

MODEL COUNTY ORDINANCE FOR THE MANAGEMENT OF SOLID WASTE

North Carolina counties manage the collection and disposal of solid waste in several different ways. This makes it impossible to draft a single ordinance that would be appropriate for adoption by every county. Some counties provide large receptacles ("green boxes") at numerous locations throughout the county for the convenience of residents and also rely on private collectors. Other counties rely almost entirely on private collectors to provide for the collection and disposal of waste, but among these counties two variations exist: some simply license collectors and then permit them to establish their own collection routes and fees, relying on the market to supply adequate service at a reasonable price; others license the collectors and also, under the franchise power, establish exclusive collection zones for each collector and the schedule of rates that the collectors may charge. With increased emphasis on recycling, many counties provide convenience stations and recycling centers where citizens may deposit recyclable materials for collection and processing. Some counties, especially those with resource recovery facilities, may wish to adopt flow control ordinances, directing that all waste generated in the county be disposed of at county facilities. All counties in their ordinances must deal with materials removed from the waste stream for recycling, define certain key terms, such as garbage, and provide rules for the management of landfills.

This model ordinance takes what might be called a cafeteria approach to the task of drafting a solid waste management ordinance. It contains provisions that all ordinances must contain, such as those pertaining to definitions and enforcement, and then it offers alternative provisions that may be selected depending upon a county's collection and disposal methods.

The ordinance sections are preceded by explanatory comments discussing such matters as the source of the section, limitations of the section, or the purpose of the section.

Section I. Purpose and Statutory Authority

Comment: This model ordinance is written for adoption by the board of county commissioners, and therefore the statutory authority cited is from chapters 153A and 130A. Although it is possible for portions of the ordinance to be adopted as rules by the county health department, such an arrangement does not seem practical in view of the many responsibilities placed on local governments by the Solid Waste Management Act of 1989 (G.S. 130A-309.01 et seq.). County board of health rules will, however, still be useful in dealing with situations in which solid waste has created a public health nuisance (see G.S. 130A-19) or an imminent hazard to health or the environment (see G.S. 130A-20).

If a municipality wishes to have the ordinance enforced within its corporate limits, it may adopt a resolution to that effect pursuant to G.S. 153A-122. As will be

noted in Section VII, adoption of a resolution pursuant to G.S. 153A-122 is unnecessary to make the flow control provision effective within municipalities.

Section I. Purpose and Statutory Authority

The purpose of this ordinance is to regulate the storage, collection, and disposal of solid waste in _____ County. This ordinance is adopted pursuant to the authority contained in G.S. 153A-121, -132.1, -136, -274 through -278, and -291 through -293, and 130A-309.09, -309.09A, -309.09B, and -309.09D. Unless otherwise indicated, the ordinance applies to both publicly-owned and privately-owned municipal solid waste management facilities located in _____ County.

Section II. Definitions

Comment: The definitions are, for the most part, taken from G.S. 130A-290, Solid Waste Management Rules of the Solid Waste Management Division, DEHNR, 15A NCAC 13B, and the U.S. Environmental Protection Agency's *Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste*, 40 C.F.R. 243.100, and *Source Separation for Materials Recovery Guidelines*, 40 C.F.R. 246.101. Some of the definitions are applicable only to particular sections and will not be needed if a county does not adopt that provision of the ordinance.

Section II. Definitions

The following definitions apply in the interpretation and enforcement of this ordinance:

A. **Board:** Board of Commissioners of _____ County.

B. **Bulky waste:** Large items of solid waste such as furniture, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing, or disposal methods.

C. **Collection:** The act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.

D. **Commercial solid waste:** All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste.

E. **Construction and demolition waste:** Solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings, or other structures, but does not include inert debris, land-clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material.

F. **Department:** The Department of Environment, Health and Natural Resources.

G. Garbage: All putrescible waste, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

H. Hazardous waste: Solid waste, or a 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.

I. Incineration: The process of burning solid, semi-solid, or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.

J. Industrial solid waste: Solid waste generated by industrial processes and manufacturing.

K. Inert debris: Solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

L. Institutional solid waste: Solid waste generated by educational, health care, correctional, and other institutional facilities.

M. Land-clearing debris: Solid waste that is generated solely from land-clearing activities.

N. Landfill: A disposal facility or part of a disposal facility where waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

O. Medical waste: Any solid waste that is 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 C.F.R. 261.4(b)(1), or those substances excluded from the definition of "solid waste" in this ordinance.

P. Municipal solid waste: Solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or solid waste from mining or agricultural operations.

Q. Municipal solid waste management facility: Any publicly- or privately-owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal.

R. Pathological waste: Human tissues, organs, and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

S. Person: Any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

T. Putrescible: Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal, and animal carcasses.

U. Processing: Any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.

V. Radioactive waste: Waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.

W. Recycling: The process by which solid waste or recovered materials are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.

X. Refuse: Solid waste, other than garbage or ashes, from residences, commercial establishments, and institutions.

Y. Regulated medical waste: Blood and body fluids in individual containers in volumes greater than 20 ml., microbiological waste, and pathological waste that has not been treated pursuant to rules promulgated by the Department.

Z. Resource recovery: The process of obtaining material or energy resources from discarded solid waste that no longer has any useful life in its present form and preparing the solid waste for recycling.

AA. Sanitary landfill: A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to G.S. Ch. 130A, article 9.

BB. Scrap tire: A tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.

CC. Septage: Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a septic tank system.

DD. Sharps: Needles, syringes, and scalpel blades.

EE. Sludge: Any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

FF. Solid waste: Any hazardous or nonhazardous garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the

treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:

- (1) Fecal waste from fowls and animals other than humans;
- (2) Solid or dissolved material in
 - a. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment, and disposal systems that are designed to discharge effluents to the surface waters;
 - b. Irrigation return flows; and
 - c. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for purposes of this definition;
- (3) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition;
- (4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011);
- (5) Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission. However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition.

GG. Solid waste collector: Any person who collects or transports solid waste.

HH. Solid waste disposal site: A location at which solid waste is disposed of by incineration, sanitary landfill, or other approved method.

II. Solid waste receptacle: Container used for the temporary storage of solid waste while awaiting collection.

JJ. Source separation: Setting aside recyclable materials at their point of generation by the generator.

KK. Tire: A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).

LL. Transfer station: A site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.

MM. Used oil: Any oil that has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose.

NN. White goods: Inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

OO. Yard trash: Solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

Section III. Storage and Disposal

Comment: Included in this section are regulations regarding the types of containers in which solid waste may be stored. If the county relies on private collectors to collect and dispose of solid waste, the private collectors may impose additional requirements on their customers in their contracts; the requirements included here are those considered necessary to protect the public health.

A provision is included in this section prohibiting the abandonment of airtight containers and appliances, such as refrigerators. This could just as well be included in the county's general police regulations, but it is offered here in case it is not covered elsewhere in the county's ordinances.

Subsection I. is an anti-littering provision adopted pursuant to G.S. 153A-132.1. It is intended to supplement the state criminal statute on littering, G.S. 14-399, and make littering a violation of the county ordinance and therefore enforceable by the remedies set forth in section X. of this ordinance.

Section III. Storage and Disposal

A. No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid waste on his property that is not stored or disposed of in a manner prescribed by this ordinance.

B. The owner, occupant, tenant, or lessee of any property shall remove or cause to be removed all solid waste from his property at least once each week (7-day period).

C. Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close-fitting, fly-tight cover in place, with adequate handles or bails to facilitate handling. The capacity of the container may not exceed _____ gallons. [EPA recommends a maximum

capacity of 35 gallons unless the containers are equipped with casters and can be serviced by being rolled to the collection vehicle, 40 C.F.R. 243.200-2(a)(1); many local ordinances set a maximum of 32 gallons.] Solid waste receptacles, as defined by this ordinance, may also be used for storage provided they meet the requirements of this subsection. The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.

D. Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this subsection includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods. Useful materials, such as firewood and building materials, may be stored on the premises, provided they are stored in a safe manner at a reasonable height above ground.

E. No owner, occupant, tenant, or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave, or cause to be placed or left, outside the building or dwelling any bulky waste for longer than 72 hours.

F. No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator, or other receptacle that has an airtight door without first removing the door.

G. Solid waste shall be disposed of only in one of the following ways:

- (1) In a landfill approved by the Department;
- (2) In an incinerator that has all required local, state, and federal control permits;
- (3) By any other method, including recycling and resource recovery, that has been approved by the Department.

H. In addition to the methods listed in subsection G., above, refuse may be disposed of in solid waste receptacles provided by the county.

I. No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.

J. Construction wastes must be disposed of at disposal sites approved and permitted by the Department.

K. Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the Department.

L. Any person collecting and transporting solid waste generated on such person's property for disposal at an approved disposal site shall comply with sections

VIII.F.1 and 2 of this ordinance concerning vehicles and containers.

M. All sharps shall be placed in a sealed, puncture-proof container prior to disposal.

N. Open burning of solid waste is prohibited.

Section IV. Landfill Management

Comment: The permitting of sanitary landfills, their operation, and to some extent the materials that may be disposed of in them are regulated by the Department under state statutes and regulations. Nevertheless, there appears to be room for local regulation of sanitary landfills that takes into account special features of the particular site and also limitations imposed by virtue of the equipment available to the landfill operator; also, it is useful to restate in a local ordinance the prohibitions on materials that may not be placed in a landfill. No fees have been included in this section to be charged either to individual users of the landfill or to solid waste collectors. Most counties will wish to set some type of fee schedule to charge collectors or both collectors and individuals disposing of waste directly in the landfill.

Section IV. Landfill Management

A. The county sanitary landfill may be used for the disposal of solid waste by county residents and nonresident property owners. The landfill shall be open during business hours as established by the board. In emergencies, the landfill may be opened for additional hours as directed by the county manager or the manager's representative. Except when open during regular business hours the landfill shall be kept locked, and entry shall not be permitted. Solid waste shall be disposed of at the landfill in the manner and according to procedures established by the county engineer or the engineer's representative.

B. The following wastes may not be disposed of in the county sanitary landfill or in any privately-owned municipal solid waste landfill:

- (1) Burning or smoldering materials, or any other materials that would create a fire hazard;
- (2) Hazardous waste;
- (3) Lead-acid batteries;
- (4) Liquid waste;
- (5) Untreated regulated medical waste;
- (6) Radioactive waste;
- (7) Tires; unless they have been halved or shredded;

- (8) Used oil;
- (9) White goods;
- (10) Yard trash.

C. The following wastes may be accepted on a conditional basis only [state regulations require that these wastes receive special treatment before they are placed in a landfill]:

- (1) Asbestos;
- (2) Barrels;
- (3) Sludges;

[The county may wish to add to the list of conditionally acceptable wastes other materials that present especially difficult disposal problems.]

Conditionally acceptable wastes may be disposed of in accordance with Department regulations and policies promulgated by the county engineer and adopted by the board. Generators of conditionally acceptable waste shall obtain prior approval from the landfill administrator at least three working days before transporting conditionally approved wastes to the landfill.

D. No person may loiter or rummage about the landfill or remove articles therefrom.

E. No person may deposit material at any point in the landfill except where indicated by authorized employees of the landfill or by official signs.

F. No person may discharge firearms, fireworks, or explosives on landfill property.

G. The maximum allowable speed of vehicles at the landfill is ten miles an hour.

Section V. Solid Waste Receptacles

Comment: This section is included for counties providing solid waste receptacles at various locations throughout the county for intermediate collection of solid waste.

Section V.

A. Solid waste receptacles are maintained at sites throughout the county for the convenience of county residents, and nonresident property owners, on land owned or leased by the county. Solid waste may be deposited in the receptacles only in accordance with the provisions of this ordinance.

B. The following wastes may not be deposited in solid waste receptacles:

- (1) Asbestos;
- (2) Burning or smoldering materials, or any other materials that would create a fire hazard;

- (3) Commercial waste;
- (4) Construction waste;
- (5) Hazardous waste
- (6) Industrial waste;
- (7) Institutional waste;
- (8) Lead-acid batteries;
- (9) Liquid waste;
- (10) Radioactive waste;
- (11) Regulated medical waste;
- (12) Tires;
- (13) Used oil;
- (14) White goods;
- (15) Yard trash.
- (16) Sludges;
- (17) Barrels;
- (18) Sharps not properly contained.

C. All solid waste intended for disposal in a solid waste receptacle shall be deposited inside the container. No solid waste may left at the solid waste receptacle site outside the receptacle.

D. No person may remove any item from a solid waste container, climb on or into a container, or damage any container.

Section VI. Source Separation and Recycling

Comment: G.S. 130A-309.09B requires counties with permits from the Department for solid waste management facilities to implement recycling programs, and G.S. 153A-136 authorizes counties to require both source separation and participation in approved recycling programs. This section of the ordinance deals with those subjects. The items to be recycled and the handling of those items set forth in this section are presented as examples; a county may want to recycle more or fewer items and may want to require different handling.

Section VI. Source Separation and Recycling

A. Each person who owns, leases, or manages a residence, residential unit, or place of business, industry, commerce, or other place providing goods or services, or institution, church, or school shall remove recyclable materials from the solid waste generated as required in subsection B and make them available for recycling as required in subsection C. Nothing in this ordinance is intended to prevent any person from donating or selling recyclable materials to any other person.

B. All recyclable material shall be separated from other solid waste and made available for recycling. Recyclable material shall not be mixed with or disposed of with other solid waste. Recyclable material shall consist of the following items and shall be prepared for recycling as directed:

(1) Glass: All brown, green, and clear glass shall be rinsed.

(2) Cans: Except for aluminum cans, all metal cans shall be rinsed, cut out at both ends, the paper removed, and flattened. Aluminum cans shall be flattened.

(3) Plastic milk jugs: All plastic milk jugs shall be rinsed and either securely bound together or placed in plastic bags. The caps shall be removed.

(4) Other plastic bottles: Other plastic bottles shall be separated by resin type and rinsed.

(5) Cardboard: Cardboard of all types shall be flattened and tied together in bundles.

(6) Newsprint: All newsprint shall be bundled together and protected so that it does not become wet from rain or other forms of precipitation.

C. All recyclable material shall be placed in boxes or bins at curbside prior to 7:30 a.m. each [day or days of week material is collected], or shall be placed in recycling collection centers provided by the county.

D. Ownership of recyclable materials

(1) After recyclable material has been placed in a designated container at a collection center designated by the County of _____ or its authorized agent, or has been placed at curbside in designated containers for collection, the recyclable material shall become the property of the County of _____ or its authorized agent.

(2) During the twelve-hour period commencing at 7:30 p.m. on any day preceding a day designated for curbside collection of recyclable material, no person, other than a county employee or the county's authorized agent, may remove recyclable material from a designated container that has been placed at a designated recycling location.

(3) No person, other than a county employee or the county's authorized agent, may remove recyclable material from a recycling collection center.

Section VII. Flow Control

Comment: Many counties, especially those operating waste-to-energy facilities, will want to direct that all solid waste generated in the county, including waste generated in municipalities, be disposed of in county facilities. This concept is known as flow control. The statutory authority for a flow control ordinance is G.S. 130A-291(b) and G.S. 130A-294(5b).

Section VII. Flow Control

A. All solid waste generated within the designated geographic area of the county solid waste management plan that is placed in the waste stream for disposal or recycling shall be collected, transported, and disposed of at the county resource recovery facility or the county landfill. The removal of solid waste from within the geographic area for disposal is prohibited. The disposal of solid waste generated in areas outside the boundaries of the county in county-owned municipal solid waste management facilities is prohibited. This section shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.

B. No person, except licensed private collectors and county or municipal collectors, shall collect or remove any solid waste within the county for disposal.

C. The county engineer shall establish a system of classification for classes of solid waste that shall be consistent with a system of classification in the solid waste management plan. The classification system shall be used as a basis for requiring that solid waste be delivered to an appropriate county disposal facility in accordance with the solid waste management plan.

Section VIII. Licensing of Solid Waste Collectors

Comment: All solid waste collectors, that is, persons who collect, transport, and dispose of solid waste for hire, should be licensed by the county. In addition to the licensing, a county may want to grant exclusive franchises to collect waste in certain geographical areas to particular collectors and regulate their fee schedules. Section X of this ordinance deals with franchising. All

collectors should be licensed before they are allowed to apply for a franchise. Under the procedure adopted here, the license is issued by the county engineer, subject to appeal in the event of denial or revocation to the board of commissioners. Although G.S. 153A-136 authorizes counties to charge a fee for issuing a license to solid waste collectors, no fee is included in this section.

Section VIII. Licensing of Solid Waste Collectors

A. No person may engage in business as a solid waste collector except under a license issued by the county pursuant to this ordinance.

B. Applications for licenses to engage in the business of solid waste collector shall be filed with the county engineer on forms approved by the county engineer. The applicant shall furnish the following information:

- (1) Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
- (2) A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;
- (3) Number of employees the applicant expects to use in the business;
- (4) Experience of the applicant in solid waste collection;
- (5) Balance sheet or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the business;
- (6) Planned routes and areas of the county the applicant expects to serve;
- (7) Schedule of fees the applicant expects to charge.
- (8) Evidence of liability insurance coverage;
- (9) Name and location of the facility where collected waste is to be disposed of.

C. Before issuing a license pursuant to this section, the county engineer shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.

D. (1) The county engineer may issue the applicant a license only when he finds that the applicant's facilities, equipment, and proposed operating methods are in compliance with this ordinance and applicable rules of the Department and that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this ordinance.

(2) If the county engineer denies an applicant a license, the applicant may request a hearing before the county engineer. The county engineer shall keep summary minutes of the hearing and at least one week after the hearing shall give the applicant written notice of his decision either granting the license or affirming his denial of the license. The applicant may appeal the county engineer's decision to the board of county commissioners by giving written notice of appeal to the county manager within two days of receipt of the county engineer's decision following the hearing. After a hearing on the appeal, the board shall either affirm the denial or direct the county engineer to issue the license.

(3) A license shall be valid for a period of one year from the date of issuance.

E. A licensee shall submit a quarterly report to the county engineer containing the following information:

- (1) Number of customers added or deleted;
- (2) Changes in routes;
- (3) New and replacement equipment;
- (4) Any other information requested by the county engineer and pertinent to the solid waste collection business.

F. (1) Vehicles and containers used for the collection and transportation of solid waste shall be covered, leakproof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in numbers at least three inches high the county license number of the licensee and the license sticker issued by the county engineer.

(2) Vehicles and containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.

G. When the county engineer finds that a licensee has violated this ordinance or the conditions of the license, the county engineer shall give the licensee written notice of the violation and inform him that if

another violation occurs within thirty days, or in the case of a continuing violation, if it is not corrected within ten days, the license will be revoked. If another violation occurs within the thirty-day period, or, if the continuing violation is not corrected within ten days, the county engineer shall give the licensee written notice that the license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting, or disposing of solid waste. The county engineer may reinstate a revoked license after the revocation has been in effect for thirty days if the engineer finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the board of county commissioners by giving written notice of appeal to the county manager within ten days of receiving notice of revocation from the county engineer. After a hearing on the appeal, the board shall either affirm the revocation or direct the county engineer to reinstate the license.

H. No license issued pursuant to this chapter shall be assignable.

Section IX. Franchising Solid Waste Collectors

Comment: This section is offered for the consideration of counties that, in addition to licensing solid waste collectors, wish to grant franchises to solid waste collectors pursuant to the authority conferred by G.S. 153A-136. The two primary elements in franchising are the delineation of an exclusive geographical service area and the setting of fee schedules.

Section IX. Franchising Solid Waste Collectors

A. No person may engage in the business of solid waste collector unless he holds a franchise issued by the board of county commissioners authorizing him to collect, transport, and dispose of solid waste and describing the area for which the franchise is issued.

B. No person may be issued a franchise by the board unless he holds a license to engage in the business of solid waste collector issued by the county engineer.

C. Applications for franchises shall be filed with the board, through the county manager, on forms prescribed by the county manager and shall include a copy of the applicant's license application to the county engineer and any other information the board deems pertinent.

D. The board may grant a franchise only upon finding that the applicant will render prompt, efficient, and continuing service to the area for which the franchise is granted and that the applicant has sufficient equipment and personnel to render service to all persons generating solid waste within the service area.

E. The board shall determine the area for which a franchise is granted.

F. The board shall set or approve all fees charged by solid waste collectors before granting a franchise. The board may classify fees according to whether residential,

commercial, institutional, or industrial customers are served, so that reasonable compensation may be provided in accordance with the public interest. Fee schedules may be amended by the board from time to time.

G. A franchise shall be for a term of four years and shall be renewable. [G.S. 153A-136 authorizes a term of not to exceed seven years; given the capital investment involved, a term of three to five years does not seem excessive.]

H. A solid waste collector franchised under this ordinance shall present to each prospective customer, in advance of any agreement with that customer, a schedule of his fees, as authorized by this ordinance, to be charged. All solid waste shall be removed from the customer's premises at least once a week, provided the customer is no more than thirty days in arrears in payment of the required collection fees.

I. The board may grant temporary franchises for the collection, transportation, or disposal of solid waste to provide service in the event of abandonment of an existing franchise or for other cause.

J. Notwithstanding any other provision of this ordinance to the contrary, the board may grant nonexclusive franchises for the collection of commercial, industrial, institutional, and construction and demolition wastes throughout the county.

K. All disputes regarding the granting of a franchise and disagreements concerning franchised areas shall be determined by the board.

L. No franchise shall be assignable.

M. A solid waste collector granted a franchise under this ordinance shall give thirty days' written notice to the board before abandoning the franchise.

N. The board may terminate or suspend all or any portion of a franchise for any of the following reasons:

- (1) Loss of the franchisee's license to operate as a solid waste collector;
- (2) Failure of the franchisee to comply with the authorized fee schedules;
- (3) Failure of the franchisee to render prompt and effective service to persons within his service area;
- (4) Failure of the franchisee to comply with any provision of this ordinance or applicable rules of the Department.

Section XI. Enforcement

Comment: G.S. 153A-123 provides that violation of a county ordinance is a misdemeanor, that the county may levy a civil penalty for violations, and that the ordinance may be enforced by equitable remedies (injunction). The maximum fine for an ordinance violation

provided in G.S. 14-4 is \$500, although a county may set a lower maximum amount.

XI. Enforcement

A. *Criminal penalty.* Any person violating this ordinance shall be guilty of a misdemeanor punishable by a fine of not to exceed \$500 or imprisonment for not more than 30 days, or both. Each day's violation shall be treated as a separate offense.

B. *Civil penalty.* Any person who is found in violation of this ordinance shall be subject to a civil penalty of not to exceed \$500 as provided in G.S. 153A-123. Each day's violation shall be treated as a separate offense.

C. *Remedies.* This ordinance may be enforced by equitable remedies, and any unlawful condition existing or in violation of this ordinance may be enforced by injunction and order of abatement in accordance with G.S. 153A-123.



**An Ordinance Relating to Regulating
the Collection and Disposal of Solid Waste**

Be it ordained by the Board of _____ of the (County/City) of _____ as follows:

**ARTICLE I
PURPOSE**

To protect the health and welfare of the citizens of the (County/City) of _____ and to promote the conservation of natural resources and the wise use of the environment, the Board of _____ of the (County/City) of _____ hereby adopt this ordinance to regulate the separation, recovery, collection, removal, storage and disposition of solid waste, including recyclables, in the (County/City) of _____, North Carolina.

**ARTICLE II
DEFINITIONS**

- A. "Air Contaminants" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
- B. "Authorization" by the (County/City) of _____ means authorized pursuant to a legal contract or other written authorization entered into by the (County/City) of _____ and a private third person as defined herein.
- C. "Emission" shall mean a release into the outdoor atmosphere of air contaminants.
- D. "Commercial Hauler" shall mean any person who, for a fee, collects and/or hauls solid waste that is generated within the (County/City) of _____.
- E. "Incineration" shall mean the burning of solid waste in an enclosed outdoor container.
- F. "Open Fire Burning" shall mean burning of solid waste in the open where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney or other enclosure.

- G. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- H. "Recyclable" shall mean recyclable material as specifically identified in regulations promulgated by the Board of _____.
- I. "Solid Waste" shall mean any solid waste as defined in G.S. 130A - 290 (35).
- J. "Yard Waste" shall mean solid waste consisting of solely vegetative matter resulting from landscaping maintenance.

ARTICLE III AUTHORITY

In accordance with G.S. 130A - 309.09 of the North Carolina General Statutes, the (County/City) of _____ is responsible for the management and regulation of the storage and collection of solid wastes within the limits of the (County/City), in conformance with the State and County solid waste management plans authorized under G.S. 130A - 309.04 and 309.07. The (County/City) may issue local franchises and may make, amend or repeal rules necessary to manage the storage and collection of solid waste materials within its limits and impose penalties for violations thereof, provided that the rules are consistent with the State plan and rules promulgated by the Secretary of the Department of Environment, Health and Natural Resources.

ARTICLE IV COLLECTION

The Board of _____ is authorized to employ or make contracts with individual persons for the separation, recovery, collection, removal, storage, or disposition of solid waste, including recyclables. Contracts which are awarded pursuant to this authority shall be advertised or otherwise put to competitive bid. Contracts may be rejected or awarded at the sole discretion of the Board of _____ for any reasons which they deem appropriate, including but not limited to, the efficiency of scale, past performance of a contractor, stability of operation, and need for competition. The Board of _____ may adopt regulations regulating the preparation of solid waste for collection.

All commercial haulers of solid waste in the (County/City) of _____ shall register with the (County/City) Manager and such registration shall constitute authorization to collect solid waste but not recyclables. Authorization to collect recyclables shall be a separate authorization. The Board of _____ may set a registration fee and may require all commercial haulers to charge for collection and hauling services on a per quantity basis. The Board of _____ may require documentation that charges are based on a per quantity basis. The information would be considered proprietary information and consequently would not be made public.

**ARTICLE V
PUBLIC SAFETY**

No person having the custody or control of residential, industrial or business premises from which solid waste, including recyclables, is collected for disposal in the (County/City) of _____ shall permit or cause any solid waste, including recyclables, within their control to become a hazard to public travel, health or safety or to become a nuisance of any sort. Solid waste, other than yard waste, may not be deposited or otherwise left out of doors unless it has been placed in the proper container as defined by regulations promulgated pursuant to this ordinance. Household hazardous wastes may only be disposed of in accordance with regulations adopted by the Board of _____ from time to time.

**ARTICLE VI
ILLEGAL DUMPING**

Section 1.

It shall be unlawful for any person, business, or corporation to enter any (County/City) of _____ solid waste facility when said facility is not open; nor shall they deposit, dump, or leave solid waste of any kind in any such facility or adjacent hereto, whenever said facility is open.

Section 2.

Is shall be unlawful for any person to deposit, dump, or leave solid waste on/in any privately owned or maintained disposal container other than their own, nor any other private property, without the consent of the owner.

Section 3.

It shall be unlawful to deposit in a municipally owned or maintained disposal container any solid waste other than that created or originated in any public buildings/grounds/highways or on the person of anyone using said public buildings/grounds/highways.

**ARTICLE VII
OPEN FIRES AND INCINERATORS**

Section 1.

Except as provided by this article, the burning of any solid waste, either by open fire or incineration, in the (County/City) of _____ is prohibited.

Section 2.

A specific written permit may be granted by the Fire Chief or his designee for the open burning of yard and garden debris including trees, stumps, brush, untreated wood, lawn clippings, and leaves; provided the Fire Chief is satisfied that no hazardous condition will be created by such burning and the emission of air contaminants will not create a danger to the health and property of the citizens of the (County/City) of _____.

Permits which are issued under the provisions of this ordinance shall be for a specified date, time and location and only for specified materials. The (Official) _____ of the (County/City) of _____ reserve the right to establish a fee for the issuance of such permits.

**ARTICLE VIII
SEPARATION OF RECYCLABLES**

Section 1.

Except as hereinafter provided, recyclables from all residences shall be kept separate from other solid waste, either delivered to a private or (County/City) collection facility, or placed at the street curb, mailbox, or designated area, as defined in regulations adopted pursuant to this ordinance. Recyclables placed at the curb or curblines shall be placed in a manner designated by regulation as established by the Board of _____ for collection on the morning of the collection day as set forth under a schedule determined by the (County/City) Manager.

Section 2.

Apartments, condominium, businesses, institutions and industries located within the (County/City) of _____ shall separate recyclables from all other solid waste in accordance with regulations adopted pursuant to this ordinance and shall have an area designated for recyclables. The area so designated shall be clearly marked.

Section 3.

In accordance with regulations adopted pursuant to this ordinance, any person within the (County/City) of _____ may properly dispose of recyclables at private collection facilities or at collection areas maintained by the (County/City) of _____ or its designated agent for that purpose. Recyclables shall be separated according to standards that shall be promulgated as regulations pursuant to this ordinance by the Board of _____.

Section 4.

Placement requirements may be waived for any reasons of age, infirmity or handicap.

**ARTICLE IX
COLLECTION BY UNAUTHORIZED PERSON**

It shall be a violation of this ordinance for any person not authorized by the (County/City) of _____ to collect or pick up or cause to be collected or picked up any solid waste, including recyclables. Any and each such collection shall constitute a separate and distinct offense punishable as hereinafter provided.

**ARTICLE X
PENALTIES AND ENFORCEMENT**

Section 1.

Any person violating any provision of this ordinance or the regulations enacted hereunder shall be fined not more than \$ _____ for each offense.

Section 2.

The (County/City) of _____, or its designated agent, reserves the right to refuse to collect solid waste or to refuse to allow disposal at any facility operated by the (County/City) or for the benefit of the (County/City) where this ordinance or the regulations promulgated hereunder are ignored or violated. The (County/City) further reserves the right to terminate the authorization of any hauler who violates this ordinance or the regulations promulgated hereunder.

Section 3.

Unless otherwise provided herein, each day that a violation shall continue or exist shall constitute a separate offense.

Section 4.

The (County/City) of _____ may, upon the violation of any provision of this ordinance, maintain an action to enjoin the violation of these ordinances, or any regulations adopted to implement the same, but the election of the (County/City) to proceed with an application or petition for an injunction shall not prevent a criminal prosecution for the violation of this ordinance. Expenses incurred by such action shall be recovered by the person whose legal duty it was to comply with these ordinances.

**ARTICLE XI
INCONSISTENT REPEAL**

All ordinances or parts of ordinances, resolutions, regulations or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**ARTICLE XII
SEVERABILITY**

This ordinance and the various parts, sentences, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, section, or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

**ARTICLE XIII
EFFECTIVE DATE**

This ordinance shall take effect on _____, 19____.