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Chapter 78 – Utilities
Article III. Sewer Use Regulations,

COLUMBUS COUNTY

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Division 7. Depositing of Grass Clippings or Other Lawn and Garden Materials
into the Streets, Alleys and Sidewalks

Section 78-203 – Ordinance Intent

It is hereby declared to be unlawful for any person, firm, association or corporation to deposit, place, discard, drop on or in any manner scatter any grass clippings, leaves, branches or other lawn, garden, or tree waste in or upon the streets, curbs, sidewalks, or alleys of the Town of Chadbourn except as permitted by the Code of Ordinances.

Section 78-203 – Debris in Storm Water Drainage System

(a) Findings. Yard waste such as leaves, grass clippings, and soil/sediment can cause significant water quality problems when it is blown or directed into the storm water system. Water quality problems include algal blooms and aquatic weed growth, oxygen depletion, fish kills, and impaired aquatic habitat. In addition, when the storm water system is clogged with yard waste; it can cause street and property flooding.

(b) Restrictions on Debris.

(1) It shall be unlawful for any person to rake, sweep, blow, wash, direct or place any debris, including but not limited to yard waste, grass clippings, leaves, sediment, trash, or debris of any kind into the storm drainage system of the Town, including any street, storm drains, ditches, swales, streams, culverts, right of way, dedicated easements, or in any other area where it might impede the flow of water through the storm drainage system of the Town.

(2) It shall be the duty of all property owners within the Town to take adequate precautions on their property to ensure positive drainage on their property. Such drainage may be provided either through natural or artificial drain found to be adequate by the Town's Public Works Director. The owner shall keep all ditches, drains, swales, and drainage routes free from obstructions which impede the flow of water.

(3) When it shall appear to the Police Department and/or Code Enforcement that drainage facilities or drainage ways on any private property are, for any reason, inadequate and prior notice has not resulted in correction of problem conditions, he/she shall notify the owner of the property by registered or certified mail what corrective measures are required to render the drainage adequate. The notice to the owner shall specify a reasonable time within

which the corrective measures should be taken. Notice to the owner whose address is unknown shall be given to the person whose name the property is listed for taxation at the address shown on the tax records or to the agent of the owner whose name appears on the tax records.

- (4) If such corrective measures are not taken as required in the notice to the owner, the Town Manager upon approval by the Town Council, may enter upon such premises and take the corrective measures required and the Town Council may assess the cost thereof against the owner of the property and such assessment shall become a lien on the property with the same pro-rating to be collected as unpaid ad valorem taxes.
- (5) Any condition in violation of this section shall constitute a public nuisance, subject to abatement as set forth in the Chadbourn Code of Ordinances.
- (6) The following are preferred best management practices (BMPs) for yard waste and debris:
 - a. Prevent yard waste and debris from entering the street, storm drain, ditch, or other parts of the drainage system.
 - b. Direct or blow yard waste back onto a lawn or landscape area.
 - c. Sweep, rake, and/or collect yard waste instead of hosing/sweeping off of driveways, sidewalks or other impervious surfaces.
 - d. Leave grass clippings on the lawn to decompose quickly and act as a natural fertilizer and soil conditioner ("grass cycle").
 - e. Compost yard debris for use in the lawn, garden or landscape.
 - f. Collect and contain yard waste for Town collection service according to specific yard waste collection policies. Do not use the Town trash cart for yard waste or debris.
 - g. Collect and dispose of waste at a legally authorized yard waste collection facility.

Section 78-204 – Penalties and Remedies

- (a) A violation of any of the provisions of Chapter 78 shall constitute a misdemeanor, punishable as provided in G.S. § 14-4.
- (b) A violation of the provisions of Article III of Chapter 78 shall, also, subject the offender to a civil penalty of one hundred dollars (\$100.00).

- (c) A violation of the provision of Division 7 of Article III of Chapter 78 shall, also, subject the offender to a civil penalty of up to one thousand dollars (\$1,000.00) per violation.
- (d) A violation of the provisions of Division 7 of Article III of Chapter 78 shall, also, subject the offender to a civil penalty of two hundred and fifty dollars (\$250.00). Each occurrence as set forth in Division 7 shall be a separate violation.
- (e) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate violation.
- (f) If a person fails to pay a civil penalty within ten (10) days after being cited for a violation, the Town may seek to recover the penalty by filing a civil action in the nature of the debt.
- (g) The Town may seek to enforce this Chapter through any appropriate equitable action. The Town, also, may apply for and the court may enter an order to abate any unlawful condition existing upon real property to take any action that is necessary to bring the property into compliance with this Chapter. The Town may seek an order requiring a person responsible for a violation to restore all areas affected by the violation to the pre-violation condition in order to minimize the detrimental effects of the violations.
- (h) A violation of Division 7 of the Article III of Chapter 78 shall be deemed to be dangerous and prejudicial to the public health or public safety and shall constitute a public nuisance. Such violations may be abated in accordance with the procedures set forth in the Chadbourn Code of Ordinances.
- (i) The Town may seek to enforce Chapter 78 by using any one (1) or any combination of the foregoing remedies as laid out in this section.
- (j) Persons responsible for violations of Chapter 78 and subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person who has control over, or responsibility for, the use or development of the property on which the violation occurs.

Section 78-205 – Appeal Process

- (a) Any person who has been served a notice of civil penalty assessment may appeal to the Town Manager. The appellant's obligation to remedy a violation will not be delayed by a request for appeal. An appeal must be made to the Town Manager in writing within 30 days after the date the notice is received.

- (b) The Town Manager shall hold a hearing and make a decision on the appeal within 90 days of the receipt of the appeal. At the hearing, the appellant shall be given the opportunity to present evidence about whether a violation occurred and whether the civil penalty assessment factors were applied properly.
- (c) All decisions of the Town Manager shall be served on the appellant personally or by certified mail, returned receipt requested. Service shall be based upon the address included in the notice of appeal.
- (d) If the Town Manager determines that a penalty was assessed properly, the appellant must provide payment within thirty (30) days of receipt of the Town Manager's decision.
- (e) The decision of the Town Manager shall be subject to review by the Columbus County Superior Court by proceedings in nature of certiorari. Any petition for review shall be filed within thirty (30) days after the Town Manager's decision is delivered to the appellant.

Section 78-206 -- Enforcement of Chapter

- (a) The Town Manger shall enforce the provisions of this Chapter.
- (b) The Town Manager shall have the right to enter upon all lands of inspection, observation, measurement, sampling and testing and taking other actions to determine compliance with this Chapter. If the owner or occupant of any land refuses to permit such entry, the Town Manager shall obtain an administrative search warrant to enter the land.
- (c) No person shall obstruct, hamper or interfere with the Town Manager or designee, while he/she is carrying out official duties.

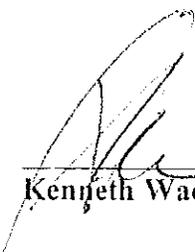
All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

This Ordinance shall be effective on and after November 1, 2012.

Adopted at the Chadbourn Town Council Meeting on October 2, 2012.

APPROVED AS TO FORM

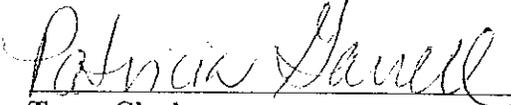


Kenneth Waddell, Mayor



Harold G. Pope, Town Attorney

ATTEST:



Patricia Gannell
Town Clerk