

CHAPTER 159: PUBLIC HEALTH AND SOLID WASTE AWARENESS AND COMPLIANCE

Section

- 159.01 Authority
- 159.02 Purpose
- 159.03 Jurisdiction
- 159.04 Definitions
- 159.05 Applicability and General Conditions
- 159.06 Solid Waste Storage
- 159.07 Solid Waste Collection and Transportation
- 159.08 Solid Waste Disposal
- 159.09 Penalty and Enforcement
- 159.10 Appeal
- 159.11 Conflicting Regulations Repealed
- 159.12 Severability
- 159.13 Effective Date and Revision of Original Ordinance

PUBLIC HEALTH AND SOLID WASTE AWARENESS AND COMPLIANCE

§ 159.01 Authority.

The Board of Commissioners of Haywood County does hereby ordain and enact into law this chapter of the Code of Ordinances of Haywood County pursuant to authority granted by G.S. 153A-121 "General Ordinance Making Power." and G.S. 153A-132.1 "To Provide for the Removal and Disposal of Trash, Garbage, etc."

§ 159.02 Purpose.

Haywood County through and by North Carolina general Statutes are empowered to protect the general health, safety, welfare of all citizens. The purpose of this ordinance is limited to Public Health risks.

§ 159.03 JURISDICTION

The provisions of this Ordinance shall be applicable to and shall be enforced in all areas of Haywood County not within a city or municipality, except with permission of a city or municipality pursuant to G.S. 153A-122.

§ 159.04 DEFINITIONS.

- A. SOLID WASTE-Means garbage, refuse, rubbish, trash, and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations, and from community activities, but does not include animal waste, solids, dissolved materials, or waste water effluents in domestic sewage, agricultural, or industrial operations.
- B. GARBAGE-Means all putrescible wastes, including animal and vegetable matter, animal offal and carcasses and recognizable industrial by-products, but excluding sewage and human wastes. Other discarded food containers that are not dry and clean shall be included in this definition.
- C. RUBBISH-Means non-putrescible solid wastes.
- D. PERSON-Means any individual, firm, governmental unit, organization, partnership, corporation, or company.
- E. HEALTH DIRECTOR-Means the Director of the Haywood County Health Department, or his/her authorized representative.
- F. BOARD OF COUNTY COMMISSIONERS- (BOCC) means the Haywood County Board of Commissioners
- G. SOLID WASTE COLLECTOR-Means any person who collects or transports solid wastes for compensation of any type, other than one who removes solid wastes from his own premises.
- H. PUTRESCIBLE-Means solid waste capable of being decomposed by micro-organisms, with sufficient rapidity as to cause nuisances from odors or gases, such as kitchen waste, offal, and carcasses not to include appropriately composted materials as defined in the Solid Waste rules.
- I. VECTOR-Means an insect, rodent, or other animal that transmits infectious diseases from one person or animal to another.
- J. PREMISES-Means a parcel(s) of land and the buildings on it.

§ 159.05 APPLICABILITY AND GENERAL CONDITIONS.

This ordinance shall apply to the management of solid waste prior to acceptance into the Haywood County Solid Waste collection and disposal system. Solid waste management methods and procedures implemented pursuant to this ordinance shall be based upon public health practices and procedures, including applicable epidemiological research and other scientific knowledge. All solid waste shall be stored, collected, transported, treated, utilized,

processed, reclaimed, recycled, and disposed of in a manner consistent with the requirements of federal, state and county laws and ordinances, including rules and regulations adopted by the Haywood County Board of Health and the North Carolina Commission for Health Services. As provided in G.S.153A-121(c), the provisions of this ordinance do not impair the authority of the Haywood County Board of Health to adopt rules and regulations to promote the public health. Further, the provisions of this ordinance do not impair the authority of the Haywood County Board of Health and the North Carolina Commission for Health Services to enforce such rules or rules adopted by the Commission for Health Services pertaining to applicable public health statutes which address solid waste violations.

§ 159.06 SOLID WASTE STORAGE.

A. The owner, occupant, tenant, lessee, or person in charge of any premise, shall be responsible for the sanitary storage of all solid waste accumulated at that premise.

B. Garbage shall be stored or managed to minimize putrescible odor. Containers shall be a quality leak proof container. Containers shall be stored in such a manner and of duration so as not to create a public health risk.

C. Rubbish shall be stored in such a manner to prevent:

1. Harborage for rodents; and
2. The collection or confinement of water to breed mosquitoes, flies, or other vectors.

§ 159.07 SOLID WASTE COLLECTION AND TRANSPORTATION.

Solid waste shall be collected and transported in such a manner so as not to create a public health risk. Transportation shall comply with Haywood County Solid Waste Disposal ordinance, Chapter 50 of the Haywood County Code of Ordinances.

§ 159.08 SOLID WASTE DISPOSAL.

All solid waste shall be disposed of by methods consistent with this ordinance and the Haywood County Solid Waste Disposal ordinance; and federal and state rules and regulations.

§ 159.09 PENALTY AND ENFORCEMENT.

A. Any person who violates this ordinance or fails to comply with any of its requirements shall be guilty of a class 3 misdemeanor, as provided in G.S. 153A-123(b) and G.S. 14-4 of the General Statutes of North Carolina, and shall be punishable by a fine of up to \$50.00 per violation.

B. Any person who violates this ordinance may be subject to an action for injunctive relief in the Superior Court of Haywood County, as provided in G.S. 153A-123(a), (c) and (d) of the General Statutes of North Carolina or civil penalty.

Haywood County – Administration

- C. The Haywood County Health Director, or his/her authorized representative, is hereby designated and appointed the environmental enforcement officer as provided in G.S. 153A-136(a)(6a), and may issue a Notice of Violation (also called an order of abatement) directing the owner, lessee, operator or other person in control of property to take any action necessary to abate a public health nuisance . This ordinance shall not impair the authority of the Haywood County Health Director to issue an order of abatement pursuant to G.S. 130A-19(a) where he determines that a public health nuisance exists.
- D. The Haywood County Health Director or designee, as environmental enforcement officer, shall make a reasonable effort to abate the public health risk through voluntary compliance with corrective instructions to the property owner or person in lawful possession of the property. If denied permission to enter the property by the property owner or person in lawful possession of the property, the Health Director, acting as environmental enforcement officer, shall first apply for and obtain an administrative search warrant before entering the premises. Thereafter the Health Director shall proceed with formal abatement procedures giving the person a period of at least 30 days to comply with such corrective instructions. If the person fails to comply, the Health Director shall thereafter proceed in court with an application for injunctive relief, order of abatement or prosecute such person in criminal court for violation of this ordinance.

(Ord. passed 1-12-11; Am. Ord. passed 7-19-21)

§ 159.10 APPEAL.

Appeals concerning the enforcement of this Ordinance adopted by the Haywood County Board of Commissioners and concerning the imposition of administrative penalties by the Haywood County Health Director as environmental enforcement officer, by an aggrieved person from a penalty or enforcement action taken by the Haywood County Health Director, or his/her authorized representative, shall be in conformity with N.C.G.S. 160D-404, 405 and 406 and as follows:

- A. The aggrieved person shall give written notice to the Haywood County Health Director, or his/her authorized representative acting as environmental enforcement officer, within 30 days of the issuance of the Notice of Violation (also called an order of abatement). The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect.
- B. Upon filing of a notice of appeal, the Haywood County Health Director, as environmental enforcement officer, shall, within 5 working days, transmit to each member of the Haywood County Board of Health the notice of appeal and the papers and materials upon which the challenged action was taken.
- C. The Haywood County Board of Health shall hold a hearing in accordance with N.C.G.S. 160D-405 at the next regular scheduled meeting following receipt of the

notice of appeal. The Board of Health shall give the appealing party not less than 10 days notice of the date, time and place of the hearing.

- D. On appeal, the Haywood County Board of Health shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.
- E. A person who wishes to contest a decision of the Haywood County Board of Health made pursuant to this Section shall have a right of appeal to the Haywood County Board of Commissioners within 30 days after the date of the decision by the Board of Health in accordance with N.C.G.S. 160D-406.
- F. The Haywood County Board of Commissioners shall schedule a quasi-judicial hearing in accordance with N.C.G.S. 160D-406 within 30 calendar days following receipt of appeal. The Haywood County Board of Commissioners shall have authority to affirm, modify or reverse the challenged action. The Haywood County Board of Commissioners shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.
- G. A person who wishes to contest a decision of the Haywood County Board of Commissioners made pursuant to this Section shall have a right of appeal to the General Court of Justice having jurisdiction, within 30 days after the date of the decision by the Board, in accordance with N.C.G.S. 160D-406(k).
- H. Members of the Haywood County Board of Health and the County Board of Commissioners shall not vote on any decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any matter if the subject matter involves a person with whom the member has a close familial, business, or other associational relationship.

(Ord. passed 1-12-11; Am. Ord. passed 7-19-21)

§ 159.11 CONFLICTING REGULATIONS REPEALED.

All regulations or parts of regulations in conflict herewith are repealed, as of the effective date of these amended regulations, but only to the extent necessary to give these regulations full force and effect. **If any provision of this ordinance, or the application thereof to any person or circumstance, is held to exceed the authority of state statutes or to not be pursuant to the power and duty of the environmental enforcement officer, including the Haywood County Health Director, or his/her authorized representative, to carry out the responsibilities delegated under Section 39 of Chapter 130A of the General Statutes of North Carolina to the Board of Health to protect and promote the public health, the**

Health Director, or his authorized representative, may only proceed as necessary to enforce state statutes and rules as an agent of the state in pursuit of state actions.

Where a state statute or County ordinance provides a lesser penalty for an offense than is provided for by a violation of this ordinance, the lesser degree or class of criminal penalty shall take precedence and control.

§ 159.12 SEVERABILITY.

If any section or sections of this chapter is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

§ 159.13 EFFECTIVE DATE AND REVISION OF ORIGINAL ORDINANCE

This revised ordinance revises and supplants the ordinance in Chapter 159 originally adopted January 12, 2011, and all subsequent amendments, and shall be effective on and after July 19, 2021.