nuisance motor vehicle: A motor vehicle on public or private property that is dangerous, or prejudicial to public health or safety because it is found to be anyone of the following:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;

2. A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height;
3. A point of collection of pools or ponds of water;
4. A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials;
5. A source of danger for children because of the possibility of entrapment or from exposed sharp surfaces of metal, glass, or other rigid materials;
6. A source of danger from falling or turning over;
7. A point of collection of garbage, food waste, animal waste, or any other rotten or putrefied matter of any kind; or
8. Any vehicle specifically declared a health and safety hazard by the Board of Commissioners or a duly authorized county official or employee.

Section 403. Regulated Activities

Section 403.1 Administration

- A. The Onslow County Planning and Development Department and Onslow County Sheriffs Department are jointly and mutually responsible for the administration and enforcement of this article.
- B. The county may contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned, junked, and nuisance vehicles in compliance with this article and applicable state laws.
- C. Nothing in this article shall be construed to limit the legal authority or powers of officers or the employees of the county or state in enforcing other laws or in otherwise carrying out their duties with regard to abandoned, junked, or nuisance motor vehicles.

Section 403.2. Abandoned vehicles unlawful; removal authorized

- A. It shall be unlawful for the registered owner or person(s) entitled to possession of a vehicle to cause or allow a vehicle to be abandoned.
- B. If a vehicle is abandoned pursuant to this article, the vehicle shall be removed as provided herein.

Section 403.3. Junked vehicles unlawful; removal authorized

- A. It shall be unlawful for the registered owner or person(s) entitled to the possession of a junked vehicle, or for the owner, lessee, or occupant of the real property upon which a junked vehicle is located to leave or allow such vehicle to remain in public view after the vehicle has been ordered to be removed.
- B. **If** a vehicle is left or allowed to remain in public view in violation of this article, the vehicle shall be removed as provided herein.

Section 403.4. Nuisance vehicles unlawful; removal authorized

- A. It shall be unlawful for the registered owner or person(s) entitled to the possession of a vehicle, or for the owner, lessee, or occupant of the real property upon which a vehicle is located, to cause or allow the vehicle to be a nuisance motor vehicle.
- B. If a vehicle is a nuisance motor vehicle pursuant to this article, the vehicle shall be removed herein.

Section 403.5. Removal of abandoned, junked, or nuisance motor vehicles

- A. The county may remove to a storage garage or other area any abandoned or nuisance motor vehicle found to be in violation of this ordinance. A vehicle may not be removed from private property by officers or agents of the county, however, without the written request of the owner, lessee, or occupant of the premises unless the Board of Commissioners or a duly authorized county official or employee has declared the vehicle to be a health or safety hazard.
- B. The county may order the removal of a junked motor vehicle as defined in this article, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the Board of Commissioners or a duly-authorized county official or employee finds 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.
- C. Appropriate county officers and employees have a right, upon presentation of proper credentials, to enter on any property or premises within the county ordinance-making jurisdiction at any reasonable hour to determine if any vehicles are health or safety hazards. These premises shall not include any building actually occupied for a residence. The county may require a person requesting the removal from private property of an abandoned, junked, or nuisance motor vehicle to indemnify the county against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

Section 403.6. Exceptions to ordinance

Nothing in this article shall apply to any vehicle which:

- A. Is located in a bona fide "automobile graveyard" or "junkyard" as defined in N.C.G.S. 136-143.
- B. Is in an enclosed building;
- C. Is on the premise of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise.
- D. Is used on a regular basis for business or personal use; or
- E. Is in an appropriate storage place or depository maintained in a lawful place and manner by the county.

Section 403.7. Pre-towing notice requirements

- A. Except as set forth in Section 403.7 below, an abandoned, junked, or nuisance vehicle that is to be removed by the county pursuant to this article shall be towed only after notice is given to the registered owner or person(s) entitled to possession of the vehicle. Notice shall be given by affixing a notice on the windshield or some other conspicuous place on the vehicle. If the names and mailing addresses of the registered owner or person entitled to the 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 may be given by registered mail. The notice shall state the reason for removing the vehicle and that the county will remove the vehicle on a specified date, no sooner than seven (7) days after the notice is received. The person who mails the notice(s) shall retain a written record of the name(s) and address(es) to which the notice was mailed, the date mailed, and the return receipt.
- B. **If** the registered owner or person entitled to possession of an abandoned vehicle on private property, or a nuisance or junked vehicle located within the jurisdiction of this ordinance does not remove the vehicle but chooses to appeal the county's findings, an appeal shall be made to the Zoning Administrator prior to the expiration of the notice period. The county shall cease all further action to remove the vehicle from the property during the appeals process. Any appeal of the Zoning Administrator shall be made to the Onslow County Minimum Housing Board.

Section 403.8. Exception to prior notice requirement

The requirement that notice be given prior to removal of an abandoned, junked, or nuisance vehicle may be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstruction or to otherwise maintain and protect the public safety and welfare. Circumstances justifying the removal of vehicles without prior notice include:

- A. For vehicles abandoned on the public streets and highways, the Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are obstructing traffic.
- B. With respect to abandoned, junked, or nuisance vehicles left on county-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice by the county only in those circumstances where the Onslow

County Manager finds a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses or residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

- C. Nothing in this section shall be construed to limit the right of owners, occupants, or lessees of private property to have abandoned motor vehicles towed from their premises by a private contract towing service.

Section 403.9. Post-towing notice requirements

- A. Any abandoned, junked, or nuisance vehicle that has been ordered removed may, as directed by the county, be removed to a storage garage or other authorized area by a towing business contracted to perform such services for the county. Whenever an abandoned motor vehicle has been removed, the county shall immediately notify the last known registered owner of the vehicle or person entitled to the possession of the vehicle if known, or for purposes of nuisance or junked motor vehicles, the owner, lessee, or occupant of the of real property upon which the vehicle is located, a notice that includes the following:

1. The description of the removed vehicle;
2. The location where the vehicle is stored;
3. The reason and violation with which the owner is charged, if any;
4. The procedure the owner shall follow to redeem the vehicle; and
5. The procedure the owner shall follow to request a probable cause hearing on the removal.

- B. If the vehicle has a North Carolina registration plate or registration, the county shall give notice to the owner within twenty-four (24) hours of the removal. If the vehicle is not registered in this State, notice shall be given to the owner within seventy-two (72) hours of removal. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, written notice, including the information set forth in Section 403.8.A(I) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

Section 403.10. Owner's responsibility for cost

If an abandoned, junked, or nuisance vehicle is removed by or at the direction of the county, the owner shall be liable for all reasonable costs incurred in the removal and storage of such vehicle plus administrative fees and fines.

Section 403.11. Right to probable cause hearing before sale or final disposition of vehicle

After the removal of an abandoned, junked, or nuisance vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A written request for hearing shall be filed within thirty (30)

days of the post-towing notification. Such request for hearing shall be filed with the Onslow County Magistrate's Office designated by the chief district court judge to receive such hearing requests. The magistrate shall set the hearing within seventy-two (72) hours of receipt of the request in accordance with N.C.O.S. 20-219.11 (d). The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing. The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying. The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the tower's lien and the owner's liability under Section 403.9 continues. If the magistrate finds that probable cause did not exist, the tower's lien is extinguished. Any aggrieved party may appeal the magistrate's decision to district court.

Section 403.12. Redemption of vehicle during proceedings

After a vehicle has been declared in violation of this article and has been removed, at any stage in the proceedings, including before the probable cause hearing, the owner(s) of the vehicle or person(s) entitled to possession may regain possession of the removed vehicle by paying the towing fee and any liability incurred under Section 403.9 or by posting a bond for double the amount of the combined towing fee and Section 403.9 liability.

Section 403.13. Unlawful removal of impounded vehicle

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the county any vehicle which has been impounded pursuant to the provisions of this article unless and until aU fees identified in this article have been paid.

Section 403.14. Sale and disposition of unclaimed vehicle

- A. The owner of any removed vehicle, before obtaining possession thereof, shall pay to the agent of the county storing said vehicle all reasonable costs incidental to the removal, storage, and locating of the owner.
- B. Should such owner fail or refuse to pay the costs, or should his identity or whereabouts be unknown and unascertainable after a diligent search and after notice as herein prescribed, the stored vehicle may be sold after twenty (20) days notice has been given to the Department of Motor Vehicles before the date of sale and after the vehicle has been held for not less than thirty (30) days.
- C. The vehicle may be sold by public or private sale, but no vehicle may be sold until its value has been determined by three (3) disinterested dealers or garage personnel.
- D. A vehicle of an appraised value of less than one hundred dollars (\$100.00) may be disposed of by any means at the discretion of the storing agent of the county.

- E. The proceeds of any sale shall be forwarded to the Onslow County Finance Office, who shall pay from the proceeds of said sale the cost of removal, storage, investigation as to ownership and sale, and liens, in that order. If, after the sale, the ownership at the time of the removal is established satisfactorily to the Onslow County Finance Office, the owner shall be paid so much of the proceeds as remains after payment of the forgoing costs and liens. Where ownership cannot be established, any remaining proceeds shall be deposited in the general fund of the county.

Section 403.15. Protection against criminal or civil liability

Any person who removes a vehicle pursuant to this article shall not be held liable for damages for the removal of the vehicle to the owner, lienholder, or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

Section 404. Enforcement

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399 and shall include, without limitation, Environmental Enforcement Officers within the Onslow County Planning and Development Department and the Onslow County Sheriffs Department.
- B. The provisions of this article shall be enforced by the inspection of property and by the observation of persons who are suspected of violating any of the provisions contained herein. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation may be issued. Such letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Onslow County Planning and Development Department shall cause all citation forms to be serially numbered and accounted for. The Onslow County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Onslow County Manager. For the purpose of this inspection, the Onslow County Auditor shall have access to all necessary records and files.

- E. Persons found to be in violation of the provision of this article may be allowed to perform remedial cleanup work in lieu of prosecution, injunctive action, or civil penalties at the sole discretion of the Onslow County Planning and Development Department.

Section 405. Penalties

Section 405.1. Penalties

- A. Civil penalty: The county may assess a civil penalty of \$100.00 per vehicle for violations of this article, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to notice of a violation by citation or letter.
- B. Injunction and order of abatement: The county may secure injunctions, abatement orders, and other appropriate equitable remedies to insure compliance with this article.
- C. Criminal penalties: Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense, \$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day in which the violation occurs or continues shall constitute a separate offense.

Section 405.2. Article cumulative

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned or junked motor vehicles.

ARTICLE V. ABANDONED MANUFACTURED HOMES

Section 501. Purpose

The purpose of this article is to promote the public safety, health, and welfare of the citizens of Onslow County through the regulation of abandoned manufactured homes in the county. All abandoned property defined herein is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of Onslow County. This article is adopted pursuant to the authority contained in N.C.G.S. 153A-121, N.C.G.S. 153A-123, and N.C.G.S. 153A-140.

Section 502. Definitions

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

Abandoned Manufactured Home: A manufactured home that has been abandoned for use as a dwelling and is found to be a nuisance because it is in a wrecked, scrapped, disassembled, unusable, cannibalized, burnt, inoperable, or irreparable state, or creates or fosters one or more of the following conditions:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height;
3. The collection of pools or ponds of water;
4. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
5. A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
6. A source of danger from the home, or parts thereof, falling or turning over;
7. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
8. Accumulation of sewage or animal waste;
9. Concentrated quantities of hazardous materials;
10. The presence of dead animals; or
11. Any manufactured home specifically declared a public health and safety hazard by the Board of Commissioners or a duly authorized county official or employee.

Manufactured homes that are abandoned as defined herein shall be considered personal property and, if previously characterized as real property for tax or other purposes, shall forfeit that characterization.

Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode whose body is 8 feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a pennant chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Such

term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Department of Housing and Urban Development (HUD) and complies with the standards established under that Federal agency. For purposes of this ordinance, "manufactured home" includes both factory-built single-family structures built to meet standards established under The National Manufactured Housing Construction and Safety Standards Act of 1974 and mobile homes built prior to the effective date of those standards (June 15, 1976).

Section 503. Regulated Activities

Section 503.1 Administration

- A. The Onslow County Planning and Development Department and Onslow County Sheriff's Department are jointly and mutually responsible for the administration and enforcement of this article.
- B. The county may remove, store, and dispose of abandoned manufactured homes in compliance with this article and applicable state laws.
- C. Nothing in this article shall be construed to limit the legal authority of powers of officers or the employees of the county or state in enforcing other laws or in otherwise carrying out their duties with regard to abandoned manufactured homes.

Section 503.2 Abandoned manufactured homes unlawful; removal authorized

- A. It shall be unlawful for the registered owner or persons entitled to the possession of an abandoned manufactured home, or for the registered owner, lessee, or occupant of the real property upon which an abandoned manufactured home is located, to cause or allow a manufactured home to be an abandoned manufactured home.
- B. A manufactured home shall be considered abandoned if it has not been connected to either water or electrical utilities for a period in excess of 180 days, provided however, that in the case of a burnt manufactured home declared irreparable to a habitable state by a County building inspector, such time period shall be 60 days.
- C. If, following the notice required by Section 503.3, no action is taken to remove or abate the abandoned manufactured home pursuant to the time limitations period identified in the notice of violation or following appeal pursuant to this article, the county may enter the property and remove, abate, or remedy the abandoned manufactured home as provided herein.

Section 503.3 Notice, Hearing, Appeal, Lien on Property

- A. Upon determining that a violation of this article exists, the Planning and Development Department shall issue a written notice of violation to (1) the registered owner or person(s) entitled to possession of the abandoned manufactured home; (2) the registered owner, lessee,

or person(s) entitled to the land on which the abandoned manufactured home is located, and (3) the occupant of the abandoned manufactured home.

- B. The notice shall be provided by hand delivery, service of process, or certified mail.
- C. The notice shall (1) identify the property and describe the abandoned manufactured home located thereon to be removed, abated, or remedied; (2) direct that the abandoned manufactured home be removed, abated, or remedied; (3) provide a reasonable time limitations period in which to comply, not to exceed ninety (90) days; (4) state that the county may enter the property to remove, abate, or remedy the abandoned manufactured home if appropriate action is not taken during the time period provided; (5) state that the costs incurred by the county to remove, abate, or remedy the abandoned manufactured home, if not paid by the violator(s), shall be a lien upon the abandoned manufactured home and/or the real property upon which it is located and shall be collectable as unpaid taxes; and (6) notify the violator(s) of a right to appeal the basis of the notice to the Zoning Administrator, provided the appeal is made within fifteen calendar days of receipt of the notice.
- D. If the name or whereabouts of the owner, tenant, possessor, or occupant cannot after due diligence be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Zoning Administrator on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation *in* the county at least once not later than one week prior to the hearing.
- E. The owner, tenant, possessor, or occupant may appeal a notice to the Zoning Administrator for decision. The owner may either rely on written materials or appear before the Zoning Administrator for a hearing at which he shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are (1) whether the person is actually entitled to the notice, or (2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact that an owner did not bring the manufactured home to the property or does not have a possessory interest in the condition creating the abandoned manufactured home is not a defense.
- F. The *Zoning* Administrator shall within fifteen days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the violator(s) to remove, abate, or remedy the identified manufactured home. The owner, tenant, possessor, or occupant may appeal decisions of the Zoning Administrator to the Minimum Housing Board within fifteen days of the decision. The Minimum Housing Board shall hear and decide the matter in accordance with the procedures provided in the Onslow County Zoning Ordinance. An appellant may further appeal the decision of the Minimum Housing Board to the Superior Court as provided by law.
- G. If an abandoned manufactured home is not removed, abated, or remedied during the time period provided by the initial notice, or within thirty days of a decision of the Zoning

Administrator, Minimum Housing Board, or judicial court from which an appeal has not been taken, then, pursuant to N.C.G.S. 153A-140 and subject to the provisions of Article 57 of Chapter 106 of the General Statutes, the county may enter the property and remove, abate, or remedy everything related to the abandoned manufactured home that is dangerous or prejudicial to the public health or safety. The expense of such action shall be paid by the violator(s), and shall, if not paid, be a lien upon the property or premises where the abandoned manufactured home was located and shall be collected as unpaid taxes.

- H. Any person who removes an abandoned manufactured home pursuant to this article shall not be held liable for damages for the removal of the abandoned manufactured home to the owner, lienholder, or other person legally entitled to the possession of the abandoned manufactured home removed; however, any person who intentionally or negligently damages an abandoned manufactured home in the removal of such abandoned manufactured home, or intentionally or negligently inflicts injury upon any person in the removal of such abandoned manufactured home, may be held liable for damages.

Section 504. Enforcement

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers to include Environmental Enforcement Officers within the Onslow County Planning and Development Department and the Onslow County Sheriff's Department.
- B. The provisions of this article shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Onslow County Planning and Development Department shall cause all citation forms to be serially numbered and accounted for. The Onslow County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Onslow County Manager. For the purpose of this inspection, the Onslow County Auditor shall have access to all necessary records and files.

Section 505. Penalties

Section 505.1. Penalties

- A. Civil penalty: The county may assess a civil penalty of \$1 00.00 for first offense violations of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.
- B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.
- C. Criminal penalties: Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense, \$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day in which the violation occurs or continues shall constitute a separate offense.
- D. Persons found to be in violation of the provisions of this article may volunteer to perform cleanup work in lieu of prosecution, injunctive action, or civil penalties at the discretion of the Onslow County Planning and Development Department.

Section 505.2 Article cumulative

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned manufactured homes.

ARTICLE VI. OPEN BURNING

Section 601. Purpose

The purpose of this article is to promote the public safety, health, and welfare of the citizens of Onslow County through the regulation of open burning in the unincorporated sections of the county. This article is adopted pursuant to the authority contained in N.C.G.S. 143-215.112, N.C.G.S. 153A-123, and N.C.G.S. 153A-140.

Section 602. Definitions

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

Initiated: To start or ignite a fire or reignite or rekindle a fire.

Log: Any limb or trunk whose diameter exceeds six inches.

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

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

Operator: The person in operational control over the open burning.

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

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

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

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

Synthetic material: Man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood.

Section 603. Regulated Activities

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

Section 604. Enforcement

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399 and shall include, without limitation, Environmental Enforcement Officers within the Onslow County Planning and Development Department, the Onslow County Sheriffs Department, and fire marshals.

- B. The provisions of this article shall be enforced by the inspection of property and by the observation of persons who are suspected of violating any the provisions contained herein. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation may be issued. Such letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Onslow County Planning and Development Department shall cause all citation forms to be serially numbered and accounted for. The Onslow County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Onslow County Manager. For the purpose of this inspection, the Onslow County Auditor shall have access to all necessary records and files.

Section 605. Penalties

Section 605.1. Penalties

- A. Civil penalty: The county may assess a civil penalty of \$100.00 for first offense violations of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.
- B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.
- C. Criminal penalties: Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense, \$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day of open burning in violation of this article shall be a separate violation.

D. Persons found to be in violation of the provision of this article may volunteer to perform cleanup work in lieu of prosecution, injunctive action, or civil penalties at the discretion of the Onslow County Planning and Development Department.

Section 605.2. Article cumulative

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned or junked motor vehicles.

ARTICLE VII. PUBLIC HEALTH NUISANCE ABATEMENT

Section 701. Purpose

The purpose for this article is to promote the public safety, health, and welfare of the citizens of Onslow County through regulation of public health nuisances in the county. This article is adopted pursuant to the authority contained in N.C.G.S. 130A-309.61, N.C.G.S. 153A-121, 153A-123, and 153A-140.

Section 702. Regulated Activities

Section 702.1 Identification of Nuisances

It shall be unlawful for any person or persons to create a public health nuisance on any parcel of land or allow a nuisance to remain on their property. Public health nuisances are defined as any action or condition that is dangerous or prejudicial to public health or safety, and include, but are not limited to, the following:

- A. Accumulated junk, tires, trash, refuse, or construction debris that is a breeding ground or nest for mosquitoes, insects, rats, or other pests.
- B. Anything causing offensive odors or health risks to others such as dead animals, stagnant water, decayed vegetables and fruit, or filthy privies and stables.
- C. Uncovered manmade structures or containers with stagnant water found to be a breeding ground or nest for mosquitoes, other insects, rats, or other pests.
- D. Any uncovered well; open pit; unsecured vehicle, appliance, building; or other condition or structure that may cause entrapment or injury, or be a breeding ground or nest for mosquitoes, insects, rats, or other pests.

Bona fide farms are exempt from regulation through this article, but any use of farm property for nonfarm purposes is subject to this article.

Section 702.2. Removal Authorized

If, following notice by hand delivery, services of process, or certified mail, the owner of real property upon which a nuisance exists fails to remove, abate, or remedy the nuisance within the time limitations period identified in the notice or following appeal, the county may enter the property and remove, abate, or remedy the nuisance as provided herein.

Section 702.3. Notice, Hearing, Appeal, Lien on Property

- A. The notice to the owner shall (1) identify the property and describe the nuisance located thereon to be removed, abated or remedied; (2) direct the owner to remove, abate, or remedy the identified nuisance; (3) provide the owner a reasonable time limitations period in which

to comply, for a period of time not to exceed ninety (90) days; (4) inform the owner that the county shall enter the property to remove, abate, or remedy the nuisance if the owner fails to take appropriate action during the time period provided; (5) inform the owner that the costs incurred by the county to remove, abate, or remedy the nuisance, if not paid by the owner, shall be a lien upon the land or property and shall be collectable as unpaid taxes; and (6) notify the owner of its right to appeal the basis of the notice to the Zoning Administrator for a decision within fifteen calendar days of receipt of the notice.

- B. If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Zoning Administrator on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than one week prior to the hearing. If the Owner does not appear at the hearing after notice is provided herein, the Zoning Administrator shall consider the evidence and circumstances of the case and shall issue a decision either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance.
- C. Owners may appeal a notice to the Zoning Administrator for decision. The owner may either rely on written materials or appear before the Zoning Administrator for a hearing at which he shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are (1) whether the person is the actual owner of the real property, or (2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact the owner did not bring the nuisance to the property or does not have a possessory interest in the condition creating the nuisance is not a defense.
- D. The Zoning Administrator shall within fifteen days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance. Owners may appeal decisions of the Zoning Administrator to the Minimum Housing Board within fifteen days of the decision. The Minimum Housing Board shall hear and decide the matter in accordance with the procedures provided in the Onslow County Zoning Ordinance. Owners may appeal the decision of the Minimum Housing Board to the Superior Court as provided by law.
- E. If the Owner fails to remove, abate, or remedy a nuisance during the time period provided by the initial notice, or within thirty days of a decision of the Zoning Administrator, Minimum Housing Board, or judicial court from which an appeal has not been taken, then, pursuant to N.C.G.S. 153A-140 and subject to the provisions of Article 57 of Chapter 106 of the General Statutes, the county may enter the property and remove, abate, or remedy everything that is dangerous or prejudicial to the public health or safety. The expense of such action shall be paid by the Owner, and shall, if not paid, be a lien upon the property or premises where the nuisance arose, and shall be collected as unpaid taxes.

Section 703. Enforcement

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399 to include Environmental Enforcement Officers within the Onslow County Planning and Development Department and the Onslow County Sheriff's Department.
- B. The provisions of this article shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Onslow County Planning and Development Department shall cause all citation forms to be serially numbered and accounted for. The Onslow County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Onslow County Manager. For the purpose of this inspection, the Onslow County Auditor shall have access to all necessary records and files.

Section 704. Penalties

Section 704.1. Penalties

- A. Civil penalty: The county may assess a civil penalty of \$100.00 for first offense violations of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.
- B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.
- C. Criminal penalties: Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense,

\$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day of open burning in violation of this article shall be a separate violation.

- D. Persons found to be in violation of the provision of this article may volunteer to perform cleanup work in lieu of prosecution, injunctive action, or civil penalties at the discretion of the Onslow County Planning and Development Department.

Section 704.2. Article cumulative

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned or junked motor vehicles.

Section 705. Prevention of Public Nuisances Due to Failing Septic Systems

The following is unlawful and a violation of this ordinance:

- A. Failing to maintain a vegetative cover, free of trees and shrubs, on an extending 10 feet beyond the perimeter of a septic system drainfield and designated repair area.

ARTICLE VIII. MISCELLANEOUS

Section 801. Legal Provisions

Section 801.1. Conflicting ordinances repealed

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

Section 801.2. Severability

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

Section 801.3. Effective date

This ordinance shall take effect and be enforced as of January 9, 2006.

