

# ORDINANCE GOVERNING THE MANAGEMENT OF SOLID WASTE IN STANLY COUNTY, NORTH CAROLINA

The Board of County Commissioners, having considered the necessity of the adoption of an ordinance regulating the storage, collection, transportation, disposal, and management of solid waste in Stanly County, North Carolina, and having found that such an ordinance is in the best interest of the general welfare, health and safety of the people of Stanly County, does hereby enact the following ordinance.

## **Section I. Purpose and Statutory Authority**

The purpose of this ordinance is to regulate the storage, collection, and disposal of solid waste in the unincorporated areas of Stanly County. This ordinance is adopted pursuant to the authority contained in G.S. 153A-121 to 123, -132.1, -136, -274 through -278, and -291 through -293, and 130A-309.09, -309.09A, -309.09B, and -309.09D. Unless otherwise indicated, the ordinance applies to both publicly owned and privately owned municipal solid waste management facilities located in Stanly County.

## **Section II. Definitions**

The following definitions apply in the interpretation and enforcement of this ordinance:

1. Board or Board of Commissioners: The Board of Commissioners of Stanly County, North Carolina.
2. Bulky Waste: Large items of solid waste such as household appliances, furniture, automobiles, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.
3. Collection: The act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.
4. Commercial Solid Waste: All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste.

5. Compost: Dark, friable, partially decomposed form of organic matter similar in nature to the organic matter in the soil. Compost is suitable for use as a soil conditioner with varying nutrient values.
6. Composting: Process in which aerobic microorganisms decompose “active” organic materials into a more stable form.
7. Construction and Demolition Waste: Solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings, other structures, but does not include inert debris, land-clearing debris, yard debris, used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material.
8. Convenience Centers: Facilities owned, leased, rented or otherwise operated by Stanly County at which refuse, garbage, other solid waste or recyclables are collected, transported or disposed of. These centers are fenced and are attended by County employees under set operational schedules for the disposal of solid waste or acceptable recyclables from authorized households within Stanly County.
9. Department: The Department of Environment, Health and Natural Resources.
10. Disposal: The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
11. Garbage: All putrescible waste, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
12. Hazardous Wastes: Solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
13. Incineration: The process of burning solid, semi-solid or gaseous combustible wastes to an inoffensive gas and residue containing little or no combustible materials.
14. Industrial Solid Waste: Solid waste generated by industrial processes or manufacturing that is not hazardous waste regulated under Subtitle C of RCRA.

15. Inert Debris: Solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal such as brick, concrete, rock and clean soil.
16. Institutional Solid Waste: Solid waste generated by educational, health care, correctional, and other institutional facilities.
17. Land-clearing Debris: Solid Waste that is generated solely from land-clearing activities such as stumps, trees, etc.
18. Landfill: A disposal facility or part of a disposal facility where waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.
19. Medical Wastes: Any solid waste that is 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 C.F.R § 261.4 (b) (1), or those substances excluded from the definition of “solid waste” in this ordinance.
20. Municipal Solid Waste: Solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or solid waste from mining or agricultural operations.
21. Municipal Solid Waste Management Facility: Any publicly or privately-owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal.
22. Open Burning: The combustion of solid waste without: (a) control of combustion air to maintain adequate temperature for efficient combustion; (b) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and (c) control of the emission of the combustion products.
23. Open Dump: A solid waste disposal site that does not have a permit and/or does not comply with the rules set forth in this ordinance.
24. Pathological Waste: Human tissues, organs, and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

25. Person: An individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.
26. Putrescible: 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 animal carcasses.
27. Processing: Any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.
28. Radioactive Waste: Waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.
29. Recycling: The process by which solid waste or recovered materials are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
30. Refuse: Solid waste, other than garbage or ashes, from residences, commercial establishments, and institutions.
31. Regulated Medical Waste: Blood and body fluids in individual containers in volumes greater than 20 ml., microbiological waste, and pathological waste that has not been treated pursuant to rules promulgated by the Department.
32. Resource Recovery: The process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing such solid waste for recycling.
33. Sanitary Landfill: A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under N.C. Gen. Stat. 130A, Article 9.
34. Scrap Tire: A tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
35. Septage: Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a septic tank system.
36. Sharps: Needles, syringes, and scalpel blades.
37. Sludge: Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water

supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

38. Solid Waste: Any hazardous or non-hazardous garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:

- (1) Fecal waste from fowls and animals other than humans;
- (2) Solid or dissolved material in
  - a. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment, and disposal systems that are designed to discharge effluents to the surface waters;
  - b. Irrigation return flows; and
  - c. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for purposes of this definition;
- (3) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition;
- (4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011);
- (5) Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission. However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition.

39. Solid Waste Collector: Any person who collects and transports solid waste.
40. Solid Waste Disposal Site: Any place at which solid wastes are disposed of by incineration, sanitary landfill or other approved method.
41. Solid Waste Fee: An annual fee assessed on each habitable unincorporated residential household not served individually by a private waste hauler for collection and disposal of solid wastes. Other releases of the fee, if any, are made by the solid waste supervisor based on criteria approved by the Board of Commissioners. The fee is determined by the Board of Commissioners on an annual basis based on the cost of operation of the staffed convenience centers. The fee is billed with the ad valorem taxes and is payable at the same time and in the same manner as property taxes. Payment of the fee is required for use of the centers for solid waste disposal.
42. Solid Waste Director: The duly designated director of county solid waste management.
43. Solid Waste Enforcement Officer: The duly designated enforcement officer of the county solid waste ordinance so authorized to enforce the provision of this ordinance and other such solid waste ordinances, regulations and laws as such person may be granted authority to enforce; the term *Solid Waste Enforcement Officer* shall include any duly trained and sworn Deputy Sheriff of the Stanly County Sheriff's Office working under the authority of the Stanly County Sheriff and any other person authorized by the Stanly County Board of Commissioners or the Stanly County Manager to enforce the provision of this ordinance.
44. Solid Waste Generation: The act or process of producing solid waste.
45. Solid Waste Management: Purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
46. Solid Waste Receptacle: Container used for the temporary storage of solid waste while awaiting collection.
47. Source Separation: Setting aside recyclable materials at their point of generation by the generator.
48. Special Wastes: Solid wastes that can require special handling and management including, but not limited to, white goods, whole tires, used oil, lead-acid batteries, and medical wastes.
49. Storage: The containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.

50. Tire: A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).
51. Transfer Station: A site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.
52. Unit of Local Government: A county, city, town or incorporated village.
53. Used Oil: Any oil that has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose.
54. White Goods: Inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.
55. Yard Waste: Solid waste consisting solely of vegetative matter resulting from landscaping maintenance, such as leaves, grass, limbs, trimmings, etc.

56. Abandoned Manufactured Home

A manufactured home that is not being occupied as a dwelling and does not provide complete, independent living facilities for one (1) family, including permanent provisions for living, sleeping, eating cooking, and sanitation; or

A manufactured home that has not received the proper permits to be located within the County's jurisdiction; or

A manufactured or mobile home that is a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous condition constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities; or

Any structure which is a manufactured or mobile home that was designated and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for a two (2) year period and has been deemed a nuisance due to safety or general welfare.

57. Demolition Contractor

A company or individual that performs the service of deconstruction, removal, and/or recycling of a structure or scrap debris.

**Section III: General Conditions**

- (a) All solid waste management in Stanly County shall be in accordance and in compliance with “Solid Waste Management Rules” as set forth by the North Carolina Department of Environment, Health and Natural Resources, Solid Waste Management Division, Solid Waste Section.
- (b) All solid wastes shall be stored, collected, transported, treated and processed, reclaimed, recycled and disposed of in a manner consistent with the requirements and in the interest of this ordinance.
- (c) This ordinance shall not be construed to obstruct recycling, composting of organic matter from households or other resource recovery processes.
- (d) The disposal of solid waste generated outside the boundaries of Stanly County at Stanly County Convenience Centers is prohibited.
- (e) All solid waste generated in Stanly County which is to be collected at the County Convenience Centers, by municipal or private contract collectors and transported over the public roads, highways and streets of Stanly County to ultimate disposal shall conform to these regulations.

**Section IV: Storage and Disposal**

- (a) No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid wastes upon his property that is not stored or disposed of in a manner prescribed by this ordinance.
- (b) The owner, occupant, tenant, or lessee of any property shall be responsible for the storage, collection and disposal of solid waste and shall remove or cause to be removed all solid wastes from his property at least once a week. The owner, occupant, tenant or lessee of property shall ensure that his waste is disposed of at a site or facility that is permitted to receive the waste.
- (c) Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, water tight, and easily cleaned, with a close-fitting, fly-tight cover in place. Each container shall be kept clean so that no odor or other nuisance condition exists.
- (d) Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard.
- (e) No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door.

- (f) Solid waste shall be disposed of only in one of the following ways:
  - 1. In a landfill permitted by the Department.
  - 2. In an incinerator that has all required local, state, and federal operational and air pollution control permits.
  - 3. By any other method, including reclamation and recycling processes, that has been approved by the Department.
- (g) In addition to the methods listed in Section IV. (f), above, authorized persons may dispose of solid waste at convenience centers operated by the County in accordance with rules established by the County.
- (h) No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.
- (i) Regulated medical waste, hazardous, and radioactive wastes shall be disposed of according to written procedures approved by the Department
- (j) Vehicles and containers 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, and when necessary, shall be secured and/or covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the driver, and returned to the vehicle or container, and the area properly cleaned.
- (k) All sharps, whether broken or unbroken, shall be placed in a sealed, puncture-proof container prior to disposal. Container shall be properly identified as to the contents thereof.
- (l) Open burning of solid waste is prohibited.
- (m) Open dumping of solid waste is prohibited.
- (n) If any object of refuse is discovered upon any lands or waters, in any of the areas of Stanly County covered by this ordinance, other than an approved sanitary landfill or other proper receptacle, and said refuse bears the name, address or other means of identification of a person or persons, the person(s) so identified shall be presumed to have disposed of said refuse in violation of this Ordinance.

**Section V. Solid Waste Convenience Centers**

- (a) Solid waste receptacles are maintained at convenience centers located throughout the County for use by authorized County residents, and authorized nonresident Stanly County property owners. Authorized users are those households which are assessed the annual solid waste fee and who are not delinquent in payment. Solid wastes may be disposed at convenience centers only in accordance with the provisions of this ordinance. Entry into convenience centers or disposal of solid wastes at convenience centers, except during authorized business hours, is prohibited.
- (b) Solid wastes shall be deposited inside the solid waste receptacle. No solid waste may be left at the convenience center outside the receptacle except at the direction of the attendant on duty.
- (c) Acceptable recyclable materials shall be placed in the designated containers labeled for that specific item. No person shall deposit in such containers any garbage, waste or other matter except that which is specifically designated and authorized by label.
- (d) Commercial, industrial, and institutional solid wastes may not be disposed at County Convenience Centers. County Convenience Centers shall be used only by authorized private citizens for disposal of residential solid wastes. County Convenience Centers shall not be used by persons engaged in the business of collecting solid waste for disposal.
- (e) No person, unless authorized by Stanly County, may remove any item from a solid waste container, climb on or into a container, or damage any container located at County Convenience Centers.
- (f) Materials Not Acceptable

No persons shall place in a solid waste container:

1. Aluminum Cans
2. Asbestos
3. Bulky Waste
4. Burning or smoldering materials, or any other materials that would create a fire hazard.
5. Commercial, Industrial or Institutional Waste
6. Construction & Demolition Debris
7. Dead animals or parts thereof
8. Hazardous Waste
9. Lead-Acid Batteries
10. Liquid Waste
11. Paint or paint products
12. Radioactive Waste
13. Regulated Medical Waste

14. Sharps not properly contained
15. Sludges
16. Special Waste
17. Tires
18. White Goods
19. Yard Waste
20. Other materials as designated by Stanly County.

**Section VI. Licensing of Solid Waste Collectors**

- A. No person may engage in business as a solid waste collector in the unincorporated areas of Stanly County except under a license issued by the County pursuant to this ordinance.
- B. Any applicant granted a license pursuant to this ordinance shall maintain an office with sufficient staff to enable licensee to provide an adequate level of customer service including the dispatching of service vehicles and timely response to complaints.
- C. Any applicant granted a license pursuant to this ordinance that hauls waste generated in Stanly County in excess of 10,000 tons per year shall, at its expense, provide Stanly County a performance bond in the amount of \$50,000 in favor of County guaranteeing its conformance with this ordinance, which bond shall be subject to the approval of County as to form and security.
- D. A license fee of \$250.00 must accompany all applications for a solid waste collector's license.
- E. Applications for licenses to engage in the business of solid waste collector shall be filed with the Solid Waste Director on forms provided by the Solid Waste Director. The applicant shall furnish the following information:
  - (1) Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
  - (2) A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;
  - (3) Minimum number of employees the applicant will use in the business;
  - (4) Experience of the applicant in solid waste collection;
  - (5) Balance sheet or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the business;

- (6) Planned routes and areas of the county the applicant shall serve;
  - (7) Schedule of fees the applicant shall charge;
  - (8) List which provides name, mailing and physical address and type of service provided for existing residential customers, if any;
  - (9) Evidence of liability insurance coverage;
  - (10) Name and location of the facility where collected waste is to be disposed.
- F. Before issuing a license pursuant to this section, the Solid Waste Director shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.
- G. (1) The Solid Waste Director may issue the applicant a license only when he/she finds that the applicant's facilities and equipment are in good working order and that vehicles, equipment and employees are in sufficient number to allow applicant to provide adequate service to his customer base. Proposed operating methods must be found in compliance with this ordinance and applicable rules set by the Department. It must be found that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this ordinance.
- (2) If the Solid Waste Director denies an applicant a license, the applicant may request a hearing before the County Manager. The County Manager shall keep summary minutes of the hearing and at least one week after the hearing shall give the applicant written notice of his decision either granting the license or affirming his denial of the license. The applicant may appeal the County Manager's decision to the Board of County Commissioners by giving written notice of appeal to the County Manager within two days of receipt of the County Manager's decision following the hearing. After a hearing on the appeal, the Board shall either affirm the denial or direct the Solid Waste Supervisor to issue the license.
- (3) A solid waste collector's license shall be valid for a period of one year from the date of issuance. The license shall automatically renew for successive one-year periods upon receipt by the solid Waste Director for a letter of intent to renew from the license holder accompanied by an updated Certificate of Insurance. The solid Waste Director may, at any time, require documentation from a

solid waste collector that the information given in the original application remains valid.

(4) A solid waste collector's license may be revoked by the Solid Waste Director for violations of this ordinance. The solid waste collector may request a hearing before the County Manager and appeal the decision. The procedure for this appeal and subsequent decisions by the manager shall be the same as for the denial of an original application for a license. See Section VI G. (2).

H. A licensee providing residential service shall submit a quarterly report to the Solid Waste Director containing the following information:

- (1) Number of customers added or deleted with a list that includes name, mailing and physical address and type of service provided;
- (2) Changes in routes;
- (3) New and replacement equipment;
- (4) Any other information requested by the Solid Waste Director and pertinent to the solid waste collection business.

I. (1) Vehicles and containers used for the collection and transportation of solid waste shall be covered, leak proof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair.

(2) Vehicles and containers 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, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.

J. No license issued pursuant to this chapter shall be assignable.

## **Section VII. Administration and Enforcement.**

The Stanly County Board of Commissioners authorizes the administration and enforcement of this ordinance. The administration and enforcement of this ordinance shall be vested with the County Manager, the Solid Waste Director, and any duly authorized Solid Waste Enforcement Officer and shall be administered in cooperation with the Environmental Health Division of the Stanly County Department of Public Health and the Stanly County Sheriff's Department.

**Section VIII. Violations**

The following solid waste management and disposal practices shall be unlawful and considered violations of this ordinance:

- (a) Maintaining, allowing, causing or permitting the accumulation of excessive, unsightly or improperly managed solid waste upon premises owned, occupied or controlled by the violator, in any manner placing or allowing solid waste to remain upon such premises so as to constitute a nuisance, or causing or creating the likelihood of injury to the health, welfare or safety of another person or the likelihood of injury to adjoining property;
- (b) Burning solid waste except as permitted by existing fire codes and regulations.
- (c) Intentionally or recklessly throwing, scattering, spilling, placing, causing or allowing to be blown, scattered, spilled, thrown or placed, or otherwise disposing of any litter upon any public property or private property not owned by said violator within Stanly County or into the waters of Stanly County including, but not limited to, upon any public highway, public park, lake, river, stream, campground, forest land, recreational area, mobile home park, highway, road, street or alley; the occurrence of any of the foregoing acts resulting from transporting solid waste in a vehicle shall constitute a violation.
- (d) Intentionally and willfully dumping or depositing any solid waste material on the property owned by the violator or the property of another with or without the consent of the property owner which is inconsistent with proper and lawful solid waste management and disposal practices.
- (e) Burying in the earth or submersing in water any solid waste material that is not permitted by proper and legal solid waste management and disposal regulations and practices.

**Section IX. Permissible Methods of Disposal.**

The following solid waste management and disposal practices shall be considered permissible and lawful with respect to this ordinance:

- (a) Disposal of solid waste in a sanitary landfill or other disposal facility duly authorized and permitted by the North Carolina Department of Environment and Natural Resources;
- (b) Disposal of solid waste in an approved incinerator or other heat treating device duly authorized and permitted by the North Carolina Department of Environment and Natural Resources;
- (c) Recycling of solid waste utilizing approved lawful practices and available resources and outlets for recycled materials.

## **Section X. Abandoned Manufactured Home Planning Initiative**

### **PURPOSE:**

To clarify responsibilities and procedures of the Stanly County Planning Department concerning abandoned/significantly damaged manufactured homes in Stanly County. This Standard Procedure is designed to fulfill the requirements of Article 9 of Chapter 130 A Part 2F. (Session Law 2008-136/House Bill 1134) § **130A-309.99- § 130A-309.99H.**

The intent of this ordinance section is to improve the condition of properties within Stanly County and promote new development. Other interests may include the protection of property values, promotion of tourism, indirect protection of health and safety, community preservation, and/or stability of area residents.

This is a semi-voluntary program that is being offered to Stanly County residents or property owners with qualifying abandoned manufactured homes. It is **not** the intent of this ordinance to remove non-qualifying units. The County will fund the various components of this program as possible funds exist, with the exception of landfill fees.

The County may at any time conduct this program from a non-voluntary standpoint.

While the County Manager is identified as being the administrative person performing the various duties, he/she may also designate other individuals to act on behalf of the County as designee.

### **PROCEDURE:**

1. Determination of Violation: Determine if the manufactured home in question is located within the county's jurisdiction or of a Municipality under the same agreement. If so, proceed in determining if the unit meets the criteria of an abandoned manufactured home as defined by Section II of this Ordinance.

Qualifications for abandoned manufactured homes include the following:

- 1) A manufactured home that is vacant or in need of extensive repair, **and**
- 2) Be an unreasonable danger to public health, safety, welfare, or the environment.

The contents of the ordinance and standard procedure shall be carried out by the County Manager or designee.

### **Definitions**

Vacant – Not currently being lived in or have been lived in for the past 120 days.

In Need of Extensive Repair - Repair is defined as needed to bring the unit into compliance with the current building/electrical/mechanical/plumbing codes for

manufactured homes. Extensive repair refers to repairs that exceed 50% of the structures value according to the County Tax Collector.

When considering whether or not the unit exhibits an unreasonable danger to public health, safety, welfare, or the environment, many aspects must be evaluated to make this determination. These aspects may include but are not limited to: age of the unit, habitation, exterior condition, interior condition, animal infestation, routine maintenance, existing rubbish, significant rusting of material, sharp protruding metal, building code violations, mold, safety, indoor plumbing, in-tact windows, roof condition, and safe entry into and out of the unit.

2. Upon evaluating the property for a qualifying unit, a Notice of Violation will be issued to the property owner and allowed 7 days for delivery via certified mail with return receipt. A formal written response must be presented by the property owner to the County within 30 days of the owner receiving the Notice of Violation. With the confirmation of a qualifying unit, the County Manager/designee will obtain written permission from the property owner and/or unit owner to enter onto the property and carry out the means necessary to deconstruct the abandoned manufactured home. This unit must now be removed from the property within 90 days of confirming the qualifying unit and presenting the Notice of Violation. The property owner must be allowed an opportunity to have a hearing before a designated public officer. While County assistance is available on a limited basis, property owners are not required to use county funding to assist in the removal of qualifying units.
3. If the owner chooses to appeal the public officers' decision at the hearing, he/she must first appeal to the County Planning Director. Appeal of the Planning Directors' decision may be made to Zoning Board of Adjustment. The Zoning Board of Adjustments' decision may be appealed thru the judicial system, but the judicial appeal only determines if proper procedure was followed. The Zoning Board of Adjustments' decision cannot be overturned by the court. The courts can only require the Zoning Board of Adjustment to re-hear the case based on proper procedure.
4. If property owners do not comply with removing qualifying units within the 90 days specified from confirming the qualifying unit and presenting the Notice of Violation, the County shall issue a Notice of Citation in the amount of \$100 per day and \$100 per day thereafter until the deconstruction process begins at the expense of the owner or until permission is given to the County to deconstruct the unit. Upon citations reaching an amount equivalent to the structural value of the unit or the estimated cost of removal, the County shall cease the issuance of citations and pursue an injunction thru the County judicial system. The County shall request a full reimbursement of expenses as it relates to administration and deconstruction costs incurred by this unit.
5. With written permission and a hold harmless agreement in hand, the County will publicly advertise deconstruction services to local contractors within the County. The County may advertise for more than one unit to be deconstructed at once to achieve better deconstruction rates per unit.

6. With liability insurance, qualifications, workers compensation, etc. provided by the contractors, the County Manager/designee will review the applicants and conduct a bid hearing to clarify the expectation of work to be performed as part of the deconstruction process. The lowest bid does not guarantee in any way that the contract will be awarded to any specific individual or corporation.
7. Upon awarding the deconstruction contract, the County Manager/designee and contractor will meet on the subject property to review how the work shall be conducted and how the final product should appear. The contractor will be made aware of conditions such as dates to work (M-F), working times (7am-6pm), "Trucks Entering Road" signs, construction entrance or tire wash station may be needed depending on seasonal weather conditions, etc.
8. Before deconstruction, the unit shall be evaluated for the presence of asbestos. If asbestos is present, a professional asbestos removal company shall provide the required services.
9. The contractor shall recycle any form of mercury switches from thermostats.
10. All other components that can be recycled shall be sorted accordingly and then transported to a designated landfill for recycling. This shall include frame, axle, wall studs, etc. White goods such as stove, refrigerator, and/or dishwasher shall be presented to the landfill as a white good.
11. Prior to the actual deconstruction, the County Manager/designee and contractor will physically walk the property and perform other measures as necessary to ensure that there are no persons inside the structure or close enough to be injured as a result of the deconstruction.
12. From when deconstruction begins, the contractor shall complete all work on the site within 5 business days. The property will be left graded and free of junk and unwanted debris.
13. The deconstruction contractor shall provide all landfill receipts to the County Manager/designee as it must be presented to NCDENR for program reimbursements.

## **Section XI. Enforcement Measures and Remedies.**

Stanly County may exercise remedies for violation of any provision of this ordinance as allowed and authorized by the North Carolina General Statutes § 153A-123 as follows:

1. **Civil Penalty:** Any person who is found in violation of this ordinance and has been given thirty (30) days notice by citation issued by the County of Stanly shall be subject to a civil penalty not to exceed Fifty and No/100 Dollars (\$50.00) and each day's continuing violation shall be treated as a separate and distinct offense.

2. **Equitable Remedy.** The County may enforce a violation of this ordinance by an appropriate equitable remedy issuing from a court of competent jurisdiction to issue an order that may be appropriate.

3. **Injunction and abatement.** In addition to the above remedies the County may enforce a violation of this ordinance by application to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. The order of abatement may be entered by the Court as a part of the judgment in the cause in accordance with the provisions of North Carolina General Statute Sec. 153A-123 (e).

A citation may be issued to any person if there is probable cause to believe that such person has violated any provision of this ordinance. Citations so issued may be served upon the violator in person by the Solid Waste Enforcement Director/Officer or mailed to the person by certified mail if the person cannot be readily found. Any citation so served or mailed shall direct the violator to make payment of the fine on or before a specified day and hour to the Stanly County Tax Collector and to present evidence of the remedy of any violation of this ordinance to the Solid Waste Enforcement Director/Officer within a period of not less than seventy-two (72) hours after service or delivery to the violator. If served by certified mail, the violator shall have six (6) days after the return receipt date to respond to the citation.

If the violator does not respond to the citation, the Solid Waste Enforcement Director shall forthwith have a complaint entered against such person.

A warning may be issued by the Solid Waste Enforcement Director/Officer without fine when the officer is of the opinion that a violation of this ordinance may be remedied without the necessity of enforcement; however, a warning citation may not be issued in the case where public health and/or safety are endangered.

A citation may be issued for multiple violations and the violator assessed the sum of the penalties for each offense. All enforcement actions as by law permitted shall be used to collect fees/fines.

All fines/fees collected for violations shall be transferred to the appropriate account by the County Finance Office with first priority being given to a special account created to offset the cost of the County in cleaning up illegal trash on properties held by indigent persons such as the handicapped and/or the elderly.

## **Section XII. Severability.**

If any Section, subsection, sentence, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by a Court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section XIII. Effective Date.**

This ordinance shall become effective upon adoption.

This restated ordinance shall become effective on the \_\_\_\_ day of \_\_\_\_\_, 2009.

By: \_\_\_\_\_  
CHAIRMAN

ATTEST:

\_\_\_\_\_  
CLERK TO THE BOARD