

Chapter 26

SOLID WASTE MANAGEMENT*

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***State law references**—Solid waste management, G.S. 130A-290 et seq.; local government solid waste responsibilities, G.S. 130A-309.09A; placing refuse within town, G.S. 160A-303.1.

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ARTICLE I. IN GENERAL**Sec. 26-1. Administration and enforcement generally.**

(a) The collection and removal of solid waste from premises in the town shall be under the jurisdiction of the director of public works and utilities. Enforcement of the provisions of this chapter shall be under the supervision of the director of public works and utilities.

(b) When the public works director determines that a violation of the requirements of this chapter exists, the director shall provide written notice, hereafter referred to as a correction order, to the owner of the property involved, naming the address of the property in violation, the specific violation and a time period in which the owner or occupant shall correct the violation. The director may also provide additional notices of violation by other means as deemed appropriate.

(c) Should any owner, lessee or occupant fail or refuse to heed or comply with a notice, the director may take or order direct actions to correct the violation without additional notice and may bill the full town costs, including an administrative fee, thereof to the property owner. Failure to pay the bill may result in collection action by the town, which may include the placement of a lien on the property until such time as the bill is paid and if not paid within 30 days, shall be collected in the same manner provided for the collection of delinquent taxes. Nothing contained herein shall limit the authority of the town to summarily abate public health nuisances.

(Code 1982, § 16.5-1; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 05-003, 2-24-2004)

Sec. 26-2. Right of entry.

The director of public works and utilities or any of his assistants shall have the right to enter at any reasonable time any premises for the purpose of making the inspections or investigations as required by this chapter.

(Code 1982, § 16.5-3; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ashes shall mean refuse resulting from the burning of wood, coal, coke and other combustible material.

Building solid waste shall mean solid waste from construction, remodeling and repair operations on houses, commercial buildings and other structures, regardless of who is doing the construction, including, but not limited to, excavated earth, stones, brick, plaster, lumber, concrete and waste parts occasioned by installations and replacements.

Combustible solid waste shall mean solid waste capable of being incinerated or burned, such as garbage, paper, rags, boxes and wood.

Director shall mean the director of public works and utilities of the town of Cary, or his agent.

Garbage shall mean animal and vegetable solid waste resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto.

Industrial solid waste shall mean solid waste from factories, processing plants and other manufacturing enterprises, exclusive of building solid waste and refuse.

Land clearing debris shall mean solid waste which is generated solely from land clearing activities, including, but not limited to, stumps, trees, brush and other vegetative waste incidental to tree, brush and stump removal.

Noncombustible solid waste shall mean solid waste not capable of incineration or burning, such as ashes, cans, metals, mineral matter, glass and crockery.

Ordinances shall mean the Code of Ordinances of the Town of Cary, North Carolina.

Paper yard waste bag shall mean a sanitary kraft paper sack, or equal, of 30-gallon capacity, two-ply, 30-pound wet strength with decomposing glue and reinforced self-supporting square bottom closure.

Refuse shall mean solid waste, including, but not limited to, garbage, rubbish and ashes.

Regulations shall mean regulations of the director of public works and utilities of the town of Cary, now or hereafter in effect, promulgated under this article or other authority.

Rubbish shall mean solid waste (exclusive of garbage and ashes) including, but not limited to, papers, rags, cartons, boxes, wood, excelsior, rubber, leather, cans, metals, mineral matter, glass and crockery.

Yard and leaf waste shall mean vegetative matter resulting from landscaping maintenance with no earth or soil attached, including, but not limited to, leaves, grass, twigs, certain limbs, hedge trimmings, plant trimmings, hay, straw, pine straw, pine cones, and shrubs.

(Code 1982, § 16.5-4; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-4. Littering and illegal dumping.

(a) *Illegal dumping.* No person shall throw, drop or deposit, or cause to be thrown, dropped or deposited, on any street, avenue, alley, highway, greenway, footway, sidewalk, park or other public place or on any land in the town not owned by the person in question (vacant or occupied), any waste, including, but not limited to, refuse, yard or leaf waste, land clearing debris, building debris including material used in building, construction, repair, remodeling, demolition and excavating operations, dead animals, putrescible matter, paper, drinking cups, broken glass, and anything injurious to health.

(b) *Cleanup and removal.* If any person, while transporting or hauling, or causing to be transported or hauled such rubbish or solid waste material, or earth excavation, coal or other material, shall throw, drop or deposit or cause to be thrown, dropped or deposited, such rubbish or material from the body of the vehicle, in violation of the provisions of this subsection, such person must clean up and remove such rubbish or material in a manner and within a time satisfactory to

the public works code enforcement officer. Should any owner or person refuse or fail to comply with such notice, the department of public works and utilities may clean up and remove such rubbish and material and the town shall collect the cost of such cleaning up and removal from such person. (Code 1982, § 16.5-5; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-5. Throwing or burning refuse.

No person shall burn or cause to be burned any refuse, including yard and leaf waste, on any street or sidewalk, in any catch basin or manhole of the town. (Code 1982, § 16.5-6; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-6. Removal of dead animals.

Dead animals on the street or placed in solid waste containers will be removed and buried as soon as practicable by the town after receipt of notice thereof. (Code 1982, § 16.5-7; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-7. Importation of solid waste.

No person shall bring or cause to be brought into the municipal limits of the town any leaf or yard waste, building debris, industrial waste, land clearing debris, rubbish, refuse, garbage or any other type of solid waste for the purpose of collection and disposal by the town, provided that the prohibition contained in this subsection shall not apply to the deposit of waste not injurious to the health of the public, where permission to make such deposit is granted in advance by the town manager or his designated assistant, nor to the filling in or grading of property with earth, mud, rubble masonry or concrete or similar materials which has been permitted by the town. (Code 1982, § 16.5-8; Ord. No. 92-37, § 1, 6-11-1992)

Secs. 26-8—26-39. Reserved.

ARTICLE II. SOLID WASTE COLLECTION

Sec. 26-40. Availability and extent of service.

The town shall collect, remove and dispose of all solid wastes, including, but not limited to, garbage and rubbish, within the town limits, except in case of emergency arising from an act of God or under circumstances over which the town has or had no control, as set forth in this article. Service shall consist of the collection of solid waste each week as set forth in the town solid waste collection policy, except during weeks when holidays are authorized and during which special schedules will be established. (Code 1982, § 16.5-16; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-41. Limitations on service.

(a) Offices, businesses, industries and other premises that cannot be serviced by two 95-gallon carts per each solid waste collection day must arrange with private commercial collectors for service, and will not pay sanitation charges to the town.

(b) Existing multi-family complexes with three or more units receiving service prior to July 1, 2005.

(1) The department of public works and utilities shall be responsible for the collection and removal of not more than four solid waste containers of 32-gallons capacity and each weighing not more than 25 pounds on its prescribed collection days at the cost prescribed annually in the town's budget for the fiscal year.

(2) All solid waste containers shall be placed in easily accessible, ground level areas. The department of public works and utilities shall not be responsible for the collection and removal of solid waste containers below ground level or on second floors of buildings. The department of public works and utilities shall not be required to enter any building, store, shed, fenced area or any other closed structure for the collection of solid waste.

(c) Roll-out cart curbside service.

(1) The department of public works and utilities shall be responsible for the collection and removal of solid waste containers of not over 95-gallon capacity on its prescribed collection days at the cost prescribed annually in the town's budget for the fiscal year.

(2) All solid waste roll-out carts shall be placed at the curb, not in the street, on the sidewalk, or on your meter box. Roll-out carts shall be placed "facing out" and away from light poles, mail boxes, or fire hydrants.

(Code 1982, § 16.5-17; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 05-014, 9-22-2005)

Sec. 26-42. Collection fees.

(a) The charges for solid waste collection and disposal per month per unit, as defined in this article, shall be prescribed annually in the town's budget for the fiscal year.

(b) The charges prescribed by the town council shall apply to each residence or business in the town that can be served within the limitations noted. Several offices and businesses, which are served by the same water meter and have one sanitation collection location with not more than two roll out carts, shall pay one sanitation fee for this service.

(c) The monthly charge shall be billed by the town to each unit each month and shall be payable with the town water and sewer billing within the time limit fixed for the payment of the utility bill.

(d) If such charge shall not be paid as provided herein before, then the town may discontinue further collection and removal of such solid garbage, refuse, trash, and recyclable materials from the unit involved and the further retention of such garbage, refuse, trash, and recyclable materials on the property involved shall be unlawful and shall subject the resident of the unit and the owner of the properties to all applicable health and sanitation regulations and laws.

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(e) No person other than the town shall perform, for pay, the service of collecting, hauling and disposing of solid waste from within the town limits, except as provided elsewhere in this chapter or unless such authorization is given in writing by the town manager with the approval of the town council.

(Code 1982, § 16.5-18; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 05-014, 9-22-2005)

Sec. 26-43. Precollection practices.

(a) *Preparation of refuse.*

- (1) Garbage shall be placed in a plastic bag and deposited promptly in solid waste cans or carts. If the garbage is wet, it shall have the liquid drained off and it shall be wrapped in paper or other combustible material, thus preventing smell and the breeding of flies in summer months and the freezing and adhering to the sides of the can in winter months.
- (2) All ashes must be fully extinguished prior to placement in solid waste cans or containers for collection by the town.

(b) *Solid waste containers.*

- (1) Existing multi-family complexes with three or more units receiving service prior to July 1, 2005
 - a. Every person producing or having solid waste shall provide and keep on the premises or property occupied or used by him sufficient solid waste containers to handle all accumulations of solid waste on such premises or property in the intervals between collections by the department of public works and utilities; provided, that nothing in this subsection shall be interpreted to increase the limitations on service otherwise prescribed in this article.
 - b. Each container shall be of such size and shape as to be handled by one person and shall have a minimum of two handles. Each container shall have a tight-fitting, watertight cover, shall be of metal or plastic construction, shall have a capacity of not less than ten gallons, or more than 32 gallons, shall be kept covered at all times, and shall be maintained in good, serviceable condition, free from defects such as ragged or sharp edges that will hamper or injure the persons collecting the contents thereof. Otherwise, it must be promptly replaced by a proper container.
- (2) Roll-out cart curbside service.
 - a. The town shall furnish each solid waste collection customer with a roll-out cart. This container shall be used by each residential solid waste collection customer to store solid waste materials. It shall be the responsibility of each customer to maintain that container in a functional state of repair and to report any damage to or loss of that container immediately to the department of public works and utilities. Each container is and shall remain the property of the town and shall remain at a customers' residence after that customer has moved or otherwise vacated the dwelling.

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(c) *[Public nuisance.]* All persons shall cover and secure all solid wastes, keeping them in a clean and orderly manner and preventing them from being scattered by animals, wind or other means, and becoming a public nuisance. The person generating solid wastes that becomes a public nuisance shall be responsible for the immediate cleanup of such material.

(d) *Storing of solid waste.*

(1) All combustible and noncombustible solid waste shall be stored in containers complying with this article.

(2) Every owner and every occupant or other persons in control of any building or land in the town, including vacant property, shall be kept the same in a clean and orderly condition, shall not allow solid waste to accumulate in any building or on any land (vacant or occupied), and shall deposit solid waste for collection by the department of public works and utilities in accordance with the provisions of this article and the town solid waste collection policy.

(Code 1982, § 16.5-19; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 05-014, 9-22-2005)

Sec. 26-44. Roll-out cart service.

(a) All garbage shall be stored, pending collection by the town, in the roll-out carts provided by the town, and the top of such containers shall be kept securely fastened at all times. Such roll-out carts shall be kept between scheduled pickups either within a completely enclosed substantial structure such as a house, garage, or shed, or:

(1) If a lot has frontage on only one street, then such roll-out carts shall be located behind the building line of the side of the principal building on that lot that faces the street;

(2) If a roll-out cart is stored in front of the building line, it must be screened so that it cannot be seen from the street.

(b) Roll-out carts shall be placed adjacent to the street (on the street side of any drainage ditch or swale) for collection by 7:00 a.m. on the scheduled collection day or no earlier than dusk prior to the collection day. After collection, all roll-out carts shall be removed to a storage location that complies with subsection (a) of this section by 6:00 a.m. on the day following the collection day.

(c) Should roll-out carts remain at the curb and not comply with subsection (a) of this section, a roll-in fee, established by the annual budget ordinance, will be assessed on the second occurrence within a twelve-month period.

(d) If the director determines that, because of the physical infirmity of the occupant of any premises, the occupant cannot without severe hardship transport the roll-out cart from the storage location required by subsection (a) of this section to the collection point required by subsection (b) of this section, he may authorize a special exemption service.

(e) The cost of the roll-out cart is included in the regular sanitation fee. A monthly charge, in addition to the regular sanitation fee, for the use of a second cart shall be established by the annual budget ordinance.

(f) Damage to the town's roll-out cart outside of normal wear and tear can be assessed to the residence up to the full replacement cost of a new container.

(Code 1982, § 16.5-21; Ord. No. 97-038, 10-9-1997; Ord. No. 05-014, 9-22-2005)

Secs. 26-45—26-75. Reserved.

ARTICLE III. YARD AND LEAF WASTE COLLECTION

Sec. 26-76. Separation of compost from yard and leaf waste.

The town hereby establishes the mandatory separation of compostable yard and leaf waste material from garbage, rubbish and other trash, by the residents of the town, and for the collection of these yard and leaf waste materials at the residents' curbside by the town employees or their agents.

(Code 1982, § 16.5-30; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-77. Availability and extent of service.

(a) The town shall collect, remove and dispose of all leaf and yard waste from its residential solid waste collection customers within the town limits, except in case of emergency arising from an act of God or under circumstances over which the town has or had no control, as set forth in this article or in the town solid waste collection policy. Service shall consist of curbside collection of leaf and yard waste once each week, as set forth in the town solid waste collection policy, except during weeks when holidays are authorized and during which special schedules will be established.

(b) Anyone utilizing trash receptacles, of any size, to contain yard waste for the collection by town crews, must follow the same rules in section 26-44(b), specifically, trash receptacles shall be placed adjacent to the street (on the street side of any drainage ditch or swale) for collection by 7:00 a.m. on the scheduled collection day or no earlier than dusk prior to the collection day. After collection, all trash receptacles shall be removed to a storage location that complies with subsection (a) of section 26-44 by 6:00 a.m. on the day following the collection day.

(c) Should yard waste receptacles remain at the curb and not comply with subsection (a) of this section, a roll-in fee, established by the annual budget ordinance, will be assessed on the second occurrence within a 12-month period.

(Code 1982, § 16.5-31; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 06-013, 7-27-2006)

Sec. 26-78. Limitations on service.

(a) Curbside yard and leaf waste collection service shall be provided only to residential solid waste customers of the town. This service will not be provided to institutional, business, commercial or industrial solid waste collection customers. Furthermore, this service does not include the collection of land clearing debris.

(b) All yard and leaf waste materials not prepared and handled in accordance with the provisions of the town solid waste collection policy shall not be collected by the town or their agents. (Code 1982, § 16.5-32; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-79. Ownership of yard and leaf waste material.

Upon placement of yard and leaf waste material at curbside for collection by the town or its agents in accordance with this article and the town's solid waste collection policy, such yard and leaf waste materials shall become the property of the town. It shall be a violation of this article for any person, other than authorized agents of the town acting in the course of their employment, to collect or pick up any yard and leaf waste material so placed.

(Code 1982, § 16.5-33; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-80. Disposal of yard and leaf waste material.

All yard and leaf waste material shall be disposed of in accordance with all applicable local ordinances and state and federal rules and regulations.

(Code 1982, § 16.5-34; Ord. No. 92-37, § 1, 6-11-1992)

Secs. 26-81—26-110. Reserved.

ARTICLE IV. SOLID WASTE RECYCLING

Sec. 26-111. Separation and collection of recyclable materials.

The town hereby establishes the voluntary separation of selected recyclable solid waste materials from garbage, rubbish and other trash, by the residential solid waste collection customers of the town, and the collection of those selected recyclable solid waste materials at the customer's curbside by the town or its agents.

(Code 1982, § 16.5-40; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-112. Availability and extent of service.

The town shall collect, remove and dispose of the designated recyclable solid waste materials within the town limits, except in case of emergency arising from an act of God or under circumstances over which the town has or had no control, as set forth in this article or in the town solid waste collection policy. Service shall consist of curbside collection of recyclable solid waste materials once each week, as set forth in the town solid waste collection policy, except during weeks when holidays are authorized and during which special schedules will be established.

(Code 1982, § 16.5-41; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-113. Limitations on service.

(a) Curbside recyclable solid waste material collection service shall be provided only to residential solid waste customers of the town. This service will not be provided to institutional, business or commercial or industrial solid waste collection customers. Furthermore, this service includes only those recyclable solid waste materials set forth in the town solid waste collection policy.

(b) All recyclable solid waste materials not prepared and handled in accordance with the provisions of this article and the town solid waste collection policy shall not be collected by the town or its agents.

(Code 1982, § 16.5-42; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-114. Ownership of recyclable solid waste materials.

Upon placement of recyclable solid waste materials at curbside for collection by the town or its agents in accordance with this article and the town solid waste collection policy, such recyclable solid waste materials shall become the property of the town, except those recyclable materials not prepared and handled in accordance with the town solid waste collection policy and any materials not included in the list of recyclable solid waste materials in the town solid waste collection policy but placed at curbside for collection. It shall be a violation of this article for any person, other than authorized agents of the town acting in the course of their employment, to collect or pick up any recyclable solid waste materials so placed.

(Code 1982, § 16.5-43; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-115. Recycling containers.

The town shall furnish each solid waste collection customer with a special container which is specifically designed for the collection of recyclable solid waste materials. This container shall be used by each residential solid waste collection customer to store recyclable solid waste materials. It shall be the responsibility of each customer to maintain that container in a functional state of repair and to report any damage to or loss of that container immediately to the department of public works and utilities. Each container is and shall remain the property of the town and shall remain at a customer's residence after that customer has moved or otherwise vacated the dwelling.

(Code 1982, § 16.5-44; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-116. Collection practices.

(a) *Pre-collection practice.* After the recyclable solid waste materials have been properly prepared, those recyclable materials can be stored in the recycling container until the designated collection day, at which time the container and its contents shall be placed at curbside in front of the customer's residence not later than 7:00 a.m., nor earlier than dusk of the day prior to collection.

(b) *Post-collection practice.* After the recyclable materials have been collected by the town or its agents, each solid waste collection customer who has placed his recyclable materials collection container at curbside shall retrieve his container from curbside and return the container to its storage location in or at his residence, not later than 6:00 a.m. on the day following the collection day.

(Code 1982, § 16.5-45; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 05-014, 9-22-2005)

Secs. 26-117—26-145. Reserved.

ARTICLE V. SOLID WASTE CITIZENS' CONVENIENCE CENTER

Sec. 26-146. Availability and extent of service.

(a) The solid waste disposal convenience center is available to all town residents who pay a monthly sanitation fee and wish to dispose of solid waste, except as provided hereinafter.
(Code 1982, § 16.5-51; Ord. No. 92-37, § 1, 6-11-1992; Ord. No. 2019-Code-01, § 1, 3-28-2019)

Sec. 26-147. Limitations on service.

(a) Each person using the convenience center shall be responsible for placing his solid waste in the containers provided for that purpose.

(b) The convenience center shall not be used by builders, contractors, or developers or individuals acting as their own builder or contractor by performing home or building construction, remodeling, repair, reconstruction or demolition. Those persons must dispose of their building debris and solid waste in accordance with all applicable federal, state and local laws, regulations, rules and ordinances.

(c) The convenience center shall not be used for industrial, commercial or business waste.
(Code 1982, § 16.5-51; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-148. Scavenging prohibited.

No person shall enter the solid waste container or containers for the purpose of scavenging, rummaging, ransacking or searching for articles of refuse or other solid waste material placed in said container or containers. No person shall be allowed to take away any articles from said container or containers.

(Code 1982, § 16.5-52; Ord. No. 92-37, § 1, 6-11-1992)

Sec. 26-149. Use by the town.

The town shall use the convenience center facility as it deems necessary and expedient to provide cost effective municipal services to the public.

(Code 1982, § 16.5-53; Ord. No. 92-37, § 1, 6-11-1992)