



**AN ORDINANCE AMENDING THE TOWN CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO
SOLID WASTE MANAGEMENT**

PART I. That Town Code Chapter 30 SOLID WASTE MANAGEMENT be amended as follows:

Sec. 30-1. 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:

Building materials means any material such as lumber, brick, block, stone, plaster, concrete, asphalt, roofing shingles, gutters and other substances accumulated as the result of repairs or additions to existing buildings or structures, construction of new buildings or structures or the demolition of existing buildings or structures.

Bulk container (dumpster) means a metal container of not less than three cubic yards' capacity and not larger than eight cubic yards' capacity, constructed so as to be watertight but may have a drain plug at the lowest point of the container to facilitate the drainage of any liquids that might accumulate in the container or from cleaning the container. Bulk containers shall have doors that open on the top and shall be designed so that they can be emptied mechanically by specially designed trucks operated by the division of sanitation of the department of public-works public services.

Bulk container (small) means a plastic container of substantial construction with a tight-fitting lid, having a capacity of 300 gallons or approximately two cubic yards, designed to be picked up by an automated style refuse truck.

Bulk container loading pad means a ten-foot-x-ten-foot-x-four-inch thick concrete pad which must be provided for each bulk container. Such pad must have a vertical clearance of 16 feet and shall be substantially screened with an enclosure to conceal the bulk container within. The size of the pad for each bulk container shall be determined by the director of public services and shall be appropriate for the size and type of container being utilized.

Business trash means any waste accumulation of dust, paper, sawdust, cardboard, excelsior, rags or other accumulations other than garbage or household trash which are usually attendant to the operation of stores, offices and similar businesses.

Commercial establishment means any retail, wholesale, motel, hotel, institutional, religious, governmental or nonresidential establishment which may generate garbage, business trash or other refuse.

Cottage court means three or more detached single-family dwellings on one lot.

Dead small animals means dead cats, dogs, small household pets and other animals of similar size.

Detachable container means a container unit that may vary in capacity between five cubic yards and 42 cubic yards and which is used for collecting, storing and transporting waste building materials, business trash, industrial waste, hazardous refuse or yard trash. The unit may or may not use an auxiliary packing mechanism for the compaction of the materials into the container and may be of the open or closed type. The distinguishing feature of the detachable container is that it is lifted by a specially designed and equipped truck and becomes an integral part of that truck for transporting waste materials to a disposal site.

Duplex means any dwelling place designed for, or occupied by, two families.

Garbage means the waste produced by the handling, processing, preparation, cooking and consumption of animal or vegetable products used for human consumption. This definition shall include any other matter that is also subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors or which before, during and after decay may serve as feeding or breeding material for animals or flies or other insects.

Hazardous refuse means materials such as poisons, acids, caustics, harmful or dangerous chemicals, infected materials, offal, fecal matter, explosives, highly flammable material and parts of the human anatomy, including pathological specimens.

Household trash means waste accumulation of paper, sweepings, dust, rags, bottles, cans or other waste material of any kind, other than garbage, which is attendant to residential housekeeping.

Industrial waste means all waste, including solids, semisolids, sludges and liquids created or generated by factories, plants or other manufacturing enterprises.

Litter means garbage, refuse, waste materials or any other discarded, used or unconsumed substance which is not handled as specified in this chapter.

Loading and unloading area means any space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons.

Multiple dwelling unit means a building or portion thereof used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses.

Portable packing unit means a packing mechanism with an internal or external power unit which is attached to a bulk container to compact the refuse within.

Refuse means solid waste accumulations consisting of garbage, household trash, recycling, yard trash and business trash as defined in this section.

Refuse receptacles.

- (1) *Rollout cart* means a plastic container of substantial construction with a tight-fitting lid, having a capacity of 90 gallons, equipped with wheels and designed to be picked up curbside by an automated style refuse truck. Rollout carts under this definition are those issued by the town to the property owners and may not be disfigured in any manner except to allow for numbers on the back side of the automated cart in white stick on or stenciled on numbers of no less than two inches high, nor more than four inches high.
- (2) *Recycling cart* means a rollout cart that is intended for the deposit and collection of co-mingled recyclables as approved as part of the town's recycling program.
- (3) *Trash cart* means a rollout cart that is intended for the deposit and collection of refuse other than recyclables.
- (4) *Bulk container* as defined in this section.

Seasonal rental unit means any single-family or duplex residential unit rented or available for rent on a short-term basis of less than one month at a time.

Single residential unit means any dwelling place occupied by one family.

Tree and shrubbery trimmings means waste accumulation of tree branches, tree limbs, bushes, shrubbery, cuttings or clippings usually created as refuse in the trimming or cutting of trees, shrubs or bushes.

Yard trash means grass clippings, leaves, twigs or the combination of these that are usually associated with yard or lawn maintenance activity. This type of refuse shall be containerized as provided in this chapter. Exceptions shall be only as provided in this chapter.

Sec. 30-2. Disposition of litter, refuse, other materials generally.

(a) It shall be unlawful for any person to cause or allow unsightly litter, foul or offensive odors or potentially dangerous materials to remain on, or emanate from any property under his control, or to discard, abandon or cause the same on any public or private property within the corporate limits of the town.

(1) The occupant, owner and agent, individually or jointly, of each house or other building or the owner of an unoccupied building or unimproved land shall be responsible for maintaining the premises in a clean and slightly condition by periodically removing all litter, trash, garbage or other refuse and placing the same in receptacles for collection by the town acting through its employees, agents or other authorized representatives.

(2) It shall be unlawful for any person or the employees or agents of any person to throw or otherwise deposit any trash, refuse, bottles, cans or other containers of any kind, garbage or any type of waste material, or to place or leave or cause to be placed or left, temporarily or permanently, any trash, refuse, garbage, bottles, cans or other containers of any kind, any scrapped or abandoned automobile, truck or other motor vehicle or part thereof, upon any property, whether private or public (including the right-of-way of any street, state highway or public road, or on that portion of the beach of the Atlantic Ocean

lying between the high and low water marks, or upon the shoreline of Roanoke Sound between the high and low water marks) except property designated as "sanitary landfills," trash dumps, or garbage disposal areas by the town.

- (b) The provisions of this section shall not be construed to forbid the depositing and placing of household trash and garbage and other waste material and trash cans or other proper receptacles provided for the pickup and removal thereof by the town garbage collector in accordance with provisions of this chapter, and the provisions of this subsection shall not apply to the depositing of fill material upon any building site for the purpose of constructing a foundation thereon; provided, that fill material for such construction shall not consist of organic trash or garbage, wood or wood products, bottles, cans, containers, scrapped or abandoned automobiles, trucks or motor vehicles or parts thereof.

Sec. 30-3. Administration and enforcement of chapter.

The administration of the provisions of this chapter shall be the duty and responsibility of the public services director and sanitation supervisor.

Sec. 30-4. Type and size of refuse receptacles.

- (a) All refuse to be collected by the town shall be stored in proper receptacles between times of collection.
- (b) All single-family residences and each unit of a duplex located anywhere within the town limits unless otherwise excluded by the public works public services director, will utilize rollout carts for the placement of refuse for pickup by the town.
 - (1) A minimum of one trash cart is required at each single-family residence and at each unit of a duplex.
 - (2) All seasonal rental units must provide one trash cart for every two bedrooms.
 - (3) For single-family residences with seven (7) bedrooms or greater, the public services director may authorize a bulk container (small) to be substituted for rollout carts at a ratio of one bulk container (small) for every four rollout carts. This shall only be allowed in circumstances where the bulk container (small) will be serviced at a compliant bulk container loading pad that is located within the property boundaries.
 - (4) The maximum number of rollout carts allowed will be determined by the number of rollout carts required to maintain total compliance with this chapter.
 - (5) The property owner will be responsible for replacing rollout carts that have been lost, stolen, or damaged unless such damage is covered under warranty and within the warranty period of ten years, or unless caused by sanitation services at no fault of the property owner.
 - (6) Property owners are also responsible for replacing rollout carts that are older than ten years. Additional rollout carts necessary to comply with this chapter must be purchased by the property owner from the town.

- (c) Any commercial establishment of less than 2,000 square feet gross floor area may use rollout carts, not to exceed a total of two trash and two recycling carts.

- (d) Each new residence built after date of adoption of the ordinance from which this section is derived must have in place the appropriate number of trash carts prior to the issuance of a certificate of occupancy.

- (e) Bulk containers are required at each commercial establishment in accordance with section 30-7. The Town will only service approved containers. Distributors of bulk containers who wish to sell or lease such containers in the town are subject to certification of equipment compatibility by the director of public works before such sales will be permitted.

- (f) Detachable containers are authorized through private contractors. Such contractors must be licensed by the town.

- (g) The public works public services director is authorized to determine the number and type of refuse receptacles needed for any situation not covered by the schedule set forth in subsection (b) above.

Sec. 30-5. Refuse receptacles to be safe.

- (a) All refuse receptacles, including trash and recycling carts, as required in this chapter shall be of safe construction and shall be maintained in a good, serviceable and sanitary condition at all times. Any refuse receptacle which does not conform to the provisions of this chapter or which has ragged or sharp edges or other defects likely to hamper or injure the person collecting contents thereof, or the public generally, shall be promptly replaced or repaired upon notice. If

such refuse receptacle, after due and proper notice, has not been replaced or repaired within 30 days, the sanitation division of the ~~public-works~~ public services department shall have the authority to remove such receptacle as refuse.

- (b) No person shall place any of the following items in a refuse container:
 - (1) Motor vehicle tires;
 - (2) Bulky wastes;
 - (3) Building materials;
 - (4) Hazardous, radioactive or medical wastes;
 - (5) Burning or smoldering materials or any other materials which would create a fire hazard;
 - (6) Rocks, dirt, sod, paint or motor oil;
 - (7) Antifreeze.

Sec. 30-6. Preparation of refuse for collection.

- (a) *Generally.* The refuse collection schedule will be established by the ~~public-works~~ public services director and changed as conditions warrant from season to season. Bulk containers, trash carts, or recycling carts which are obstructed or not properly positioned when the truck passes will not be collected until the next regularly scheduled pickup date. Lids must be closed when in use.
- (b) *Receptacles required.* All refuse shall be placed in approved receptacles.
- (c) *Access to receptacles.* Routes for access and collection of residential refuse shall be improved and maintained for the safety of refuse collectors. Access routes shall not be obstructed. Service will not be provided when dogs or other animals interfere with collectors.
- (d) *Large items/bulk pickup.*
 - (1) *Residential collection.* Large, bulky items such as stoves, refrigerators, water heaters, sofas, box springs, etc., which cannot normally be loaded into the back of a standard refuse truck, shall be picked up with equipment designed for large, bulky items. This service does not include the pickup of building materials, roofing, soil, rock, concrete, tree stumps, whole trees, etc. Tree and shrubbery trimmings must originate from a lot upon which is located a single-family or two-family dwelling unit. Tree and shrubbery trimmings must be cut in lengths of not over eight feet in length. To receive pickup of large, bulky items, an individual must place items adjacent to the edge of the roadway in front of the property where the item originated make an appointment with the town from October 1 through April 30 March-31. Bulky items must be placed in separate piles from tree and shrubbery trimmings or any vegetative material.
 - (2) *Commercial collection.* Large, bulky items which cannot normally be loaded into the back of a standard refuse truck shall be picked up with equipment designed for large, bulky items. This service does not include construction materials, carpet, wood, more than 25 mattresses/box springs, stumps, logs, tree and shrubbery trimmings, etc. Each pickup shall be limited to a maximum of no more than 1,500 pounds per item. To receive pickup of large, bulky items, an individual must make an appointment with the town for pickup. Pickup periods are from November 1 through December 15, and from February 15 through March 31.
- (e) *Storage and removal of trash and recycling carts.* Trash and recycling carts must be placed for pickup within the street right-of-way and within four feet of the improved portion of the street, but not on the improved portion of the street. Trash and recycling carts must be removed from the street right-of-way no later than the day of collection. The property owner or occupant shall be responsible for such placement and removal.

Sec. 30-7. Commercial establishment container requirements.

- (a) All commercial establishments of more than 2,000 square feet shall be required to furnish a bulk container (see schedule in subsection (c) of this section) of the type approved by the director of ~~public-works~~ public services. No rollout carts shall be used where bulk containers are required. The minimum requirements for bulk containers shall follow, as closely as possible, the schedule in subsection (c) of this section. The director of ~~public-works~~ public services may determine the appropriate number of containers for properties with multiple uses.
- (b) If a commercial establishment of less than 2,000 square feet generates more refuse than can be handled by two trash and two recycling carts, that establishment will be required after notification to provide a suitable bulk container loading pad, and a bulk container.
- (c) The minimum bulk container volume requirements are as follows:

Use	Minimum Volume Requirement (Cubic Yards) Solid Waste
Multiple dwelling units, three to ten units	4
Multiple dwelling units, 11 to 17 units	8
Multiple dwelling units, > 17 units	12
Restaurants; 1–75 seats	4
Restaurants, 76–150 seats	8
Restaurant, 151–225 seats	12
Restaurant, 226–300 seats	16
Restaurant, 301–375 seats	20
Motels, 1–25 rooms	4
Motels, 26–100 rooms	8
Motels, 101–150 rooms	12
Motels, 151–200 rooms	16
Motels, 201–250 rooms	20
Fishing piers	4, Additional containers shall be provided for the housing facilities as pertinent to this section
Tackle shops	4
Recreation and amusements	4
Cottage courts	8
Grocery, retail, office establishments, 2,000 to 6,000 sq. ft.	4
Grocery, retail, office establishments, 6,001 to 12,000 sq. ft.	8
Grocery, retail, office establishments, 12,001 to 18,000 sq. ft.	12
Grocery, retail, office establishments, 18,001 to 24,000 sq. ft.	16
Grocery, retail, office establishments, 24,001 to 30,000 sq. ft.	20
Grocery, retail, office establishments, over 30,000	Must provide portable packing units in sufficient number to accommodate the refuse generated during the peak summer tourist season.
Mini and self-storage facilities	4 per every 12,000 sq. ft. of gross floor area
Hospitals/Medical facilities	4 minimum with an additional one cu/yard of dumpster capacity for each 3,600 square feet of gross floor area above 14,400 square feet

- (d) The ~~public works~~ public services director is authorized to determine when a bulk container, concrete pad, or screening is unserviceable and may discontinue service for the same after proper notification.
- (e) One bulk container loading pad shall be provided for each eight cubic yards of bulk container volume required in subsections (c)(1) through (c)(14) of this section. The size of the pad for each bulk container loading pads for each container shall be determined by the director of public services and shall be appropriate for the size and type of container being utilized. ~~consist of a ten-foot x ten-foot x four-inch thick concrete pad. All bulk container loading pads shall consist of a four-inch thick concrete pad.~~

- (4) *Blockage of storm drains/drainage ditches.* No person shall place any refuse, trash, refuse receptacle or container on, upon or over any storm drain/drainage ditch opening or so close thereto as to be drawn by the elements into the same. No person shall place any refuse, trash, refuse receptacle or container in a gutter, thereby causing blockage of stormwater flows or possible blockage of storm drainage systems if carried by the elements into the same.
- (5) *Unauthorized accumulations.* Any unauthorized accumulation of refuse or trash on any lot, property, premises, public street, sidewalk, alley or other public or private place is prohibited. Failure of the owner, agent or occupant, after notice of violation, to remove and correct any such unauthorized accumulation of refuse or trash shall be deemed a violation of this chapter or other provisions of this Code.
- (6) *Junk.* It shall be unlawful and in violation of this chapter for any person to store outside any building or dwelling, except as provided herein, any dilapidated furniture, appliances, vehicles, machinery, equipment, building materials or any other item which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition and which is not completely enclosed with a building or dwelling.
- (7) *Appliances.* It shall be unlawful and in violation of this chapter for any person to leave outside any building or dwelling, in a place accessible to children, any appliance, refrigerator or other container of any kind which has an airtight door or cover with a snaplock or latch without first removing the lock or latch, door or cover from the appliance, refrigerator or container.
- (8) *Multifamily residential areas.* For townhouses, condominiums, apartments, etc., where it is deemed impractical for mobile rollout containers to be serviced, a bulk container and bulk container loading pad will be required as per section 30-7. The location and design must be approved by the public-works public services director.
- (9) *Concessions; contractors.* All concessions and/or contractors operating on or adjacent to the beaches shall be required to maintain proper litter control by providing receptacles and cleaning up litter each day which may be deposited within the area of 300 feet on either side of the establishment.
- (10) *Portable packing units.* When a commercial establishment generates so much refuse that it exceeds 20 cubic yards of refuse per collection, such establishment shall be required to provide portable packing units as described in this chapter.
- (11) *Review process.* It shall be the responsibility of the public-works public services department, during the planning review process and prior to the issuance of a building permit for new commercial buildings or extensive renovations to existing commercial buildings, to review the method and location of refuse storage for collection for the building. Such reviews shall include comments of the sanitation division of the department of public-works public services. If any problems are foreseen during this review, they shall be called to the attention of the owner or designer for correction and submitted as recommended conditions of approval to the planning board and board of commissioners.

Sec. 30-9. Loading and unloading areas.

All loading and unloading areas shall, at the direction of the ~~public works~~ public services director, be provided with refuse receptacles or containers for loose papers, debris, packaging materials and other business trash. The number and type of such container necessary for each area shall be as required to maintain clean, neat and litter-free premises.
(Code 1990, § 15-9)

Sec. 30-10. Construction and demolition sites.

All construction and demolition contractors shall provide on-site refuse receptacles, bulk containers, detachable containers or containment areas for local debris, paper, waste building materials, scrap building materials and other trash produced by those working on the site. All such materials shall be contained, and the site maintained in a clean and litter-free condition. Dirt, mud, sand, construction materials or other debris deposited upon any public or private property as a result of construction or demolition activities shall be immediately removed by the contractor and in all cases by the end of the workday.

Sec. 30-11. Points of collection.

On the day of collection, unless otherwise provided by this chapter, it shall be the responsibility of the owner or occupant to position rollout carts as outlined in section 30-6 for collection, except as otherwise provided for in this chapter. No refuse receptacles or containers, unless otherwise provided in this chapter, shall be stored in front of a building or dwelling except on the day of collection.

Sec. 30-12. Collection practices.

- (a) *Residential.* Garbage and household trash accumulated at residences shall be collected on a schedule determined by the director of ~~public works~~ public services. Such collections shall be limited to ~~items which can be placed within rollout carts or small bulk containers, yard trash, tree trimmings, cardboard boxes and oversize household trash.~~
- (b) *Commercial establishments.* Service to commercial establishments shall be on a schedule determined by the ~~public works~~ public services director. Such collection shall be limited to a maximum of five bulk containers. The owner or occupant shall provide portable packing units when this maximum is exceeded.
- (c) *Bulk containers.* Any person or establishment that furnishes and maintains a bulk container suitable for handling by town equipment will be serviced by the town as stated herein; provided, that such container shall be of sufficient size, as specified and approved by the ~~public works~~ public services director, for collection. All bulk containers approved for service by the town shall have doors or lids opening on the top. Such doors or lids shall be kept closed at all times that the bulk container is not being filled or emptied. Bulk containers shall at all times be maintained in a safe, serviceable and sanitary condition as directed by the director. Notice shall be given by the director of any bulk container not meeting the requirements of this chapter. If, within 30 days, the unit is not in compliance, town service of this unit may be suspended. Bulk containers shall at all times be kept in a place easily and safely accessible to town equipment even during periods of inclement weather such as snow and ice.
- (d) *Owner responsibility.* No service shall be given those persons or establishments permitting objects, obstructions or vehicles to hinder in any way the servicing of the container. The immediate cleaning up of spilled refuse in the area of the container shall be the responsibility of the property owners or occupants utilizing the container. Service shall be discontinued to persons or establishments failing to locate or maintain containers in accordance with the requirements of this chapter. The town shall not afford both mobile refuse receptacle service and bulk container service to the same persons or establishments. In those cases where the sanitation supervisor, under the provisions of this chapter, directs the change from mobile refuse receptacles to bulk containerization, compliance shall be within 30 days or service may be discontinued. Any cause for discontinuation of service shall also constitute a violation of this chapter.
- (e) *Industrial waste.* The collection and disposal of industrial waste shall be the responsibility of the operator of the factory, plant or enterprise creating or causing the same.
- (f) *Hazardous refuse.* No hazardous refuse, as defined herein, shall be placed in any receptacle, container or unit used for refuse collection by the town.
- (g) *Dead animals.* Dead small animals as defined herein will be collected by the town on request; provided, however, that it is during the operating hours of the landfill and the body is in a place easily accessible to the collector and is wrapped or contained in a plastic bag or other suitable

container that will be collected with the body. Owners of dead large animals shall be responsible for their removal and disposal.

- (h) *Building materials.* The town shall not be responsible for the collection, handling or disposal of building materials, as defined herein, that originate from private property preliminary to, during or subsequent to the construction of new buildings or from demolition of existing structures. Such materials or refuse shall be collected and disposed of by the property owner or the person doing the work. If such material or refuse has not been removed and disposed of by the property owner or the person doing the work, the town shall not issue a certificate of occupancy, even though other requirements for such certificate have been met. The certificate of occupancy shall be issued only when this requirement as well as any other requirements have been met.

Sec. 30-13. Storage of mobile rollout containers.

- (a) Mobile rollout refuse receptacles returned to curbside after collection shall then be removed to the approved storage location on the day of collection. The property owner, agent, or occupant shall be responsible for such removal.
- (b) Hardship cases such as age, disability or infirmity, when confirmed by the public-works public services director, may be afforded the special service of refuse receptacle carryout.

Sec. 30-14. Special refuse or disposal problems.

- (a) *Contagious disease refuse.* The removal of clothing and bedding from places where highly infectious diseases have prevailed shall be performed under the supervision and direction of the county health department. Such refuse shall not be placed in containers for town collection and disposal.
- (b) *Hypodermic instruments.* No person shall dispose of or discard any hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse such hypodermic syringe, needle, instrument or device, and without safeguarding the disposal thereof by wrapping or securing the same in a suitable manner so as to avoid the possibility of causing injury to collection personnel.
- (c) *Ashes.* Ashes that are to be collected by the town shall have been wetted and shall be cool to the touch prior to collection. Ashes shall be placed in approved containers. Refuse receptacles containing ashes shall not weigh more than 50 pounds.
- (d) *Cardboard boxes and cartons.* Prior to being deposited as refuse for collection in approved receptacles or containers, as defined herein, all cardboard boxes, cartons or crates shall be completely collapsed or in lieu of being placed in receptacles or containers, such cardboard boxes, cartons or crates shall be completely collapsed and securely bundled. Each bundle shall not weigh more than 50 pounds and not exceed dimensions of four feet by four feet by four feet.
- (e) *Rubber tires.* It shall be a violation of this chapter for any person to place any rubber tire in any refuse receptacle or container from which refuse is collected by the town.
- (f) *Food processing.* All fish (seafood) processing waste, surplus entrails, heads, tails, scales, shells, bones, etc., must be packaged in a watertight container, such as a plastic bag, can, etc., and be placed in authorized containers.
- (g) *Sawdust.* Sawdust will be collected by the town, provided it is first placed in a tightly closed cardboard box or plastic bag which is closed by a tight sealing method prior to being in a bulk or mobile rollout container.

Sec. 30-15. Brush/bulk item drop-off yard.

- (a) *Purpose.* The brush/bulk item drop-off yard, located at 2211 S. Lark Ave., Nags Head, is operated to provide a place for owners of improved properties in Nags Head to bring bulk trash, tree limbs and branches for disposal, subject to the procedures and restrictions outlined in this section.
- (b) *Procedure for using brush/bulk item drop-off yard.* The following procedures shall govern the disposal of all brush and bulk items at the drop-off yard:
 - (1) *Permit required.* A permit authorizing use of the drop-off yard must be obtained from the public-works public services department, or at the main desk on the second floor of Town Hall. Permits are issued free of charge to owners and/or residents of improved properties in the town upon verification of two forms of identification (such as a driver's license, water bill, voter registration card, property tax bill or some other form of identification establishing and verifying that the improved property for which the permit is requested is

Sec. 30-9. Loading and unloading areas.

All loading and unloading areas shall, at the direction of the ~~public works~~ public services director, be provided with refuse receptacles or containers for loose papers, debris, packaging materials and other business trash. The number and type of such container necessary for each area shall be as required to maintain clean, neat and litter-free premises.
(Code 1990, § 15-9)

Sec. 30-10. Construction and demolition sites.

All construction and demolition contractors shall provide on-site refuse receptacles, bulk containers, detachable containers or containment areas for local debris, paper, waste building materials, scrap building materials and other trash produced by those working on the site. All such materials shall be contained, and the site maintained in a clean and litter-free condition. Dirt, mud, sand, construction materials or other debris deposited upon any public or private property as a result of construction or demolition activities shall be immediately removed by the contractor and in all cases by the end of the workday.

Sec. 30-11. Points of collection.

On the day of collection, unless otherwise provided by this chapter, it shall be the responsibility of the owner or occupant to position rollout carts as outlined in section 30-6 for collection, except as otherwise provided for in this chapter. No refuse receptacles or containers, unless otherwise provided in this chapter, shall be stored in front of a building or dwelling except on the day of collection.

Sec. 30-12. Collection practices.

- (a) *Residential.* Garbage and household trash accumulated at residences shall be collected on a schedule determined by the director of ~~public works~~ public services. Such collections shall be limited to ~~items which can be placed within rollout carts or small bulk containers. 7 yard trash, tree trimmings, cardboard boxes and oversize household trash.~~
- (b) *Commercial establishments.* Service to commercial establishments shall be on a schedule determined by the ~~public works~~ public services director. Such collection shall be limited to a maximum of five bulk containers. The owner or occupant shall provide portable packing units when this maximum is exceeded.
- (c) *Bulk containers.* Any person or establishment that furnishes and maintains a bulk container suitable for handling by town equipment will be serviced by the town as stated herein; provided, that such container shall be of sufficient size, as specified and approved by the ~~public works~~ public services director, for collection. All bulk containers approved for service by the town shall have doors or lids opening on the top. Such doors or lids shall be kept closed at all times that the bulk container is not being filled or emptied. Bulk containers shall at all times be maintained in a safe, serviceable and sanitary condition as directed by the director. Notice shall be given by the director of any bulk container not meeting the requirements of this chapter. If, within 30 days, the unit is not in compliance, town service of this unit may be suspended. Bulk containers shall at all times be kept in a place easily and safely accessible to town equipment even during periods of inclement weather such as snow and ice.
- (d) *Owner responsibility.* No service shall be given those persons or establishments permitting objects, obstructions or vehicles to hinder in any way the servicing of the container. The immediate cleaning up of spilled refuse in the area of the container shall be the responsibility of the property owners or occupants utilizing the container. Service shall be discontinued to persons or establishments failing to locate or maintain containers in accordance with the requirements of this chapter. The town shall not afford both mobile refuse receptacle service and bulk container service to the same persons or establishments. In those cases where the sanitation supervisor, under the provisions of this chapter, directs the change from mobile refuse receptacles to bulk containerization, compliance shall be within 30 days or service may be discontinued. Any cause for discontinuation of service shall also constitute a violation of this chapter.
- (e) *Industrial waste.* The collection and disposal of industrial waste shall be the responsibility of the operator of the factory, plant or enterprise creating or causing the same.
- (f) *Hazardous refuse.* No hazardous refuse, as defined herein, shall be placed in any receptacle, container or unit used for refuse collection by the town.
- (g) *Dead animals.* Dead small animals as defined herein will be collected by the town on request; provided, however, that it is during the operating hours of the landfill and the body is in a place easily accessible to the collector and is wrapped or contained in a plastic bag or other suitable

container that will be collected with the body. Owners of dead large animals shall be responsible for their removal and disposal.

- (h) *Building materials.* The town shall not be responsible for the collection, handling or disposal of building materials, as defined herein, that originate from private property preliminary to, during or subsequent to the construction of new buildings or from demolition of existing structures. Such materials or refuse shall be collected and disposed of by the property owner or the person doing the work. If such material or refuse has not been removed and disposed of by the property owner or the person doing the work, the town shall not issue a certificate of occupancy, even though other requirements for such certificate have been met. The certificate of occupancy shall be issued only when this requirement as well as any other requirements have been met.

Sec. 30-13. Storage of mobile rollout containers.

- (a) Mobile rollout refuse receptacles returned to curbside after collection shall then be removed to the approved storage location on the day of collection. The property owner, agent, or occupant shall be responsible for such removal.
- (b) Hardship cases such as age, disability or infirmity, when confirmed by the ~~public-works~~ public services director, may be afforded the special service of refuse receptacle carryout.

Sec. 30-14. Special refuse or disposal problems.

- (a) *Contagious disease refuse.* The removal of clothing and bedding from places where highly infectious diseases have prevailed shall be performed under the supervision and direction of the county health department. Such refuse shall not be placed in containers for town collection and disposal.
- (b) *Hypodermic instruments.* No person shall dispose of or discard any hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse such hypodermic syringe, needle, instrument or device, and without safeguarding the disposal thereof by wrapping or securing the same in a suitable manner so as to avoid the possibility of causing injury to collection personnel.
- (c) *Ashes.* Ashes that are to be collected by the town shall have been wetted and shall be cool to the touch prior to collection. Ashes shall be placed in approved containers. Refuse receptacles containing ashes shall not weigh more than 50 pounds.
- (d) *Cardboard boxes and cartons.* Prior to being deposited as refuse for collection in approved receptacles or containers, as defined herein, all cardboard boxes, cartons or crates shall be completely collapsed or in lieu of being placed in receptacles or containers, such cardboard boxes, cartons or crates shall be completely collapsed and securely bundled. Each bundle shall not weigh more than 50 pounds and not exceed dimensions of four feet by four feet by four feet.
- (e) *Rubber tires.* It shall be a violation of this chapter for any person to place any rubber tire in any refuse receptacle or container from which refuse is collected by the town.
- (f) *Food processing.* All fish (seafood) processing waste, surplus entrails, heads, tails, scales, shells, bones, etc., must be packaged in a watertight container, such as a plastic bag, can, etc., and be placed in authorized containers.
- (g) *Sawdust.* Sawdust will be collected by the town, provided it is first placed in a tightly closed cardboard box or plastic bag which is closed by a tight sealing method prior to being in a bulk or mobile rollout container.

Sec. 30-15. Brush/bulk item drop-off yard.

- (a) *Purpose.* The brush/bulk item drop-off yard, located at 2211 S. Lark Ave., Nags Head, is operated to provide a place for owners of improved properties in Nags Head to bring bulk trash, tree limbs and branches for disposal, subject to the procedures and restrictions outlined in this section.
- (b) *Procedure for using brush/bulk item drop-off yard.* The following procedures shall govern the disposal of all brush and bulk items at the drop-off yard:
 - (1) *Permit required.* A permit authorizing use of the drop-off yard must be obtained from the ~~public-works~~ public services department, or at the main desk on the second floor of Town Hall. Permits are issued free of charge to owners and/or residents of improved properties in the town upon verification of two forms of identification (such as a driver's license, water bill, voter registration card, property tax bill or some other form of identification establishing and verifying that the improved property for which the permit is requested is

located within the town). To receive the permit, the applicant must submit an application form containing the following minimum information: name, address, and the model and license plate number of the vehicle which will be used to haul the brush/bulk items for drop-off. Upon receipt, the permit must be affixed to the authorized vehicle in an easily accessible and readable location. The permit shall be positioned with lettering and numbers upright. Only one permit will be issued for each improved property.

(2) *Brush/bulk item acceptable materials.* Trash must be separated as follows:

- a. White goods and metals; bicycles must have the tires removed;
- b. Non-recyclable glass, and ceramics;
- c. Furniture such as beds, sofas, mattresses chairs and the like;
- d. Construction and demolition materials such as flooring, cabinets, paneling, carpeting, insulation, lumber and other wood products, and shingles;
- e. Not more than one wheelbarrow load of brick, concrete or asphalt materials;
- f. Tree limbs, branches and yard waste;
- g. Lawnmowers, weed eaters, blowers or similar gas-powered equipment, with gas tanks removed;
- h. Bulk trash generated onsite at the property.

(3) *Prohibited items.* The following are examples of bulk waste prohibited from drop-off at the town brush/bulk item drop-off yard:

- a. Hazardous materials of any type [of] waste, including empty fuel tanks, propane tanks or any pressurized containers;
- b. Any bulk waste from residential or commercial properties produced as a result of a contracted service, except as otherwise provided in subsection (b)(1)b. of this section.

Sec. 30-16. Responsibility of owners, agents, tenants or lessees.

The owners or agents, tenants or lessees, jointly and separately, of all residential units and commercial establishments shall be responsible for compliance with this chapter.

Sec. 30-17. Maintenance of sidewalks, rights-of-way, other public property.

All owners or occupants, jointly and separately, of property shall maintain their property in a clean and litter-free manner, including adjacent sidewalks, grass strips, curbs, gutters and rights-of-way to the edge of the surface of the vehicular travelway of any public street.

Sec. 30-18. Notice of violation or nonconformity.

Any notice of violation of this chapter or nonconformity with this chapter shall be in writing. Written notice of the violation shall be delivered to the violator or, in lieu of hand delivery, shall be sent to the violator via certified mail. Copies of all notices of violation shall be kept and maintained by the sanitation division of the department of ~~public-works~~ public services.

Sec. 30-19. Penalties for violation of chapter.

Any person continuing to violate any provision or requirement of any section or subsection of this chapter after notice of violation has been issued to him, or any person willfully failing, refusing or neglecting to comply with any such provision or requirement shall, in addition to any other remedy, be issued a citation with each and every day of violation being a distinct and separate offense. Upon failure to pay such penalty, a civil action may be instituted to enforce collection of the same.

ARTICLE II. FRANCHISES

Sec. 30-20. Intent and purpose.

- (a) NAGS HEAD, pursuant to applicable State Law, is authorized to grant an exclusive franchise for the operation of a public enterprise including solid waste collection and disposal systems, which includes the collection and disposal of recyclable materials.
- (b) The Board of Commissioners finds that NAGS HEAD has the responsibility to provide for the health and welfare of its citizens and recognizes the responsibility of the Town to safeguard the naturally unique Outer Banks environment; that recycling has proven effective in the reduction of solid waste placed in landfills, and the Town has received requests from citizens to establish a curbside recycling program.

(c) The Board further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers for a curbside recycling program that are vested in the Town or the persons the Town designates.

(d) It is the intent of this Chapter to ensure that the local franchise operator for the collection of recyclable materials from residential units provides the best possible service to the residents of the Town and any franchise issued pursuant to this Chapter shall be deemed to include these findings as an integral part thereof.

Sec. 30-21. Short title.

(a) This Article shall be known and may be cited as Article II Franchises and shall become a part of the Ordinances of the Town.

(b) This chapter shall take effect and be enforced from and after its adoption.

(c) All Ordinances or parts of the Town of Nags Head Code that conflict with the provisions of this Chapter are hereby repealed.

Sec. 30-22. Conditions of curb side recycling franchise.

(a) The franchise granted by the adoption of this Ordinance shall be subject to the following rights of the Town, but this enumeration shall not be exclusive or impair the right of the Board of Commissioners to insert in such franchise any provision within the power of the Town:

(1) To repeal the same for misuse, non-use or failure to comply with the provisions thereof;

(2) To require proper and adequate service and maintenance thereof at the highest practicable standard of efficiency;

(3) To establish reasonable standards of service, quality of products and prevent unjust discrimination in service or rates;

(4) To require continual and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(5) To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them;

(6) To impose such other regulations as may be determined by the Board of Commissioners to be conducive to the safety, welfare and accommodation of the public.

Sec. 30-23. Definitions.

(a) For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(b) When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Effective Date. The date the franchise becomes effective in accordance with the franchise ordinance and the rules and procedures of the Town.

Franchise Ordinance. The document which grants a franchise pursuant to this Ordinance.

Franchise Agreement. The document executed by the Town and the Grantee pursuant to the authority of the Franchise Ordinance.

Franchise Area.

(1) The geographic area for which a franchise is granted under the authority of this Chapter.

(2) If not otherwise specifically stated in the franchise ordinance, the franchise area shall be the entire geographic area within the Town as it is now, or may in the future, be constituted.

Grantee. A person who is granted a franchise or that person's lawful successors, transferees or assigns.

Grantor. The Town of Nags Head.

Person. Any corporation, partnership, proprietorship, individual, organization, company, governmental entity or any natural person.

Reasonable Notice.

(1) Written notice addressed to the Town or grantee at the location as the parties have designated in the franchise agreement as the address to which notice shall be transmitted

to it, which notice shall be sent by certified mail and postmarked not less than seven (7) business days prior to that date on which the party giving the notice shall commence any action which requires the giving of notice.

- (2) In computing the seven (7) days, holidays recognized by the Town shall be excluded.
Resident. Any person residing in the Town.

Right-of-Way. Each of the following of which have been, are hereafter dedicated to the public and maintained by any public authority or by others and located within the Town, including without limitation, the surface and space within, above and below any real property in which the Town has an interest in law or equity, whether held in fee, or other estate or interest, or as trustee for the public, including, but not limited to, any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, swell, river, tunnel, viaduct, bridge, park, or any place, area, easements, rights-of-way in similar public property and areas, or real property owned by or under the control of the Town.

Subscriber. Any person who or which elects to subscribe to the curbside recycling service provided by a grantee.

Town. The Town of Nags Head, North Carolina as it is now, or may in the future be, constituted.

Town Administrator. A person designated by the Town Manager to represent the Town in all business with the grantee.

Curbside Collection Site. A space within four feet of the paved portion of Nags Head streets.

Eligible Dwelling Units. All single family, two family and multiple family dwelling units serviced by roll-off carts and presently being served by the Town's residential solid waste collection service and all future such units which may be constructed in Nags Head.

Participating Customers. All single family, two family and multi-family residential customers presently being served by Nags Head Public ~~Works~~ Services Department and Solid Waste Division who contract with grantee/franchisee for the subscription type voluntary curbside recycling program outlined in the franchise.

Recyclable Materials Cart. A 90 to 98 gallon roll-out type container, including a lid and wheels, with a standard recycling logo, and be of a color approved by the Town of Nags Head.

Schedule of Collection. A schedule for the collection of recyclables approved by the Town Administrator.

Sec. 30-24. Unlawful to operate without franchise.

It shall be unlawful for any person to operate a residential curbside recycling service in the Town without a franchise.

Sec. 30-25. Exclusive franchise.

The franchise granted pursuant to this Ordinance is exclusive.

Sec. 30-26. Scope of services.

The selected franchisee will provide personnel, equipment, materials, and other appurtenances, as may be required, to:

- A. Provide residential curbside collection, on a weekly basis, to include commingled recyclable materials within Nags Head's corporate limits. Collection will occur on Mondays utilizing the existing 96-gallon blue recycling carts. Recyclable materials may include, but not be limited to, old newsprint, clear and colored glass, aluminum beverage containers, tin cans, steel cans, bi-metal cans, plastic bottles, tubs, jugs, and jars, magazines, phonebooks, corrugated cardboard, pressboard, paperboard, and mail from the contractual customers. This list will be subject to change based upon the market for recyclable materials.
- B. Transport collected recyclable materials to a materials recovery facility or any recyclable materials handling and disposition facility other than an incinerator or a landfill.
- C. Make monthly reports to Nags Head detailing weight and constituents of materials collected, methods of processing and/or final disposal, and participation rates of subscribers.
- D. Notify the town Public ~~Works~~ Services department each service day whenever there is an issue servicing carts or when there are recycling cart capacity issues (i.e., overflow of recycling containers).

- E. Perform account management of subscribers including service billing and collecting (accounts payable/accounts receivable) from participating customers, and keeping and maintaining other financial records, including independent audits. The franchisee shall collect all recyclable materials. The parties may agree to add other items as the market for recyclable materials allows. The franchisee will be responsible for preparing and distributing information to participating customers describing the change and how to comply therewith.

Sec. 30-27. Additional required services.

- A. The franchisee will be responsible for all recyclables collected in accordance with this franchise including any recycling processing costs or disposal charges for contamination, defined as items not included in the list of recyclable materials. Excluding contamination, no more than 10% by weight of all recyclable materials are to be landfilled and/or incinerated without the express written permission of the Town Manager.
- B. The franchisee shall coordinate with the town when subscribers need carts. The town will handle the sale and distribution of recycling carts.
- C. The franchisee is responsible for picking up and removing any materials that have blown out or dropped from trucks or the collection container due to any reason, even if a return trip is required.
- D. All trucks used for collection will be properly marked with recycling signage for identification purposes.
- E. The franchisee shall require each employee to be courteous at all times, to work quietly and shall not allow the use of loud or profane language. The franchisee shall require each employee to work in a diligent manner. The franchisee shall immediately investigate any notice of employee misbehavior and take prompt and appropriate action. Any official or employee of franchisee who is under the influence of alcohol or drugs or demands pay from the residents of a dwelling unit for services rendered, or verbally or physically abuses any resident of a dwelling unit, shall be immediately removed from work, and shall provide no other service to the Town of Nags Head.
- F. The Town of Nags Head Public Works Department shall be notified each service day when recycling collection is complete.
- G. From May 1 to September 30, routes shall begin no earlier than 3 am and finish no later than 12 noon unless authorized by the town. From October 1 to April 30, routes shall begin no earlier than 5 am and finish no later than 1 pm unless authorized by the town. The franchisee shall provide to the town a complete list and map of subscribers.
- H. Leaks and spills shall be handled quickly and appropriately based on the type and amount and according to State and Federal spill response guidelines. Equipment shall be well maintained so as not to allow liquid or solid waste to leak or blow out of the collection equipment.
- I. Holiday collections will be coordinated with the town.
- J. Collection Impediments:
 - 1. *Private Streets.* The collection routes include private streets, which do not meet town standards and thus may be too narrow for a side loading vehicle to collect and empty recycling carts. In addition, the available turning radius may not accommodate standard collection vehicles. The town requires these streets to be included in the franchisee's proposal for residential curbside recycling services. The franchisee will be responsible for determining an acceptable method of collection for these private streets and arranging for any special accommodations that may be necessary to collect recyclables in these areas.
 - 2. *Residences Served by Dumpsters.* The collection routes also include residences that currently receive garbage collection services via dumpster due to neighborhood configuration. These residences, too, shall be included in the franchisee's proposal for residential curbside recycling services. The franchisee will be responsible for determining an acceptable method of collection and arranging for any special accommodations that may be necessary to collect recyclables in these areas.

Sec. 30-28. Miscellaneous provisions.

- A. The franchisee shall furnish all labor, equipment, and supervision necessary to accomplish its full and satisfactory performance of the service. The franchisee shall use only personnel qualified to perform the work assigned and shall see that all work is performed in an efficient and workmanlike manner and in compliance with Federal and State OSHA standards.

- B. *EEO.* Franchisee shall not discriminate against any employee or applicant for employment because of sex, race, religion, color, creed, handicap, national origin, or ancestry. Franchisee shall post conspicuously a notice of its Equal Employment Opportunity Policy.
- C. *Franchisee as Independent Contractor.* Nothing in this franchise ordinance may be construed to create the relationship of employer and employee between the franchisee or provider's employees or agents and the town. The franchisee and any sub-contractor employed by the franchisee with the town's consent shall comply with all minimum wage standards, worker's compensation, unemployment compensation and all other federal, state, and local laws pertinent to its employees. The franchisee and any sub-contractor employed by the franchisee with the town's consent shall abide by all applicable local, state, and federal laws and regulations pertaining to the activities carried on under this contract and to its employees and equipment used to fulfill the terms of the service. The franchisee shall take all actions necessary to ensure that any approved sub-contractor complies with all the requirements of this paragraph.
- D. *Franchisee's Equipment.* The franchisee shall maintain all trucks and equipment used in the performance of this contract in a reasonable clean condition.
- E. *Designated Contact Person.* The franchisee agrees to assign qualified personnel to oversee the service provided and agrees to provide the names of the personnel to the town.
- F. *Continuous Service Required.* The franchisee agrees that in the event of equipment breakdown, strike, or other occurrence which would delay or prevent timely performance of its obligations, it shall immediately take action necessary, including, but not limited to, replacement of equipment and personnel in order to assure prompt restoration of regular services and in any case before the next regular collection date.
- G. *Excuse of Performance.* The performance of any obligation related to the service may be temporarily suspended in the event that performance is prevented by a cause or causes beyond the control of the franchisee and shall be resumed as soon as possible. Such causes shall include, but not be limited to; acts of God, acts of war, riot, fire, explosion, accident, hurricane, and flood.
- H. In the event of flood or hurricane or other natural disaster which interrupts the town's business, the town reserves the right, at no cost to the town, to notify the franchisee to suspend collections until the emergency condition has ended.
- I. *Inspection.* All services performed by the franchisee shall be subject to the inspection and approval of the town. When the town determines that franchisee's performance is unsatisfactory, the franchisee shall immediately commence action necessary to remedy the problem.
- J. *Franchisee to Supply All Licenses.* The franchisee shall, at its own expense, purchase and keep in force all business licenses and other licenses and permits required by federal, state, or local law, ordinances, and regulations pertinent to the franchisee's service.
- K. *Environmental Considerations.* Any costs associated with violations of the law including, but not limited to, remediation, clean-up costs, fines, administrative or civil penalties or charges, and third party claims imposed by any regulatory agency or by any third party as a result of the noncompliance with federal, state or local environmental laws and regulations or nuisance statutes by the franchisee or by sub- contractors, consultants, sub-consultants, or any other persons, corporations or legal entities retained by the franchisee for this service, shall be paid by the franchisee.

Sec. 30-29. Length of franchise.

It is intended that the franchise be for a term of three years, beginning on or around May 1, 2021 and ending three years from the date of agreement execution. At the end of the initial term, the town may renew the contract for an additional period of time to be agreed upon by the parties.

Sec. 30-30. Insurance requirements.

During the term of any future agreement between the town and the franchisee, the franchisee shall maintain in full force and effect the following insurance, naming the town as an additional insured. Certificates of insurance shall be submitted to the town within 10 days of the enactment of any future agreement and prior to commencing operation under any future agreement.

Coverage	Liability Limits
Worker's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability	\$1,000,000 each occurrence
Except Automobile	\$1,000,000 aggregate
Property Damage Liability	\$1,000,000 each occurrence
Except Automobile	\$1,000,000 aggregate
Automobile Bodily Injury	\$1,000,000 each person
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

Sec. 30-31. Payment for services.

- (a) As compensation for performing the services required under this Ordinance, the franchisee shall be authorized to collect from subscribers reasonable fees set by Nags Head and collected from subscribers in accordance with the duly adopted fee schedule for the Town. The initial fee schedule shall be in the amount of \$14 for the first cart per month at each participating location, exclusive of any subsidies offered by the town. Participants may subscribe for additional carts to be serviced at a cost of \$8 per cart per month.
- (b) All revenues received by the franchisee from the sale of recyclable materials collected by the franchisee and all fees received by the franchisee from subscribers for services provided hereunder shall become the property of the franchisee.
- (c) Nags Head shall not be responsible for the payment of any federal, state or local taxes due as a result of compensation received by the franchisee pursuant to this franchise and the franchise agreement.

Sec. 30-32. Rate review and adjustment.

- (a) A request for rate adjustment may be made at each anniversary date of the initial three-year term executed by both parties. The rate increase will be based on the percentage change in the most recently available data from the Bureau of Labor Statistics, Garbage and Trash Index, prior to the request. The rate shall not increase more than 5% in any contract year and no more 10% over the life of the initial term. Rate adjustment applications shall be filed by the franchisee ninety (90) days prior to the end of the term to provide adequate time for consideration by the Board of Commissioners. Rate adjustments may be sought for all reasonable grounds. If approved by Nags Head Board of Commissioners in an open meeting, a rate adjustment shall not be effective until at least 60 days from date of approval in order for the franchisee to give all clients a minimum 60 day notice of the approved rate adjustment.
- (b) If a rate adjustment is sought pursuant to this Ordinance, the Town Administrator or Commissioners may require the franchisee to provide a financial audit for the previous year of operations. The audit shall be completed according to generally accepted accounting principles and shall be at no cost to the Town. The auditor shall be chosen by Nags Head with the concurrence of the franchisee. The franchisee shall be entitled to recover the reasonable costs of the audit through the franchisee's rates.

Sec. 30-33. Termination of franchise.

Violation by the franchisee of any local, state or federal law or any term or provision of this franchise agreement or filing bankruptcy or failing to maintain insurance required by this ordinance, may result in immediate termination of the franchise without notice by Nags Head, except that either party may terminate the franchise agreement upon 120 days written notice to the other and to all subscribers.

Sec. 30-34. General indemnity.

The franchisee shall hold harmless and indemnify Nags Head, its employees, attorneys and agents from any claims, damages, losses and liabilities resulting from the work performed under the provisions of this franchise ordinance and agreement.

Sec. 30-35. Authority to execute franchise agreement.

Upon the enactment of this ordinance, the Nags Head Town Manager is authorized to enter into a Franchise Agreement with TFC Recycling, Inc, containing the terms as set out in this Ordinance.

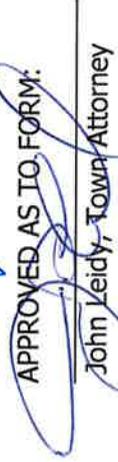
PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 5th day of April 2023.



Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: April 5, 2023

Motion to adopt by Commissioner
Motion seconded by Commissioner
Vote: ___ AYES ___ NAYS

