

**MECKLENBURG COUNTY
SOLID WASTE MANAGEMENT
REGULATIONS GOVERNING THE STORAGE, COLLECTION,
TRANSPORTING, AND DISPOSAL OF SOLID WASTE IN
MECKLENBURG COUNTY**

Be it ordained by the Mecklenburg County Board of Commissioners (while exercising the powers of a board of health, which powers it has assumed and conferred upon itself by action taken pursuant to N.C.G.S. 153A-77) that the following Regulations governing the collection, transporting and storing of solid waste shall be adopted in accordance with N.C.G.S. 130A-39 for the protection of the public health as supplemental to the regulations governing Solid Waste Management adopted by the North Carolina Commission for Health Services and enforced by the North Carolina Department of Environment and Natural Resources pursuant to Article 9 of the North Carolina General Statutes. These regulations shall apply throughout Mecklenburg County, North Carolina, including, but not limited to, all cities, towns, hamlets and villages whether incorporated or unincorporated.

SECTION 1: DEFINITIONS

- A. Health Director** shall mean the Mecklenburg County Health Director, or his designee.
- B. Solid Waste Permit or Permit** shall mean the permit required by these Regulations to be obtained prior to collecting or transporting solid waste or refuse.
- C.** Other terms used in these Regulations shall be as defined in N.C.G.S. 130A-290, as the definitions of such terms may be amended from time to time.

SECTION 2: SOLID WASTE COLLECTORS – PERMITTING FOR COLLECTION AND TRANSPORTATION

A. PERMITTING

1. No person shall collect or transport solid waste or refuse without a Solid Waste Permit from the Health Director. Provided, however, that this subsection A.1 shall not apply to any person disposing of rubbish, garbage and refuse in an approved manner from his own residence, business, or institution.
2. The Health Director shall issue such Solid Waste Permit only when, upon inspection, he finds that the facilities, equipment and proposed operating methods of the applicant are in compliance with the requirements of these Regulations, and the applicant has paid the fee established by the Board of County Commissioners..
3. The Health Director is authorized and directed to refuse to issue any Solid Waste Permit to collect or transport solid waste or refuse whenever he finds upon inspection of the facilities, equipment, and proposed operating methods of the applicant that such facilities, equipment, or proposed operating methods are not in compliance with the requirements of these Regulations or any other local, State, or federal ordinance, statute or regulation.
4. Every truck or other vehicle used for collecting and transporting solid waste and/or refuse shall have plainly visible and easily legible decals or lettering showing the name, address and/or telephone number of the owner.
5. It is required that before any person shall obtain a Permit to collect solid waste, he shall submit to the Health Director written evidence of liability insurance in an amount to be determined by the Health Director covering such damages as may be done while on the premises of anyone upon which he may enter for the collection of solid waste.

6. On a monthly basis, each permittee must submit data on the quantity of different types of solid waste collected within Mecklenburg County, including, but not limited to, within all cities, towns, hamlets and villages, whether incorporated or unincorporated, and the location or locations where the solid waste was disposed. The monthly data must be submitted to the Health Director on a form furnished by the Health Director by the 15th of the following month. Should any of the data which must be submitted by the permittee constitute a “trade secret” as defined in N.C.G.S. 66-152(3), or any other applicable North Carolina statute, the Health Director and County shall protect such information as required by N.C.G.S. 132-1.2, provided that at the time of initial disclosure to the Health Director the permittee designates such information as “confidential” or as a “trade secret”.

B. APPEALS

1. Whenever, upon inspection of the facilities, equipment or operating methods of any person collecting or transporting solid waste and refuse, the Health Director finds that conditions or practices exist which are in violation of the provisions of these regulations or any other local, State, or federal regulation, the Health Director shall give notice in writing to such person that unless such conditions or practices are corrected within ten (10) days the Permit of such person will be suspended. At the end of such ten-day period the Health Director shall make a re-inspection, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to such person that his Permit has been suspended. Upon receipt of notice of suspension, such person shall immediately cease to collect or transport solid waste or refuse. No such Permit shall be reinstated by the Health Director until he finds upon re-inspection that all provisions of these Regulations have been complied with, except that following a hearing

as hereinafter provided, such Permit may be reinstated by order of the County Manager or his designee.

2. On written petition from a person whose Permit to collect or transport solid waste and refuse has been suspended, the County Manager or his designee shall hold a hearing at which time such person shall be given an opportunity to show that his Permit should not have been suspended. No such hearing shall be held unless a written petition requesting such a hearing shall have been filed in the office of the Health Director on or before the tenth day following the day on which such Permit was suspended. If a permittee files a petition for a hearing, the permittee may continue to collect and transfer solid waste and refuse pending the decision on the appeal. It shall be the duty of the Health Director to communicate the request to the County Manager as soon as practicable. Such hearing shall be held by the County Manager, or his designee, as soon as practical but no later than thirty (30) days following receipt of such petition by the Health Director. After such hearing, the County Manager, or his designee, may either revoke or reinstate such Permit, depending upon its finding as to whether these Regulations have been complied with. The County Manager's decision, or that of his designee, shall be subject to review by the Superior Court of Mecklenburg County for proceedings in the nature of certiorari. If no such petition is filed on or before the tenth day following the day on which such Permit was suspended; the Permit shall be deemed automatically revoked.

3. When any person has made application for a Permit to collect and transport solid waste, and the Health Director has refused to issue a Permit to the applicant, the applicant may file a written petition for a hearing before the County Manager or his designee. The petition for hearing must be filed with the Health Director within ten (10) days after the

refusal of the Health Director issue the Permit. It shall be the duty of the Health Director to communicate the request to the County Manager as soon as practical. The County Manager, or his designee, shall hold a hearing as soon as practical, but no later than thirty (30) days after its receipt by the County Manager. Within ten (10) days after the hearing, the County Manager, or his designee, shall grant or refuse to grant the Permit, depending upon compliance with these Regulations. The County Manager's decision, or that of his designee, shall be subject to review by the Superior Court of Mecklenburg County for proceedings in the nature of certiorari.

SECTION 3: SOLID WASTE STORAGE AND DISPOSAL

Solid waste shall be stored and disposed of as prescribed in the applicable local, State, and federal ordinances, statutes and regulations, including, but not limited to, 15A North Carolina Administrative Code 13B .0104. Upon request from the Health Director, the owner or occupant responsible for solid waste storage will provide specific information as it relates to adherence to all applicable local, State and federal ordinances, statutes and regulations.

SECTION 4: PRIOR RULES AND REGULATIONS REPEALED

All ordinances, rules, and regulations heretofore adopted by Mecklenburg County Board of Health or the Mecklenburg County Board of Commissioners which are in conflict with these regulations are hereby repealed.

SECTION 5: ENFORCEMENT

- (a) Violation a misdemeanor. Any person who
 - (i) collects or transports solid waste without a Permit as required by these Regulations,
or

- (ii) stores or allows the accumulation of solid waste in violation of these Regulations for more than fifteen (15) days after having been issued a written warning requesting correction of a violation of these Regulations shall, upon conviction, be guilty of a "misdemeanor" as provided by G.S. 130A-25. Each day that the violation continues to exist shall be considered a separate offense.
- (b) Injunction and Order of Abatement. The provisions of these Regulations may be enforced by injunction as provided in G.S. 130A-18(a), by order of abatement as provided in G.S. 130A-19, and by abatement as provided in G.S. 130A-20.
- (c) Civil Penalty. A civil penalty of Fifty Dollars (\$50.00) for each day of violation of these regulations may be assessed by the Health Director against any person who
 - (i) collects or transports solid waste without a Permit as required by these Regulations, or
 - (ii) stores or allows the accumulation of solid waste in violation of these Regulations, or
 - (iii) fails to submit data as required by Section 2.A. 6. of these Regulations.

Failure to pay a civil penalty or file an appeal within thirty (30) days after notification of the violation shall result in an additional penalty of Fifty Dollars (\$50.00). The Health Director may establish procedures for the collection of the civil penalties and may enforce collection of the penalties by a civil action in the nature of debt.

Any person upon whom a civil penalty is levied by the Health Director shall have a right to file an appeal with the Director at any time prior to the date the civil penalty becomes delinquent. Upon receipt of a timely exception, the Health Director shall arrange a conference with the person to afford him an opportunity to present any evidence or argument he may have regarding the civil penalty, and the Director shall have the authority to authorize a rebate or refund of the civil penalty if he concludes the civil penalty is not owed. Within fifteen (15) days after the conference, the Health Director shall give written notice to the person of his final decision. In cases in which no rebate or refund is granted, the person shall have fifteen (15) days from the

date the notice is mailed to appeal the Health Director's decision to the Mecklenburg County Manager or his designee. The person must pay the civil penalty prior to any hearing before the County Manager or his designee. The County Manager's decision, or that of his designee, shall be subject to review by the Superior Court of Mecklenburg County for proceedings in the nature of certiorari.

These Regulations shall be enforced by the Health Director, and by any other local government officials or agencies authorized by the Health Director to issue warnings requesting correction of a violation of these Regulations. Only the Mecklenburg County Health Director, however, can levy a civil penalty or authorize initiation of a criminal prosecution or a civil action seeking an injunction. The Health Director and any other local government official or agency authorized by the Health Director shall have a right of entry upon the premises of any place where entry is necessary to enforce the provisions of these Regulations, including, without limitation, holders of Permits, and if consent is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. Failure of a permittee to allow entry shall be grounds for revocation of a Permit.

SECTION 6: SEVERABILITY

If any of provision or clause of these Regulations shall be declared invalid, such decision shall not invalidate any other provision or clause of these regulations.

SECTION 7: JURISDICTION

These Regulations shall apply throughout Mecklenburg County, North Carolina, including, but not limited to all cities and towns whether incorporated or unincorporated.

SECTION 8: EFFECTIVE DATE

These regulations shall be effective on April 1, 2002.

Adopted on the 5th day of March, 2002

Date of Publication: _____.

I certify that the notice required by N.C.G.S. 130A-39(d) was published on the date shown above and that these regulations were adopted by the Board of County Commissioners on the ____ day of _____, 2002.

Clerk to the Board

Approved as to Form:

(SEAL)

County Attorney