



TOWN OF LILLINGTON

ORDINANCE FY2019-26

AN ORDINANCE TO AMEND TITLE V: PUBLIC WORKS CHAPTER 50 OF THE LILLINGTON CODE OF ORDINANCES

WHEREAS, the Board of Commissioners of the Town of Lillington may enact ordinances to protect the health, safety, and welfare of its citizens under the North Carolina General Statutes §160A-174; and

BE IT ORDAINED, by the Governing Board of the Town of Lillington, North Carolina, that Chapter 50 of the Lillington Code of Ordinances is amended as follows:

CHAPTER 50: GARBAGE AND REFUSE GENERAL PROVISIONS

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. Refuse resulting from the burning of wood, coal, coke, and other combustible material.

BUILDING RUBBISH. Rubbish from construction, remodeling, and repair operations on houses, commercial buildings, and other structures to include, but not be limited to, carpet, carpet padding, other flooring materials, mirrors, glass, kitchen cabinets, above ground pool components, wire, and fencing.

CHRISTMAS TREE. A natural evergreen conifer completely bare of all decoration and attachments.

CONTRACTOR. A person or company that undertakes a contract to provide materials or labor to perform a service.

DUMPSTER. A metal container of not less than two cubic yards nor larger than ten cubic yards, made of watertight construction with doors opening on two sides and top, constructed so that it can be emptied mechanically by specially equipped trucks.

EXPLOSIVES. Any cartridge, shotgun shell, or any other container, carton, or thing containing any sort of powder, substance, or waste-capable of exploding, including, but not limited to, dynamite caps, dynamite, flammable liquids or gases, and ammunition of any type.

GARBAGE. Animal and vegetable refuse resulting from the handling, preparation, cooking, and consumption of food, including a minimum amount of liquid necessarily incident thereto.

INDUSTRIAL WASTE. Waste from factories, processing plants, and other manufacturing enterprises, including, but not limited to, cleaning fluids, biohazards, putrid waste, chemicals and other volatile waste products.

MULTI-UNIT RESIDENTIAL DWELLING. A development, apartment building, or similar complex with four or more residential units, whether vacant or occupied, where such units are for rent or lease to residential tenants for periods in excess of thirty (30) days.

RECYCLABLES. Rubbish, such as paper, cardboard, plastic, glass, and aluminum that are commonly recyclable and are collected under a recycling program operated in connection with collection by Harnett County or another authorized collector.

RESIDENTIAL REFUSE CONTAINERS. Ninety-five (95) gallon containers, provided by the Town's municipal waste contractor.

RUBBISH. Refuse, exclusive of garbage and ashes, including, but not limited to, recyclables, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tin cans, metals, mineral matter, glass, crockery, dirt, earth, and dust.

SCRAP TIRES. Used motor vehicle tires.

TRASH. All other refuse, not otherwise covered in this chapter.

WASTE. Useless, unused, unwanted, or discarded refuse or materials.

YARD WASTE. Those organic materials commonly consisting of leaves, grass, weeds, hedge clippings, garden waste, pine straw, branches-less than forty-eight (48) inches long and five inches in diameter, twigs and all vegetative matter resulting from residential landscaping activities.

§ 50.02 GARBAGE TO BE PROMPTLY REMOVED.

No garbage that has become decayed or that otherwise shall be a menace to health or cleanliness shall be allowed to remain on or about any dwelling house, motel, boardinghouse, café, restaurant, lunch stand, fruit stand, meat market, store, or other building or on any premises a longer time than shall be reasonably necessary to remove and deposit the same for collection pursuant to this chapter.

§ 50.03 DEPOSITING GARBAGE, RUBBISH, OR TRASH IN PUBLIC DRAINAGE WAYS.

No person shall throw, place, or deposit any garbage, rubbish, trash, waste or yard waste in any street, alley, public drainage way, other public place, or on any property within the municipal limits of the Town, except in residential refuse containers or garbage receptacles as provided in this chapter.

§ 50.04 INTERFERING WITH RECEPTACLES.

No person shall overturn, disturb, molest, remove, or litter the contents of any residential refuse container, dumpster or garbage receptacle set out for removal pursuant to this chapter.

§ 50.05 DEPOSITING EXPLOSIVES, AND THE LIKE, IN RECEPTACLES.

No person shall deposit in any residential refuse container, dumpster or receptacle for removal by authorized collectors any explosive, as defined under § 50.01, including any live ammunition, any volatile materials, or any industrial waste.

COLLECTION AND REMOVAL

§ 50.20 COLLECTION RESPONSIBILITIES.

- (A) The collection, removal, and disposition of all waste, garbage, ashes, rubbish, and trash shall be pursuant to this chapter.
- (B) The collection, removal, and disposition of leaves, limbs, and loose pine straw shall be pursuant to this chapter.
- (C) The Town is not responsible for the collection, removal and disposition of any materials left by contractors.

§ 50.21 COLLECTION PRACTICES.

(A) *Industrial wastes and explosives.* Industrial wastes and explosives shall be collected, moved, and disposed of by the owners of the same in accordance with all applicable laws, and the same shall not be placed or mixed in with any garbage, ashes, rubbish, or other waste to be removed pursuant to this chapter.

(B) *Rubbish/trash/waste.* The Town will collect no more than three (3) individual items or sets from any household per week. Any items exceeding this limit or determined by the Town Manager or his/her designee to be unsuitable will not be the Town's responsibility and should be properly handled and immediately removed by the property owner. The Town is not held responsible for the collection, removal and disposition of any materials left by contractors.

(C) *Yard waste. Restrictions.* A maximum volume of one hundred twenty-eight (128) cubic ft. (8ft. X 4ft. X 4ft.) is the total amount of yard waste the Town will remove from every household per collection cycle. The Town will not collect whole or cut-up trees or logs larger than the predetermined measurements, tree root systems, dirt or sod. Any items exceeding this limit or determined by the Town Manager or his/her designee to be unsuitable will not be the Town's responsibility and should be properly handled and immediately removed by the property owner. The Town is not responsible for the collection, removal and disposition of any materials left by contractors.

- i. **Placement.** It shall be unlawful for any person to place yard waste of any kind on the paved portion, traveled portion or storm drainage portion of any street within the municipal limits. Yard waste shall be placed off the street pavement and between the roadside drain or ditch and the front property line of the property on which it is being removed.

- ii. **Separation.** Yard waste placed for collection by the Town must be kept separate from and shall not be mixed with any building rubbish, garbage, rubbish or trash.
 - a. **Limbs.** Limbs must be parallel and three (3) feet behind the curb line and no larger than forty-eight (48) inches or four (4) ft. in length and five (5) inches in diameter.
 - b. **Leaves.** From November 1st to January 31st, leaves will be collected by the Town they must be contained in a neat pile kept within three (3) feet from the curb.
 - c. **Christmas trees.** Completely bare Christmas trees will be collected by the Town.

(D) Scrap tires.

- i. Scrap tires shall be disposed of in accordance with Harnett County requirements by owner.
- ii. It shall be unlawful for any business or individual to abandon a scrap tire on any public or private property except a Harnett County designated disposal site.

§ 50.22 PLACEMENT AND REMOVAL OF RESIDENTIAL REFUSE CONTAINERS.

Residential refuse containers shall be placed for collection curbside no earlier than 7:00 p.m. on the day preceding the designated pickup day and shall be removed from the curbside location no later than 7:00 p.m. on the day following collection. Except during the foregoing hours, the residential refuse containers shall be kept in a location no closer to the street than the front line of the residence.

§ 50.23 USE OF CONTAINERS ON PROPERTY OWNED BY TOWN.

Containers placed by the Town on property owned or controlled by it, including containers located in Town parks, parking lots, schools, and other public areas, shall be used only for official Town purposes or as receptacles for garbage or refuse generated by activity upon or use of the property.

§ 50.24 USE OF RESIDENTIAL REFUSE CONTAINERS BY COMMERCIAL ESTABLISHMENTS.

Upon application to and approval by the Town Manager, a commercial establishment within the Town may use residential refuse containers for disposal of ordinary garbage and rubbish; provided, however, the containers shall not be used for the disposal of building rubbish, explosives, industrial waste, scrap tires and other items determined by the Town Manager to be unsuitable for disposal in such containers. The schedule of rates and fees for collection and disposal of such waste by commercial establishments shall be as fixed and established from time to time by the Board of Commissioners and maintained on file in the office of the Finance Director. Such rates and fees shall be collected from the users of the services and shall be due and payable monthly in accordance with this code.

UNCONTROLLED GROWTH OF WEEDS AND GRASS AND ACCUMULATION OF REFUSE AND WASTE

§ 50.35 EXISTENCE OF CERTAIN CONDITIONS DECLARED TO BE A PUBLIC NUISANCE.

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

(A) The uncontrolled growth of weeds and grass shall not exceed eight inches in height nor shall uncontrolled growth of vegetation cause, threaten, or be likely to cause a fire hazard, visual obstruction to vehicular traffic on adjacent roadways, or the inhabitation or breeding therein of rats, mice, snakes, flies, mosquitoes, or other pests or vermin of any kind which are or may be dangerous or prejudicial to the public health or safety; and/or

(B) Any accumulation of garbage, rubbish, trash, tires or junk vehicles causing or threatening or likely to cause the accumulation of stagnant water, or causing or threatening or likely to cause the inhabitation or breeding therein or thereon of rats, mice, snakes, flies, mosquitoes, or other pests or vermin of any kind which are or may be dangerous or prejudicial to the public health or safety; and/or

(C) Any condition dangerous or detrimental to the public health or safety which violates any requirements of the Town's code of ordinances or any rule or regulation of the Harnett County Health Department; and/or

(D) Any accumulation of non-compliant yard waste or other materials which may be detrimental to the public health, safety, or general welfare, or which creates an adverse impact on community appearance or neighboring properties.

§ 50.36 INVESTIGATION OF CONDITIONS.

The Town official designated by the Town Manager, upon his or her own initiative or upon notice from any person of the existence of any of the conditions described in § 50.35, shall cause to be made, by an appropriate Harnett County Health Department official or a Town official designated by the Town Manager, an investigation of the property as may be necessary to determine whether, in fact, the conditions exist as to constitute a public nuisance as declared in § 50.35.

§ 50.37 NOTICE TO BE SERVED.

(A) Upon a determination that any of the conditions described in §50.35 exist, the Town, by and through the Town Manager or his or her delegate, shall cause a written notice to be served upon the property owner, lessee, occupant, or person in charge of the property in question. The notice shall state the person or persons to be served and describe the property sufficiently to identify it and shall recite the conditions constituting a public nuisance and shall order the abatement of the nuisance within ten days from service of the notice. Service of the notice may be affected by one of the following methods or by any other method permitted by law:

(1) By personally delivering a copy of the notice to any person capable of receiving process for the party being served under Rule 4 of the North Carolina Rules of Civil Procedure; or

(2) By mailing a copy of the notice by registered or certified mail, return receipt requested, addressed to the party to be served, and which is delivered to the addressee.

(B) If either of the two methods of service specified in division (A) above is attempted without success, then the notice may be served by publishing the notice one time in a newspaper qualified for legal advertising and having general circulation in the Town.

§ 50.38 FAILURE TO ABATE NUISANCE.

If any person, having been properly ordered to abate such a public nuisance, fails, neglects, or refuses to abate or remove the condition or conditions constituting the nuisance within ten days from service of the notice, the Town Manager or his or her delegate shall cause the condition to be removed or otherwise remedied by having employees of the Town to go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Town Manager.

§ 50.39 NOTICES TO BE FILED; COSTS TO CONSTITUTE A LIEN; STATEMENTS TO BE MAILED.

A copy of each notice which was served pursuant to § 50.37 and wherein the Town took action pursuant to § 50.38 shall be filed with the Tax Collector of the Town together with a statement of the actual costs incurred by the Town in removing or otherwise abating and remedying the public nuisance, including the cost of preparing and serving the notice required by § 50.37. The costs incurred by the Town shall be and constitute a lien against the property as of the time the notice is filed with the Tax Collector and shall be charged to the owner of the lot or parcel of land, and any other lessee, occupant, or person in charge of the premises as was served with the above described notice. The Tax Collector promptly shall mail a statement of the costs to the owner of the property and any other persons or entities as were served hereunder.

GENERAL AUTHORIZATION FOR ADMINISTRATION OF CHAPTER AND COLLECTION OF UNPAID AMOUNTS

§ 50.41 ADMINISTRATION.

(A) The Board of Commissioners may contract with and grant a franchise to a private company or another governmental entity to provide solid waste collection services pursuant to this chapter and may assess such fees as may be necessary to provide such solid waste collection services.

(B) The collection, removal and disposition of all waste, industrial waste, ashes, building rubbish, explosives, scrap tires and trash from premises in the Town shall be under the jurisdiction of the Town Manager. The Town Manager shall make, and may from time to time alter and amend, such regulations as are expressly required by the provisions of this chapter, and he may make, and from time to time alter, amend or revoke, such other regulations as to the application, administration, interpretation and enforcement of this chapter as are necessary or expedient to execute and make effective its provisions, provided that no such regulations shall be in conflict with the provisions of this chapter.

(C) The schedule of rates and fees for collection and disposal of waste shall be as fixed and established from time to time by the Board of Commissioners and maintained on file in the office of the Finance Director. Such rates and fees shall be collected from the users of the services and shall be due and payable monthly in accordance with this code.

(D) Residential properties which are connected to the Town's water and sewer system shall receive waste collection services to the extent allowed by this chapter and shall pay a monthly fee for solid waste collection services. Such fee for solid waste management services shall be invoiced as part of the Town's water bill, and any payments toward such bill shall be applied first to the solid waste management services fee and then to other fees and charges.

(E) The Town Manager shall periodically review the effectiveness and use of residential refuse containers at multi-unit residential dwellings. The Town Manager may, upon reasonable grounds set forth in a written notice to the owners of the subject multi-family dwellings, require residents of the multi-family dwelling to cease use of residential refuse containers and commence use of dumpsters. The Town Manager shall implement appropriate regulation of dumpsters for use by multi-unit residential dwellings.

§ 50.42 UNPAID CHARGES TO BE COLLECTED AS UNPAID TAXES ON REAL ESTATE.

In the event that charges for the removal or abatement of a public nuisance are not paid within 30 days after the mailing of the statement of costs as provided for in § 50.39 or service fees imposed pursuant to § 50.41 are not paid within 30 days of the mailing of the statement of such fee, interest shall accrue at the rates provided for in G.S. § 105-360 beginning on the first day of the first month after the costs have been incurred by the town. The costs and accrued interest shall be collected as unpaid taxes on real estate. The Tax Collector shall keep an appropriate public record of all the costs and any proceedings had under this subchapter.

§ 50.99 PENALTY.

The procedure set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances or violation of this code, and nothing in this subchapter shall prevent the Town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this subchapter. Further, the provisions of § 10.99 shall apply to any violation of this chapter and shall be in addition to, and not in limitation of, all other remedies and enforcement rights available to the Town.

All provisions of any Town Ordinance or Resolution in conflict with this Ordinance are repealed.

Adopted this 9th day of April, 2019

Glenn McFadden, Mayor

Attest:

Alicia L. Gregory, Town Clerk