

# **Cherokee County Solid Waste Ordinance Updated 7-18-2022**

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

### ARTICLE III - JURISDICTION

Applicable to Cherokee County property and rights of ways.

### 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 fee schedule adopted by the Cherokee County Board of Commissioners 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 an area in which residents of Cherokee County may deposit residential household garbage and/or 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 Environmental Quality.

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; or
- 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, sludge 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.

400.27 - 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 materials 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 has 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 - RESIDENTIAL SOLID WASTE shall mean waste generated in the normal course of running a household and typically bagged for disposal.

400.36 - RUBBISH shall mean solid or liquid waste from residences, commercial establishments or institutions.

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

400.38 - 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 400.43 is exempt.

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

400.39 - 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.

400.40 - 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 Cherokee County Health Department.

400.41- 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.

400.42 - WHITE GOODS shall mean refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers and other similar domestic and commercial large appliances.

400.43 - 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 generated in Cherokee County by the following persons: (a) Cherokee County property owners who are subject to the Solid Waste Fee, and renters or lessors or property owners subject to the Solid Waste Fee, (b) businesses hauling household solid waste generated in Cherokee County.

500.02 - RESIDENTIAL DISPOSAL AT CONVENIENCE CENTERS. Convenience Centers are for the disposal of residential solid waste generated in Cherokee County 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 - IMPLIED CONSENT. Any person who enters the property of the Cherokee County Landfill or any Cherokee County Convenience Center for the purpose of disposing of any waste gives consent to any Law Enforcement Officer or any employee of the Cherokee County Solid Waste Division to search any vehicle or container brought onto said property, for purposes of investigating compliance with the Cherokee County Solid Waste Ordinance or any State or Federal law concerning the disposal of any waste products.

## ARTICLE VI- TRANSPORTATION, DISPOSAL

### SECTION 601 - TRANSPORTATION



601.01 - CONFORMITY WITH ORDINANCE REQUIRED. No Solid Waste shall be transported except in conformance with this SECTION which applies to 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 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, or otherwise directed by a Solid Waste employee.

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.

## 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 or otherwise disposed of lawfully.
- B. Placing the residential 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 commercial private solid waste hauler.
- D. 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 or otherwise disposed of lawfully.

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, or any municipal government.

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 should be transported to the Cherokee County Landfill; or otherwise disposed of lawfully.

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

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

602.07 - BUSINESSES PROHIBITED FROM UTILIZING CONVENIENCE CENTERS. Businesses are prohibited from depositing solid waste at convenience centers. All business waste should be deposited at the Cherokee County Landfill; or otherwise disposed of lawfully.

602.08 - 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.

602.09 - Disposal of waste generated in, or transported from, outside of Cherokee County is prohibited unless approved by the Cherokee County Solid Waste Director.

## 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 approved by the Solid Waste Director, or a valid NC Driver's License with a Cherokee County address. All contractors and commercial haulers will be required to provide the attendant with the address of the Cherokee County taxpayer/property for whom/from where 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 or otherwise disposed of lawfully.

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 to anyone other than Cherokee County Solid Waste employees is prohibited.

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 for all non-residential solid waste:

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 any Cherokee County owned or operated property, or any Cherokee County Solid Waste or Convenience Center location, pursuant to Cherokee County Ordinance titled "A ORDINANCE PROHIBITING THE SCAVENGING OF TRASH, GARBAGE AND OTHER DEBRIS ON CHEROKEE COUNTY PROPERTY".

700.08 - OBSERVANCE OF RULES AND REGULATIONS. All persons entering or traveling on landfill property or Convenience Center 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 or Convenience Center except where indicated by authorized employees of the landfill or Convenience Center or by official signs.

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

700.11 - SOLID WASTE SUBJECT TO INSPECTION. Solid Waste may be observed and inspected for prohibited materials pursuant to Section 500.03 of this ordinance. Persons disposing of prohibited waste, other unacceptable material, or non-residential waste without paying a tipping fee shall be required to remove such material or be subject to enforcement of this ordinance at the discretion of the Solid Waste Director, or his/her designee.

700.12 - DISPOSAL OF INCINERATOR ASH. Ash from a commercial Solid Waste Incinerator or a Hazardous Water 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/material (cardboard) that meets the standard in SECTION 900.07(3)
4. Metal
5. Used motor oil
6. Lead acid batteries
7. Liquid wastes
8. White goods
9. Tires
10. Radioactive wastes
11. Wet sludge 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. Wooden pallets

700.14 - PACKING MATERIALS PROHIBITED BY NON-RESIDENTIAL DEPOSITORS- styrene, polystyrene, extruded polystyrene, expanded polystyrene Styrofoam, polyethylene, polypropylene, polyvinyl chloride or other similar packing materials shall not in any way shape or form be deposited in the Cherokee County Landfill by any commercial haulers from any non-residential point of origin. Any commercial hauler seeking to deposit packing materials must, before making such a deposit, show sufficient proof to the Solid Waste Director or his/her designee of the point of origin of any packing materials. The Solid Waste Director may, in his/her discretion refuse to accept any load containing packing materials into the Cherokee County Landfill.

## 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 approved by the Solid Waste Director and issued by the Cherokee County Landfill; or a valid NC Driver's License with a Cherokee County property address.

**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.

**800.05 - DISCHARGE OF FIREARMS, EXPLOSIVES, and 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 or non-residential waste materials, pursuant to 500.03 of this ordinance. Persons disposing of prohibited non-residential waste or other unacceptable material shall be required to remove such material or be subject to enforcement of this ordinance at the discretion of the Solid Waste Director, or his/her designee.

**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 selected 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 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. Metals, including all types of aluminum or metal food cans, shall be rinsed and placed in scrap metal bin at the landfill. Labels do not have to be removed.
6. Electronics, televisions, photocopiers, printers, stereos and computer equipment shall be disposed of at the landfill and under the direction of landfill personnel.
7. Other materials, as they are added to the Cherokee County 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.

900.09 - TEMPORARY BANNING OF SUBSTANCES FROM THE LANDFILL: From time to time, it may become necessary to stop certain substances from being placed in the Cherokee County Landfill. Upon arising of such circumstances, the Solid Waste Director may, with the approval of the County Manager, place a moratorium on the deposit of a designated type of waste product for a period not to exceed 60 days. Should such a moratorium be declared, the

County Manager and the Solid Waste Director shall bring such issue before the Cherokee County Board of Commissioners within 60 days of the initial date of the moratorium. Notice of the moratorium shall be posted at the scale-house of the Cherokee County Landfill and on the Cherokee County Governmental Website. The Board of Commissioners, in its discretion, may extend the moratorium for up to 6 months for consideration of alternatives, including, but not limited to amendment of the Solid Waste Ordinance to address the issue.

## 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 - PRIMA FACIA EVIDENCE. It shall be prima facie evidence of violation of this ordinance that the registered owner of a vehicle used in the perpetration of a violation of this Ordinance is responsible for and liable for any violation of this Ordinance and any penalties imposed for violation thereof. This section creates a rebuttable presumption that the registered owner of the vehicle used in the perpetration of a violation of this Ordinance in fact is personally or by agency responsible for violation of this Ordinance. Photographic evidence of a registration plate on a vehicle used by a violator of this Ordinance shall be competent evidence to presumptively prove the registered owner of the vehicle is in fact personally or by agency a violator of this Ordinance.

1000.02 - CIVIL PENALTIES. Violators of this ordinance are subject to assessment of civil penalties.

1000.021 - PAYMENT OF CIVIL PENALTIES. Civil penalties assessed by issuance of a civil citation for violation of this ordinance shall be paid within 15 calendar days of the date of issue as stated on the citation unless such is appealed. If a civil penalty is upheld by the Appeals Committee, the penalty must be received no more than 10 days from the date of the written decision of the Committee. The civil citation shall indicate the date that the penalty must be received on or before either by mail or at the Cherokee County Finance office. Civil penalties must be paid in cash or by means of certified check or money order made out to "Cherokee County."

1000.022 - FAILURE TO PAY CIVIL PENALTIES. If assessed civil penalties are not paid in accordance with the provisions of this Ordinance, the Solid Waste Department, with the approval of the County Manager, is authorized to seek relief through the General Court of Justice for collection of such unpaid civil penalties, including, but not limited to, court costs, attorney's fees and any other remedies available by law or equity.

1000.023 - CIVIL PENALTY FUNDS. Per Article IX, Section 7(a) of the North Carolina State Constitution all civil penalties collected pursuant to this ordinance are to be remitted to Cherokee County Schools. Court costs, attorney's fees and other expenses collected through the General Court of Justice shall be retained by Cherokee County.

1000.03 - CHARGING INSTRUMENT & SERVICE. Before any civil penalty may be imposed, the Solid Waste Director, or authorized designee, shall identify the circumstances giving rise to the violation, including the times, dates and places of the violation and shall notify the offender thereof by means of a written civil citation. The civil citation may be served personally to the violator, posting on the real property within Cherokee County that is possessed or owned by the violator, or by US Mail addressed to the registered address of any vehicle identified as being used or possessed in the commission of any violation of this ordinance. Service may also be accomplished by any other such means providing reasonable assurance of notification of the violator including but not limited to a single publication of the notice in a local newspaper. The amount of civil penalty to be imposed shall be stated and shall follow the fines and penalties as adopted by the Board of County Commissioners. Such notification shall inform the individual of his rights to appeal the determination that the individual is in violation of the ordinance. Submitting a notice of appeal in writing with a copy of the citation to the Solid Waste Director within fifteen (15) days of the initiation of service of the civil citation shall serve as notice of appeal.

1000.04 - CIVIL ACTION. When necessary to collect any civil penalty or accrued civil penalties, the Solid Waste Director may cause a civil action to be instituted against an individual for the collection of all accrued fines.

1000.05 - 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 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. OTHER EQUITABLE REMEDIES. This ordinance may be enforced by any other equitable remedy which a court of competent jurisdiction deems just and proper.

1000.06 - 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.

1000.07 - COMMERCIAL HAULER PENALTIES: In addition to other penalties stated herein, the Solid Waste Director may, in his/her discretion and subject to this ordinance, suspend any commercial hauler from use, either directly or indirectly, of the Cherokee County Landfill for two (2) or more repeated violations or attempted violations of the Cherokee County Solid Waste Ordinance. Entry into the Cherokee County Landfill with prohibited items mixed into a load of Municipal Solid Waste (MSW) destined for deposition into the active cell of the Landfill, will be



considered an attempted violation of the Cherokee County Solid Waste Ordinance. Suspension shall be delivered in writing to the violator. The length of the first suspension shall be no more than 30 days. Subsequent suspensions shall be for no less than 90 days nor more than 180 days. Any commercial hauler suspended under this provision may appeal the suspension under the provisions of Article XI of this ordinance. Entry of a suspended hauler onto the property of the Cherokee County Landfill or a convenience center during the period of suspension shall be a violation and subject the hauler to additional suspensions, and/or other penalties described herein and/or prosecution as a trespasser on County property.

## ARTICLE XI - APPEALS

SECTION 1100 - RIGHT TO APPEAL. An individual may appeal the imposition of any civil penalty against him pursuant to this ordinance. Any civil penalties which are imposed shall be held in abeyance until the appeal verdict has been determined. An appeal is perfected by submitting a notice of appeal in writing that includes a mailing address and phone number, a short written statement of the grounds for the appeal and a copy of the civil citation to the Solid Waste Director within fifteen (15) days of the initiation of service of the civil citation as stated on the citation. Failure to submit the notice of appeal in a timely manner and in proper form shall result in forfeit of the right to appeal.

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 designee, the Assistant County Manager, or designee, and a Cherokee County Commissioner. No member of the Cherokee County Solid Waste Department may serve on the Appeals Committee. The assigned county commissioner shall serve as the chair of the Appeals Committee. A ruling by the Appeals Committee shall be by majority vote. No member may abstain from voting. Written notice as to the time and means of the appeal hearing shall be sent in writing to the alleged violator by the Solid Waste Department no less than five (5) business days before the hearing is scheduled by the chair of the Committee. The alleged violator is not required to attend the appeal and may submit any evidence or argument in writing. The Appeals Committee may meet in any way the chair deems appropriate including, but not limited to, a conference call or other acceptable electronic means of communication. A quorum shall consist of all 3 members participating in the hearing. The chair may summarily dismiss the appeal, without a hearing, if the appeal is not timely made or is not in proper form. The chair may also summarily dismiss, without a hearing, the civil citation if the chair finds that it does not comply with the Cherokee County Solid Waste Ordinance. Members of the Committee shall be provided with a copy of the civil citation and notice of appeal no less than five (5) days before the designated appeal hearing. The decision of the Committee, by hearing or default, is final. Each appeal shall be heard within thirty (30) days of notice thereof having been given. The chair may continue the hearing one time in his/her discretion for no more than fifteen (15) days. Further continuances of the hearing may only be granted by a unanimous vote of the appeals committee. No further notice by the Cherokee County Solid Waste Department to the alleged violator shall be required after the initial notice of hearing.

2. STANDARD OF PROOF. The standard of proof for appeals is that the Cherokee County Solid Waste Department must prove a violation by the greater weight of the evidence.

3. EVIDENCE. The rules of evidence do not apply. The Committee may consider any evidence it deems to be competent and relevant. The Committee may consult with the Solid Waste Department, the County Attorney or any other resources it deems necessary to render a decision. The issuing officer and the alleged violator may call witnesses or submit written statements by witnesses.

4. WRITTEN DECISION. The Solid Waste Appeals Committee, by and through the Chair or his/her designee, shall issue a written decision within five (5) business days of the hearing. The Chair shall submit the decision to the Solid Waste Department, who shall provide a copy by mail to the alleged perpetrator. Any appeal that is denied makes the assessed penalty due and payable within 5 days of the date of the notice of the decision of the Appeals Committee.

## 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.

## 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.

ARTICLE XVI-FINES AND PENALTIES

OFFENSE DESCRIPTION:

Ordinance violation of any kind

1st Offense \$75.00  
2nd Offense \$150.00  
3rd Offense \$500.00

Hauling of solid waste: Throwing, scattering, spilling, placing, dumping, OR causing to be blown, scattered, thrown or placed, any solid waste upon any property with or without the consent of property owner, which is inconsistent with proper and lawful solid waste management and disposal practices shall also constitute a violation.

1st Offense \$75.00  
2nd Offense \$150.00  
3rd Offense \$500.00

Scavenging: Any violation of the Ordinance “Prohibiting the Scavenging of trash, garbage and other debris on Cherokee County Property (reference SECTION 700.07).

1st Offense \$50.00  
2nd Offense \$50.00  
3rd Offense \$50.00

Effective date: \_\_\_\_\_

\_\_\_\_\_  
Chairman, Cherokee County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Clerk to the Board