

**TOWN OF WAYNESVILLE TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 23, 2023**

SUBJECT: Public Hearing to consider a staff initiated text amendment to Section 44-2 of the Municipal Code related to disposal and containment of construction and demolition material.

AGENDA INFORMATION:

Agenda Location: Public Hearing
Item Number:
Department: Development Services
Contact: Elizabeth Teague, Development Services Director
Tom Maguire, Building Inspector
Presenter: Elizabeth Teague, Development Services Director

SUMMARY: Building inspections staff recommends changes to Section 44-2 of the Code to govern the proper storage and containment of materials on construction sites, and to prevent construction debris and litter from impacting adjacent properties. Building Materials are defined as: “any material such as lumber, brick, plaster, sheetrock, concrete, carpet, asphalt, shingles, wire mesh, gutters, or other items accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures. This shall include, but not be limited to, building fixtures, cabinets, and shelving.”

MOTIONS FOR CONSIDERATION:

1. Motion to adopt the text amendment Ordinance as proposed (or amended) to the municipal code, Section 44-2.

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

1. Draft Ordinance

MANAGER’S COMMENTS AND RECOMMENDATIONS: Adoption of this ordinance will improve and clarify the extent to which building inspections staff may enforce requirements for cleanliness of construction and demolition sites within the Town.

ORDINANCE NO. O-22-23

**AN ORDINANCE AMENDING THE TEXT OF THE
TOWN OF WAYNESVILLE CODE OF ORDINANCES**

WHEREAS, accumulation of construction debris and materials without containment can become a public health and safety hazard, degrade the look of public rights-of-ways and neighborhoods, and contribute to stormwater and environmental pollution;

WHEREAS, the Town Council adopted the 2035 Comprehensive Plan to “enable the growth of a vibrant, healthy, and successful community,” and find that safe management of construction sites and construction materials are essential to the goals of protecting natural resources, and promoting “the growth of a vibrant, healthy, and successful community,” and

WHEREAS, the Town Council desire to provide fair and equitable procedures and clear guidelines for code enforcement; and

WHEREAS, after notice duly given, a public hearing was held on May 23, 2023, at the regularly scheduled meeting of the Town Council;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON MAY 23, 2023, AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:

"That the Code of Ordinances, Town of Waynesville, North Carolina, is hereby amended, numbered Section 44-2 (b) – (d), to read as follows:

(b) **Construction or demolition waste generated within the Town shall be accumulated and stored in compliance with the following provisions.** It shall be the responsibility of the general contractor to see that all construction and demolition contractors keep the site ~~in as reasonably~~ clean and litter-free condition ~~as possible for a construction or demolition site~~. All loose debris, paper, building material waste, scrap building materials and other trash produced by those working on the site shall be containerized or disposed of ~~in any reasonable manner~~ by the contractor. Dirt, mud, construction materials or other debris deposited upon any public or private property as a result of construction or demolition shall be immediately removed by the contractor. **This section shall apply to:**

- 1. Generators of construction or demolition material in the Town of Waynesville.**
- 2. Current holders of permits from the Town to develop, build, construct, remodel, or alter any structure or conduct any demolition activities; henceforth referred to as “the authorized party”;**
- 3. Self-transporters of construction or demolition material in the Town; and**
- 4. Haulers of construction or demolition material in the Town.**

The Town may initiate an action to enforce the provisions of this section including, but not limited to: Warnings, Stop Work Orders (Red Tags), Re-fees, Citations, and any other legal remedy provided by law. Red tags and re-fees must be paid before any inspections will be scheduled for the property in violation.

(c) Construction or Demolition material. Generators shall manage construction and demolition materials in roll-offs, dumpsters, containers approved by the Director of Public Works, or completely inside a fully enclosed building, with the following exceptions:

1. Material that is so large that it cannot be placed in a single piece into a container or building. Such material may be permitted to remain uncontained for no more than fifteen (15) days, provided that potential wind-borne waste or debris is not included.
2. Rock, concrete, mortar, masonry, or similar material generated by a contractor or group of contractors at a group of properties located within a subdivision are not required to be contained, unless these materials have the potential to contribute to run-off into the Town's storm water conveyance system. These materials may be collected into piles on the ground within the project where such material was generated, provided they are removed to an authorized solid waste or recycling facility no more than fifteen (15) days after they are deposited unless an extension is granted by the Codes Administrator. Other types of Construction materials, Demolition debris, or any trash or solid waste shall not be considered the allowed materials.
3. Recyclable materials. Generators of Construction or Demolition materials are encouraged to take part in recycling programs. Generators of recyclables shall store such materials in approved containers provided by an authorized recycling company under and operating under the same conditions as any other hauler of Demolition and Construction materials.

(d) Generators and the authorized parties, for a property generating Construction or Demolition material, shall contract with a permitted hauler to collect all construction, demolition, or recyclable material generated at such property, or they may self-transport to an authorized facility. The Hauler shall provide the generator with a copy of the disposal contract and proof of legal disposal for all material, such as a manifest or a landfill or recycle facility receipt.

1. Upon receiving written authorization from the Town to develop, build, construct, demolish, or conduct construction and/or demolition activities, and prior to beginning such action, the generator or authorized party shall inform the Public Works Director and Codes Administrator of the starting date and provide a copy of the collection contract.
2. The contract with the hauler, or a written agreement in the case of self-transport of Construction or Demolition material, shall specify the following:
 - a. A sufficient quantity of roll-offs or approved containers shall be placed on-site and distributed to ensure that Construction and Demolition material does not become an obstacle to access, a safety or health hazard, or cause overfill of containers.
 - b. Frequent collection or service of containers to avoid overfill.

- c. Cleanliness of the container sites is the responsibility of Haulers and Generators equally.
- 3. Location of Containers. Roll-offs and containers shall be placed on the property generating the material. If placement on the property is not safe or feasible, special permission for off-site placement must be approved by the Public Works Director who shall determine the conditions to be met. Such permission shall be obtained prior to placement.
- 4. Haulers of roll-offs and generators of Construction or Demolition materials shall maintain the area surrounding the roll-offs and/or containers in a clean, safe, unobstructive and sanitary condition. The area shall be free of litter, trash, or any other objectionable material.

Section (c) – (h) to be renumbered for consistent formatting of the section.

ADOPTED this _____ Day of _____, 2023.

TOWN OF WAYNESVILLE

J. Gary Caldwell, Mayor

ATTEST:

Candace Poolton, Town Clerk

APPROVED AS TO FORM:

Martha Bradley, Town Attorney

Town Council Staff Report

Subject: Regulation of Demolition and Construction Site Debris
Ordinance Section: Section 44-2 of the Waynesville Code of Ordinances
Applicant: Staff initiated text amendment; Development Services Department
Meeting Date: May 23, 2023

Background

Town Code Enforcement Officials have had several instances of inspecting construction sites that have not been well managed for cleanliness, materials storage, and the prevention of debris leaving the site carried by wind or stormwater onto adjoining properties. Section 44-2(b) of the Municipal Code of Ordinances requires that:

“It shall be the responsibility of the general contractor to see that all construction and demolition contractors keep the site in as reasonably clean and litter-free condition as possible for a construction or demolition site. All loose debris, paper, building material waste, scrap building materials and other trash produced by those working on the site shall be containerized or disposed of in any reasonable manner by the contractor. Dirt, mud, construction materials or other debris deposited upon any public or private property as a result of construction or demolition shall be immediately removed by the contractor.”

Building Inspections staff requests that this section of the municipal code be expanded to be more specific in order to clarify and strengthen their enforcement ability.

Staff Recommended Text Changes:

Staff recommends an expansion to this section of the ordinance to emphasize and include the following:

- Expand and specify that the ordinance applies to all generators of construction or demolition debris, including those who are hauling or transporting materials;
- Clarify possible actions to enforce the provisions of this section including: “warnings, Stop Work Orders (Red Tags), Re-fees, Citations, and any other legal remedy provided by law;”
- Enumeration of the types of materials and debris covered by the ordinance;
- Provides compliance and remedy options; and
- Regulates location of containers, hauler and roll-off containers on-site.

Staff submits the proposed changes for the adoption by the Board of Aldermen **in red**.

Attachments

1. Proposed Text Amendment
2. Notification of the Public Hearing

Recommended Motions

1. Motion to adopt the Ordinance as presented (or as amended)



TOWN OF WAYNESVILLE

Development Services Department

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FOR PUBLICATION IN THE MOUNTAINEER: May 10 and May 17 Wednesday Editions

Date: May 1, 2023

Contact: Elizabeth Teague (828) 456-2004

Notice of Public Hearing

Town of Waynesville Town Council

Waynesville Town Council will hold a **public hearing on May 23, 2023 at 6:00 p.m.** or as closely thereafter as possible, in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider text amendment to Section 44-2 of the Municipal Code related to disposal and containment of construction and demolition material.

For more information contact the Development Services Department at: (828) 456-2004, email: eteague@waynesvillenc.gov, mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.