

Cherokee County

Solid Waste Ordinance

Adopted April 24, 2001

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CHEROKEE COUNTY SOLID WASTE ORDINANCE

BE IT ORDAINED, by the Board of Commissioners of the County of Cherokee, State of North Carolina:

ARTICLE I – PURPOSE AND STATUTORY AUTHORITY

The purpose of this ordinance is to protect human health and the environment by regulating the storage, collection, transportation, and disposal of solid waste in Cherokee County; to provide environmentally sound, cost efficient solid waste disposal and to provide for safe operations at the County Landfill; to reduce litter and solid waste along the roadways and in the communities of Cherokee County and to assist in the recycling of solid waste.

The provisions of this ordinance are adopted under the authority granted by North Carolina General Statute Section 153A-121, Section 153A-132.1 and Section 153A-136.

NOW, THEREFORE, be it ordained by the Board of Commissioners of the County of Cherokee, State of North Carolina:

ARTICLE II – ADMINISTRATION AND ENFORCEMENT

The Board of Commissioners of the County of Cherokee shall administer, interpret and enforce the provisions of this Ordinance by and through the Solid Waste Director or his representatives. For the purposes of this ordinance, representative shall mean any employee within the Solid Waste Department unless otherwise designated by this ordinance.

ARTICLE III – JURISDICTION

The jurisdiction of this Ordinance includes the entire geographic area of Cherokee County, North Carolina. The municipal areas within Cherokee County, North Carolina are included in this Ordinance.

ARTICLE IV – DEFINITIONS

Section 400 – TITLE. This Ordinance shall be known and be cited as the CHEROKEE COUNTY SOLID WASTE ORDINANCE. For the purposes of this Ordinance, the following terms, phrases, words and their derivatives shall have the meanings given herein. When not consistent with the context, words used in the present tense include the future tense, words used in the plural include the singular and words in the singular include the plural. The word “shall” is always mandatory and not merely directive. The following definitions shall apply in the interpretation and enforcement of this ordinance:

400.01 – BOARD shall mean the Board of Commissioners of Cherokee County, North Carolina.

400.02 - BULKY WASTE shall mean large items of solid waste such as white goods, furniture, large auto parts, trees, large blocks of concrete and asphalt, stumps, and other oversize waste whose large size precludes or complicates their handling by normal solid waste collection, processing, or disposal methods.

400.03 – CIVIL PENALTY shall mean a monetary fine assessed according to a schedule adopted by the Cherokee County Solid Waste Department due to a violation of this ordinance.

400.04 – COLLECTOR shall mean any person who picks up or hauls solid waste or recyclable materials for a fee.

400.05 – COMMERCIAL ESTABLISHMENT shall mean any retail, wholesale, institutional, religious, governmental, service establishment, or other non-residential establishment which may generate garbage, litter, or other solid waste.

400.06 - COMMERCIAL PURPOSES shall mean solid waste discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of such entity.

400.07 – COMMISSION shall mean the North Carolina Environmental Management Commission.

400.08 – COMPOSTING shall mean the controlled decomposition of organic waste by naturally occurring bacteria, yielding a stable, humus-like, pathogen-free final product.

400.09 – CONSTRUCTION OR DEMOLITION when used in connection with “waste” or “debris” means solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings or other structures.

400.10 – CONVENIENCE CENTERS shall mean a staffed, secured area in which residents of Cherokee County may deposit residential household garbage and recyclable materials in provided receptacles.

400.11 – COUNTY shall mean Cherokee County.

400.12 – COVERED shall mean encased by a tarpaulin, camper-cover, metal cover, rigid cover, plastic, canvas or other suitable material, which is secured to prevent spillage, leakage, or materials from blowing from the vehicle. Solid waste in plastic bags shall not be considered covered *except* during the transportation of garbage by the resident of a dwelling from that dwelling to a disposal area.

400.13 – DEPARTMENT shall mean the North Carolina Department of Environment and Natural Resources.

400.14 – DWELLING shall mean any residential unit housed in a building used for residential purposes, or manufactured homes, or a structure used for residential purposes on any property. Any dwelling which has an electrical meter shall be subject to the solid waste fee.

400.15 – EPA shall mean the United States Environmental Protection Agency.

400.16 - GARBAGE shall mean all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

400.17 – HAULER shall mean any person, permitted or not, who collects and transports refuse or other solid wastes or recyclable materials on public or private streets in Cherokee County.

400.18 – HAZARDOUS WASTE shall mean a solid waste or combinations of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating reversible illness; or
- b. Poses a substantial problem or potential problem hazard to human or animal health or the environment if improperly treated, stored, transported or disposed of or otherwise managed.
- c. Any substance classified as a hazardous waste by the EPA.

400.19 – INDIVIDUAL shall include any person generally capable of owning real estate.

400.20 – INDUSTRIAL WASTE shall mean all waste, including garbage, solids, semi-solids, sludges and liquids created or generated by factories, processing plants or other manufacturing enterprises.

400.21 – MICROBIOLOGICAL WASTE shall mean cultures and stocks of infectious agents, including but not limited to specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.

400.22 – OPEN BURNING shall mean any fire whose products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney, approved incinerator, or other similar device.

400.23 – OPEN DUMP shall mean the consolidation or collection of solid waste from one or more sources at a disposal site which has unsanitary conditions, insignificant or no cover, or insignificant or no management. This term shall include any disposal area which has not been approved by the Department.

400.24 – PATHOLOGICAL WASTE shall mean human tissues, organs, and body parts; and the carcasses and body parts of all 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 vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

400.25 – PERMIT shall mean written authorization from the Solid Waste Director to haul solid waste, or recyclable material in Cherokee County, for hire or compensation.

400.26 – PERMITTED HAULER shall mean any solid waste or recyclable material hauler authorized by the Solid Waste Director to transport refuse, solid waste or recyclable material for hire or compensation.

400.27 – PERSON shall mean any individual, firm, organization, partnership, corporation, company or unincorporated association.

400.28 - PUTRESCIBLE WASTE shall mean solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisance from odors and gases, such as kitchen wastes, offal and carcasses.

400.29 - RADIOACTIVE MATERIAL shall mean any material which emits ionizing radiation spontaneously.

400.30 – RECYLCE, RECYCLABLES, OR RECYCABLE MATERIAL shall mean those material or that process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.

400.31 – REFUSE shall mean all non-putrescible waste.

400.32 – REFUSE RECEPTACLE OR RECEPTACLE shall mean a metal or plastic container or other container approved by the Solid Waste Director.

400.33 – REGULATED MEDICAL WASTE shall mean blood and body fluids in individual containers with volumes greater than 20 ml, microbiological waste, and pathological waste that have not been treated.

400.34 – RESIDENT shall mean any Cherokee County property owner who lives in or rents a dwelling and is subject to a Solid Waste Fee.

400.35 – RUBBISH shall mean solid or liquid waste from residences, commercial establishments or institutions.

400.36 – SHARPS shall mean needles, syringes with attached needles, capillary tubes, slides and cover slips, scalpel blades, test tubes, and blood collection tubes.

400.37 – SOLID WASTE shall mean any hazardous or non-hazardous garbage, or other refuse, rubbish, litter, trash, tires, and other discarded materials, and solid or semi-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, wastewater effluent, dissolved materials in irrigation return flows or other common water pollutants. Yard waste produced by a residence as defined in Section 400.39 is exempt.

As used herein, Solid Waste shall refer collectively to any or all of the aforementioned waste materials, unless otherwise specified.

400.38 – SOLID WASTE FEE shall mean a cost assessed by the Board for the maintenance of a solid waste landfill and shall be charged on the tax bills of all persons owning real estate on which there is a residential dwelling.

400.39 – UNSANITARY ACCUMULATION shall mean any amount of solid waste which is odoriferous, pestiferous, or otherwise threatening to human or animal health as determined by the Solid Waste Department.

400.40 - USED MOTOR OIL shall mean 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.

400.41 – WHITE GOODS shall mean inoperative or discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

400.42 – YARD WASTE shall mean solid waste consisting solely of vegetative matter resulting from landscaping maintenance such as leaves, grass, limbs, and trimmings. Stumps are not considered yard waste.

ARTICLE V – DUTIES AND RESPONSIBILITIES

Section 500 – RESIDENTIAL AND OTHER NONCOMMERCIAL PROPERTY

500.01 – RESIDENTIAL DISPOSAL AT LANDFILL: The Cherokee County Landfill is for the disposal of waste by the following persons: (a) Cherokee County property owners who are subject to the Solid Waste Fee, and renters or lessors of property owners subject to the Solid Waste Fee, (b) persons who have been licensed by Cherokee County to dispose of solid waste at the Cherokee County Landfill, (c) businesses located in Cherokee County or businesses hauling solid waste generated in Cherokee County, (d) any County or municipal government with whom Cherokee County may contract with for the disposal of solid waste at the landfill.

500.02 – RESIDENTIAL DISPOSAL AT CONVENIENCE CENTERS: Convenience Centers are for the disposal of residential solid waste by Cherokee County property owners who are subject to the Solid Waste Fee, and renters or lessors of property owners subject to the Solid Waste Fee.

500.03 – IMPROPER STORAGE OF WASTE PROHIBITED. No owner, occupant, tenant or lessee of any property, jointly or severally, may deposit, or permit to accumulate any solid or hazardous waste upon such property that is not stored or disposed of in a manner prescribed by this ordinance. Further it shall be the duty of each owner, occupant, tenant, or lessee to provide approved receptacles as specified in Article Six (VI).

500.04 – OPEN DUMPS PROHIBITED. No person shall permit on any land owned, occupied, or leased by him or her any open dump.

500.05 – RESPONSIBILITY FOR REMOVAL. It shall be the duty of any owner, occupant, tenant, or lessee of any property, jointly or severally, to remove or properly dispose of any of the conditions described in paragraph 500.03 and 500.04 above.

Section 501 – COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL PROPERTY

501.01 – PROPER MAINTENANCE OF PREMISES: The owner, proprietor, or person in charge of any commercial, industrial, or institutional building, parking lot or other site shall be obligated both jointly and severally to keep driveways, yards, parking lots, and areas adjacent thereto and under his control, clean at all times; and to place sweepings, litter, refuse and other debris in an approved receptacle to prevent dispersal by wind, rain, animals and other causes. Further, no crate, box, or similar container liable to deterioration by sun, wind, rain, animals or other causes shall be kept on any street, road, sidewalk, parking lot or other area, except that such containers may be placed out for collection, where applicable, on the day of such collection.

501.02 – SOLID WASTE RECEPTACLES REQUIRED: The owner, proprietor, or person in charge of any commercial, industrial, or institutional building, parking lot, or other site shall be obligated, jointly and severally, to provide solid waste receptacles of sufficient size and quantity as specified in Article Six (VI) of this Ordinance. Specifically, but not exclusively, the requirement for such containers shall apply to shopping centers, supermarkets, convenience stores, fast food and other restaurants, service stations, and other similar establishments; and shall, likewise apply to industries, commercial establishments, schools, manufactured home parks, recreational vehicle parks, summer camps, churches and other institutions. Spillage and overflow from such containers shall be cleaned up by the owner, proprietor, or person in charge immediately and as it occurs.

ARTICLE VI – STORAGE, COLLECTION, TRANSPORTATION, DISPOSAL

Section 600 – STORAGE

600.01 – PROPER STORAGE CONTAINER REQUIREMENTS. Solid Waste shall be stored in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close fitting cover in place. The number of containers shall be adequate to store one week's accumulation of solid waste. Containers shall be kept clean so that no insect breeding, odor, or other nuisance will exist. Garbage bags are permissible residential household garbage containers.

600.02 – PROHIBITION TO RODENTS AND ANIMALS. Solid Waste shall be stored in a manner that will not harbor rodents and vermin or attract animals and will not create a fire hazard.

600.03 – STORAGE OF OTHER REFUSE. Other refuse may be stored as in paragraph one (1) above, but shall be stored in a manner that it will not provide harborage to rats, cause a safety hazard or become windblown.

600.04 – AIRTIGHT CONTAINERS PROHIBITED. No person shall leave outside of the building or dwelling, or in any place accessible to children, any abandoned, unattended, or discarded ice box, refrigerator, or other container of any kind which has an airtight door without first removing the door from such ice box or refrigerator, or disabling any latching mechanism.

Section 601 – TRANSPORTATION

601.01 – CONFORMITY WITH ORDINANCE REQUIRED. No Solid Waste shall be transported except in conformance with this section which applies to permitted haulers and individuals hauling their own solid waste.

601.02 – SPILLAGE PROHIBITED. The vehicles or containers used for the collection and transportation of solid wastes shall be covered and removed in such a manner that the contents will not fall, leak, or spill therefrom. Materials spilled by the hauler shall be picked up immediately by the hauler and returned to the vehicle or container, and the area properly cleaned.

601.03 – COVER REQUIREMENTS. Vehicles shall be covered by effective means during transportation to prevent the blowing of materials from out of the vehicle. “Effective means” shall include, but not be limited to, a durable, heavy plastic, or canvas tied down or secured to cover all the load. Loads consisting of bulky waste, white goods, lumber, pallets, and crates do not have to be covered but shall be secured with rope or tie downs to assure spillage does not occur. Upon entrance to the landfill gate, any removal of tarps or similar covers on solid waste shall be prohibited until destination is reached in a designated landfill disposal area.

601.04 – EQUIPMENT REQUIRED TO CONFORM TO STANDARDS. All trucks and other equipment used by the collector must meet minimum standards prescribed by the Cherokee County Solid Waste Department. These standards shall require, at a minimum, that truck(s) beds be covered. Vehicles shall be leak-proof, durable and easily cleaned to prevent insect breeding, odor, or other nuisance.

Section 602 – DISPOSAL

602.01 – NO DISPOSAL EXCEPT AS PROVIDED. Solid Waste shall be disposed of only by one of the following methods:

- A. Transporting the solid waste to the Cherokee County Landfill;

- B. Placing the solid waste in a receptacle provided by Cherokee County at designated areas throughout Cherokee County;
- C. Placing the solid waste in a receptacle or container to be picked up by the Town of Murphy, the Town of Andrews, any other municipal government, or by a licensed and permitted commercial solid waste hauler;
- D. Placing the solid waste in a receptacle or container to be picked up by a licensed and permitted commercial private solid waste hauler;
- E. Burning the solid waste in an incinerator that meets all requirements of local, state, and federal air pollution standards and control permits.

All solid waste disposed of as set forth above shall be placed in receptacles or containers so that the solid waste is not distributed or strewn in or about the environment.

602.02 – DISPOSAL OF BULK WASTE AND WHITE GOODS. All bulk waste and white goods must be transported to the Cherokee County Landfill. No bulk waste or white goods shall be disposed of by placing such items in, at, or near any solid waste receptacle or container provided by Cherokee County, any municipal government, any receptacles or containers placed by private or commercial haulers, or otherwise placed in the environment within the geographic bounds of Cherokee County.

602.03 – DISPOSAL OF HAZARDOUS, REGULATED MEDICAL, RADIOACTIVE WASTE. Hazardous, regulated medical and radioactive wastes shall be disposed of according to written procedures approved by state and federal guidelines.

602.04 – DISPOSAL OF TIRES. Tires must be transported to the Cherokee County Landfill. The disposal of tires on any public or privately owned property is strictly prohibited.

602.05 – DISPOSAL OF SHARPS. Sharps shall be placed in an approved, sealed, puncture-proof container prior to disposal.

602.06 – PRIVATE DISPOSAL OF SOLID WASTE. This section shall not be construed to prevent any individual from properly disposing of solid waste from his own residence on his own property in a safe and sanitary manner which is not detrimental to the health, safety, or welfare of any of the citizens of Cherokee County, provided that said disposal site is approved by and in compliance of all local, state, and federal rules and regulations governing disposable solid waste.

602.07 – OTHER DISPOSAL OF SOLID WASTE PROHIBITED. Any other disposal of solid waste is expressly prohibited.

602.08 – BUSINESSES PROHIBITED FROM UTILIZING CONVENIENCE CENTERS. Businesses are prohibited from depositing solid waste at convenience centers. All business waste must be deposited at the Cherokee County Landfill.

602.09 – LITTERING PROHIBITED. No person shall intentionally or negligently, discard, dispose, leave, or dump any solid waste on or along any street, highway or on any public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.

ARTICLE VII LANDFILL MANAGEMENT

Section 700 – CONFORMITY WITH LANDFILL PROCEDURES REQUIRED. Solid waste shall be disposed of at the Cherokee County Landfill in the manner and according to procedures established by the Solid Waste Director.

700.01 – LANDFILL TOURS. Landfill tours or visitors to the landfill must be accompanied by an employee of the Solid Waste Department.

700.02 – IDENTIFICATION OF USERS . All persons crossing the scales at the landfill will be required to provide the attendant with an access card or other identification approved by the Solid Waste Director. All contractors and commercial haulers will be required to provide the attendant with the name and address of the Cherokee County taxpayer for whom they are hauling solid waste.

700.03 – AFFILIATION WITH COUNTY REQUIRED. All solid waste generated in Cherokee County shall be disposed of in Cherokee County in a permitted disposal facility unless otherwise specified by the Board of Commissioners.

700.04 – HOURS OF OPERATION. The landfill shall be open during business hours as established by the Board of Commissioners.

700.05 – SECURITY OF THE LANDFILL. Except when open during regular business hours, the landfill shall be kept locked, and entry shall not be permitted.

700.06 – TIPPING FEE. Individuals and businesses depositing waste at the Cherokee County Landfill are required to weigh in and out and tipping fees will be charged to:

- (1) Haulers of commercial solid waste.
- (2) Individuals who have disposed of *non-residential* solid waste in excess of 500 pounds during a calendar year. For purposes of a tipping fee, non-residential solid waste does not include metal, yard waste, trees, limbs, brush, and stumps.
- (3) Charitable and/or non-profit organizations disposing of solid waste not generated in the normal course of doing business. Notwithstanding the preceding sentence, if a charitable and/or non-profit organization's normal course of doing business, in whole or in part, includes the business or activity of constructing or building new housing and/or reconstructing or remodeling existing housing, a tipping fee will be charged for construction or demolition waste or debris generated or produced by said business or activity. For purposes of a tipping fee, "normal

course” of doing business does not include metal, yard waste, trees, limbs, brush, stumps, and construction debris.

- (4) All contractors hauling non-residential solid waste.
- (5) All contractors hauling solid waste not generated at their own personal private residence.
- (6) All haulers of metal, yard waste, trees, limbs, brush, and stumps. White goods are not considered metal for purposes of this section.

The Board of Commissioners shall adopt a schedule of fees from time to time which shall be effective until amended or replaced.

700.07 – LOITERING, SCAVENGING AND RUMMAGING PROHIBITED. No person shall loiter, scavenge, or rummage about the landfill to remove articles therefrom.

700.08 – OBSERVANCE OF RULES AND REGULATIONS. All persons entering or traveling on landfill property shall observe all rules and regulations as established by the Solid Waste Director.

700.09 – DEPOSIT WASTE ONLY IN AUTHORIZED AREAS. No person shall deposit material at any point in the landfill except where indicated by authorized employees of the landfill or by official signs.

700.10 – DISCHARGE OF FIREARMS, EXPLOSIVES, FIREWORKS PROHIBITED. No person may discharge firearms, fireworks, or explosives on landfill property.

700.11 – SOLID WASTE SUBJECT TO INSPECTION. Solid Waste may be observed and inspected for prohibited materials. Persons disposing of unacceptable material shall be required to remove such material at the discretion of the Solid Waste Director or Landfill Operations Manager.

700.12 – DISPOSAL OF INCINERATOR ASH. Ash from a commercial Solid Waste Incinerator or a Hazardous Waste Incinerator shall not be disposed of at the Cherokee County Landfill unless each load is accompanied by a chemical analysis certifying that it contains no hazardous or potentially hazardous contaminants. Said analysis shall be performed by a firm acceptable to the Board.

700.13 – PROHIBITED WASTES. The following waste shall not be disposed of in the county landfill cell area:

1. Burning or smoldering material, or any material that would create a fire hazard.
2. Hazardous wastes

3. Corrugated containers (cardboard)
4. Metal
5. Used motor oil
6. Lead-acid batteries
7. Liquid wastes
8. White goods
9. Tires
10. Radioactive wastes
11. Wet sludges which cannot pass the paint filter test
12. Aluminum cans
13. Stumps, brush, limbs, yard waste
14. No ash unless approved by the Solid Waste Director
15. Regulated medical waste
16. Friable asbestos
17. Wire and cable greater than 4' in length
18. Untreated pallets

ARTICLE VIII – CONVENIENCE CENTERS

Section 800 – CONFORMITY WITH CONVENIENCE CENTER PROCEDURES REQUIRED. Solid waste shall be disposed of at the Cherokee County Convenience Centers in the manner and according to procedures established by the Solid Waste Director.

800.01 – IDENTIFICATION OF USERS. All persons entering the convenience centers will be required to provide the attendant with an access card or other identification approved by the Solid Waste Director and issued by the Cherokee County Landfill.

800.02 – DEPOSIT WASTE ONLY IN DESIGNATED AREAS. No person shall deposit material at any point in or around the convenience centers except where indicated by authorized employees or by official signs.

800.03 – HOURS OF OPERATION. Convenience Centers shall be open during business hours as established by the Board of Commissioners.

800.04 – LOITERING, SCAVENGING AND RUMMAGING PROHIBITED. No person may loiter, scavenge, or rummage about the convenience centers to remove articles therefrom except in areas designated as “swap shops” and under the direction of the center attendant.

800.05 – DISCHARGE OF FIREARMS, EXPLOSIVES, FIREWORKS PROHIBITED. No person may discharge firearms, fireworks, or explosives on convenience center property.

800.06 – SOLID WASTE SUBJECT TO INSPECTION. Solid Waste may be observed and inspected for prohibited materials. Persons disposing of unacceptable material shall be required to remove such material at the discretion of the Solid Waste Director.

800.07 – OBSERVATION OF RULES AND REGULATIONS. All persons entering the convenience centers shall observe all rules, regulations, and signs as established by the Solid Waste Director.

ARTICLE IX – SOURCE SEPARATION AND RECYCLING

Section 900 – RECYCLING

900.01 – DISPOSAL OF TIRES. Automobile and truck tires will be accepted at the Cherokee County Landfill in accordance with rules and regulations established by the Solid Waste Director. Tires must be removed from their rims and free of mud, dirt, and water. Persons bringing loads of tires will be required to stack them into tractor trailers in a “laced” manner so as to conserve space and to complete the Scrap Tire Certification required by the North Carolina Department of Environment and Natural Resources.

900.02 – DISPOSAL OF WHITE GOODS. White goods may be deposited free of charge in designated areas at the Cherokee County Landfill.

900.03 – REMOVAL OF FREON. The Solid Waste Department shall remove, or cause to be removed, Freon from all white goods which are deposited at the landfill.

900.04 – DISPOSAL OF USED MOTOR OIL. Used motor oil shall be deposited in tanks and/or drums provided at the landfill and convenience centers. The tanks and drums are for residential users only. Used motor oil shall not be accepted from commercial or industrial users.

900.05 – DISPOSAL OF USED ANTI-FREEZE. Used anti-freeze shall be deposited in tanks and/or drums provided at the landfill and convenience centers. The tanks and drums are for residential users only. Used anti-freeze shall not be accepted from commercial or industrial users.

900.06 – RECYCLING ENCOURAGED. Each person who owns, leases, or occupies any place of business, industry, commerce, or other place providing goods or services, or any institution, church, camp, or school shall make every effort to remove recyclable materials from the solid waste generated and make them available for recycling.

900.07 – RECYCLABLE MATERIALS. Recyclable material shall consist of the following items and shall be prepared for recycling at the landfill and convenience centers as directed:

1. Aluminum beverage and food cans shall be rinsed. Labels do not have to be removed.
2. Plastic containers – milk jugs/bottles, water, juice, and drink bottles, and #2 plastic. Remove caps, rinse, and step on containers to flatten them. Labels do not have to be removed.
3. Corrugated containers (cardboard) – flatten, keep clean and dry.
4. Newspapers – bundle with string or leave loose. Keep flat, clean, and dry.
5. Other materials - as they are added to the recycling program.

900.08 – REMOVAL OF RECYCLABLE MATERIALS PROHIBITED. No person, other than a county employee or the county's authorized agent, may remove recyclable material from a county landfill or convenience center.

ARTICLE X – ENFORCEMENT

Section 1000 – LEGAL STATUS PROVISIONS. This Ordinance may be enforced by any methods authorized by N.C.G.S. §153A-123, §153A-277, §14-399 and/or 15A NCAC 13B. Each day's violation shall be treated as a separate offense.

1000.01 - CRIMINAL PENALTIES. This ordinance does not limit the authority of any Federal, State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management.

1000.02 - CIVIL PENALTIES. Any individual who is found in violation of this ordinance may be subject to a civil penalty based on weight of solid waste found illegally disposed:

Any amount not exceeding 15 pounds and not for commercial purposes is punishable by a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000) for the first offense. Any second or subsequent offense within three years after date of a prior offense is punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court

may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service shall be to pick up litter, if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

Any amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000) for the first offense. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000). In addition, the court may require the violator to perform community service of not less than 24 hours nor more than 50 hours. The community service shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

Any amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is punishable by a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) for the first offense. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000). In addition, the court shall order the violator to:

- (1) Remove, or render harmless, the solid waste he discarded in violation of this ordinance.
- (2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this ordinance; or
- (3) Perform community public service relating to the removal of litter discarded in violation of this ordinance or to the restoration of any area polluted by solid waste discarded in violation of this ordinance.

1000.03 - INITIAL NOTIFICATION. Before any civil penalty may be imposed, the Solid Waste Director shall identify the circumstances giving rise to the violation, including the times, dates, and places of the violation and shall notify the offender thereof, verbally or in writing, and ask him to remove the solid waste. Such verbal notification shall be followed by written notification. Such notification shall state that if the violation is not abated within a reasonable time not to exceed three (3) days the individual will be subjected to a civil penalty. If circumstances exist that the violation may not be abated in three (3) days, the Solid Waste Director may, upon written request, grant an extension of time commensurate with the magnitude of the violation. The amount of the civil penalty to be imposed shall be stated. Such notification shall inform the individual of his rights to appeal the determination that the individual is in violation of the ordinance by submitting a notice of appeal to the Solid Waste Director within ten (10) days of the date of the receipt of the initial written notification.

1000.04 - IMPOSITION OF PENALTY; SECOND NOTIFICATION. If after three (3) days, or the end of any extension granted by the Solid Waste Director, the violation has not been abated the Solid Waste Director shall send to the violator a second notification. Such notification shall assess against the violator a civil penalty in accordance with section 1000.03. Such notification shall further inform the violator of his right to appeal the determination that he is still in violation of this ordinance.

1000.05 - FURTHER PENALTIES/ACCRUAL. If after three (3) more days the violation has not been abated, the Solid Waste Director may assess the second civil penalty in accordance with section 1000.04 above. Such assessment shall include a notification that further civil penalties may be assessed every three (3) days until either the violation is abated or until the Solid Waste Director decides that enough fines have accrued to warrant civil action to collect the accrued fine.

1000.06 - CIVIL ACTION. When necessary to collect any civil penalty or accrued civil penalties, the Solid Waste Director shall cause a civil action to be instituted against an individual for the collection of all accrued fines.

1000.07 - EQUITABLE REMEDIES. This ordinance may be enforced by equitable remedies, and any unlawful condition existing in violation of this ordinance may be enforced by injunction and order of abatement in accordance with N.C.G.S. §153A-123(e).

1. INJUNCTION. Where necessary to effectuate compliance with this ordinance, the Solid Waste Director shall institute an action in a court of competent jurisdiction seeking an injunction against further violation of this ordinance. Such action may be joined with a civil action instituted to collect civil penalties in accordance with 1000.02 above.
2. ORDER OF ABATEMENT. Where necessary to abate a condition existing upon land in violation of the ordinance or a use made of land in violation of this ordinance, the Solid Waste Director shall institute an action in a court of competent jurisdiction seeking an order of abatement or the use of condition of land in violation of this ordinance. Such action may be joined to an action for an injunction and/or an action to recover civil penalties accrued against an individual for the use or condition of land in violation of this ordinance.
3. OTHER EQUITABLE REMEDIES. This ordinance may be enforced by any other equitable remedy which a court of competent jurisdiction deems just and proper.

1000.08 - DELINQUENT ACCOUNTS. Article VII Section 700.06 provides the payment of a tipping fee by users of the landfill. The Solid Waste Department shall have the authority to set up accounts with regular users of the landfill, to be billed on a monthly basis. When any account becomes more than forty-five (45) days past due, the Solid Waste Director shall be authorized to discontinue service to the holder of the delinquent account until such time as the account is paid in full. Further, the Solid Waste Director shall be authorized to use any

means that a private citizen could use to collect a debt including but not limited to, the institution of a civil action to collect monies owed.

ARTICLE XI - APPEALS

Section 1100 - RIGHT TO APPEAL. An individual may appeal the imposition of any penalty against him pursuant to this ordinance. Such appeal shall be commenced by the submission, in writing, of a Notice of Appeal delivered to the Solid Waste Director within ten (10) days from the date the appellant has received notification of the imposition of any penalty. Any civil penalties which are imposed shall be held in abeyance until the appeal has been determined.

1. **SOLID WASTE APPEALS COMMITTEE.** All appeals will be decided in a hearing held by the Solid Waste Appeals Committee. This committee shall be a three (3) member committee comprised of the Cherokee County Manager, or his designee, the Solid Waste Director, or his designee, and a citizen of Cherokee County. Committee members shall serve terms determined by the Board of Commissioners.
2. **MEETING DATE.** The Solid Waste Appeals Committee shall meet as necessary to hear any appeals which have arisen since the previous meeting. The committee shall establish the date, place and time of the meeting and shall give written notice thereof to all appellants. Each appeal shall be heard within thirty (30) days of notice thereof having been given.
3. **WRITTEN DECISION.** The Solid Waste Appeals Committee shall issue a written decision within fifteen (15) days of the hearing. Any written decision of the committee shall notify the appellant that his or her further appeal rights will be to a court of competent jurisdiction, which shall be filed in writing with the committee, within thirty (30) days of the date on the written decision.

ARTICLE XII – MISCELLANEOUS PROVISIONS

Section 1200 – ADDRESSEE HELD RESPONSIBLE. If any object or refuse is discovered upon any lands or waters in any areas of Cherokee County, other than an approved sanitary landfill or in provided receptacles or containers, and it 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.

1200.01 – COMMERCIAL LOGOS: NO IMPOSITION OF RESPONSIBILITY. Bags, boxes, bins, cartons, and other containers used to carry purchased goods or materials and which bear the logo, name, address or other means of identification of the place from which the goods were obtained, shall not be considered as a means of identification for the purposes of this Section.

1200.02 – ASSISTANCE FOR CLEANUP AVAILABLE. On receipt of a notice of a violation, a person may request the aid of the Solid Waste Department in correcting the violation, and shall pay to the Solid Waste Department any costs incurred by the Solid Waste Department in removing or otherwise correcting the violation.

ARTICLE XIII – SEVERABILITY

If any provision, or part thereof, of this Ordinance is for any reason held to be invalid or unconstitutional by a Court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision, and to that end, the provisions of this Ordinance are declared to be severable.

ARTICLE XIV – PARAGRAPH HEADING

Heading at the beginning of paragraphs in this Ordinance shall in no way alter, add to, detract from, or otherwise affect the language of the paragraph. Such headings are for aesthetic purposes and for the organization of the Ordinance only.

ARTICLE XV – CONFLICTING ORDINANCES NULL AND VOID

This Cherokee County Solid Waste Ordinance shall supersede and replace all Ordinances or portions thereof previously adopted by Cherokee County which are in conflict herewith. All such conflicting ordinances or portions thereof shall be and are hereby declared null and void as of the effective date of this Ordinance.

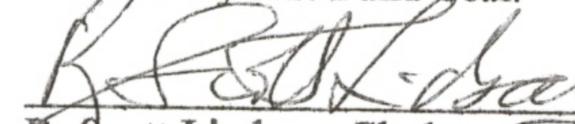
NORTH CAROLINA

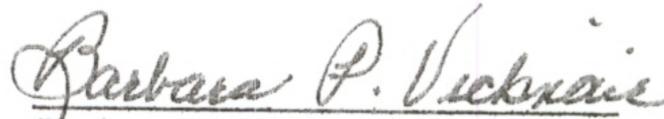
CHEROKEE COUNTY

SOLID WASTE ORDINANCE

This is to certify that the foregoing is a true and accurate copy of the Minutes of the Special Meeting of the Cherokee County Commission Board held on this the 30th day of April, 2001.

Witness my Hand and Seal:


R. Scott Lindsay, Clerk to the Board
Cherokee County Commission Board


Barbara P. Vicknair, Chairman
Cherokee County Commission Bd.