

# Burke County Environmental Compliance Ordinance



Adopted February 17, 2009

## Amendments

May 5, 2009	Addition of Section XI, Fats, Oils, and Greases (FOG) requirements Also addition of definitions to Section 402 ref Article XI
June 2, 2009	Amend Sec 102 to repeal former Abandoned, Junk, Nuisance Vehicle ordinance. Amend Sec 804, added appeal to commissioners following removal order. Corrected several typographical and reference errors.

# **BURKE COUNTY ENVIRONMENTAL COMPLIANCE ORDINANCE**

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## **Article I. Authority and Enactment**

### **Section 100. Authority to Enact**

This ordinance is adopted pursuant to the General Statutes of North Carolina, as amended, and as are applicable to the provisions set forth herein. The following Statutes grant the authority to enact and set forth requirements pertaining to the ordinance set forth herein; Solid Waste (Article 13B of Chapter 130), Abandoned and Junked Motor Vehicles (G.S. 153A-132, G.S. 153A-132.2, and G.S. 153A-140), Abandoned Manufactured Homes (G.S. 130A-309.99A-H), Litter (G.S. 14-399), and Recyclable Metals (G.S. 66-11).

### **Section 101. Enactment**

Now therefore, the Board of Commissioners of the County of Burke, North Carolina, do ordain as follows:

### **Section 102. Affect of Enactment on Previously Adopted Ordinances**

The adoption of the ordinance herein repeals and rescinds the following ordinances; the Burke County Litter Ordinance (adopted July 11, 1989), the Burke County Sanitation Ordinance (adopted December 3, 1973, as amended) as shown in Section 58 of the Burke County Code of Ordinances, also Article II Division III of Chapter 26, the environmental ordinance addressing Abandoned, Junk, and Nuisance vehicles.

## **Article II. Statement of Intent**

### **Section 200. General Legal Purpose**

The purpose of this ordinance is to provide for the health, safety, and welfare of the Citizens of Burke County through the protection of persons, property, and natural resources from the improper collection, transportation, and disposal of solid wastes and nuisances and set forth herein.

### **Section 201. Statement of Intent**

Solid waste, in all its forms, left in public areas or other visible areas lessen the attractive appearance of Burke County. In a similar manner, such wastes, vehicles, and structures become an attractive nuisance for criminal activity, health hazards, and breeding grounds for rodents and other pathogen carrying pests. It is the policy of the Board to set such regulations and prohibitions as is found herein to protect the health safety and welfare of all County citizens, especially, small children who may be attracted to such structures, vehicles, and areas. It is the policy of Burke County to take an active role in the enforcement of this ordinance to preserve the sense of place and community that is Burke County.

### **Section 202. Non-Exclusionary Intent**

It is not the intent of this ordinance to exclude any economic, racial, religious, political, or ethnic group from the enjoyment of residence, land ownership, or tenancy within Burke County; nor is it the intent of this ordinance to use public powers in any way to

discriminately enforce the provisions herein, except as may be the incidental result of meeting the purposes set forth in Sections 200 and 201 herein.

### **Article III. Application of Regulations**

#### **Section 300. Territorial Application**

- a. The provisions of this Ordinance shall apply to all lands as designated by Burke County except for the lands within the municipal boundaries of the County. Municipal jurisdiction may be included into the territorial application by the adoption of this ordinance, as amended, by the Municipality and by mutual agreement between the County and the Municipality.
- b. All territory which may hereafter be included within the municipal boundary of any municipality shall be continued in the County's existing jurisdiction of this Ordinance until otherwise classified by the governing board of the affected municipal government.

#### **Section 301. Uniform Application of Regulations**

The regulations established herein shall be minimum regulations and be uniformly applied except as hereafter provided.

#### **Section 302. Severability**

Should any court of competent jurisdiction declare any section or provision of this ordinance invalid or unconstitutional, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

#### **Section 303. Compliance with Other Laws and Regulations**

Provisions herein may reference other applicable Federal, State, and local laws, regulations, and other provisions that must be adhered to in addition to the requirements herein. Compliance with any other law or regulations applying to the owner, property, user, operator, and/or agent, whether referenced herein or not, shall be the responsibility of the owner, user, operator, and/or agent.

#### **Section 304. Conflict with Other Laws**

- a. Where the provisions of any other law, ordinance, or regulation impose higher standards than are required by the provisions of this article, the provisions of such law, ordinance, or regulation shall govern.
- b. Properties that are legally permitted, whether conforming or non-conforming, to operate per the Burke County Zoning Ordinance in a manner inconsistent with this ordinance, are exempt from the provisions herein.

## ARTICLE IV. DEFINITIONS OF TERMS

### **Section 400. Intent**

The intent of this article is to help provide an interpretation of this ordinance as well as to promote uniformity to its contents. In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the board of county commissioners or the context clearly requires otherwise.

### **Section 401. General Definitions**

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders. The word "person" includes a firm, governmental unit, corporation, association, organization, trust, or partnership. The word "lot" includes plot or parcel. The word "building" includes structure. The words "shall" and "will" are always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

### **Section 402. Specific Definitions**

When used in this ordinance the following words and phrases shall have the meaning given in this section:

#### **Abandoned Manufactured Home**

Any manufactured home that is both (1) vacant or in need of extensive repair and (2) an unreasonable danger to public health, safety, welfare, or the environment. *State law reference – G.S. 130A-309.99B(1).*

#### **Abandoned Motor Vehicle**

Any vehicle that is left (1) upon a public street or highway in violation of a law or ordinance prohibiting parking, (2) on a public street or highway for longer than 7 days, (3) on property owned or operated by the County for longer than 24 hours without written consent from the County Manager or his designee, or (4) on private property without the consent of the owner, occupant, or lessee thereof, for longer than 24 hours except for cases subject to the prior notice provision in Article VII herein. *State law reference – similar definitions, G.S. 153A-132(b).*

#### **Ashes**

Refuse resulting from the burning of wood, coal, coke, or other combustible material which has no live embers.

#### **Authorizing Official**

The supervisory employee of the Code Enforcement Division of Planning & Development, Waste Management Division of General Services, Sheriff's Department, or other public officials designated to authorize the removal of vehicles under the provisions of this ordinance.

### Building Materials

Materials such as lumber, bricks, plaster, loam and other substance accumulated as a result of repairs to existing structures, construction of new structures, or demolition wastes of old structures.

### Bulk Container

A metal container of not less than one-half (1/2) cubic yard that is to be of tight construction and constructed so that it may be handled and emptied by a special truck.

### Commercial and Institutional Establishment

Any office; retail store; wholesale store; bottling plant; printing establishment; religious, charitable, or government office; private club; hospital; group of mobile homes; apartment; group of apartment; or similar establishment; (provided that such establishment shall not be construed to refer to the residents of individual mobile homes or individual apartments).

### County

The County of Burke, North Carolina, or any duly authorized agent(s) or official(s) acting on its behalf.

### Cover

Anything tarpaulin, plastic, or similar which is laid, set, or spread and securely fastened over all rubbish, garbage, solid waste, or miscellaneous refuse, which would otherwise be subject to fall or spill into roadways, thoroughfares, or adjoining properties.

### Dead Animal, Large

Any dead animal larger than common house pets such as cats and dogs.

### Dead Animal, Small

Any dead animal such as cats, dogs, and other animals of similar size.

### Dwelling Unit

One or more rooms in a residential building or in a mixed-use building which are arranged, designed, used, or intended for use by one (1) family, and which included lawful cooking space and sanitary facilities reserved for the occupants thereof.

### Family

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, adoption, or guardianship no such family shall contain over six (6) persons, but further provided that domestic servants employed and housed on the premises shall not be counted as a family or families.

### Fats, Oils, and Grease

Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules

### Food Service Establishment

Any commercial, industrial, or institutional facility discharging kitchen or food preparation wastewater including but not limited to the following: restaurants, motels, hotels, cafeterias, hospitals, schools, nightclubs, delicatessen, meat cutting/preparation, bakeries, bagel shops, grocery stores, gas stations, and any other facility that the General Services Director determines to be in need of a grease interceptor by virtue of its operation.

### Garbage

All putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial by-products, exclusive of sewage and human wastes.

### Garbage Receptacles

Receptacles for garbage constructed of metal or plastic, of substantial construction, water tight, with light fitting lids, provided handles sufficient for safe and convenient handling. Such receptacles shall have a capacity of not less than ten (10) gallons nor more than thirty-two (32) gallons, shall be kept in serviceable condition, and shall be covered at all times.

### Grease Interceptor

A device used to effect the separation of fats, oils, and grease in wastewater effluent which prevents the discharge of fats, oils, and grease in excess of 300 milligrams per liter (mg/l) concentration, or has been found by the General Services Director to prevent the discharge of fats, oils, and grease, in quantities sufficient to cause POTW line stoppages or necessitate increased maintenance of the POTW in order to keep line stoppages from occurring. An interceptor may be of the "outdoor" or underground type normally of a 1,000 gallon capacity or more, or "under-the-counter" package unit, which is typically less than 100-gallon capacity. For the purpose of this definition, the terms "grease interceptor", "interceptor", and "grease trap" are used interchangeably.

### Hazardous Solid Wastes

Includes, but not limited to, explosives, pathological wastes, pesticides, highly combustible chemicals, and other toxic materials which are harmful to public health.

### Incineration

The process of burning solid, semi-solid, or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.

### Industrial Establishments

Activity including resource extraction, manufacturing, warehousing, storage, distribution, shipping, processing plants, and other related uses.

### Inspector

The General Services Director and persons under the General Services Director's direction who are investigating compliance with this ordinance.

### Junk

A form of solid waste, to include but not limited to the following: stoves or other appliances, machinery, equipment, building materials, or other materials which are in a wholly or partially rusted, wrecked, junked, deteriorated, dismantled, or inoperative condition.

### Junked Motor Vehicle

A vehicle that does not display a current license plate lawfully upon the vehicle and that (1) is partially dismantled or wrecked, (2) cannot be self-propelled or moved in the manner in which it originally was intended to move, or (3) is more than five years old and appears to be worth less than \$100.00. *State law reference – similar definition, G.S.153A-132(b).*

### Litter

Means garbage, miscellaneous refuse, rubbish, and/or solid waste strewn or scattered about in disorder.

### Local Governing Agency

Incorporated cities, towns, counties, and programs.

### Manufactured Home

A dwelling unit that meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development (HUD) that is assembled off site and designed to be transported to the home site on its own chassis and be placed on a temporary or permanent foundation. This definition includes the term mobile home and similar structures constructed prior to the adoption of HUD building codes.

*State law reference – G.S. 105-164.3(20).*

### Miscellaneous Refuse

All rubbish and refuse (other than garbage, ashes, or dead animals) incident to the ordinary conduct of the household.

### Motor Vehicle

All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle. Includes the term "vehicle".

### Nuisance Motor Vehicle

A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be (1) a breeding ground, nest or harbor for mosquitoes, other insects, rats, or other pests, (2) a point of heavy growth of weeds or other noxious vegetation over eight 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 as evidenced by odor, (5) one which has areas of confinement which cannot be opened or operated from the inside area of confinement, such as trunks, hoods, etc., (6) one so situated or located that there is a danger of it falling, dislodging, or turning over, (7) one which is a point of collection of refuse, trash, garbage, food waste, animal waste, or any other rotten or decaying matter of any kind, (8) one which has sharp parts thereof which are jagged or contain sharp edges of metal, plastic, or glass, or (9) any other vehicle specifically declared a health and safety hazard and a public nuisance by the County Commissioners.

#### Open Burning

Any fire wherein the products of combustion are emitted directly into the atmosphere and are not directed thereto through a stack or chimney, incinerator, or other similar devices.

#### Open Dump

Consolidation of solid waste from one or more sources at a disposal site which has unsanitary conditions and little or no cover.

#### Operator

The operator of a Food Service Establishment

#### Owner

An individual, person, firm, company, association, society, corporation, or other entity upon whose property the building or structure containing the Food Service Establishment is located or will be constructed. "Owner" shall also include the owner of a Food Service Establishment which is leasing the building, structure, or a portion thereof containing the Food Service Establishment.

#### Plumbing Code

The current edition of the North Carolina Plumbing Code.

#### POTW (Publicly Owned Treatment Works)

The treatment works as defined by Section 212 of the Federal Water Pollution Control Act, also known as the Clean Water Act, (22 U.S.C. 1292), which are owned by Burke County's wastewater host. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid or solid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this resolution, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the county who are, by contract or agreement with the county, or in any way, users of the POTW.

#### Pretreatment Director

The General Services Director of the County of Burke, or his authorized representative(s).

### Putrescible Waste

Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal, and carcasses.

### Radioactive Solid Waste

Radioactive material

### Refuse

Non-putrescible wastes.

### Residential Unit, Multiple

Any duplex, apartment, group of apartments, or group of mobile homes.

### Residential Unit, Single

Any dwelling unit occupied by one family.

### Rubbish

Combustible and non-combustible waste materials except garbage; and the term shall not include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, or ashes.

### Sanitary Landfill

A method of disposing of solid waste on land in a sanitary manner without creating hazards to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of compacted earth at the conclusion of each day's operation or at more frequent intervals as may be necessary. Such a facility shall be designed, permitted, and operated in compliance with all local, State, and Federal rules and regulations applicable to such facilities.

### Solid Waste

Garbage, refuse, rubbish, trash, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids, industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants. This definition additionally includes, but is not limited to bicycles, mopeds, motorcycles, tractors, lawn mowers, automobiles, trailers, trucks, farm machinery, mobile homes, boats, campers, and motor homes.

### Solid Waste Collector

Any person who collects or transports solid waste, by authority granted by Burke County, North Carolina.

Solid Waste Disposal Facility

Land, personnel, equipment, or other resources used in the disposal of solid wastes.

Solid Waste Disposal Site

Any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other methods.

Spoiled Food

Any food which has been removed from sale by the United States Department of Agriculture, North Carolina Department of Agriculture, Food and Drug Administration, or any other regulatory agency having jurisdiction in judging food unfit for consumption.

Vacant Manufactured Home

A manufactured home where there is little or no expectation of future occupancy. Indicators for such a determination may include, but are not limited to, severe structural defects or lack of utility services (i.e. power, water, or sewer) for a period of 120 days.

Vector

Any insect or other animal which transmits infectious diseases from one person to another.

Waste

Litter, rubbish, refuse, and miscellaneous unusable or unwanted materials. To include liquid and water-carried wastes, whether treated or untreated. The terms "sewage" and "wastewater" shall be deemed waste by definition.

Water Supply Watershed

An area from which water drains to a point or impoundment which water is then used as a source for a public water supply.

## **Article V. Solid Waste Collection and Disposal**

### **Section 500. Solid Waste on Property**

#### **Section 500.1 Accumulation of Solid Waste Prohibited**

It shall be unlawful for any person to maintain, allow, cause, or permit the accumulation of excessive, unsightly, improperly contained (as set forth in Section 501 herein) solid waste upon premises owned, occupied, or controlled by him; or in any manner to place or allow to remain upon such property solid waste in such quantity and manner as to constitute a nuisance; to cause, or create the likelihood of injury to the health or welfare of other persons; or cause, or create the likelihood of injury to adjoining property.

#### **Section 500.2 Accumulation of Junk Prohibited**

It shall be unlawful for any person to maintain, allow, cause, or permit the accumulation of junk upon premises which is not completely enclosed within a building or on a property of an authorized appliance or junk dealer who has placed or left such materials on his property in the course of such business as permitted.

#### **Section 500.3 Abandoned Ice Boxes**

It shall be unlawful for any person to put, cause to be put, leave, or cause to be left in a place accessible to children any abandoned, unattended, or discarded icebox, refrigerator, or any other container or device of any kind or description which has an airtight snap lock door or other similar device from such container. This section shall not apply to such containers that are crated, strapped, or locked in such fashion, or to such extent, that it is impossible for a child to obtain access to any airtight compartment thereof.

#### **Section 500.4 Remedy Prior to Violation**

A person shall not be in violation of this Section if the solid waste is removed from the property within seven (7) days of receiving a written notice to remove the solid waste as has been accumulated, placed, or allowed to remain on such property in the manner prohibited in Section 500.1 herein.

#### **Section 500.5 Failure to Remedy**

A person who fails to remedy the prohibited accumulation of solid waste as set forth in Section 500.1 and Section 500.2 shall be in violation of this Section and shall be subject to the procedures and provisions set forth in Article XIII.

### **Section 501. Pre-Collection of Solid Waste**

#### **Section 501.1 General Requirements for Pre-Collection of Solid Waste**

Such solid waste as shall be accumulated and/or stored prior to being disposed of shall be handled in the manner provided in this Section.

#### **Section 501.2 Containers**

Containers or receptacles shall be used for the collection and/or storage of solid wastes and shall be of a construction that will accommodate and properly control wastes prior to disposal. Such containers and receptacles shall be maintained in serviceable

condition at all times and located so that no unsightly condition, health hazards, or nuisances are created, and pilferage by persons or animals is minimized. Under no conditions shall liquid or putrescible wastes be stored in open containers or receptacles.

#### Section 501.3 Residential

- a. Solid waste from single residential units shall be placed in garbage receptacles.
- b. Solid waste from multiple residential units shall be placed in garbage receptacles or bulk containers.

#### Section 501.4 Commercial, Institutional, and Industrial

- a. The owner, operator, or other person responsible for the operation of drive-in restaurants and other food establishments shall maintain, or cause to be maintained, at all times on the premises sufficient receptacles or other devices for the disposal of solid waste as will permit adequate depositories for use by the customers and patrons of such restaurants and other food establishments.
- b. Solid waste from commercial, institutional, and industrial establishments shall be placed in garbage receptacles, bulk containers, or other containers. Liquid or putrescible wastes shall be placed in containers which are constructed of durable metal or plastic, which are water tight, and which have tight fitting lids with handles sufficient for convenient handling.

#### Section 501.5 County Provided Waste Collection Centers

- a. County bulk containers may be provided by the County at designated places for the exclusive use of residents of Burke County, and are to be used as specified in this Ordinance for disposal of household solid waste only.
- b. Dead animals, hazardous waste, and demolished structures shall not be accepted at Centers.
- c. County Collection Centers shall not be used by commercial, institutional, or industrial establishments.

### **Section 502. Specific Types of Solid Waste**

#### Section 502.1 Boxes, Leaves, Tree Trimmings, Shrubbery Trimmings or Other Yard Trimmings

All boxes, leaves, tree trimming, shrubbery trimmings, other yard trimmings, or similar refuse shall be prepared for conveyance to the Sanitary Landfill site as provided for herein.

#### Section 502.2 Leaves

Leaves shall be placed in plastic bags, heavy paper bags, or other enclosed containers or vehicles in such a manner as to prevent blowing or otherwise escaping from such container or vehicle.

### Section 502.3 Tree Trimmings and Shrubbery Trimmings

- a. Tree trimmings, limbs, shrubbery trimmings, or other similar materials shall be cut into four (4) to five (5) foot lengths with protruding branches trimmed.
- b. No such materials shall be placed in County Collection Centers.
- c. Tree and shrubbery limbs and trimmings shall be bundled, placed in containers, or placed in heavy refuse bags.

### Section 502.4 Cardboard Boxes, Wooden Crates, Etc.

Cardboard placed in County Collection Centers or handled by a collection agency shall be flattened and tied in bundles of such size as can be handled by one (1) man, or a maximum of fifty (50) pounds and placed in heavy bags or refuse receptacles. Such weight and size requirements shall not apply to solid wastes collected and delivered to the landfill by commercial, institutional, and industrial establishments.

### **Section 503. Disposal into Streams, Drainage Ditches, Etc.**

No person shall throw, sweep, or dispose from any household, yard, or business any solid waste into drainage ditches, roadways, roadway medians, manholes or other places detrimental to the general environment, but shall dispose of such waste by means as specified herein.

### **Section 504. Collection and Transportation of Solid Waste**

#### Section 504.1 General Requirements for Collection and Transportation

- a. Vehicles used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill into roadways, thoroughfares, or adjoining properties, and shall be covered to prevent blowing of materials. If spillage should occur, the materials shall be picked up immediately by the person or collector and returned to the vehicle or container.
- b. Every person shall dispose of all solid wastes which accumulate on his premises in a clean and sanitary manner. Such disposal shall be conducted by duly authorized collection agencies or by private conveyance to the landfill site or private placement in County Bulk Containers.
- c. Commercial, institutional, and industrial establishments shall be totally responsible for the proper collection and transportation of any and all of their solid wastes.

#### Section 504.2 Hazardous Solid and Liquid Wastes

- a. No hazardous or liquid wastes shall be placed in any facility used for the collection of waste by the County.
- b. The collection and transportation of hazardous waste shall comply with all applicable Federal, State, and local laws.

### Section 504.3 Dead Animals

The collection, transportation, and disposal of dead animals shall comply with all applicable Federal, State, and local laws. The General Services Department shall maintain the current County policy related to the disposal of dead animals.

## **Article VI. Solid Waste Convenience and Recycling Centers**

### **Section 600. Compliance with Other Laws and Regulations**

The Burke County Landfill and Convenience and Recycling Centers shall be operated in accordance with all applicable Federal, State, and local laws as well as consistent operation with the Burke County Solid Waste Management Plan and the adopted policies of Burke County and the General Services Department. All users of these facilities shall comply with the requirements referenced herein in addition to this ordinance.

### **Section 601. Refusal to Accept Waste**

The operator of the Sanitary Landfill site or County Collection Center shall not allow the deposit therein of solid waste from a vehicle which has been loaded and/or contains prohibited materials.

### **Section 602. Hand Unloaded Large Trailers**

Large trucks or trailers (twenty-eight (28) feet or longer) which are to be unloaded by hand at the landfill shall not be allowed entry to the site except at such times as may be specified in the adopted procedures and policies of the Landfill.

### **Section 603. Metal Fifty-Five (55) Gallon Drums**

Metal fifty-five (55) gallon drums, such as oil and chemical containers, shall not be accepted at the landfill site, unless such drums have both ends (top and bottom) completely removed.

### **Section 604. Other Limitations**

#### **Section 604.1 Delay and/or Denial of Materials Permitted**

From time-to-time certain solid waste may arrive at the landfill and/or container sites, which in the judgment of the operators of the site would be hazardous or detrimental to personnel or operations. Such operator may delay the unloading of such wastes until the General Services Director, or his representative, has the opportunity to review the situation and decide upon the disposition of the waste. Upon the decision of the disposition, appeal may be made to the County Manager, whose decision shall be final and subject to no appeal.

#### **Section 604.2 Discretion of Unloading Site by the Operator**

In order to properly operate the landfill site, the operators must exercise discretion as to where certain types of solid waste are unloaded. Persons delivering wastes to the landfill shall be required to discharge the waste at locations as directed by the operator. This provision shall under no circumstance empower landfill site operators to require that drivers make or attempt maneuvers that would abuse or injure equipment or would jeopardize the driver or equipment.

**Section 605. Unlawful Entry to the Landfill and/or Container Sites**

It shall be unlawful for any person to enter the landfill site and/or container sites except during times of normal operations, except persons specifically authorized. Any person violating this provision shall be prosecuted as for trespass.

**Section 606. Tampering with Equipment**

It shall be unlawful for any unauthorized person to operate, tamper with, enter, pilfer, or damage any structures, equipment or machinery at the landfill site and/or container sites. Any person who violates this provision shall be guilty of a misdemeanor and be subject to the fines set forth in Article XIII herein.

**Section 607. Separate Delivery Required**

Separate delivery of specified types of solid waste may be required as appropriate for the purpose of assessing proper charges.

**Section 608. Franchise Required for Solid Waste Collection, Transportation, and Disposal**

No person, in return for a fee, shall engage in the business of collection, transportation, or disposition of solid wastes without having been awarded a franchise therefore by the Burke County Board of Commissioners pursuant to the Franchise Ordinance of Burke County.

**Section 609. Fees and Charges**

In order to insure the proper and continued operation of solid waste disposal and other sanitation facilities for the residents of Burke County on a fair and equitable basis, the Board of Commissioners shall assess such charges and fees as may be deemed necessary. Such fees and charges shall be set forth in the Budget Ordinance and shall be collected and accounted for as specified and directed by the County Manager.

## **Article VII. Litter**

### **Section 700. Intent**

The intent of this section is to establish guidelines to be followed to prevent littering on the roads, lands, and waterways of Burke County in compliance with NCGS 14-399.

### **Section 701. Littering Prohibited**

It shall be unlawful for any person to throw, dump, or allow to blow or drop from a vehicle, boat or trailer any solid waste, garbage, rubbish, or miscellaneous refuse on the ground, lakes, or streams of Burke County.

### **Section 702. Cover Required**

It shall be unlawful to drive, propel or mobilize any vehicle, boat, or trailer containing such waste without the use of a cover to prevent the contents from falling, leaking, or spilling into roadways, thoroughfares, or adjoining properties.

### **Section 703. Prevention of Litter Required**

The owner, operator, or other person responsible for any property or any activity on any property shall maintain, or cause to be maintained, at all times on the premises sufficient devices for the disposal of waste as will permit adequate depositories for use by themselves and any other persons legally on the property or involved in the activity. The owner, operator or other person responsible shall also be responsible for keeping the ground surrounding the property or activity free of solid waste, garbage, rubbish, and miscellaneous refuse and shall be responsible for picking up and disposing of correctly any such waste that has been allowed to transfer onto surrounding properties. Any person picking up such waste on the property of another shall notify the owner and obtain the owner's permission prior to picking up the waste.

### **Section 704. Administration and Enforcement of Littering**

The administration and enforcement of this Article shall be vested with the County Manager or his duly authorized agent. Health Department, Sheriff's Department, and General Services Department, and their representatives, are hereby designated and authorized to assist the County Manager, as directed by him, in the enforcement of this Article.

## **Article VIII. Abandoned Motor Vehicles**

### **Section 800. Intent**

#### **Section 800.01 Intent**

Abandoned and junked motor vehicles left in public areas or other visible areas lessen the attractive appearance of this community. Often, such vehicles cause dangerous traffic conditions which threaten the safety of the citizens of the county. In a similar manner, abandoned and junked vehicles left on private property also adversely affect community appearance and many times become a collection place for trash and refuse and a breeding place for rodents and other pests. Many such vehicles become a nuisance even if the vehicle has not been abandoned in the technical sense or become a junked motor vehicle as strictly defined in this Article. It is the policy of the Board of Commissioners that vehicles which are abandoned, junked, or otherwise a nuisance ought to be prohibited in the county. Further, such vehicles and the conditions which surround such vehicles shall not be allowed to present a danger to the citizens of the county, especially small children who may be attracted to such vehicles. Unless specifically allowed by this Article, or by some other state law which supersedes this Ordinance, abandoned, nuisance, and junked motor vehicles on both public and private property shall be removed. The County will take an active role in furthering this policy and the policy set forth in G.S. 153A-132, G.S. 153A-132.2, and G.S. 153A-140. In those instances when the owner of the vehicle or the property owner refuses to take corrective action, the County will take an active role in having vehicles which violate this Article removed.

#### **Section 800.02 Administration**

- A. The County Code Enforcement Division of the Planning & Development Department and the Sheriff's Department are primarily responsible for the administration and enforcement of the provisions of this Article. From time to time, the County Manager may designate or authorize other officials to administer and enforce this Article.
- B. The County, on an annual basis, may contract with private tow truck operators or towing and vehicle storage businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked vehicles in compliance with this Article and applicable state laws.

### **Section 801. Abandoned Motor Vehicles**

#### **Section 801.01 Abandoned Motor Vehicles Unlawful**

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

#### **Section 801.02 Removal of Abandoned Motor Vehicles Authorized**

Upon investigation, proper authorizing officials of the County may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

## **Section 802. Nuisance Vehicles**

### **Section 802.01 Nuisance Motor Vehicles Unlawful**

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

### **Section 802.02 Removal of Nuisance Motor Vehicles Authorized**

- A. Upon investigation, proper authorizing officials of the County may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, as defined herein, and order the vehicle removed.
- B. Notice of the determinations made by the official may be combined with any other notices required under this Ordinance, or other County Ordinances, and provided to the registered owner or person entitled to possession of the motor vehicle and/or the owner, lessee, or occupant of the real property in the same manner set forth in Section 804.

## **Section 803. Junked Motor Vehicles**

### **Section 803.01 Junk Motor Vehicles Regulated**

- A. With the permission of the owner, lessee, or occupant of the real property, a single junked motor vehicle may be located, placed, or stored on a property but only upon strict compliance with the following requirements:
  1. The vehicle can not be dismantled or in parts.
  2. The vehicle must be entirely concealed from the public view from a public street and from adjacent premises by an acceptable covering. A canvas or vinyl covering shall be deemed acceptable. Tattered, torn coverings or coverings in a state of disrepair shall not be an acceptable covering.
  3. The vehicle may not be located on the premises for longer than six (6) months, except that upon showing a hardship, the official may allow the vehicle to remain for a period up to an additional six (6) months. Under no circumstances shall the vehicle remain on the premises for a period of time longer than one (1) year.
- B. All other junked vehicles shall be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicles cannot be seen from a public street or from adjacent property. For the purposes of this ordinance, a garage or building structure means either a lawful, non-conforming use, or a garage or building structure erected pursuant to the lawful issuance of a zoning permit and building permit and which has been constructed in accordance with all zoning and building code regulations. A carport shall not be treated as an acceptable garage or enclosure under this Section.

- C. It shall be unlawful for the registered person or person entitled to the possession of a junked motor vehicle to place, store, leave, or allow it to remain on any property in violation of this Ordinance or to allow it to remain on any property after the vehicle has been ordered removed from that property.
- D. It shall be unlawful for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to permit, leave, allow, or suffer it to remain on the property in violation of the Ordinance after the vehicle has been ordered removed.

#### Section 803.02 Removal of Junked Motor Vehicles Authorized

Upon investigation, the official may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed upon the private property owner. Such findings shall be based upon 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.

#### **Section 804. Notice Requirements for the Removal of Vehicles**

##### Section 804.01 Notice of Removal: Prior

Except as provided for in Section 805, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance or junked 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 shall be given by first class mail. A written record of the mailing, including the date mailed, shall be retained. If such name and address cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the county on a specific date no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

This notice shall be the responsibility of the Planning Director. The notice will also state that the property owner is allowed seven (7) days to file an appeal in writing to the Planning Director. At the time that an appeal is filed all enforcement actions will be stayed and the Planning Director will notify the clerk to the Board of Commissioners that an appeal has been filed. The commissioners will hear the appeal at the next available regularly scheduled meeting. The commissioners will then decide if the property in question is in violation of this ordinance and determine if the vehicles should be removed by the county.

If no appeal is filed, then the decision of the Planning Director to order the vehicles removed shall stand.

#### Section 804.02 Notice of Removal: Post

- a. Any abandoned, nuisance, or junked motor vehicle which has been ordered removed, may, as directed by the County, be removed to a storage garage or by the tow truck operator or towing business contracted by the County to perform towing and storage of the vehicles. The authorized County official shall immediately notify the last known registered owner of the vehicle, such notice to include: vehicle description, location of storage, any applicable violation, the procedure to redeem the vehicle, and the procedure to request a probable cause hearing on the removal.
- b. The County shall provide notification by written notice to the last known address of the vehicle owner. If the removed vehicle does not have a valid registration or registration plates, the County shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle.

#### **Section 805. Exceptions to Notice Requirements**

In those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to other maintain and protect the public safety and welfare, the authorized official may order the removal of an abandoned, nuisance, or junked motor vehicle without prior notice. Findings justifying the removal of vehicles without prior notice shall be made in writing.

#### Section 805.01 Circumstances that Threaten Public Health, Safety, and Welfare

- a. For vehicles abandoned on the public streets and highways:
  1. Vehicles obstructing traffic
  2. Vehicles parked in violation of an ordinance prohibiting or restricting parking
  3. Vehicles parked in a no stopping or standing zone
  4. Vehicles parked in loading zones
  5. Vehicles parked in bus zones
  6. Vehicles parked in designated fire lanes; or
  7. Vehicles parked in violation of temporary parking restrictions lawfully imposed under this Code.
- b. For abandoned or nuisance vehicles left on county-owned property other than the streets and highways and on private property:
  1. Vehicles blocking or obstructing ingress and egress to businesses and residences
  2. Vehicles parked in a manner or in a location which creates a traffic hazard,
  3. Vehicles causing damage to public or private property; or
  4. Vehicles likely to cause personal harm or injury; especially to children.

#### **Section 806. Conditions on Removal of Vehicles**

As a general policy, the County will not remove a vehicle from private property if the owner, occupant, or lessee of such property has the means to remove the vehicle under applicable state law procedures. In no case shall a vehicle be removed by the County from private property without a written request from the owner, occupant, or lessee

except in those cases where a vehicle is a nuisance or junked vehicle which has been ordered removed by an authorized official of the County. The County may require any person requesting the removal of an abandoned, nuisance, or junked motor vehicle from a private property to indemnify the County against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

**Section 807. 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 Ordinance unless and until all towing, impoundment fees, and violation fees which are due, or bond in lieu of such fees, have been paid.

**Section 808. Process for the Sale or Final Disposition of Vehicle**

Upon exhaustion of administrative remedies set forth in Article XII, any abandoned, nuisance, or junked vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the County or by the tow truck company having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the County and in accordance with G.S. 44A-1.

**Section 809. Protection against Criminal or Civil Liability**

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

## **Article IX. Abandoned Manufactured Homes**

### **Section 900. Intent**

The intent of this Article is to protect the public health and the environment through the deconstruction of abandoned manufactured homes to reduce blight and attractive nuisances. It is a policy of the County to promote the removal of reusable or recyclable materials to reduce the impact of such solid wastes and production of said materials on the environment.

### **Section 901. Abandoned Manufactured Homes Unlawful**

#### **Section 901.01 Abandoned, Nuisance, and Junked Mobile Homes Unlawful**

It shall be unlawful for the registered owner or person entitled to possession of a manufactured home and for the owner, lessee, or occupant of the real property upon which the manufactured home is located to leave, allow, or suffer the manufactured home to remain on the property after it has been declared an abandoned manufactured home or a public nuisance.

### **Section 902. Notice Requirements for Abandoned Manufactured Homes**

- a. The County shall notify the responsible party and the land owner for each identified abandoned manufactured home consistent with the requirements of G.S. 130A-309.99D in writing and shall be served on the person as set forth therein.
- b. The Board of Commissioners shall hold a hearing to determine and decide whether the manufactured home is abandoned as set forth in Section 1203 herein.

### **Section 903. Removal of Abandoned Manufactured Homes**

- a. If, after notice and hearing, the Board of Commissioners decides that the manufactured home under consideration is abandoned, the authorized County official shall state in writing the Board's finding of fact in support of that determination.
- b. The owner or responsible party shall be given ninety (90) days from receipt of the written notice to dispose of the abandoned manufactured home in a legal manner.
- c. If the owner or responsible party fails to comply with this order, the County shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and arranging to have the home deconstructed and disposed of in a manner consistent with the Burke County Comprehensive Solid Waste Management Plan.

### **Section 904. Protection against Criminal or Civil Liability**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked manufactured home, for disposing of such manufactured home as provided in this Ordinance.

## **Article X. Recycle Centers and Scrap Yards**

### **Section 1000. Intent**

It is the intent of this Article to prevent the criminal activity related to the transportation and sell of recyclable materials obtained in an illegal manner.

### **Section 1001. Application of Ordinance**

Applies to all scrap metal companies, or individuals doing business as a recycling center, in the jurisdiction of Burke County that deal in all metals to include; copper, aluminum, lead, titanium, steel, iron, gold, silver, or all other recyclable metals for the purpose of business as a second hand dealer, or recycling center; where materials are exchanged for monies or other compensation.

### **Section 1002. Requirement to Provide Invoice**

Any business or persons that fall under the above mentioned description found in Section 1001 shall be required to make available a copy of the transaction invoice to any law enforcement agent with jurisdiction in Burke County, and the place of business being established within Burke County.

### **Section 1003. Invoice to Include Specific Information**

All transaction receipts or tickets shall require the following information in order to be in compliance with this ordinance:

- a. Full name of person making transaction (seller or client)
- b. Address of person making transaction (seller or client)
- c. Date of transaction, sale or exchange.
- d. Weight of the metals purchased or sold under this ordinance
- e. The amount paid for transaction
- f. An invoice with company name, address, phone number and invoice number
- g. Description of item, type of metal and grade, numbers or engravings
- h. Drivers license or ID card number of the (seller or client)
- i. Signatures of both seller/client and buyer or clerk employed by said business

### **Section 1004. Voided Invoice**

All transaction receipts invoices shall be in numeric sequence. In the event of a voided invoice, a copy of the voided invoice shall be provided to a law enforcement agent within jurisdiction. That voided invoice shall explain the void and there shall be a copy of this invoice as well as all others kept in the businesses or companies records as required by G.G. 66-11.

### **Section 1005. Provisions for the Transportation of Copper**

- a. All businesses or persons as described in Section 1001 shall comply with N.C.G.S, 66.11.1. It is described in statute that all persons are forbidden to transport 25 pounds of copper without a permit, or letter from the sheriff. The business or persons described in Section 1001 shall be required to request a copy of said permit should the copper transaction meet or exceed 25 pounds,

and this business or person doing business, shall retain a copy for both, in house records and provide a copy to law enforcement within jurisdiction.

- b. No transactions can be done to alter or circumvent this requirement as this will be deceptive practice and subject to violating the ordinance. (Example: Making three different 24 pound tickets to hide the fact that there was actually 72 pounds of copper.)
- c. If the seller does not have said permit then he or she should be referred to the Sheriff of Burke County or obtain a permit before being allowed to sell possessed copper.
- d. If the seller does not have proper permit to transport the material, the business shall refuse to accept possessed copper from the seller. If the business accepts the copper without the transportation permit provided by the seller, then the business is viewed as aiding in potential criminal conduct.

**Section 1006. Violation of Provisions**

Any violation of the provisions of Article X shall be subject to the remedies set forth in Article XIII, as applicable, herein.

## **Article XI. Fats, Oils, and Greases (FOG) Requirements**

### **Section 1100. General**

The purpose of this Article is to aid in the prevention of sanitary sewer blockages and obstructions from the accumulation of fats, oils, and grease in the County sewer systems and municipal systems to which it drains.

### **Section 1101. Grease Interceptors Required**

Food service establishments shall discharge all wastes from sinks, dishwashers, drains, and any other fixtures through which fats, oils, and grease may be discharged into a properly maintained and functioning grease interceptor.

### **Section 1102. Compliance Date**

- a. Operators of existing Food Service Establishments which are not equipped with a grease interceptor which is in compliance with the requirements of this Article shall install a grease interceptor within six (6) months of the effective date of this Ordinance.
- b. New Food Service Establishments shall be equipped with a grease interceptor prior to commencement of discharge to the POTW.
- c. Any requests for extensions of time for installing a grease interceptor must be made in writing to the General Services Director at least thirty (30) days in advance of the compliance date. The written request shall include the reasons for the operator's failure or inability to comply with the applicable compliance date, the amount of additional time needed to complete the remaining work, and the steps to be taken to avoid future delays. The General Services Director shall determine whether to grant an extension and the date for compliance.

### **Section 1103. Discharge Criteria**

The following prohibitions shall apply to food service establishments:

- a. Where fats, oils, and grease are byproducts of food preparation and/or cleanup, reasonable efforts shall be made to separate waste fats, oils, and grease into a separate container for proper disposal. Except as contained in byproducts of food preparation and/or clean up, waste fats, oils, and grease shall not be discharged to any drains or grease interceptors. Such waste shall be placed in a container designed to hold such waste and either used by industry or disposed of at a suitable location.
- b. The influent to interceptors shall not exceed 140 degrees Fahrenheit (140° F). The temperature at the interceptor's flow control port shall be considered equivalent to the temperature of the influent.
- c. Toilets, urinals, and other similar fixtures shall not discharge through a grease interceptor.

- d. Waste shall enter the grease interceptor only through the inlet flow control device, then the inlet pipe.
- e. Where food-waste grinders are installed, the waste from those units shall discharge directly into the building drainage system without passing through a grease interceptor.

#### **Section 1104. Service/Inspection Ports and Monitoring Ports**

- a. Except for under the sink grease interceptors, each interceptor shall be located outside of a building or structure in an area accessible for service, and so installed and connected that it shall be at all times easily accessible for inspection and for cleaning and removal of the intercepted waste. Inlet flow control inspection ports, interceptor inspection ports and effluent monitoring ports shall be in areas where the use of ladders or the removal of bulky equipment or stored materials as required to inspect inlet flow control devices, inspect or service interceptors, or sample interceptor effluent. Inspection ports and monitoring ports shall be located so as to allow inspectors quick and easy access to the inlet inflow control device, each component of the interceptor, and the effluent from the interceptor. An interceptor shall not be installed in any part of a building where food is handled. The location of all interceptors, inspection ports, and monitoring ports must be approved by the General Services Director.
- b. An inspection port shall be provided for the flow control device regulating flow into the interceptor.
- c. A one-piece removable metal plate covering the entire interceptor shall be preferred as an interceptor inspection port although, in the discretion of the General Services Director, standard manhole ports may be installed over each divider in the interceptor, but in either case all parts of the interceptor shall be easily accessible for cleaning and visual inspection.
- d. A monitoring port shall be provided for ease in sampling the effluent from the interceptor and shall be as close as possible to the connection with the County POTW within the bounds of the facility property. The port shall be installed and maintained at the operator's expense. The operator shall properly place, monitor, and maintain the monitoring port so that wastewater samples taken from the monitoring port are representative of wastewater leaving the interceptor. It shall be unlawful for an operator to divert sewage around a monitoring point into the POTW.

#### **Section 1105 Under the Sink Grease Interceptors**

- a. If an outside grease interceptor is not practical, an under sink grease interceptor may be installed subject to the approval of the General Services Director. In addition to the general requirements for grease interceptors as provided for in this Article, under the sink interceptors shall be subject to the following additional requirements.
- b. Under the sink interceptor requirements:

1. Under the sink interceptors shall be located within twenty-five (25) feet of the wastewater source as is reasonably possible.
  2. The lid shall be secured to the body with a single bolt. No wing nuts or screws shall be permitted.
  3. Baffle systems and all other internal pieces shall be removable to facilitate cleaning and replacement, but must be in place at all other times.
  4. The lid shall cover the deep seal interceptor. The deep seal interceptor shall be constructed so as to eliminate the possibility of sewer gas entering the kitchen area.
  5. The interceptors shall be constructed with bottom supports so that the body of the interceptor does not corrode by coming into contact with the floor.
  6. The interceptor shall be coated with a powder coated electrostatically applied cathodic epoxy coating so as to be resistant to corrosion.
  7. The interceptor shall be equipped with a flow control fitting.
- c. Installation requirements
1. The interceptor may be set on the floor, partially recessed in the floor with top flush with the floor, or fully recessed below the floor to suit piping and structural conditions, as acceptable to the General Services Director.
  2. There shall be sufficient clearance for the removal of the interceptor cover for cleaning.
  3. Unless specifically approved by the General Services Director, runs of pipe exceeding 25 feet between fixture and interceptor shall not be permitted.
  4. The interceptor shall not be installed in a waste line from a garbage grinder. Any garbage grinder waste shall bypass the interceptor.
  5. A suitable flow control fitting shall be installed ahead of the interceptor in the waste line beyond the fixture and as close as possible to the underside of the lowest fixture. When wastes of two or more sinks or fixtures are combined to be used by one interceptor, a single flow control fitting shall be used.
  6. Air intake for flow control either shall terminate under the sink drain board as high as possible to prevent overflow, or shall terminate in a return bend at the same height and on the outside of the building.
  7. To retain water and prevent siphoning, all interceptors must be vented and sized in accordance with the applicable plumbing codes.
  8. With approval of the General Services Director, one interceptor may be used to serve multiple fixtures if the fixtures are located close together and the interceptor is sized to meet the combined flow of all the fixtures.

### **Section 1106. Interceptor Maintenance**

- a. Required Cleaning Frequency
1. Unless otherwise specified by the General Services Director, each interceptor in active use shall be cleaned at least once every six (6) months or more frequently as needed to prevent the discharge of fats, oils, and grease in excess of 300 mg/l into the POTW. The General Services Director may specify cleaning more frequently when pumping every six (6) months is shown to be inadequate.

Additional pumping may be required during time periods when increased loading is anticipated.

2. If the inspector determines that the interceptor is full, immediate steps shall be taken by the operator to pump out and clean the interceptor as soon as is practicable. The General Services Director shall make an evaluation of the advisability of allowing discharge to continue, and may at his discretion order an immediate cessation of all discharge from the Food Service Establishment.

b. Notice of Cleaning

Every Operator shall, within ten (10) days of each cleaning of an interceptor located on the operator's premises, notify the General Services Director in writing that the interceptor has been cleaned. The notice of cleaning shall include the date of the cleaning, the identity of the hauler, the site to which the contents of the interceptor were hauled and such other information as the General Services Director may reasonably require. The operator shall submit with each notice of cleaning an invoice, manifest or other similar document from the hauler evidencing the cleaning of the interceptor. The operator shall also submit such other documentation relating to the cleaning of the interceptor as the General services Director may reasonably require.

c. Cleaning Procedures

1. The operator or an employee of the operator shall supervise the interceptor cleaning. Such person shall be present during and observe the entire cleaning operation.
2. An operator shall cause the licensed waste hauler, transporter, or any other person cleaning or servicing an interceptor to completely evacuate all contents, including floating materials, wastewater, and bottom sludges and solids during servicing. Skimming the surface layer of waste material, partial cleaning of the interceptor or using any method that does not remove the entire contents of the collection device is prohibited. The suction of the floating materials shall be done prior to removal of other contents. After complete evacuation, the walls, top, and bottom of the interceptor shall be thoroughly scraped and the residue removed.
3. It shall be unlawful for an operator to allow the decanting or discharging of removed waste back into the interceptor from which the waste was removed or into any other interceptor.
4. When cleaned, the interceptor shall be fully evacuated unless the interceptor volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the interceptor is fully evacuated within a twenty four (24) hour period following the transporter's inability to fully evacuate the interceptor.

d. Disposal of Interceptor Pumpage

All waste removed from each interceptor shall be disposed of at a facility permitted and authorized to receive such waste in accordance with all applicable Federal, State, and local regulations. Fats, oils, and grease removed from an interceptor shall not be recycled so as to become a food product or part of a food product for animal or human consumption. The operator shall be responsible for assuring that the waste is disposed of in accordance with all Federal, State, and local disposal regulations.

e. Vacuum Truck Cleaning Service

It shall be unlawful for an operator to allow grease interceptor waste to be removed from its premises by a transporter which does not have all applicable Federal, State, and local permits or registrations.

**Section 1107. Grease Interceptor Treatment Products**

- a. Use of grease interceptor treatment products, including bacteria designed to digest fats, oils, and grease is specifically prohibited without prior written consent of the General Services Director.
- b. The General Services Director may revoke permission to use such products where the effluent from the interceptor or basin in which the product is used fails to meet the requirements of this ordinance.

**Section 1108. Monitoring, Inspection, and Entry**

It shall be unlawful for the operator of a Food Service Establishment to refuse to allow inspectors to enter its premises during reasonable hours to determine whether the operator is complying with all of the requirements of this ordinance. The operator shall allow the inspectors access to all parts of the premises for purposes of inspection, sampling, records examination and copying, and the performance of additional duties reasonably required to enforce this ordinance.

**Section 1109. Prohibited Discharges**

No person shall discharge fats, oils, or grease into the POTW in excess of 300 mg/l.

**Section 1110. Enforcement**

- a. A violation of any provision of this ordinance shall subject the offender to civil penalties as set forth in the attached schedule of penalties. Penalties shall be assessed on a calendar year basis. If the offender fails to pay this penalty within fifteen calendar days after being cited for a violation, the penalty may be recovered by the county in a civil action in the nature of a debt.
- b. This ordinance may also be enforced by any appropriate equitable action, including injunctions or orders of abatements.
- c. The county may enforce this ordinance by any one of or any combination of the foregoing remedies.

- d. The remedies provided above are not exclusive and do not prohibit the county from using any other remedy provided by law.
- e. If any part or parts of this ordinance shall be held to be invalid, such invalidity shall not affect the remaining parts of this ordinance.

**Section 1111. Schedule of Penalties**

a. Minor Violations

2 <sup>nd</sup> Offense	
Failure to Submit Records	\$50.00
Inspection hindrance (equipment related)	\$50.00
Failure to pump FOG and submit records	\$100.00
3 <sup>rd</sup> Offense	
Failure to Submit Records	\$100.00
Inspection hindrance (equipment related)	\$100.00
Failure to pump FOG and submit records	\$300.00
4 <sup>th</sup> Offense	
Failure to Submit Records	\$150.00
Inspection hindrance (equipment related)	\$150.00
Failure to pump FOG and submit records	\$300.00
5 <sup>th</sup> Offense and up	
Failure to Submit Records	\$300.00
Inspection hindrance (equipment related)	\$300.00
Failure to pump FOG and submit records	\$1,000.00

b. Intermediate Violations

Failure to maintain necessary equipment (Sanitary T's, FOG interceptor not water tight, baffles, etc.)

1 <sup>st</sup> Offense	\$150.00
2 <sup>nd</sup> Offense	\$300.00
3 <sup>rd</sup> Offense	\$500.00
4 <sup>th</sup> Offense and Up	\$1,000.00

c. Major Violations (Sewage Blockage)

Failure to obtain permit	Water Cutoff
Source of sewer blockage (minimum)	\$500.00
Source of sanitary sewer overflow (minimum)	\$1,000.00
Falsification of maintenance records.	\$1,000.00
Cost of repairs	No limit

## **Article XII. Administrative Provisions and Remedies**

### **Section 1200. General**

The rights to appeal and hearing for abandoned manufactured homes and abandoned, junked, or nuisance vehicles are set forth in the General Statutes of North Carolina and shall be adhered to herein.

### **Section 1201. Hearing before Sale or Final Disposition of Vehicles**

After the removal of an abandoned, nuisance, or junked vehicle, the owner is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing in the county Magistrate's Court, the hearing to be held within 72 hours of receipt of the request and the hearing to be conducted in accordance with the provisions of G.S. 20-219.9-14.

### **Section 1202. Redemption of Vehicle During Proceedings**

At any stage in the proceedings, including before the probable cause hearing, the owner upon showing proof of ownership may obtain possession of the removed vehicle by paying the towing fee and any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or County having custody of the removed vehicle. Upon retaining possession of a vehicle, the owner entitled to the possession of the vehicle shall not allow or engage in further violations of this Ordinance.

### **Section 1203. Hearing before Disposal of Abandoned Manufactured Homes**

- a. The owner of an abandoned manufactured home is entitled to a hearing on the intent to declare the manufactured home "abandoned" and dispose of said manufactured home.
- b. The owner of the manufactured home shall be provided written notice served as provided by Rule 4(j) of the Rules of Civil Procedure, G.S. 1A-1. The notice shall disclose the basis for the action and advise that a hearing will be held before the Burke County Board of Commissioners.
- c. The hearing shall not be less than ten (10) days nor more than thirty (30) days after serving the notice.
- d. The decision to use the process set forth herein for Abandoned Manufactured Homes as set forth in G.S. 130A-309.99 does not preclude or prevent the County from seeking condemnation of the structure as set forth in G.S.153A-366-371.

## **Article XIII. Enforcement and Legal Provisions**

### **Section 1300. Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint, signed, dated, and addressed for public record before such alleged violation is investigated. Such complaint stating fully the causes and basis thereof shall be filed with the Code Enforcement Supervisor. The Code Enforcement Supervisor shall record such complaint, immediately investigate, and take action thereon as provided by this Ordinance. It is the intent of this Section to allow the County to use the means necessary to remedy each violation that attempts to seek voluntary compliance initially followed by any other civil or criminal penalty allowed by law as deemed necessary to resolve the violation. Specifically, the provisions herein do not limit the County from using any method of enforcement whose authority is provided the County by the General Statutes of North Carolina.

### **Section 1301. Procedures Upon Discovery of a Violation**

Upon the determination that any provision of this ordinance is being violated, the Code Enforcement Supervisor shall send, within five (5) working days, a written notice by registered mail or personal delivery to the person(s) responsible for such violation, indicating the nature of the violation, civil penalty as applicable, and ordering the action necessary to correct it. Additional written notices may be sent at the Code Enforcement Supervisor's discretion.

### **Section 1302. Remedy of Violation Prior to Civil Penalty**

If within seven (7) days of written notice of violation of any provision of Article V (Solid Waste), Article VIII (Abandoned Motor Vehicles), or Article IX (Abandoned Manufactured Homes), the property owner remedies the violation or submits an approved remediation plan to the Code Enforcement Supervisor, the Civil Penalty in Section 1203(a) shall be waived. Failure to comply with an approved remediation plan shall be a violation of this ordinance and subject to the penalties set forth herein.

### **Section 1303. Civil Penalties**

- a. Violation of any provision of this ordinance shall subject the offender to a civil penalty in the following amounts, as applicable:

First Offense:	\$50.00
Second Offense:	\$100.00
Third Offense:	\$250.00
Littering:	N/A (Criminal Action)
- b. Each day that a violation continues to exist beyond the period granted to remedy the violation shall be considered a separate offense.
- c. Any expenses incurred by the County to remedy the violation, including but not limited to, the removal of solid waste, vehicles, and abandoned manufactured homes, disposal costs, and legal expenses shall be charged to the responsible party

in the nature of a debt. A lien in the amount of the expenses may be placed by the County on the property in violation.

**Section 1304. Criminal Action**

Any person who violates the provisions of this ordinance shall upon conviction be guilty of a misdemeanor as provided in G.S. 14-4, as amended.