

**Sampson County  
Public Nuisance Ordinance**

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## **ARTICLE I. INTRODUCTORY PROVISIONS**

### **Section 101. Title**

This ordinance shall be known and may be cited as the Public Nuisance Ordinance of the County of Sampson, North Carolina.

### **Section 102. Purpose**

The purpose for this ordinance is to promote the public safety, health, and welfare of the citizens of Sampson County through regulation of the storage, collection, and disposal of solid waste in the county.

### **Section 103. Authority**

This ordinance is adopted pursuant to the authority contained in N.C.G.S. 14-4, N.C.G.S. 153A-121, N.C.G.S. 153A-123, N.C.G.S. 153A-132.1, N.C.G.S. 153A-132.2, N.C.G.S. 153A-136, N.C.G.S. 153A-140, N.C.G.S. 143-215.112, 15A NCAC 2D.1901.

### **Section 104. Jurisdiction**

This ordinance shall govern those areas of Sampson County that are outside of the jurisdiction of any incorporated municipality.

## ARTICLE II. DEFINITIONS

### Section 201. Definitions

For purposes of this ordinance, the following terms, phrases, words, and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Failure to satisfy a mandate or obligation where the word "shall" is used shall be considered an unlawful violation of this ordinance subjecting the responsible person to all appropriate penalties. Words used in this ordinance that are not found in this definition section take the generally accepted meaning found in a standard dictionary. The following definitions shall apply in the interpretation and the enforcement of this ordinance.

*Abandoned:* Any accumulated junk or refuse which remains on the property of any person who is not the owner or former owner of such accumulated junk or refuse for a period of seventy-two (72) hours after notice of violation of this ordinance is posted on the accumulated junk or refuse shall be presumed to be abandoned.

*Accumulated junk:* Wrecked, scrapped, disassembled, unusable, cannibalized, inoperable or unrepairable boats, boat trailers, manufactured homes, recreational vehicles, construction equipment, appliances, vehicle tires, engines, transmissions, frames, axles, as well as parts and accessories of these objects; used building materials and all other non-vegetative debris collected or stored at a private residence or property or business establishment, or any non-vegetative debris blown or otherwise deposited onto property owned by third persons, by flood, storm, or other natural event.

*Bulk container:* A commercially manufactured container that can be picked up and emptied mechanically.

*Bulky waste:* Large items of solid waste such as household appliances, furniture, mattresses, bedding, automobiles, large vehicle or machinery parts, trees, branches, stumps and other waste whose large size precludes or complicates its handling by normal solid waste collection, processing, or disposal methods.

*Business trash:* Any waste accumulation of dust, paper, cardboard, rags, or other accumulations that is usually attendant to the operation of stores, offices, and similar businesses.

*Cannibalize:* To dismantle a machine or device for parts to be used as replacements in another machine or device.

*Commercial establishment:* Any retail, manufacturing, wholesale, institutional, religious, or governmental establishment at which garbage, business trash, salvage material, junk, or other refuse may be generated.

*Commercial vehicle wrecker or towing service:* Any person that provides wrecker or towing service for a fee within Sampson County.

*Construction debris:* Solid waste resulting solely from construction, remodeling, repair, or demolition operation on pavement, buildings, or other structures, but does not include inert debris, land-clearing debris, or yard trash.

*Construction and Demolition Landfill:* A landfill created specifically to receive only debris resulting solely from construction, remodeling, repair, or demolition operation on pavement, buildings, or other structures, but not including inert debris, land-clearing debris, or yard debris. A construction and demolition landfill operating under a franchise from the county shall be primarily governed by the terms of its franchise and state permit, and secondarily by this ordinance where it is otherwise not inconsistent.

*Convenience sites:* Collection sites located within the county for persons other than commercial collection services to deposit garbage, household trash, household furniture, appliances, tires, and recyclables.

*County:* Sampson County, North Carolina.

*Currently awaiting repairs:* A period of time during which active effort is expended to place a device, equipment, or mechanism back in operation through replacement of parts, repair of operating systems and circuits, or fabrication and repair of broken structural members and testing. If parts or materials are not available or on order, the device, equipment, or mechanism shall not be considered currently awaiting repairs. A device, mechanism, or piece of equipment that has remained unrepaired for 90 days is considered unrepairable unless procurement of a longer lead time for replacements parts can be demonstrated by written purchase order from a commercial vendor showing a delivery date within 90 days.

*Detachable container:* A commercially manufactured unit used for collecting, storing, and transporting construction debris, business trash, industrial waste, accumulated junk, hazardous waste, refuse, or yard trash. The unit may use an auxiliary stationary packing mechanism for compaction of materials into the container, and may be of the open or enclosed variety. The distinguishing feature of a detachable container is that it is picked up by a specially equipped truck and becomes an integral part of the truck for transporting the waste materials to a disposal site.

*Garbage:* The by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food, or other matter that is subject to decomposition, decay, putrefaction, or the generation of noxious or offensive gases or odors, or which after decay, may serve as breeding or feeding material for rodents, flies, insects, or animals.

*Hazardous waste:* Hazardous waste means a solid waste, or combination of solid wastes, that because of its quantity, concentration or physical, chemical, or infectious characteristics may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed; or
3. Any waste that falls within the definition provided by any applicable state or federal statute.

*Household trash:* Any accumulation of paper, sweepings, dust, rags, bottles, cans, or other matter of any kind, other than garbage, that is attendant to normal residential housekeeping or maintenance.

*Industrial waste:* All waste, including solids, semisolids, sludges, and liquids created by commercial companies, factories, processing plants, and manufacturing enterprises.

*Inoperable Equipment:* Any piece of equipment not currently awaiting repairs that is not capable of functioning and/or operating for the purpose in which it was manufactured or intended.

*Junk:* See "accumulated junk".

*Junkyard:* See Sampson County Junkyard Ordinance

*Litter:* Any discarded, used, unconsumed, non-containerized substance or solid waste, including but not limited to, any garbage, household trash, business trash, refuse, debris, rubbish, yard trash, tree and shrubbery trimmings, newspaper, magazines, glass, metal, plastics, plastic or paper containers, or other packaging, construction debris, junk motor vehicle parts, furniture, dead animal carcasses, cloth, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, or solid waste that has been discarded, abandoned, or otherwise disposed of in a manner not in compliance with this ordinance.

*Littering:* To scatter or cast, throw, place, sweep, or deposit anywhere within the county any litter in a manner that it may be carried or deposited by the elements upon any public or private property or upon any street, sidewalk, alley, sewer, parkway, waterway (including streams, creeks, rivers, lakes, or ponds) or other public place.

*Loading and unloading area:* Any stream, river, or lakeside, landing dock or ramp, space, or area used by any moving vehicle for the purpose of loading/unloading, receiving, shipping, and transporting goods, wares, commodities, or persons.

*Medical waste:* Any solid waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, household waste as defined in 40 Code of Federal Regulations § 261.4(b)(1) in effect on 1 July 1989, or those substances excluded from the solid waste definition in N.C.G.S. § 130A-290.

*Non-Operational Vehicle:* A motor vehicle that is partially damaged, dismantled, or wrecked; or cannot be self-propelled or moved in the manner in which it was originally intended to move.

*Nuisance:* Any action or condition that is dangerous or prejudicial to public health, welfare, or safety.

*Out-of-County waste:* Any solid waste produced and collected from sources outside the boundaries of the county.

*Person:* Any public or governmental instrumentality or office and any public or private individual, firm, company, partnership, corporation, or association.

*Public view:* View from a passenger vehicle driven along any public road maintained by the state or local municipality for public travel, or along any private road that provides access to two or more residences or commercial establishments.

*Recyclables:* Materials identified by appropriate governmental authority that are capable of being recycled at a recycling facility.

*Recycling center:* A facility that collects and separates recyclables, and then produces raw materials or products that can be reused or returned to use.

*Refuse:* All accumulations of solid waste consisting of, without limitation, garbage, household trash, or business trash as herein defined.

*Refuse receptacle:* A corrosion resistant metal or plastic container of substantial construction, with tight fitting lid, provided with wheels and/or handles sufficient for safe and convenient handling of refuse. Such receptacles shall have a capacity of not less than ten (10) gallons and shall be kept in serviceable condition at all times.

*Repair facility:* A repair facility is any building or premises maintained and operated for the purpose of restoring equipment, machinery, a device, or mechanism to operating condition by replacing parts, modifying its function, or rebuilding components.

*Responsible person:* Any owner, agent, tenant, lessee, or any other person in possession or control of solid waste, or a residence, commercial establishment, parcel of land, or motor vehicle that generates solid waste or from which solid waste is discarded or disposed.



*Salvage:* The dismantling, reclamation or storage of used components, parts, accessories, junk, and similar materials for purposes of processing, resale, exchange, distribution or other disposition.

*Salvage material:* Used materials, components, parts, accessories, equipment, construction supplies, or any other previously used materials stored on location for purposes of processing, resale, exchange, distribution or other disposition.

*Salvage yard:* Those establishments or facilities that deal in salvage material, to include, without limitation, private yard sales conducted in excess of 48 continuous hours.

*Service station:* Any establishment maintained and operated for the primary purpose of making retail sales of fuels, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, and/or for making mechanical repairs, servicing and/or washing of motor vehicles, and that is not used to store more than six (6) motor vehicles that are not capable of being driven under their own power, or are not currently awaiting repair.

*Solid waste:* Useless, unwanted, or discarded material including, without limitation, accumulated junk, bulky waste, business trash, construction debris, garbage, household trash, litter, medical waste, liquid waste, antifreeze, petroleum by-products, recyclables, abandoned and junked vehicles, refuse, and hazardous waste.

*Solid waste generator:* Any person who places, causes to be placed, abandons, litters, or generates solid waste.

*Solid waste management:* The purposeful, systematic control of the generation, storage, collection, transport, separation, processing, recovery, and/or disposal of solid waste.

*Tree and shrubbery trimmings:* Accumulation of tree branches, tree limbs, parts of trees, bushes, shrubbery cuttings or clippings, or other items created as a result of trimming, cutting, or pruning trees or bushes.

*Yard trash:* Accumulation of lawn grass, shrubbery, vine cuttings or clippings, and/or dry leaf rakings that are free of dirt, rocks, large branches, bulky waste, or noncombustible materials.

## ARTICLE III. SOLID WASTE

### Section 301. Purpose

The purpose for this article is to promote the public safety, health, and welfare of the citizens of Sampson County through regulation of the storage, collection, and disposal of solid waste in the county. This article is adopted pursuant to the authority contained in N.C.G.S. 153A-121, N.C.G.S. 153A-132.1, and N.C.G.S. 153A-136.

### Section 302. Regulated Activities

#### Section 302.1. Responsibility

- A. It shall be unlawful for any responsible person to maintain a residence, commercial establishment, or parcel of land where solid waste is permitted to accumulate in any manner that may:
  1. Become a nuisance;
  2. Cause injury to the health or welfare of residents in the vicinity;
  3. Detract from the value of the property or neighboring property; or
  4. Violate any provision of this ordinance.
- B. A generator of solid waste shall be responsible for the satisfactory storage, collection, and disposal of solid waste as provided in this article.
- C. A solid waste generator shall ensure that hazardous waste is disposed of at a site or facility that is permitted to receive the waste.
- D. Persons are responsible for the proper management of their own waste and all acts involving vehicles and equipment owned by them. The owner and occupants of a vehicle shall be responsible for any dumping, littering, or other violation of this article in which the vehicle is used. The addressees of first class mail found in solid waste may be considered as prima facie evidence that the person named thereon is the person responsible for the disposal or management of that waste.

#### Section 302.2. Receptacles and containers required

Every person in possession, charge, or control of any property or project from which construction debris, business trash, refuse generated from outdoor events and festivals, garbage, household trash, industrial waste, tree and shrubbery trimmings, yard trash, or other solid waste is accumulated or produced shall provide adequate and suitable receptacles and/or containers capable of holding all such materials.

### Section 302.3. Storage and disposal practices

All solid waste shall be stored or placed for collection in accordance with the following provisions.

- A. *Public streets and private property.* No person shall place any accumulation of solid waste in any street, median strip, alley, or other public place of travel, nor upon any public or private property except as stated herein.
- B. *Unauthorized accumulations.* Any accumulation or burying of solid waste on any lot, property, premises, residence, establishment, public street, alley, or other public or private place in violation of any provision of this ordinance is hereby declared to be a public nuisance and is prohibited. Failure of a responsible person to remove and correct any such accumulation of solid waste shall be deemed a violation of this article.
- C. *Refuse.* All solid waste shall be placed and maintained in refuse receptacles or detachable containers as specified herein. All refuse receptacles and containers shall be kept covered at all times with tight fitting covers until the solid waste is disposed.
- D. *Junk.* It shall be unlawful for any person to place, abandon, or leave outside any building or dwelling, or upon the property of any other person, or within an open porch, open carport, or open lean-to, within public view, any accumulated junk or refuse, to include without limitation, solid waste, household trash, any dilapidated furniture, appliance, machinery, equipment, farm machinery, building material, non-operational vehicle, or other item that is either wholly or partially rusted, wrecked, junked, dismantled, or in inoperative condition and not currently awaiting repairs, and that is not completely enclosed within a building or dwelling.
- E. *Tree and shrubbery trimmings.* Tree and shrubbery trimmings placed adjacent to or transported upon public roads shall be securely covered or tied to prevent the depositing thereof on such roads or the property of any person.
- F. *Hazardous waste.* No hazardous waste shall be placed in any receptacle, detachable container, or disposal site unless authorized by State or Federal regulation.
- G. *Medical Waste.* No medical waste shall be placed in any receptacle, detachable container, or disposal site unless authorized by State or Federal regulations.
- H. *Liquid Waste.* All non-biodegradable liquid wastes including, but not limited to, petroleum by-products and antifreeze, shall be recycled or disposed in accordance with State and Federal regulations. All biodegradable liquid wastes shall be placed in sealed containers prior to disposal.

#### **Section 302.4. Commercial collection and disposal**

It shall be unlawful for commercial collectors of solid waste to use vehicles not equipped with tight covers or to operate a vehicle that does not prevent liquids from escaping or that does not prevent solid waste from being dropped, blown, or deposited upon public or private roads or the property of any person.

#### **Section 302.5. Neglect of property and unlawful deposits**

It shall be unlawful for any responsible person to encroach on the rights of others through the neglect of property by:

- A. Causing or allowing unsightly litter, accumulated junk, foul odor, or potentially dangerous devices to remain in public view, or remain in view from adjoining properties, on or emanate from a property for any period in excess of seven (7) days following notice by an authorized enforcement officer;
- B. Discarding or abandoning any solid waste on public property or the private property of others;
- C. Operating a commercial or non-commercial junkyard or salvage yard except where authorized by the Sampson County Zoning Ordinance;

#### **Section 302.6. Littering**

- A. It shall be unlawful for any person to engage in littering as defined herein; or violate any provision of N.C.G.S. 14-399.

#### **Section 302.7. Commercial establishments**

##### **A. Container requirements for all commercial establishments**

- 1. Containers: All commercial establishments shall store their refuse in receptacles or containers as specified herein so as to eliminate wind driven debris and unsightly litter in and about their establishments. Approved methods of containerization include refuse receptacles, bulk containers, and detachable containers. Commercial establishments shall clean up spillage and overflows immediately when they occur.
- 2. Loading and unloading areas: All loading and unloading areas shall be provided with refuse containers for loose debris, paper, packaging materials, and other business trash or refuse. The number of containers necessary for each area shall be as required to maintain clean, neat, and sanitary premises.

3. Drive-in restaurants and other food establishments that permit carry-out food service shall maintain on their premises sufficient receptacles for the disposal of business trash, garbage, and refuse at all times.

#### **Section 302.8. Construction sites and demolition sites**

Construction debris and refuse blown or otherwise deposited in any manner upon any public or private property of a third person as a result of construction or demolition shall be immediately removed by the responsible person or person in possession, charge, or control of the construction or demolition project.

#### **Section 302.9. Special refuse disposal problems**

- A. Contagious disease refuse. The removal of clothing, bedding, or other refuse from homes or other places where highly infectious diseases have prevailed shall be performed pursuant to guidance provided by the Sampson County Health Department.

#### **Section 303. Enforcement**

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399 and shall include, without limitation, Code Enforcement Officers within the Sampson County Planning and Development Department and/or the Sampson County Sheriff's Office.
- B. The provisions of this article shall be enforced by the inspection of property and by the observation of persons who are suspected of violating any the provisions contained herein. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation may be issued. Such letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Sampson County Planning and Development Department shall cause all citation forms to be serially numbered and accounted. The Sampson County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Sampson County Manager. For the

purpose of this inspection, the Sampson County Auditor shall have access to all necessary records and files.

- E. Persons found to be in violation of the provision of this article may be allowed to perform remedial cleanup work in lieu of prosecution, injunctive action, or civil penalties at the sole discretion of the Sampson County Planning and Development Department.

#### **Section 304. Penalties**

##### **Section 304.1 Penalties**

- A. Civil penalty: The county may assess a civil penalty of \$100.00 per ton or portion thereof with a maximum penalty of \$500.00 for the unlawful disposal of solid waste by any person in violation of this article, which amount may be recovered by the county in a civil action in the nature of debt. The county may assess a civil penalty of \$100.00 for first offense violations of all other provisions of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to receipt of notice of violation by citation or letter. The county may, at its discretion, additionally seek retribution for the cost of cleanup incurred by the county or its agents resulting from any violation of this article.
- B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.
- C. Criminal penalties: Except as provided herein, any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense, \$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day a violation occurs shall be a separate violation. Pursuant to N.C.G.S. 153A-132.1, any person who engages in littering on a public street within the county or property owned by the county shall be subject to a fine of not more than \$50.00 or imprisonment of not more than thirty (30) days.

##### **Section 304.2 Article cumulative**

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned or junked motor vehicles.

## ARTICLE IV. ABANDONED MANUFACTURED HOMES

### Section 401. Purpose

The purpose of this article is to promote the public safety, health, and welfare of the citizens of Sampson County through the regulation of abandoned manufactured homes in the county. All abandoned property defined herein is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of Sampson County. This article is adopted pursuant to the authority contained in N.C.G.S. 153A-121, N.C.G.S. 153A-123, and N.C.G.S. 153A-140.

### Section 402. Definitions

The following words, terms, and phrases shall have the following meanings when used in this article.

*Abandoned Manufactured Home:* A manufactured home that has not been used as a dwelling for at least 180 days and is in a wrecked, scrapped, disassembled, unusable, cannibalized, burnt, inoperable, or unrepairable state, or creates or fosters one or more of the following conditions:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height;
3. The collection of pools or ponds of water;
4. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
5. A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
6. A source of danger from the home, or parts thereof, falling or turning over;
7. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
8. Accumulation of sewage or animal waste;
9. Concentrated quantities of hazardous materials;
10. The presence of dead animals; or
11. Any manufactured home specifically declared a public health and safety hazard by the Board of Commissioners or a duly authorized county official or employee.

*Manufactured Home:* A structure, transportable in one or more sections, which in the traveling mode whose body is 8 feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Department of Housing and Urban Development (HUD) and complies with the standards established under that Federal agency. For purposes of this ordinance, "manufactured home"

includes both factory-built single-family structures built to meet standards established under The National Manufactured Housing Construction and Safety Standards Act of 1974 and mobile homes built prior to the effective date of those standards (June 15, 1976).

### **Section 403. Regulated Activities**

#### **Section 403.1 Administration**

- A. The Sampson County Planning and Development Department and/or the Sampson County Sheriff's Office are/is responsible for the administration and enforcement of this article.
- B. The county may remove, store, and dispose of abandoned manufactured homes in compliance with this article and applicable state laws.
- C. Nothing in this article shall be construed to limit the legal authority of powers of officers or the employees of the county or state in enforcing other laws or in otherwise carrying out their duties with regard to abandoned manufactured homes.

#### **Section 403.2 Abandoned manufactured homes unlawful; removal authorized**

- A. It shall be unlawful for the registered owner or persons entitled to the possession of an abandoned manufactured home, or for the registered owner, lessee, or occupant of the real property upon which an abandoned manufactured home is located, to cause or allow a manufactured home to be an abandoned manufactured home.
- B. A manufactured home shall be considered abandoned if it has not been connected to either water or electrical utilities for a period in excess of 180 days.
- C. If, following the notice required by Section 503.3, no action is taken to remove or abate the abandoned manufactured home pursuant to the time limitations period identified in the notice of violation or following appeal pursuant to this article, the county may enter the property and remove, abate, or remedy the abandoned manufactured home as provided herein.

#### **Section 403.3 Notice, Hearing, Appeal, Lien on Property**

- A. Upon determining that a violation of this article exists, the Planning and Development Department shall issue a written notice of violation to (1) the registered owner or person(s) entitled to possession of the abandoned manufactured home; (2) the registered owner, lessee, or person(s) entitled to the land on which the abandoned manufactured home is located, and (3) the occupant of the abandoned manufactured home.
- B. The notice shall be provided by hand delivery, service of process, or certified mail.
- C. The notice shall (1) identify, by Sampson County parcel number, the real estate on which the abandoned manufactured home is located and describe the abandoned manufactured home located thereon to be removed, abated, or remedied; (2) direct that the abandoned



manufactured home be removed, abated, or remedied; (3) provide a reasonable time limitations period in which to comply, not to exceed ninety (90) days; (4) state that the county may enter the property to remove, abate, or remedy the abandoned manufactured home if appropriate action is not taken during the time period provided; (5) state that the costs incurred by the county to remove, abate, or remedy the abandoned manufactured home, if not paid by the violator(s), shall be a lien upon the abandoned manufactured home and/or the real property upon which it is located and shall be collectable as unpaid taxes; and (6) notify the violator(s) of a right to appeal the basis of the notice to the Zoning Administrator, provided the appeal is made within fifteen calendar days of receipt of the notice.

- D. If the name or whereabouts of the owner, tenant, possessor, or occupant cannot after due diligence be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Zoning Administrator on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than one week prior to the hearing.
- E. The owner, tenant, possessor, or occupant may appeal a notice to the Zoning Administrator for decision. Any appeal may either rely on written materials or appear before the Zoning Administrator for a hearing at which he shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The fact that an owner did not bring the manufactured home to the property or does not have a possessory interest in the condition creating the abandoned manufactured home is not a defense.
- F. The Zoning Administrator shall within fifteen (15) days of the hearing or the date of receipt of the written appeal by the Zoning Administrator if a hearing is not requested, repeal in writing the notice directing the violator(s) to remove, abate, or remedy the identified manufactured home. The owner, tenant, possessor, or occupant may appeal decisions of the Zoning Administrator to the Board of Adjustment within fifteen (15) days of the decision. The Board of Adjustment shall hear and decide the matter in accordance with the procedures provided in the Sampson County Zoning Ordinance. An appellant may further appeal the decision of the Board of Adjustment to the Superior Court as provided by law.
- G. If an abandoned manufactured home is not removed, abated, or remedied during the time period provided by the initial notice, or within thirty days of a decision of the Zoning Administrator, Board of Adjustment, or judicial court from which an appeal has not been taken, then, pursuant to N.C.G.S. 153A-140 and subject to the provisions of Article 57 of Chapter 106 of the General Statutes, the county may enter the property and remove, abate, or remedy everything related to the abandoned manufactured home that is dangerous or prejudicial to the public health or safety. The expense of such action shall be paid by the violator(s), and shall, if not paid, be a lien upon the property or premises where the abandoned manufactured home was located and shall be collected as unpaid taxes.
- H. Any person who removes an abandoned manufactured home pursuant to this article shall not be held liable for damages for the removal of the abandoned manufactured home to the

owner, lienholder, or other person legally entitled to the possession of the abandoned manufactured home removed.

#### **Section 404. Enforcement**

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers to include Code Enforcement Officers within the Sampson County Planning and Development Department and/or the Sampson County Sheriff's Office.
- B. The provisions of this article shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Sampson County Planning and Development Department shall cause all citation forms to be serially numbered and accounted for. The Sampson County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Sampson County Manager. For the purpose of this inspection, the Sampson County Auditor shall have access to all necessary records and files.

#### **Section 405. Penalties**

##### **Section 405.1. Penalties**

- A. Civil penalty: The County may assess a civil penalty of \$100.00 for first offense violations of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.

B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.

C. Criminal penalties: Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense, \$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day in which the violation occurs or continues shall constitute a separate offense.

D. Persons found to be in violation of the provisions of this article may volunteer to perform cleanup work in lieu of prosecution, injunctive action, or civil penalties at the discretion of the Sampson County Planning and Development Department.

#### **Section 405.2 Article cumulative**

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned manufactured homes.

## ARTICLE V. PUBLIC HEALTH NUISANCE ABATEMENT

### Section 501. Purpose

The purpose for this article is to promote the public safety, health, and welfare of the citizens of Sampson County through regulation of public health nuisances in the county. This article is adopted pursuant to the authority contained in N.C.G.S. 130A-309.61, N.C.G.S. 153A-121, 153A-123, and 153A-140.

### Section 502. Regulated Activities

#### Section 502.1 Identification of Nuisances

It shall be unlawful for any person or persons to create a public health nuisance on any parcel of land or allow a nuisance to remain on their property. Public health nuisances are defined as any action or condition that is dangerous or prejudicial to public health or safety, and include, but are not limited to, the following:

- A. Accumulated junk, tires, trash, refuse, or construction debris that is a breeding ground or nest for mosquitoes, insects, rats, or other pests.
- B. Anything causing offensive odors or health risks to others such as dead animals, stagnant water, decayed vegetables and fruit, or filthy privies and stables.
- C. Uncovered manmade structures or containers with stagnant water found to be a breeding ground or nest for mosquitoes, other insects, rats, or other pests.
- D. Any uncovered well; open pit; unsecured vehicle, appliance, building; or other condition or structure that may cause entrapment or injury, or be a breeding ground or nest for mosquitoes, insects, rats, or other pests.

Bona fide farms are exempt from regulation through this article, but any use of farm property for nonfarm purposes is subject to this article.

#### Section 502.2. Removal Authorized

If, following notice by hand delivery, services of process, or certified mail, the owner of real property upon which a nuisance exists fails to remove, abate, or remedy the nuisance within the time limitations period identified in the notice or following appeal, the county may enter the property and remove, abate, or remedy the nuisance as provided herein.

#### Section 502.3. Notice, Hearing, Appeal, Lien on Property

- A. The notice to the owner shall (1) identify the property and describe the nuisance located thereon to be removed, abated or remedied; (2) direct the owner to remove, abate, or remedy the identified nuisance; (3) provide the owner a reasonable time limitations period in which

to comply, for a period of time not to exceed ninety (90) days; (4) inform the owner that the county shall enter the property to remove, abate, or remedy the nuisance if the owner fails to take appropriate action during the time period provided; (5) inform the owner that the costs incurred by the county to remove, abate, or remedy the nuisance, if not paid by the owner, shall be a lien upon the land or property and shall be collectable as unpaid taxes; and (6) notify the owner of its right to appeal the basis of the notice to the Zoning Administrator for a decision within fifteen calendar days of receipt of the notice.

- B. If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Zoning Administrator on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than one week prior to the hearing. If the Owner does not appear at the hearing after notice is provided herein, the Zoning Administrator shall consider the evidence and circumstances of the case and shall issue a decision either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance.
- C. Owners may appeal a notice to the Zoning Administrator for decision. The owner may either rely on written materials or appear before the Zoning Administrator for a hearing at which he shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are (1) whether the person is the actual owner of the real property, or (2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact the owner did not bring the nuisance to the property or does not have a possessory interest in the condition creating the nuisance is not a defense.
- D. The Zoning Administrator shall within fifteen days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance. Owners may appeal decisions of the Zoning Administrator to the Board of Adjustment within fifteen days of the decision. The Board of Adjustment shall hear and decide the matter in accordance with the procedures provided in the Sampson County Zoning Ordinance. Owners may appeal the decision of the Board of Adjustment to the Superior Court as provided by law.
- E. If the Owner fails to remove, abate, or remedy a nuisance during the time period provided by the initial notice, or within thirty days of a decision of the Zoning Administrator, Board of Adjustment, or judicial court from which an appeal has not been taken, then, pursuant to N.C.G.S. 153A-140 and subject to the provisions of Article 57 of Chapter 106 of the General Statutes, the county may enter the property and remove, abate, or remedy everything that is dangerous or prejudicial to the public health or safety. The expense of such action shall be paid by the Owner, and shall, if not paid, be a lien upon the property or premises where the nuisance arose, and shall be collected as unpaid taxes.

## Section 503. Enforcement

- A. Enforcement of this article shall rest with those governmental agencies and personnel authorized to exercise police powers under N.C.G.S. 14-399 to include Code Enforcement Officers within the Sampson County Planning and Development Department and/or the Sampson County Sheriff's Office.
- B. The provisions of this article shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this article have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this article.
- D. The Sampson County Planning and Development Department shall cause all citation forms to be serially numbered and accounted for. The Sampson County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Sampson County Manager. For the purpose of this inspection, the Sampson County Auditor shall have access to all necessary records and files.

## Section 504. Penalties

### Section 504.1. Penalties

- A. Civil penalty: The County may assess a civil penalty of \$100.00 for first offense violations of this article, \$200.00 for the second offense, and \$500.00 for each subsequent offense, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs or continues shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.
- B. Injunction and order of abatement: The provisions of this article may be enforced by injunction and order of abatement.
- C. Criminal penalties: Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 for the first offense,

\$200.00 for the second offense, and \$500.00 for each subsequent offense, or imprisonment of not more than 30 days. Each day of open burning in violation of this article shall be a separate violation.

- D. Persons found to be in violation of the provision of this article may volunteer to perform cleanup work in lieu of prosecution, injunctive action, or civil penalties at the discretion of the Sampson County Planning and Development Department.

**Section 504.2. Article cumulative**

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances.

**ARTICLE VI. MISCELLANEOUS**

**Section 601. Legal Provisions**

**Section 601.1. Conflicting ordinances repealed**

All ordinances/regulations or parts of ordinances/regulations that may be in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect. In the event of conflict, the specific provisions or language of this ordinance shall control over the general or specific language of any other ordinance.

**Section 601.2. Severability**

If any provisions of this ordinance is for any reason to be invalid or unconstitutional by any court of competent jurisdiction such provision and such holding shall not affect the validity of any other provision and to that end, the provisions of this ordinance are hereby declared to be severable.

**Section 601.3. Effective date**

This ordinance shall take effect and be enforced as of March 31, 2006. *X*