

**AN ORDINANCE TO REGULATE PUBLIC USE OF MCDOWELL COUNTY
SOLID WASTE CONTAINERS AND CONTAINER SITES**

Article 1. Title – Ordinance No. 115

This Ordinance shall be known and may be cited as “The McDowell County Solid Waste Container Ordinance”

Article II. Authority

The McDowell County Board of Commissioners has been authorized by the State of North Carolina to enact this Ordinance pursuant to the following General Statutes of the State of North Carolina:

153A-121	General ordinance-making power
153A-122	Territorial jurisdiction of county ordinance
153A-123	Enforcement of ordinance
153A-132.1	Removal and disposal of trash, garbage, etc.
153A-136	Regulation of solid waste
153A-292	County collection and disposal; tax levy
14-4	Violation of local ordinances misdemeanor

Article III. Jurisdiction

Pursuant to G.S. 153A-122, this Ordinance shall apply to any part of McDowell County not within a municipality. In addition, the governing board of any municipality within McDowell County may, by resolution, permit this Ordinance to apply to said municipality.

Article IV. Background and Purpose

McDowell County, North Carolina has established a solid waste collection system consisting of centrally-located bulk-storage container units of less than ten (10) cubic yard capacity. Such container units are alternately known as “green boxes” or by the trade name “Dumpster”. This system is intended for the collection of customary items of household solid waste and is serviced at least weekly by front-loading solid waste collection vehicles.

The purpose of this Ordinance is to define and abate nuisances within McDowell County and to define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of the citizens of McDowell County and the peace and dignity of McDowell County. It is the intent of this Ordinance to accomplish this purpose through the regulation of McDowell County’s solid waste containers and container sites, with such regulation including but not limited to:

A. Persons allowed to use such facilities,

- B. Solid waste materials allowed to be placed into solid waste containers, and
- C. Standards of conduct and procedure to be followed when using solid waste containers and container sites.

Article V. Definitions

Person – an individual, corporation, company, association, partnership, unit of local government or other legal entity.

Solid Waste – any hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. Such term does not include:

1. Fowl and animal fecal waste;
2. Solid or dissolved material in:
 - a. Domestic sewage and sludge generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity of more than three-thousand (3,000) gallons of which discharge effluents to the surface waters;
 - b. Irrigation return flows; and
 - c. Wastewater discharges and the sludge incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission; or
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
4. Any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through G.S. 104E-23; or
5. Mining refuses covered by the North Carolina Mining Act, G.S. 74-45 through G.S. 74-68, and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

Solid Waste Containers (Containers) – the solid waste bulk-storage container units (“green boxes”, “Dumpsters”) which are owned and/or operated and/or maintained by McDowell County for the purpose of collecting solid wastes.

Solid Waste Container Sites (Container Sites, Sites) – the land upon which solid waste containers are located including but not being limited to: pull-off areas, access ramps and parking spaces.

Article VI. Use of Solid Waste Containers and Container Sites

Section 1. Authority of McDowell County to Regulate Use

McDowell County’s solid waste containers are financed by revenues generated within and/or allocated expressly to McDowell County. Accordingly, it shall be unlawful for any person to deposit solid waste into said containers unless said solid waste is generated on property located within the boundaries of McDowell County.

Due to the diverse sources and composition of solid waste generated on property located within the boundaries of McDowell County and the specific characteristics of each, the McDowell County Board of Commissioners shall possess the authority to restrict the use of solid waste containers to certain persons within McDowell County on the basis of source and/or composition as specified in Sections 3 and 4 of this Article. In no event, however, shall any person who is otherwise in compliance with the provisions of this Ordinance, and any other applicable regulations, be arbitrarily or capriciously denied the right to use said containers.

Section 2. General Regulation Governing Use of Solid Waste Containers and Container Sites

Subsection A

Solid waste material should be placed directly into a solid waste container. Solid Waste material which is acceptable as provided in this Ordinance shall not be placed at a container site unless it is placed within a solid waste container. Unacceptable solid waste material as provided in this Ordinance shall be placed neither within a solid waste container nor at any other point on the container site. All acceptable solid waste materials which are dropped either prior to or following the act of placement of material into a solid waste container shall be retrieved and placed into a solid waste container. In the event that acceptable solid waste materials fall from a container due to the container having reached capacity, such material shall be cleaned from the site and removed from the premises. It shall be the explicit responsibility of the person utilizing the solid waste containers and/or container sites to ensure that these provisions are carried out. A violation of this Subsections shall be punishable according to the provisions of G.S. 14-399(d) as amended.

Subsection B

To maximum extent possible, solid waste material placed into a container should be bagged or otherwise bound in order to prevent blowing or scattering of such material.

Subsection C

It shall be unlawful for any person to perform any of the following acts:

- i. Intentionally defile, deface, destroy or otherwise vandalize or abuse solid waste containers, container sites, or any other equipment of facilities located at the container site.
- ii. Loiter and/or congregate on any container site.
- iii. Leave a vehicle unattended on any container site. Any vehicle left so unattended shall be towed away at the owner's expense.
- iv. Set or cause to be set any fire in a solid waste container or at a container site.
- v. Remove any item from a solid waste container, excepting unacceptable materials as described in Section 4 of this Article.
- vi. Climb on, around, or inside of a solid waste container.
- vii. Move a solid waste container from its assigned location.
- viii. Open bags or other bindings which contain solid waste material either inside a container or at a container site.

Section 3. Restrictions by Source of Solid Waste

The materials deposited into solid waste containers shall be limited to customary items of household solid waste which otherwise comply with the provisions of this Ordinance and any other applicable regulations. Such containers shall not be utilized by persons engaged in the collection of solid waste for compensation or by persons engaged in the collection of solid wastes from commercial campgrounds, hotels, motels and other forms of short-term living accommodations. In no event, however, shall this restriction be constructed to deny the use of such containers to non-permanent residents of McDowell County provided that such persons are otherwise in compliance with the provisions of this Ordinance and any other applicable regulations.

Section 4. Restrictions by Composition of (Solid) Waste

The following materials are unacceptable and it shall be unlawful for any person to place into a solid waste container any of the following items:

Fire, embers, ashes and other such fire causing materials
Liquids other than those contained in customary household solid waste
Poisons
Herbicides
Pesticides
Tires or other bulky materials composed of rubber
Chemicals
Explosives or other volatile substances
Dead animals
Concrete, cement, lumber, bricks, blocks or other contraction materials
Soil, rock, or any type of mining refuse
Stumps, logs, limbs, leaves or lawn clippings
Industrial or commercial wastes of any type
Pathological wastes
Toxic Wastes
Household appliances, including but not limited to refrigerators, stoves, washers, dryers, etc.
Road construction material including but not limited to asphalt, gravel, etc.
Sludge or semi-solid fluids
Gasoline, oils, or other hydrocarbons
Motor vehicles or motor vehicle parts/remnants
Metal wire
Bicycles or tricycles
Animal wastes
Nuclear or radioactive waste
Chairs, sofas, tables, mattresses or other large items of furniture
All other materials occupying a volume of one cubic yard or greater
All other materials not included in the definition of solid waste
All other hazardous wastes

Article VII. Penalties

If any person shall violate this Ordinance, he or she shall be guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days, or both, for each offense, as provided in G.S. 14-4 and G.S. 153A-132.1. Each day or portion thereof that this Ordinance is violated shall constitute a separate offense as provided in G.S. 153A-132.1. Violations of this Ordinance which are subject to the provisions of G.S. 14-399 shall be punishable according to the provisions of that Statute.

Article VIII. Severability

If any article, section, subsection or provisions of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Article IX. Effective Date

This Ordinance shall take effect and be enforced from and after the 7th day of October, 1985.

Duly adopted by the Board of Commissioners of the County of McDowell, North Carolina, this the 7th day of October, 1985.

s/William A. Wiseman
Chairman of the Board of
Commissioners of
McDowell County, NC

s/Diane Gilliam
Clerk to the Board of
Commissioners
McDowell County, NC