

Chapter 19

SOLID WASTE AND HAZARDOUS WASTE*

- Art. I. **In General, §§ 19-1–19-25**
- Art. II. **Solid Waste Management, §§ 19-26–19-70**
 - Div. 1. Generally, §§ 19-26–19-45
 - Div. 2. Sanitary Landfill, §§ 19-46–19-70
- Art. III. **Hazardous and Solid Waste Facilities, §§ 19-71–19-100**
 - Div. 1. Generally, §§ 19-71–19-85
 - Div. 2. Permit, §§ 19-86–19-100
- Art. IV. **Hazardous, Infectious, Low-Level Radioactive Waste, §§ 19-101–19-212**
 - Div. 1. Generally, §§ 19-101–19-120
 - Div. 2. Hazardous Waste Management Board, §§ 19-121–19-130
 - Div. 3. Permits, §§ 19-131–19-150
 - Div. 4. Operation and Monitoring, §§ 19-151–19-170
 - Div. 5. Privilege License and Other Compensation, §§ 19-171–19-190
 - Div. 6. Waste Cleanup Fund, §§ 19-191–19-210
 - Div. 7. Enforcement and Legal Provisions, §§ 19-211, 19-212

ARTICLE I. IN GENERAL

Secs. 19-1–19-25. Reserved.

ARTICLE II. SOLID WASTE MANAGEMENT

DIVISION 1. GENERALLY

Sec. 19-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Cross references**—Administration, Ch. 2; licenses, Ch. 10; mass gatherings, Ch. 12; solid waste collection and disposal at mass gatherings, § 12-77; trash removal in mobile home parks, § 13-79; disposal of refuse in parks, § 16-32.

State law references—Removal and disposal of trash, garbage, etc., G.S. 153A-132.1; location of garbage collection containers on highway rights-of-way, G.S. 136-18.3; authority of county to regulate the storage, collection, transportation, use and disposal of solid waste, G.S. 153A-136; authority of county to levy taxes to provide solid waste collection and disposal services and to acquire and operate landfills, G.S. 153A-149(c)(31); authority of county to operate solid waste collection and disposal systems and facilities, G.S. 153A-274 et seq.; radiation protection, G.S. Ch. 104E; Governor's Waste Management Board, G.S. 143B-285.10 et seq.; county service districts, G.S. 153A-300 et seq.; solid waste management, G.S. 130A-290 et seq.; local government solid waste responsibilities, G.S. 130A-309.09.

Bulky waste means large items of solid waste such as household appliances, furniture, automobiles, 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.

Collection means the act of removing solid wastes from a point of generation to a central storage point or to a disposal site, and from a central storage point to a disposal site.

Commercial solid waste means solid wastes generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities.

Construction and demolition waste means waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

Demolition landfill means a sanitary landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes as approved by the division of health services.

Director of environmental services means the county director of environmental services, or his authorized representative.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Division of health services means the division of health services of the state department of environment, health, and natural resources.

Garbage means all putrescible solid wastes, animal and vegetable matter, animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.

Geographic area means the area which, pursuant to G.S. 130A-294, is designated for the collection, transportation, storage and disposal of solid waste in accordance with an approved solid waste management plan.

Hazardous waste means a solid waste, or combination of solid wastes, which 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.

Health director means the director of the county health department, or his authorized representative.

Incineration means the process of burning solid, semi-solid or gaseous combustible wastes to an inoffensive gas and residue containing little or no combustible material.

Industrial solid waste means solid wastes generated by industrial processes and manufacturing.

Infectious waste means solid waste capable of producing an infectious disease. The types of waste designated as infectious are: microbiological waste, pathological waste, blood products and sharps.

Institutional solid waste means solid waste generated by educational, health care, correctional and other institutional facilities.

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

Microbiological waste includes cultures and stocks of etiologic agents. The term includes cultures of specimens from medical, pathological, pharmaceutical, research, commercial and industrial laboratories.

Open burning means any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed thereto through a stack or chimney, incinerator or other similar devices.

Open dump means a solid waste disposal site which is not a sanitary landfill and which does not have a permit.

Pathological waste includes human tissues, organs, body parts, secretions and excretions, blood and body fluids that are removed during surgery and autopsies, and the carcasses and body parts of all animals that were exposed to pathogens in research, were used in the production of biologicals or in the in vivo testing of pharmaceuticals, or that died of known or suspected infectious disease.

Person means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.

Putrescible means 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 carcasses.

Radioactive waste means any waste containing radioactive material as defined in G.S. 104E-5(14).

Recyclable corrugated cardboard means paper boxes and other thick, layered brown paper used in shipping or receiving which paper dealers in the county or adjacent counties are willing to purchase when it is delivered to them.

Recycling means the process by which recovered resources are transformed into new products so that the original products lose their identity.

Refuse means all nonputrescible waste.

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

Sanitary landfill means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under G.S. Ch. 130A, Art. 9 (130A-290 et seq.).

Sharps includes needles, syringes and scalpel blades.

Sludge means 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 such waste having similar characteristics and effects.

Solid waste means 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 which 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 § 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the state environmental management commission. However, any sludges that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, shall also be a solid waste for the purposes of this article;
- (3) Oils and other liquid hydrocarbons controlled under G.S. Ch. 143, Art. 21A (143-215.75 et seq.). However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, shall also be a solid waste for the purposes of this article;
- (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 state mining commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, shall also be a solid waste for the purpose of this article.

Solid waste collector means any person who collects or transports solid waste by whatever means, including but not limited to, highway, rail and navigable waterway.

Solid waste container means large metal container used for the temporary storage of solid wastes and capable of being automatically emptied into collection vehicles.

Solid waste container site means any place owned, leased, rented or otherwise operated by the county environmental services department at which refuse, garbage or other solid waste is collected, transported or disposed of.

Solid waste disposal site means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

Solid waste generation means the act or process of producing solid waste.

Solid waste management means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

Solid waste management facility means land, personnel and equipment used in the management of solid waste.

Storage means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.

Unit of local government means a county, city, town or incorporated village.

Vector means a carrier, usually an arthropod, that is capable of transmitting a pathogen from one (1) organism to another.

(Ord. of 4-2-90, § II; Ord. of 12-3-90, § 2)

Sec. 19-27. Purpose and statutory authority.

(a) The purpose of this article is to regulate the generation, storage, collection, transportation, separation, treatment, processing, recycling, recovery and disposal of solid waste in the county. This article is adopted pursuant to the authority contained in G.S. 153A-121, 153A-132.1, 153A-136, and 130A-294.

(b) This article shall govern the unincorporated areas of the county and the municipal jurisdictions that have requested to be included within the geographic area designated pursuant to G.S. 130A-294, and which have adopted this article within the municipal corporate limits pursuant to G.S. 153A-122.

(Ord. of 4-2-90, § I)

Sec. 19-28. Storage and disposal.

(a) No owner, occupant, tenant or lessee of any property may deposit, store or permit to accumulate any solid wastes upon his property that is not stored or disposed of in a manner prescribed by this article.

(b) The owner, occupant, tenant or lessee of any property shall be responsible for the storage, collection and disposal of solid waste and shall remove or cause to be removed all solid wastes from his property on a regular basis. The owner, occupant, tenant or lessee of property shall ensure that his waste is disposed of at a site or facility which is permitted to receive the waste.

(c) Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, water resistant and easily cleaned, with a close-fitting, fly resistant cover in place. Solid waste receptacles, as defined by this article, may also be used for storage provided they meet the requirements of this subsection. The number of containers shall be adequate to store the accumulated 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 vectors 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 appliances. 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) Materials to be recycled such as cans, bottles, paper, cardboard, metal and rags shall be stored in rodent resistant, water-resistant containers.

(f) 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 wastes for longer than two (2) weeks.

(g) 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.

(h) Solid waste shall be disposed of only in one (1) of the following ways:

- (1) In a sanitary landfill approved by the division of health services.
- (2) In an incinerator that has all required local, state and federal air pollution control permits.
- (3) By any other method, including reclamation and recycling processes, that has been approved by the division of health services.

(i) In addition to the methods listed in subsection (h) above, refuse may be disposed of in solid waste receptacles provided by the county in accordance with rules established by the county.

(j) Construction and demolition wastes may be disposed of at disposal sites approved and permitted by the division of health services, but in no case within one hundred (100) feet of any structure.

(k) Infectious, hazardous, and radioactive wastes shall be disposed of according to written procedures approved by the division of health services.

(l) 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 when necessary, shall be secured and/or covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the driver and returned to the vehicle or container, and the area properly cleaned.

(m) All sharps, including needles, syringes and scalpel blades, whether broken or unbroken, shall be placed in a sealed, punctureproof container prior to disposal.

(n) Open burning of solid waste is prohibited.

(o) Open dumping of solid waste is prohibited.
(Ord. of 4-2-90, § III)

Sec. 19-29. Greenbox solid waste containers.

(a) Solid waste containers are maintained at sites throughout the county for the convenience of county residents, and nonresident county property owners. Solid wastes may be deposited in the solid waste containers only in accordance with the provisions of this article. Entry into container sites or disposal of solid wastes at container sites, except during authorized business hours, is prohibited.

(b) All solid wastes intended for disposal in a solid waste container shall be deposited inside the solid waste containers. Each container shall be labeled with a designation of the specific type of waste authorized to be placed within the container, and no person shall deposit in such solid waste containers any garbage, waste or other matter except that which is specifically designated and authorized by label. No solid waste may be left at the solid waste disposal site outside the containers.

(c) Commercial, industrial and institutional solid wastes may not be deposited in solid waste containers. Solid waste containers shall be used only by private citizens for disposal of residential solid wastes. Solid waste containers shall not be used by persons engaged in the business of collecting solid waste for disposal.

(d) No person, unless authorized by the county, may remove any item from a solid waste container, climb on or into a container, or damage any container.

(e) The board of commissioners has established a fee schedule for the use of solid waste containers, which may be amended by the board. The fee schedule shall be filed with the clerk to the board and the director of environmental services, and such fees shall be collected from citizens using the containers. Any person using one (1) of the convenience centers to dispose of

any solid waste, which is subject to a collection fee, shall pay the appropriate fee charged and failure to do so shall be punishable as provided in section 19-32.

(f) The disposal of household solid waste in containers within county parks and recreation areas, or at other county facilities, is prohibited.

(g) No persons shall place in a solid waste container:

- (1) Fire or embers.
- (2) Herbicides.
- (3) Liquids.
- (4) Pesticides.
- (5) Poisons.
- (6) Chemicals.
- (7) Animals.
- (8) Other materials as designated by the county.

(h) It shall be unlawful for any person to set or cause to be set any fire in a solid waste container. No person shall place in a container embers, ashes or other material which would create a fire hazard.

(Ord. of 4-2-90, § V)

Cross references—Animals, Ch. 5; parks and recreation, Ch. 16.

Sec. 19-30. Importation of waste prohibited.

The disposal within the county of solid waste from areas outside the boundaries of the county is prohibited.

(Ord. of 4-2-90, § VI)

Sec. 19-31. Deposit of objects restricted.

No person shall deposit trash, garbage, or debris on premises on which containers therefor are located except in such containers at locations in the county selected by the board of commissioners. No furniture, appliances, tires, or objects too large to fit into containers will be deposited in or outside of such containers.

(Ord. of 8-7-72, § 1)

Sec. 19-32. Penalties.

(a) *Criminal*. Any person violating this article shall be guilty of a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment for not more than thirty (30) days, or both. Each day's violation shall be treated as a separate offense.

(b) *Civil*. Any person or persons who are found in violation of this article shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00), as provided in G.S. 153A-123.

The provisions of this article may be enforced by equitable remedy, and any unlawful condition existing or in violation of this article may be enforced by injunction and order of abatement in accordance with the provisions of G.S. 153A-123.

(c) *Recyclable corrugated cardboard.* Any solid waste hauler who disposes of waste containing twenty-five (25) percent or more by weight or volume of corrugated cardboard will be charged according to the following schedule:

- (1) *First offense.* Written warning.
- (2) *Second offense.* Tipping fee of twice the current tipping fee.
- (3) *Third and subsequent offenses.* Tipping fee of three (3) times the current tipping fee.

In assessing penalties under this subsection, the environmental services director shall consider such of the following factors as are pertinent: the number of previous violations, the degree of difficulty of compliance, the number of communications with the offender prior to the subject violation, steps taken by the hauler to try to comply, and the estimated amount of cardboard in the offending load.

(Ord. of 4-2-90, § VII; Ord. of 12-3-90, § 3)

Secs. 19-33–19-45. Reserved.

DIVISION 2. SANITARY LANDFILL

Sec. 19-46. General management.

(a) The county sanitary landfill may be used for the disposal of solid wastes by county residents or nonresident property owners. The landfill shall be open during business hours as established by the board of commissioners. In emergency situations, the landfill shall be opened for additional hours as may be directed by the county manager or his authorized representative. Except when open during regular business hours the landfill shall be kept locked, and entry shall not be permitted. Solid wastes shall be disposed of at the landfill in the manner and according to the procedures required by the director of environmental services or his representative.

(b) The following wastes may not be disposed of in the landfill, nor in the county's solid waste containers (greenboxes):

- (1) Asbestos.
- (2) Burning or smoldering materials, or any other materials that would create a fire hazard.
- (3) Hazardous wastes.
- (4) Infectious wastes.
- (5) Liquid wastes.
- (6) Radioactive wastes.

(7) Recyclable corrugated cardboard generated by commercial, institutional or industrial establishments.

(c) The following wastes may be accepted on conditional basis only:

(1) Sludges.

(2) Barrels.

(3) Sharps.

Conditionally acceptable wastes may be disposed of in the county landfill in accordance with policies promulgated by the director of environmental services and adopted by the board of commissioners. Generators of conditionally acceptable waste shall obtain prior approval from the landfill administrator at least three (3) working days before transporting conditionally approved wastes to the landfill.

(d) Loitering or rummaging about landfills and removing articles therefrom is prohibited. Actions which either make the orderly operation of the landfill difficult or endanger the safety of any person shall not be permitted.

(e) No person shall deposit material at any point in the landfill except where indicated by authorized employees of the landfill or by official signs.

(f) Discharging firearms or explosives on landfill property is prohibited.

(g) The maximum speed limit on the landfill property shall be ten (10) miles per hour. (Ord. of 4-2-90, § IV; Ord. of 12-3-90, § 1)

Sec. 19-47. Segregation of materials—Application of provisions.

Sections 19-48 and 19-49 are intended to apply only to the present landfill and the county's current disposal policies and may be revised at any time to provide the county with a more effective process of disposing of garbage and trash.

(Ord. of 3-1-88)

Sec. 19-48. Same—Construction and demolition materials.

(a) All construction or demolition materials as defined in state regulations (except shingles and roofing materials) must be properly segregated in order to be disposed of in a properly designated area at the county landfill. All segregated materials will be accepted for disposal in the designated area at no cost to the hauler.

(b) Any materials presented at the county landfill which are not properly segregated to allow disposal in the special designated area will be accepted for disposal in the sanitary landfill area at two (2) times the current county disposal price. The disposal price will be determined by using the county landfill disposal fee schedule and multiplying by two (2). The construction/demolition disposal area may be subject to close during periods of inclement weather.

(Ord. of 3-1-88)

Sec. 19-49. Same—Forest/wood products.

(a) All forest/wood products derived from tree cuttings, brush, limbs, leaves or other wood products must be properly segregated in order to be disposed of in a properly designated area at the county landfill. All segregated materials will be accepted for disposal in the designated area at no cost to the hauler.

(b) Any materials presented at the county landfill which are not properly segregated to allow disposal in the special designated area will be accepted for disposal in the sanitary landfill area at two (2) times the current county disposal price. The disposal price will be determined by using the county landfill disposal fee schedule and multiplying by two (2). The forest-wood products disposal area may be subject to close during periods of inclement weather. (Ord. of 3-1-88)

Sec. 19-50. Hours restricted.

It shall be unlawful for any person to be upon the premises of the county landfill property except during hours posted at the main gate.

(Ord. of 12-4-72, § 1)

Secs. 19-51—19-70. Reserved.**ARTICLE III. HAZARDOUS AND SOLID WASTE FACILITIES*****DIVISION 1. GENERALLY****Sec. 19-71. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hazardous waste means the same as defined in G.S. 130A-290(a)(8).

Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency or other entity or any successor thereof.

Solid waste means the same as defined in G.S. 130A-290(a)(35).

Storage means containment for a period of over ninety (90) days, in such a manner as not to constitute disposal.

(Ord. of 7-7-87, § 4)

***State law references—**Functions of commission for health services and department of environment, health, and natural resources, G.S. 130A-294 et seq.; additional requirements for hazardous waste facilities, G.S. 130A-295; limitations on powers of local governments, G.S. 130A-296; general ordinance-making power, G.S. 153A-121.

Sec. 19-72. Inspection.

The county health department shall cause all persons subject to this article to be inspected periodically and the health department shall certify to the county manager that such persons are in compliance with all provisions of local, state and federal regulations pertinent to such persons. The health department shall report all persons in violation of this article to the county manager, state department of environment, health, and natural resources and the district attorney of judicial district 19A.

(Ord. of 7-7-87, § 7)

Sec. 19-73. Bond.

All persons subject to this article shall cause the county to be named as an additional insured on all bonds, and/or insurance policies required by the state and the United States of America. A certified copy of the above stated bonds and/or insurance policies shall be filed in the office of the county manager prior to issuance of the county hazardous or solid waste permit. It is the intent of this section to provide the county with the same protection as provided the United States and state pursuant to state and federal laws and regulations.

(Ord. of 7-7-87, § 8)

Sec. 19-74. Penalties.

Violation of this article will make the violator subject to punishment as provided in section 1-7. No building permit shall be issued to a person who is not in compliance with this article.

(Ord. of 7-7-87, § 9)

Secs. 19-75–19-85. Reserved.

DIVISION 2. PERMIT

Sec. 19-86. Required.

(a) No proposed storage, treatment or disposal facility for hazardous or solid waste shall be permitted inside the county without first complying with the procedures hereafter set forth for a hazardous or solid waste permit for such facility.

(b) No county building permit shall be issued for the purposes described in subsection (a) above until such time as the applicant has complied with all provisions of this division.

(Ord. of 7-7-87, § 2)

Sec. 19-87. Application.

(a) The applicant shall file a hazardous or solid waste permit application for establishment of storage, treatment or disposal facilities for hazardous or solid waste with the county health department showing detailed site and operation plans.

(b) The county health department may not issue a permit for a sanitary landfill as defined in G.S. 130A-290(a)(31) to or for a county or to or for any person acting for or on behalf of a county with population of four hundred thousand (400,000) or more or to or for any incorporated city, town or village in that county without approval of the board of commissioners.

(c) The county health department may not issue a permit for a sanitary landfill in the county as defined in G.S. 130A-290(a)(31) to or for any private entity whose disposal of solid waste as defined in G.S. 130A-290(a)(35) is generated predominately from within any county with a population of four hundred thousand (400,000) or more, without the approval of the board of commissioners.

(d) No person may transport solid waste generated outside of the county to a sanitary landfill in the county without permission of the board of commissioners.

(Ord. of 7-7-87, § 4)

Sec. 19-88. Filing fee.

(a) All applicants under this division storing, treating or disposing of hazardous or solid waste which is not accumulated in the normal scope of the applicant's business or which is not a byproduct of resources or materials used in the normal scope of the applicant's business shall pay a filing fee to the county not to exceed one hundred thousand dollars (\$100,000.00) to cover the county's costs in administering, processing, and studying this application, and studying the cost of environmental and economic impact analysis of the proposed facility.

(b) All other applicants shall pay a filing fee to the county in the amount of two thousand five hundred dollars (\$2,500.00).

(Ord. of 7-7-87, § 5)

Sec. 19-89. Federal, state approval.

The applicant for a permit under this division shall obtain approval by appropriate federal and/or state agencies for the process for which he requests the county to approve and present his federal and/or state permit with his application.

(Ord. of 7-7-87, § 6(A))

Sec. 19-90. Health department action.

(a) The county health department shall review each application for a permit under this division and make recommendations to the board of commissioners based upon an evaluation of the following factors relating to the applicant's project:

- (1) Environmental and economic impact;
- (2) State and federal hazardous or solid waste application and permit; and
- (3) Whether or not the hazardous or solid waste which the applicant requests a permit to store, treat or dispose of is a byproduct or is accumulated in the normal scope of the applicant's regular business.

(b) The county health department shall make the following findings before making a recommendation to the board of commissioners:

- (1) That there is no serious adverse environmental or economic impact on the county as proposed.
- (2) That the proposed facility meets all federal and state regulations and has received all appropriate federal and state permits.
- (3) That the applicant has the capability, experience, and financial resources to construct, operate and maintain the facility in a safe and continuous manner.
- (4) Whether or not the applicant is a county or a person acting for or on behalf of a county with a population of four hundred thousand (400,000) or more or to or for any incorporated city, town or village in that county.

(Ord. of 7-7-87, § 6(B), (C))

Sec. 19-91. Action by commissioners.

(a) The board of commissioners shall review the recommendations of the county health department and submit its final determination in writing to the applicant within sixty (60) days from the date of the county health department's final action.

(b) The board of commissioners shall hold at least one (1) public hearing after due advertisement of the hearing to obtain public comment on each application.

(Ord. of 7-7-87, § 6(D), (E))

Secs. 19-92–19-100. Reserved.

ARTICLE IV. HAZARDOUS, INFECTIOUS, LOW-LEVEL RADIOACTIVE WASTE*

DIVISION 1. GENERALLY

Sec. 19-101. Title.

This article shall be known and may be cited as the "County Hazardous Waste, Infectious Waste and Low-Level Radioactive Waste Management Ordinance."

(Ord. of 6-28-90, § 101)

***Editor's note**—An ordinance adopted June 28, 1990, not specifically amendatory of this Code, has been codified within Art. IV, Divs. 1–7, §§ 19-101–19-212, of this chapter at the discretion of the editor.

State law reference—Authority, G.S. 153A-121, 153A-132.1, 143B-216.10.

Sec. 19-102. Purpose.

The purpose of this article is to:

- (1) Regulate the location, operation and care of hazardous, infectious and/or low-level radioactive waste management facilities dealing with the storage, transfer, incineration, treatment or disposal of hazardous, infectious and/or low-level radioactive waste within the county.
- (2) Assure that the best available management practices are used in handling hazardous, infectious and/or low-level radioactive waste, it being the policy of the county that recycling and detoxification of such waste are the safest means of protecting the people and the environment. Other methods which contemplate indefinite landfill storage are deemed the least suitable and should be employed only upon a showing of national or state emergency needs.
- (3) Assure that before such hazardous, infectious and/or low-level radioactive waste is placed into permanent or longtime storage, the best available technology is used in treating such waste, including reuse, recycling, neutralization, detoxification, incineration and maximum volume reduction. When these alternatives are not technologically feasible, retrievable aboveground storage (or below ground if such hazardous, infectious and/or low-level radioactive wastes are explosive or flammable) is preferable to landfill storage or other means of disposal, recognizing that recycling or detoxification of stored hazardous, infectious and/or low-level radioactive wastes should be the goal of proper environmental protection and as directed by the state waste management act.

(Ord. of 6-28-90, § 102)

Sec. 19-103. Definitions.

For purposes of this article, the following words, terms and phrases shall have the meanings respectively ascribed to them, unless the context clearly indicates a different meaning:

Acute hazardous waste means the same as defined in 40 Code of Federal Regulations Part 261 (hereinafter cited 40 CFR 261).

Affiliate means one (1) of a group of two (2) or more corporations whose relationship to each other is such that one (1) corporation is substantially controlled, directly or indirectly, by the other or others; or one (1) of the corporations is substantially controlled by the same interests as the other or others; or one (1) is a predecessor or successor of the other or others under the same or substantially the same control. The term "affiliate" includes the officers, directors, executives, spouses of the executives, shareholders active in management, employees and agents of the affiliate.

Best available technology means waste management and treatment technology, equal in performance to the best treatment technology available in the marketplace, which serves to render waste to its least harmful form and most reduced volume.

Contract crime means any felony violation of state or federal antitrust laws with respect to a public contract; or any felony violation of any state or federal law involving fraud, bribery, collusion, conspiracy, or other unlawful act in restraint of trade laws.

Convicted or conviction means a finding of guilt or a conviction of a contract crime or an environmental crime, with or without an adjudication of guilt, in any federal or state trial court of record as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or "nolo contendere."

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous, infectious and/or low-level radioactive waste into or on any lands so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Environmental crime means any felony violation of state or federal law that protects the environment.

Facility means all land, structures, personnel and equipment for the treatment, storage for more than ninety (90) days, or more than one (1) month in the case of acute hazardous waste, and/or disposal of hazardous, infectious and/or low-level radioactive waste whether on-site or off-site.

Generator means any person or site whose act or process produces infectious or low-level radioactive waste as defined in this section or hazardous waste as identified in 40 CFR 261.

Hazardous waste means solid or liquid waste, or a combination of solid and liquid wastes, which 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 illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.

Hazardous waste management board means the Rowan County Hazardous Waste Management Board and its duties and responsibilities as described in section 19-121 of this article.

Infectious waste means, but is not limited to, the following items:

- (1) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate and mix cultures;
- (2) Pathological wastes, including tissues, organs and body parts that are removed during surgery or autopsy;
- (3) Waste human blood and products of blood, including serum, plasma and other blood components;

- (4) Sharps that have been used in patient care or in medical, research or industrial laboratories, including hypodermic needles, syringe, Pasteur pipettes, broken glass and scalpel blades;
- (5) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals or testing of pharmaceuticals;
- (6) Wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads and surgical gloves;
- (7) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats and aprons;
- (8) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons and laboratory coats;
- (9) Discarded medical equipment and parts that were in contact with infectious agents;
- (10) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretion from human beings or animals who are isolated to protect others from communicable diseases; and
- (11) Such other waste material that results from the administration of medical care to a patient by a health care provider and is found to pose a threat to human health or the environment.

Low-level radioactive waste means low-level radioactive waste as defined in the Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99-240, 99 Stat 1842, 42 USC 2021b et seq.) and other waste, including waste containing naturally occurring and accelerator-produced radioactive material, which is not regulated by the United States Nuclear Regulatory Commission or other agency of the federal government and which is determined to be low-level radioactive waste by the state radiation protection commission.

Management practices means methods of systematic collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous, infectious and/or low-level radioactive wastes.

On-site means the same as defined in 40 CFR 260.

Party means any individual, partnership, corporation, association or other entity formed for the purpose of doing business as a contractor, subcontractor, supplier or consultant.

Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency or other entity or any successor, subsidiary or division thereof.

Storage means containment for a period of ninety (90) days (or over one (1) month in the case of acute hazardous waste) in such a manner as not to constitute disposal.

Transfer means the handling of significant amounts (greater than one thousand (1,000) kilograms per month) of hazardous waste, infectious waste or low-level radioactive wastes that are not generated on-site or stored over ninety (90) days.

Treatment means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous, infectious and/or low-level radioactive waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste, infectious waste or low-level radioactive waste so as to render it nonhazardous.

Watershed means the drainage area that supplies drinking supplies of water. The county has five (5) such drainage areas:

- (1) Irish Buffalo Creek;
 - (2) Cold Water Creek;
 - (3) Coddle Creek;
 - (4) Sills Creek; and
 - (5) Back Creek.
- (Ord. of 6-28-90, § 103)

Secs. 19-104–19-120. Reserved.

DIVISION 2. HAZARDOUS WASTE MANAGEMENT BOARD*

Sec. 19-121. Established; membership; terms, etc.

(a) The Rowan County Hazardous Waste Management Board shall be formed to carry out the intent and purposes of this article and shall consist of five (5) members. The waste management board shall be chosen by the board of commissioners. Four (4) members shall be chosen from the public at large, and one (1) member shall be chosen to represent county government.

(b) Each member shall serve a three-year term; however, two (2) of the initial board members shall serve two-year terms, one (1) member shall serve a one-year term, and the remaining two (2) shall serve three-year terms in such a way as to reduce turnover on the board. Initial terms shall be set by the hazardous waste management board at its first meeting.

(c) The chairman of the hazardous waste management board shall be selected by the board at its first meeting.

*Cross reference—Administration, Ch. 2.

(d) The board shall meet at least twice a year but as often as necessary at some central location in the county. The county manager or his designee shall act as support staff for the hazardous waste management board.

(e) A majority of the board shall constitute a quorum for the transaction of business.

(6) The functions and powers of the hazardous waste management board shall be as follows:

(1) To review the county waste management program and make recommendations to the board of commissioners on ways to improve the program.

(2) To carry out the functions designated in this article including, but not limited to, the application process, recommending management practice orders, approving certificates of need and providing information to the public at large.

(3) To promote safety and health in the management of hazardous, infectious and low-level radioactive wastes.

(4) To maintain contact with the state waste management board and other agencies concerned with the subject.

(5) To provide a forum for local citizens and industry in the regulatory process.

(6) To keep itself informed about advances in the technology of infectious waste, hazardous waste and low-level radioactive waste management and to make recommendations to the board of commissioners about ways to keep the county regulations and management practices current with the best available technology and management practices.

(g) The members of the hazardous waste management board shall be compensated at a rate to be determined by the board of commissioners and shall be provided with insurance against liability for any acts or omissions taken in performance of their duties.

(Ord. of 6-28-90, § 201)

Secs. 19-122–19-130. Reserved.

DIVISION 3. PERMITS

Sec. 19-131. Required.

(a) All hazardous waste, infectious waste and low-level radioactive waste facilities shall be required to obtain a permit to operate in the county, except generators who store hazardous, infectious and/or low-level radioactive waste on-site for less than ninety (90) days, or acute hazardous waste for less than one (1) month.

(b) No construction or site preparation for a new hazardous waste, infectious waste or low-level radioactive waste facility shall begin until a permit has been issued by the board of commissioners.

(c) If the board of commissioners finds that a permitted facility has significantly changed the amounts or types of wastes entering the facility, or that the facility has significantly increased its site area, the board of commissioners may require the facility operator to amend its application and obtain a new permit.

(d) The board may, in its discretion, refuse to allow a hazardous, infectious or low-level radioactive waste facility in the county to be owned or operated by a party, or any affiliate of a party, who has been convicted within the previous ten (10) years on felony charges in a federal or state court of committing an environmental crime or a contract crime. In addition, the owner or operator is not allowed to subcontract with or be supplied by another party who has been convicted within the previous ten (10) years of an environmental crime or a contract crime. Immediate notice is to be given to the board in the event that the owner, operator, any affiliate or a subcontractor is charged in an indictment or is convicted of an environmental crime or a contract crime.

(Ord. of 6-28-90, § 301)

Sec. 19-132. Application.

(a) A permit applicant shall prepare and file a hazardous waste permit application with the board of commissioners for any hazardous waste, infectious waste or low-level radioactive waste facility as described in section 19-131. The permit application shall include all related documents submitted to the United States government and the state.

(b) An application shall contain the following information:

- (1) A description of the company, information on its financial capability and a detailed history of all its past activities in the field of hazardous, infectious and/or low-level radioactive waste management, including a synopsis of every other facility it has operated. Include the record of any subsidiary or parent corporation having an interest greater than twenty (20) percent of the outstanding shares of the applicant corporation.
- (2) Evidence of liability insurance, including environmental impairment liability insurance and a history of any claims against the company at any site, including the record of any subsidiary or parent corporation as defined above.
- (3) Justification for and anticipated benefits from the project.
- (4) A description of the scope of the proposed project, including an estimated schedule of how much and what kinds of hazardous, infectious and/or low-level radioactive material the facility would accept, where the material would come from, what pretreatment will be required of wastes unacceptable to the facility without such pretreatment, and how long the facility is expected to operate.
- (5) Yearly site operation expenses and an estimate of the costs for the lifetime of the project.

- (6) The proposed method of financing the project, including development, operation and closure stages.
 - (7) The proposed number of employees and types of positions, including information on the training and experience required for each position, and safety precautions undertaken for the protection of personnel.
 - (8) The anticipated date to begin construction.
 - (9) The anticipated date to begin operation.
 - (10) A detailed estimate of the types and amounts of local government services required by the operator in each year.
 - (11) A description of emergency procedures and safety and security precautions that will be in use at the facility. This information should include details on emergency assistance and emergency medical treatment that will be required from the area's medical facilities, county rescue squad and community fire departments.
 - (12) A description of the environmental protection measures to be taken by the applicant to prevent contamination in and around the facility site and the description of planned monitoring systems, with an estimated annual budget for each of these items.
 - (13) A description of environmental protection measures to be used during transportation of materials to and from the facility, with an estimated annual budget for these arrangements and an estimate of the volume of material to be transported during each year of operation.
 - (14) A description of the site closure plan for the facility and the anticipated date of closure.
 - (15) A description of anticipated need for post-closure care.
- (b) A map or other written material attached to the application shall include, but is not limited to, the following information:
- (1) *Ownership:*
 - a. Name, address and telephone number of legal owner (and/or agent) of the subject property.
 - b. Name, address and telephone number of professional persons responsible for plat or survey.
 - c. Description of any existing rights-of-way or easements affecting the property.
 - d. Reference to any existing restrictive covenants on the property.
 - (2) *Descriptions.* Location of property by tax map and parcel number. This description should include a reference to the deed book and page or other evidence of title in the current property owner.
 - (3) *Features.* Each map shall contain the following information:
 - a. Drawn to a scale of not less than two hundred (200) feet to the inch.

- b. Location sketch map showing relationship of the project to the surrounding area.
 - c. Graphic scale, date, North arrow and legend.
 - d. Location of property with respect to surrounding property and roads, and the names and addresses of adjacent property owners according to county tax records.
 - e. Zoning classification of the proposed project and adjacent property, if zoned.
 - f. The location of all boundary lines of the property.
 - g. The total acreage of land in the project.
 - h. The location of existing and/or platted streets, easements, buildings, railroads, cemeteries, bridges, sewers, water mains, culverts, wells and gas and electric transmission lines.
 - i. The location of waterbodies, watercourses, groundwater aquifers, springs, watershed boundaries and other pertinent features. Identification of groundwater aquifers shall be provided from the installation of groundwater monitoring wells.
 - j. The location, dimensions and acreage of all property proposed to be set aside for various uses on the applicant's property.
 - k. The location of all test wells and/or borings.
 - l. The location of the five-hundred- or one-hundred-year floodplain and records of flood, including inundation due to dam break.
 - m. The location of historic properties, gravesites, including any plans for relocation of graves and properties having historical significance.
- (4) *Geologic map.* A map showing location of faults, dikes, sills and other pertinent geologic features including bedrock type; and strike and dip of any mappable bedding; the depth and degree of weathering (saprolite); identification and location of clay as to thickness, type and permeability; and location of the water table as to approximate depth, gradient and surface configuration. The county may require test wells if data submitted appear to be inadequate.
- (5) *Topographic map.* A topographic map with contours at vertical intervals of not more than five (5) feet at the same scale as the project site map shall be included. Date, method of preparation and preparer of such survey shall be stated.
- (6) *Transportation route map.* A map showing proposed transportation routes to and from the facility site, including location of towns and emergency and safety facilities. Include an estimate of the volume of material to travel on each route.
- (c) The application shall address the following factors as they apply to the specific type of facility. Given the importance of this information, experts in each field of study should be retained to review and evaluate the responses. Because each facility is unique, the board of commissioners may request additional information including, but not limited to, the following considerations:
- (1) Contaminant flow to water table, including leachate monitoring, collecting and withdrawal systems; clay and synthetic liners (extra thickness, multiple liners); spill prevention and containment measures.

- (2) Contaminant movement with groundwater, including groundwater monitoring systems at the site and in potentially affected area; subsurface "slurry wall" barriers control and other groundwater withdrawals in the area.
- (3) Predictability of contaminant movement, based on preconstructed borings and groundwater modelling.
- (4) Potential effect on surface waters; planned collection systems for surface water runoff; planned exclusion systems for surface water runoff.
- (5) Potential effect on aquifers; planned provisions for alternate water supply systems and facilities for immediate pumping and treatment of contaminated water.
- (6) Potential effect on public water supply; planned runoff collection and treatment and provisions for alternate supply systems.
- (7) Possibility of site flooding; planned special facility design, special control dikes and buffer zone setback in area of standard project flood area.
- (8) Potential human exposure to treated wastewater, including planned safety procedures, clothing instruction, and practice for employees; planned oversized or redundant treatment capacity, effluent monitoring and automatic shutdown systems.
- (9) With respect to incineration, the nature and predictability of pollution movement, including planned stack height for incinerators with continuous stack and plume monitoring and recording, until emission levels are predictable; planned segregation of incompatible wastes.
- (10) With respect to incineration, the potential human exposure to air pollution, including planned pollution control equipment, special combustion monitoring and automatic shutdown systems and special air arrangements.
- (11) Safety of transportation route, including evacuation or rerouting plans, planned training and certification of truck drivers and other waste handling personnel and truck safety features.
- (12) Potential for noise impact, including limitations on hours for delivery and muffler installation.
- (13) Potential for impact on environmentally significant lands, planned bonding, insurance, financial responsibility and monitoring.
- (14) Proximity to residential areas or sensitive sites, including planned purchase of buffer zones on adjacent lands, reduction in facility size and distance limitation between similar facilities.
- (15) Compatibility with existing land uses, including orientation and layout of site plans; planned buffer zone setback from use area to facility owner's exterior property line, referred to as "minimum interior buffer setback," planned aesthetic design of facility and landscaping.
- (16) Compatibility with land use plans.

- (17) Estimated impact on existing or future economic activity, including changes in assessed tax valuation.
- (18) Potential for earthquake activity, including special facility design and evacuation plans to deal with such occurrences.
- (19) Post-use problems, including bonding, liability, financial responsibility and monitoring community and environmental health.

(d) Hazardous, infectious and/or low-level radioactive waste generators filing permit applications to store and/or treat waste on-site at the point of generation shall submit to the board of commissioners an application that also includes the following:

- (1) A summary of all spills at the site and the resultant cleanup operation.
- (2) A detailed description of the company's in-house monitoring and safety programs.
- (3) Any additional information the board of commissioners may deem relevant to assessing the facility's impact on the health and welfare of the county's citizens.

(Ord. of 6-28-90, § 302)

Sec. 19-133. Application and processing fees.

(a) *Application fees.*

- (1) All applicants not presently operating in the county requesting a hazardous, infectious and/or low-level radioactive waste permit for storage, transfer, treatment, incineration or disposal shall pay a nonrefundable filing fee to the county in an amount of five hundred thousand dollars (\$500,000.00) concurrently with filing the application.
- (2) All applicants presently operating a hazardous, infectious and/or low-level radioactive waste management facility in the county and requesting a waste management permit to continue operations shall pay a nonrefundable filing fee to the county in an amount of two hundred fifty thousand dollars (\$250,000.00) concurrently with the application.
- (3) All applicants presently operating a hazardous, infectious and/or low-level radioactive waste management facility in the county and requesting a waste management permit to increase its volume of waste or to accept waste of a significantly different nature shall pay a nonrefundable filing fee to the county in an amount of one hundred thousand dollars (\$100,000.00) with the application.
- (4) These situations are not meant to include those persons temporarily holding wastes and who do not meet the definition of a transfer facility.
- (5) Filing fees shall be used to pay in part the cost of administration of the application.

(b) *Processing fees.*

- (1) The board of commissioners, upon the recommendation of the hazardous waste management board, shall assess permit applicants such fees as the board of commissioners

shall find necessary and sufficient to reimburse the county for the cost of any needed professional assistance that may be required by the county to evaluate the permit application, verify its contents and evaluate the impact of such a permit on the community, public health and the environment. This assistance may include, but shall not be limited to, the assistance of lawyers, biologists, geologists, engineers, chemists, hydrologists, emergency response, transportation and public health experts, land appraisers and the services of professional testing laboratories.

- (2) Failure to provide these funds within thirty (30) days of demand therefor shall result in termination of the permit process or cancellation of the permit. The board of commissioners may take legal action against the applicant for any costs incurred by the county up to the point of termination.

(Ord. of 6-28-90, § 303)

Sec. 19-134. Application procedure.

(a) The permit applicant shall submit to the board of commissioners two (2) copies of all information required by federal and state agencies for the facility for which it requests a county permit at the time such information is submitted to the state and federal government, except facilities already located in the county. The review procedure shall not begin nor shall the application be designated as complete until such time as all required data are submitted and the appropriate fees are paid or suitable arrangements for payment have been approved by the board of commissioners.

(b) A designee of the board of commissioners shall compile copies of all reports, applications, minutes of the hazardous waste management board meetings, reports by consultants and similar material. These shall be placed in one (1) location with free access by the public and availability of copying any portion or all of any document at cost.

(c) Within forty-five (45) days of the submission of the application, the board of county commissioner's designee shall hold a public hearing so that the applicant can present its plans to the waste management board and answer questions regarding the same.

(d) After the hearing, the board of county commissioner's designee, after consultation with the hazardous waste management board, shall have sixty (60) days in which to determine if the application is complete and shall mail notice of its determination to the applicant. If it is not complete, the applicant will have six (6) months to complete the application. However, the applicant may, at the end of six (6) months, make a showing of cause to the board of commissioners, and if the board of commissioners finds that the delay is justified and in good faith, it can grant the applicant a maximum three-month extension.

(e) Each application shall require an analysis conducted by the county staff and a consultant or consultants selected by the board of commissioners upon the recommendation of the hazardous waste management board. The analysis shall be completed within ninety (90) days from the day the application is determined to be complete. In certain instances, where the complexity of the application requires more than the usual ninety (90) days, the county staff

and/or consultant may request an additional sixty (60) days from the board of commissioners, and the proponent has the option of requesting the board of commissioners to extend the analysis period to allow time for responding to staff and/or consultant request for additional information on a completed application.

(f) The board of county commissioner's designee and each consultant shall make reports on the application to the hazardous waste management board at its meetings.

(g) The hazardous waste management board shall call a public meeting for public comment on the completed application along with the analysis of county staff and consultants. The purpose of this meeting shall be for public review of the application. The staff shall give notice by regular mail of the time and place of the public meeting to the owner and adjacent property owners as specified on the map. Such notice shall be mailed not less than fourteen (14) days prior to the date specified thereon. Notice of a public meeting shall be posted by the applicant on the proposed facility property on each and every street of access not less than fourteen (14) days prior to the date specified thereon. Such posted notices shall be at intervals of not greater than one thousand five hundred (1,500) feet. Notice shall also be placed by the applicant in the county newspaper not less than fourteen (14) days prior to the date specified thereon.

(h) Within forty-five (45) days after receipt of the final analysis, completed application and public comment, the hazardous waste management board shall make a recommendation to the board of commissioners at a public meeting whether to accept the application, deny it, or accept it with modifications. This recommendation shall be made to the full board of commissioners; however, before making a recommendation to the board of commissioners to accept the proposal or to accept it with modifications, the hazardous waste management board shall make the following determinations:

- (1) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality.
- (2) That the applicant (or facility operator) has the capability and financial resources to construct, operate and maintain the facility.
- (3) That the applicant or operator has taken or consented in writing to take any and all reasonable measures to comply with applicable federal, state and local regulations and ordinances.
- (4) That the applicant's plan represents the best available technology for handling the waste for which the applicant will be permitted and that the applicant has demonstrated that it will employ the best management practices in handling the waste at the proposed facility to achieve the goal of maximizing reuse, recycling, neutralization, detoxification, incineration and volume reduction before long-term storage. In the case of generators storing or treating their wastes on-site at the point of generation in the county at the time of adoption of the ordinance from which this article derives, these facilities shall be held to the standard of best management practices and may be exempted from the standard of best available technology on that site until such time as they may file a permit application as provided in section 19-131(c).

- (5) That the proposed site is not within a watershed area as defined in this article. Any hazardous, infectious and/or low-level radioactive waste facility where disposal or treatment in any capacity takes place shall be prohibited within any watershed area of the county.

(i) At its next scheduled meeting, the board of commissioners shall make its decision to grant the permit, deny it, grant it with specified conditions or, if no agreement on all issues has been reached within six (6) months after selection of a preferred site pursuant to G.S. 104G-9(g), then the issues listed under G.S. 104G-21(d) may be submitted to arbitration pursuant to the provisions of G.S. Chapter 1, Article 45A (Uniform Arbitration Act).

(j) A permit shall be valid for no more than eighteen (18) months from the date it is granted by the board of commissioners unless the applicant begins construction of the facility prior to the expiration of the permit and continues to operate the facility according to specified conditions. If a permit becomes invalid and the application is unchanged from when the permit was granted, it shall follow the procedure of this section and the filing fee of section 19-133. (Ord. of 6-28-90, § 304)

Sec. 19-135. Conditions on permit.

(a) The board of commissioners, upon the recommendation of the hazardous waste management board, may specify conditions on granting a permit as will, in its opinion, assure that the facility in its proposed location will meet the findings required in section 19-134(h). All such specified conditions shall be entered in the minutes of the meeting at which the permit request is approved. All specified conditions shall run with the permit and shall also be binding on the original applicants, their heirs, successors and assigns. Any noncompliance with the specified conditions constitutes violation of this article and may invalidate the permit.

(b) The board of commissioners may limit or restrict the amounts and types of wastes entering the proposed site, may limit or restrict the type of treatment, handling and/or disposal activities or may require additional treatment or handling of the waste(s) before entering, leaving or being disposed of on the site.

(c) In addition to conditions regarding the suitability of the proposed waste management scheme to the nature of the waste(s) handled, certain other conditions must be met by the proposed waste management facility. These include, but are not limited to:

- (1) Low-level radioactive waste, infectious waste or hazardous waste shall not be stored in the same facility.
- (2) No two (2) waste management facilities, hazardous, infectious or low-level radioactive waste management facilities shall adjoin, and no more than one (1) facility of any type shall be located per township with the exception of on-site storage and/or treatment at the point of generation.
- (3) All hazardous, infectious or low-level radioactive waste placed into any form of storage shall be retrievable and identifiable using best management practices.

(Ord. of 6-28-90, § 305)

Secs. 19-136–19-150. Reserved.

DIVISION 4. OPERATION AND MONITORING

Sec. 19-151. Monitoring and safety.

(a) *Purpose.* The purpose of this section is to supplement and complete the monitoring and safety activities of the federal and state governments. The board of commissioners recognizes the primary responsibility of the federal and state governments in this area. However, the board of commissioners also recognizes that appropriations and manpower to fulfill this responsibility have often been inadequate and that county responsibility is therefore necessary and lawful. The duties described herein shall begin upon receipt of a permit application.

(b) *Duties of health department (or the commissioners' designee, hereafter referred to as the health department).* The health department is hereby directed to undertake the following monitoring and safety duties:

- (1) To monitor the air, surface water and groundwater during the operation of the facility.
- (2) To monitor soil, plant, microbial, viral and animal samples during the operation of the facility.
- (3) To conduct human health surveys and monitoring in the area around the facility, including statistical surveys, blood samples and other surveys which may be necessary to determine the effect of exposure or to trace any accidental discharges of hazardous, infectious or low-level radioactive waste.
- (4) To verify the content of shipments and storage of hazardous, infectious and/or low-level radioactive waste against shipping manifests and other records.
- (5) To inspect the interiors of structures located on the waste facility site(s) for hazardous, unhealthy or otherwise unlawful conditions.
- (6) To inspect and take samples within the site boundaries of any hazardous, infectious and/or low-level radioactive waste facility in the county.
- (7) To verify, by laboratory analysis, that samples taken by facility operators are in fact what they are claimed to be and to check the accuracy of any laboratory facilities within the county which regularly test hazardous, infectious or low-level radioactive waste samples.
- (8) To prepare an emergency response plan and prepare adequate emergency medical equipment and personnel to handle emergencies arising out of the transportation, storage, treatment or disposal of hazardous, infectious or low-level radioactive waste in the county, to the extent that such measures are not otherwise undertaken by the facility operator or the state and federal governments.

- (9) To monitor traffic flows near facilities and on approach routes within the county and design measures to minimize traffic disruption and accidents, with special consideration for the routing of school buses and the safety of the county's school children.
- (10) To perform such other duties as the board of commissioners or the hazardous waste management board may find necessary from time to time to safeguard the public health and welfare.

(c) *Authorization of health department.* In order to carry out the duties specified in subsection (b) above, the health department is authorized to do the following:

- (1) Immediately upon issuance of the first permit in the county, the health department may hire, retain a consultant or designate an individual or individuals trained to identify unsafe, unsanitary or otherwise hazardous conditions in waste facility structures. This inspector is charged with making periodic inspections for such unsafe, unsanitary or otherwise hazardous and unlawful conditions during the construction and/or operation of any and all hazardous, infectious and/or low-level radioactive waste management facilities in the county. The inspector shall also make unannounced inspections, by presenting his credentials during any hour of operation, when he has reason to believe that hazardous or unlawful conditions may exist anywhere in such a structure.
- (2) Immediately upon issuance of the first permit in the county, the health department may hire or designate persons capable of performing a background health study on the people of the county and of outlining before the hazardous waste management board a plan for monitoring the people of the county in order that health effects of any hazardous, infectious and/or low-level radioactive waste management facility in the county could be detected sufficiently early in their development and in order that appropriate legal action could be taken. Personnel and laboratory facilities may be made available to the county through the health department. The hazardous waste management board shall recommend to the board of commissioners plans it feels sufficient for implementing this task within six (6) months, and the board of commissioners shall have one (1) month thereafter to approve the plans and hire the appropriate services.
- (3) The health department may hire or designate an engineer to review the certificates of need as specified in section 19-152(a).
- (4) The health department may hire or designate a chemist or radiation specialist qualified to sample wastes at the gate to the facility and to visually inspect the truck, the manifest forms and a copy of the certificate of need and the condition of the waste before the waste enters the facility. The board of commissioners shall provide contract lab services sufficient to analyze such within a four-day period from the time of sample collection.
- (5) The health department may hire or designate an individual or individuals trained to safely handle and sample hazardous waste, infectious waste and low-level radioactive

waste and also to collect and safely handle and transport environmental samples for site monitoring and also for environmental monitoring off-site. This person shall make regular announced and unannounced inspections, by presenting his credentials during any hour of operation, for the purpose of collecting such samples as the health department, following the recommendation of the hazardous waste management board, shall deem necessary to adequately monitor the site.

- (6) The health department is authorized to hire or designate an emergency medical technician, who shall be fully trained to deal with emergency medical situations arising out of the operation of hazardous, infectious and low-level radioactive waste facilities and transportation of waste to and from such facilities.
- (7) The health department is authorized to require from the facility operator a list of trained emergency personnel at the facility, particularly a person trained in emergency response to spills or discharge of ultrahazardous wastes.
- (8) The health department is authorized to request administrative support from the county, including secretarial time, paper, telephone, copying and other support as may be necessary to carry out these functions.
- (9) The health department is authorized to purchase such equipment as may be necessary to carry out the monitoring and emergency preparedness duties of this section.
- (10) The health department is authorized to prepare and disseminate educational materials and consult with adjoining landowners to the facility(s), farmers, schools and other groups which may be affected concerning health effects of hazardous, infectious or low-level radioactive waste.
- (11) The health department is authorized to carry out such other duties as it or the hazardous waste management board may find necessary from time to time to ensure the public health, safety and welfare.

(d) *Duties of the county finance officer.* The county finance officer is directed to arrange suitable bonding, insurance and other protective measures as described in subsections 19-171(c)(7), (c)(10), (d)(3) and section 19-191 of this article and to report such arrangements to the board of commissioners.

(e) *Duties of the county attorney.* The county attorney is directed to provide legal advice, drafting and other assistance as described in subsection 19-171(c)(2), (c)(5) and (c)(6) of this article.

(f) *Other duties.* The board of commissioners shall direct responsible officials of the county to undertake such other monitoring and safety actions as may be required by this and other sections of this article.

(Ord. of 6-28-90, § 401)

Sec. 19-152. Operation.

(a) *Certificate of need (low-level radioactive waste and/or acute hazardous waste).*

- (1) All persons who operate facilities to handle, treat, transfer, store or dispose of low-level radioactive waste or acute hazardous waste in the county, other than on-site

storage and/or treatment at the point of generation, must provide the hazardous waste management board or its designee a certificate of need for each shipment of waste. This certificate must detail the generator's effort to reuse, recycle, reduce in volume, detoxify, neutralize, incinerate or appropriately dispose of the waste at the point of generation, or subsequent efforts at some other waste management facility, before shipment to the county or within the county to such facilities. Such persons must also specify how treatment, handling or disposal in the county employs best available technology for the disposal of such waste. The certificate must also include information regarding the condition and labeling of acute hazardous wastes on the vehicle, before the shipment enters the county. This certificate must be on file with the county and a reply from the hazardous waste management board or its designee must be received by the facility operator before the shipment may enter the county. If, upon recommendation of its designee, the hazardous waste management board finds by majority vote that the shipment of waste does not conform to the waste management practices for which the county facility is permitted, the hazardous waste management board is empowered to deny the shipment admittance to the facility. The facility operator may request a hearing before the board of commissioners to challenge the hazardous waste management board's decision. The board of commissioners shall schedule a public hearing within ten (10) days to hear such challenge. The facility operator shall have the burden of proof in any such hearing.

- (2) All incoming waste must be stored on the facility site, in an area utilizing best management practices for the proper storage of such wastes, for four (4) days while laboratory analysis as described in section 19-151(b)(4) is being performed. No waste may be otherwise handled, treated or disposed of on-site until the laboratory analysis is complete and the chemist verifies in writing to the site manager that the shipment may be processed.
- (3) Other hazardous wastes. All persons who operate facilities to handle, treat, transfer, store or dispose of hazardous waste or infectious waste other than those described above must provide the hazardous waste management board or its designee a certificate of need for all wastes proposed to be brought to the site during each month of operation. This certificate must be submitted in writing to the hazardous waste management board and include the following information:
 - a. Name, location and business of the waste generator and contact person at the generator;
 - b. Process in which waste was generated and marketable products arising from the process;
 - c. Volume, chemical and physical nature of the waste;
 - d. Manner in which waste is packaged for shipment;
 - e. Proposed treatment and disposal procedure; and
 - f. Proposed route of shipment to the facility.
- (4) A separate request must be made for each waste type by generator for each month of operation of the facility. The hazardous waste management board will submit a written

response to the licensee no later than fourteen (14) days following receipt of a request; however, a request is not deemed complete until the hazardous waste management board has received all information necessary to make an informed decision.

- (5) Notwithstanding all provisions above, the hazardous waste management board may give verbal approval for the treatment, storage or disposal of certain wastes including, but not limited to, the following:
 - a. Wastes resulting from an accident or spill for which storage may not be feasible or may pose an unusual health hazard;
 - b. Wastes that have been given prior approval, but are received in a different form or package or for which a different but equivalent disposal procedure is requested.
- (6) The board shall be notified of any change in or loss of insurance and any negative changes in regulatory status.
- (7) The name and telephone number of the state, local or federal regulatory person(s) who inspects the facility shall be submitted to the board. A copy of all inspections shall be submitted to the board.
- (8) The United States Environmental Protection Agency number and state identification number of all motor carriers and haulers, name and telephone number of the principal contact person and all ongoing actions by the state and/or federal regulatory agencies shall be submitted to the board.
- (9) Public review and comment on all cleanup plans for the hazardous, infectious and/or low-level radioactive waste site will be permitted.

(b) *Management practices orders.* The hazardous waste management board as described in section 19-121 shall keep abreast of developments in waste management technology and developing management practices. If the hazardous waste management board discovers a new management practice, not currently in use at facilities within the county covered by this article, which could be employed to recycle, reuse, neutralize, detoxify, incinerate or reduce the volume of hazardous, infectious or low-level radioactive waste generated, stored, disposed of or transferred in the county, it shall prepare a report to that effect. It shall include in the report a summary of the benefits and costs of the practice, the wastes affected by the practice and a proposal for implementing it at facilities within the county. It shall then submit the report to all affected facility operators within the county. The facility operator(s) shall reply in writing to the hazardous waste management board within forty-five (45) days, specifying plans to implement the practice or reasons why the facility operator(s) believes the practice should not be implemented.

If after the exchange of reports the hazardous waste management board, by majority vote, finds that the practice should be implemented at facilities in the county, it shall prepare a report and order to that effect and submit them to the board of commissioners. The board of commissioners shall approve and publish the order, which shall be effective as an amendment to the orders. The facility operator(s) may appeal the order within thirty (30) days, by so

requesting in writing to the board of commissioners. The board of commissioners shall announce a public hearing within thirty (30) days thereafter at which the hazardous waste management board and the facility operator(s) shall present their cases and at which the facility operator(s) shall be assigned the burden of proof. The board of commissioners shall then either reaffirm the order or remit the matter to the hazardous waste management board for further study. At this stage, the board of commissioners may invite comments by the state hazardous waste management board.

(c) *Other duties.* The board of commissioners shall direct responsible officials of the county to undertake such other duties as may be required by this or other sections of this article. (Ord. of 6-28-90, § 402)

Secs. 19-153–19-170. Reserved.

DIVISION 5. PRIVILEGE LICENSE AND OTHER COMPENSATION

Sec. 19-171. Assessed.

(a) *Purpose.* The facility operator shall be assessed the following tax for such reasonable expenses that the county may incur for emergency services which are not provided by the facility operator. These emergency services may include, but are not limited to, the following:

- (1) *Equipment acquisition.* The acquisition of special emergency equipment for dealing with hazardous and radioactive substances to include protective clothing, detoxification equipment, breathing apparatus, collection apparatus, alarm systems, direct telephone or radio connection equipment, Geiger counters, special medical vehicle and other such equipment as the county may reasonably require.
- (2) *Equipment maintenance.* The cost of necessary maintenance and replacement of equipment as described in subsection (a)(1).
- (3) *Evacuation plans.* The cost of preparing, testing, disseminating and implementing both on-site and off-site emergency evacuation plans, the cost of keeping such plans current and the cost of carrying them out should the need arise.
- (4) *Initial training.* The cost of initial training for the county's emergency medical personnel, to include psychological preparedness training, to deal with emergency situations involving hazardous, infectious or low-level radioactive waste and the cost of expanding such training as necessary.
- (5) *Updating training.* The cost of updating such training as described in subsection (a)(4) above from time to time and the cost of training new personnel.
- (6) *Hospital preparedness.* Additional costs to the county hospital as a result of the need for special emergency units at the hospital to handle hazardous, infectious and low-level radioactive waste emergencies and injuries.

- (7) *Transportation emergency fund.* An additional amount to purchase insurance to cover the cost of emergencies caused by accidents involving the transportation of hazardous, infectious or low-level radioactive waste to or from such facilities and for accidents occurring between the site boundary and the county line.
- (8) *Post-closure emergency fund.* An additional amount to purchase insurance to cover the cost of emergency services required to handle emergencies caused by hazardous, infectious or low-level radioactive waste facilities after such facilities have closed.

(b) *Monitoring.*

- (1) *Purpose of subsection.* The purpose of this subsection is to ensure that adequate funds are available to fully monitor the environmental and health effects of the location of hazardous, infectious or low-level radioactive waste facilities in the county and to ensure that such monitoring is in fact carried out. The board of commissioners recognizes that state and federal governments have primary responsibility in this area; however, they also recognize that the resources of these governments are limited and that the data generated by this county monitoring program are intended to supplement and complete the data generated by the state and federal monitoring programs.
- (2) *Monitoring costs.* The facility operator shall be assessed a privilege license tax to compensate for the monitoring functions undertaken by the county pursuant to section 19-151. This tax shall include:
 - a. Salaries of county personnel needed to carry out any of such monitoring functions.
 - b. Administrative support costs which are reasonably necessary to fulfill the duties of the county monitoring personnel, to include office supplies, secretarial time, maintenance of a public document room and other such costs.
 - c. The costs of training, inspection and monitoring personnel and of updating such training from time to time.
 - d. Costs incurred in hiring consultants to assist the county in monitoring.
 - e. An additional sum to be agreed upon by the facility operator and the board of commissioners for maintaining monitoring of the environment and human and health effects in perpetuity. This money shall be placed into a nonreverting fund with interest to accrue to the fund, which shall be managed by the county finance officer, who shall give an annual accounting of the fund to the board of commissioners.

(c) *Other costs.* The board of commissioners finds that the following costs are associated with hazardous, infectious or low-level radioactive waste facilities and their operations, and the county is not otherwise compensated for such costs. Such costs shall therefore properly be assessed pursuant to G.S. 153A-152.1(a) to the facility operator:

- (1) *Public recordations.* It should be a matter of public record that certain real property is located within a five-mile radius of the hazardous, infectious or low-level radioactive waste facility. To this end the operator shall furnish to the register of deeds of the

county a map delineating a five-mile radius of the site. Upon receipt of any application herein, the tax assessor shall give official notification to affected property owners throughout the county concerning the potential for diminution in assessed ad valorem valuation.

- (2) *Public information.* The location of a waste facility is a matter of which the public should be completely informed and concerning which the public should have ready access to relevant information. The following costs shall be assessed to the facility operator to this end:
 - a. *Consultation with adjoining property owners.* The cost of advising adjoining landowners as to their legal rights with respect to the facility and to health precautions necessary for humans and livestock.
 - b. *Consultation with farmers.* The cost of advising farmers in the surrounding area as to health precautionary measures in the event of accidents or spills for their livestock and crops.
 - c. *School educational programs.* The cost incurred, to the extent not already provided for by county or state school budgets, in presenting instructional materials to county school children on the facility, its potential hazards and emergency preparedness.
 - d. *Health information.* Costs incurred by the county health department in disseminating information concerning the facility and its effect on the public health.
- (3) *Construction and maintenance of roads.* To the extent that the county is not otherwise compensated therefor by the federal or state government, reasonable costs incurred in improving or maintaining existing roads and rights-of-way, acquiring new rights-of-way and constructing access roads, building parking areas, erecting warning signs or signals, and other such expenses as the county may demonstrate are associated with the facility and the increased traffic associated therewith.
- (4) *Lost ad valorem taxes.* To the extent that off-site contamination, regardless of negligence on the part of the facility operators, reduces ad valorem revenues to the county, the loss of the county shall be compensated by the facility operator.
- (5) *Annual legal advice.* The cost to the county of an annual review of this article and other laws and regulations concerning hazardous, infectious and/or low-level radioactive waste management.
- (6) *Attorney's fees.* The cost to the county of reasonable legal representation in all cases arising out of the operation of facilities in this county or arising out of challenges to this article, provided that the county is the prevailing party and the county has had substantial justification for its position and has not litigated frivolously.
- (7) *Bonding.* The costs to the county of arranging suitable bonding or insurance or other financial security arrangements to cover the costs arising out of the location of facilities within the county.
- (8) *Economic impacts.* The county shall be compensated for the costs of any substantial economic impacts which are a direct result of the siting and operation of a hazardous,

infectious and/or low-level radioactive waste facility. This would include the cost incurred by the county to retain an economic specialist to determine such impacts.

- (9) *Appraisal fees.* Pursuant to G.S. 104G-15(9), impacted landowners may seek compensation for the diminution in property values caused by a low-level radioactive waste disposal facility. Fees for appraisal throughout the county to determine the diminution and value shall be compensable by means of the privilege license tax.
- (10) *Other.* Other costs the county may incur and which the county may demonstrate are associated with the operation of the facility and for which the county is not otherwise compensated.

(d) *How tax is calculated.* The tax shall be calculated as follows:

- (1) *Annual.* On the first day of each year, a privilege license tax, in an amount not less than five hundred thousand dollars (\$500,000.00), will be assessed. If at the end of the calendar year the above enumerated expenses total less than five hundred thousand dollars (\$500,000.00), such difference shall be refunded. If the above enumerated expenses total more than five hundred thousand dollars (\$500,000.00), such amount shall be payable to the county immediately upon notice.
- (2) *More than one facility.* If there is more than one (1) hazardous, infectious or low-level radioactive waste facility in the county subject to this article, the local tax for each facility shall be pro-rated among the various facility operators according to the percentage of the total volume by weight of such wastes each operator has generated, treated, stored or disposed of in the county for that calendar year.
- (3) *Negotiation.* Should the facility operator have reason to believe that this privilege license tax would prohibit or have the effect of prohibiting the operation or continued operation of the facility, he or she shall specify in writing in a report to the hazardous waste management board, setting forth the grounds for such belief with particularity and stating the level of tax which would enable such operation. The hazardous waste management board is empowered to negotiate the total tax for one (1) or more years, provided (1) that all such negotiations shall include at least one (1) public meeting, and (2) that any decision be reported in writing to the board of commissioners with reasons therefor, and (3) that such agreement must be approved by the board of commissioners before becoming final.

(e) *Resident option to move from area of potential risk.* Because of the inherent health and safety risk of hazardous, infectious and low-level radioactive waste to humans and the environment, an option shall be given to residents and businesses to choose voluntarily to remove themselves, their households and impacted businesses from the vicinity of an approved hazardous, infectious or low-level radioactive waste treatment or storage facility.

Any person residing within three (3) miles of a hazardous, infectious or low-level radioactive waste facility property authorized to treat or store more than thirty million (30,000,000) pounds of waste annually shall have the privilege of relocation away from the facility with full

reimbursement of reasonable moving expenses. Any resident within one-half mile of a facility authorized to treat or store more than two million (2,000,000) pounds annually shall have this same privilege. Landowners may sell, and the operator and/or owner of a facility is thereby required to purchase, any real property situated within the prescribed distance from the facility at a pre-facility fair market value or proven cost basis, whichever is higher. In the alternative, each landowner impacted by a low-level radioactive waste facility may seek compensation for the diminution of property value pursuant to G.S. 104G-15(9).

The owner(s) of any preexisting business within the prescribed distance of a new waste facility may sell, and the facility operator or commercial owner is thereby required to purchase, any physical assets of the business at fair market value to be determined by a procedure selected by the board. Owners of such businesses shall be reimbursed for reasonable relocation expenses and shall not be required to prove future physical or financial injury. Option to sell shall terminate six (6) months after final approval of the facility.

The offer of fair market value is to be presented to the requesting party within three (3) months. If the option price is accepted by the eligible requesting party within three (3) months, then that party will have one (1) year after timely acceptance of the offer to complete moving from the residence, land or business operation.

(Ord. of 6-28-90, § 501)

Secs. 19-172–19-190. Reserved.

DIVISION 6. WASTE CLEANUP FUND

Sec. 19-191. Establishment; purpose, etc.

(a) *Purpose.* The board of commissioners shares the state general assembly's concern for the safe and effective disposal of hazardous, infectious and low-level radioactive waste. In addition, the board of commissioners has a great concern for the economic and public health costs resulting from inefficient cleanup of past hazardous waste accidents. The board of commissioners recognizes the benefit of prompt cleanup, manifested in monetary savings and the prevention of permanent damage to life and property. The board of commissioners recognizes that the cleanup fund established pursuant to G.S. 130A-298 only covers on-site cleanup and care and that the federal response fund established under the Comprehensive Emergency Response, Compensation and Liability Act (P.L. 96-510, 42 USC Section 9601 et seq.) is inadequate to ensure prompt and adequate compensation, particularly for damages to individuals. The purpose of this section is to establish an emergency response fund to be funded by an additional privilege license tax particularly for individual medical and property damages, off-site contamination, transportation, accidents and other costs arising out of location and operation of hazardous, infectious and low-level radioactive waste facilities in the county.

(b) *Establishment of fund.* There is hereby established, pursuant to the authority vested in the board of commissioners by G.S. 153A-121, 153A-152.1 and 143B-216.10, a special hazardous waste cleanup fund, to be disbursed liberally and speedily upon notification of any dangerous spill or leakage that is not immediately remedied by the party responsible or by the

federal or state governments. The fund will supplement the state fund established pursuant to G.S. 130A-298, and it is the intent of the board of commissioners that it should be used first to cover personal injury costs and off-site contamination costs. Should the fund be found to be invalid for whatever reason, the monies collected and accrued interest shall be returned to the facility operator in the same shares as paid in.

(c) *How collected.* The privilege license tax collected under this section shall be two (2) percent of the gross annual receipts of all hazardous and low-level radioactive waste facilities in the county subject to this article, until the principal of the fund shall reach twenty-five million dollars (\$25,000,000.00) with all interest to accrue to the fund thereafter.

(d) *Management.* The county finance officer and one (1) member of the board of commissioners shall be appointed managers of the fund. They shall give an annual accounting of the fund to the board of commissioners and to all subject facility operators in the county. The county finance officer shall, pursuant to this section, prepare a report on the best means of investing these tax revenues within thirty (30) days of the receipt of an application for a major hazardous or low-level radioactive waste facility in the county. It is the intent of the board of commissioners that these revenues shall not be invested in the securities, obligations or other instruments of industries which are major producers of hazardous or low-level radioactive waste.

(e) *Procedure for disbursement.* The hazardous waste management board shall receive requests or claims for compensation and shall be the disbursing authority for payments made from the fund. The hazardous waste management board shall (1) ensure prompt response to individual claims and requests for cleanup, (2) ensure that all disbursements are made in accordance with state and federal laws and (3) ensure that there is provision for periodic disbursements where the nature of the injury or hazard so requires.

(f) *Procedure for closing of fund.* The county finance officer shall prepare a plan for the closing of the fund within a reasonable time after closure of the facility in the county. (Ord. of 6-28-90, § 601)

Secs. 19-192–19-210. Reserved.

DIVISION 7. ENFORCEMENT AND LEGAL PROVISIONS

Sec. 19-211. Enforcement.

(a) *Generally.* Pursuant to the power vested in the board of commissioners by G.S. 153A-121, 153A-123 and 143B-216.10, the county, through its responsible officers, shall enforce the provisions of this article to ensure and safeguard the public health, safety and welfare.

(b) *Violation.* Any noncompliance with conditions of a county permit or operation of a facility without a permit, any release of hazardous, infectious or low-level radioactive waste in amounts sufficient to constitute a hazard to the public health and safety, and noncompliance with the procedural requirements of this article or refusal to permit county officials designated under this article to enter the buildings, structures, enclosed areas and other areas in the

performance of their lawful duties, and refusal to pay taxes and fees as provided for by this article, and any failure or refusal to provide information or apply for amendment to permits as may be required by this article upon proper notice shall be a misdemeanor, which may be punishable as indicated in G.S. Ch. 14.

(c) *Separate offense.* Each day of a violation of this article shall constitute a separate offense.

(d) *Injunction.* The county may seek injunctions in the appropriate court of competent jurisdiction, when the operation of a hazardous, infectious or low-level radioactive waste facility is, in the judgment of the health department, creating an immediate hazard to the health, safety and welfare of the public. The county may also seek any appropriate equitable relief that it deems necessary to ensure the public health and welfare.

(e) *Management practice enforcement.* Any waste facility operator who, having received a final order from the board of commissioners to implement a management practice as described in section 19-152, fails to implement such a practice within the time described shall pay a management practices fee of ten (10) percent of the gross receipts accepted by such facility operator for such wastes as are covered by the order. The facility operator shall continue to pay such fee until such time as he can satisfactorily demonstrate to the hazardous waste management board that such improved management practice has been implemented.

(f) *Revocation.* For any facility operator who has committed a violation as defined in subsection (b) above, or for whom the continued operation of the facility poses an unreasonable hazard to the health and welfare of the public, the hazardous waste management board may notify the operator in writing of its intention to recommend revocation of its permit. The facility operator may request a hearing within fifteen (15) days of such notification, and the hazardous waste management board shall grant such a hearing within ten (10) days of its request. At such hearing, the facility operator may present evidence to the hazardous waste management board in mitigation or to demonstrate subsequent remedial action taken. If the hazardous waste management board should decide to recommend that the permit be revoked, it shall so report to the board of commissioners in writing. Within ten (10) days of the receipt of the recommendation, the board of commissioners shall hold a public hearing, after which they shall continue to revoke the permit. The board of commissioners may continue the permit upon a finding that (a) the facility operator has made a good faith effort to comply with the permit and to remedy violations; (b) reinstatement of the permit would not endanger the public health and welfare of the county; and (c) the facility operator has proposed a plan to remedy any other hazardous conditions on the facility site as expeditiously as possible.

(Ord. of 6-28-90, § 701)

Sec. 19-212. Liability.

(a) *Strict liability.* By authority vested in them in G.S. 153A-121, 153A-136 and 143B-216.10, the hazardous waste management board does hereby ordain that all persons storing, treating or disposing of hazardous waste, infectious waste or low-level radioactive waste in the

county shall be held to a standard of strict liability for spills, accidents, contamination or other discharges and hazards arising from this facility.

(b) *Definition of strict liability.* As used in this article, the term strict liability shall mean that persons storing, transferring, treating or disposing of hazardous waste, infectious waste or low-level radioactive waste shall be liable for all emergency cleanup costs, cleanup costs in general, damages to persons and property, and other costs resulting from discharges or contamination, regardless of fault or regardless of whether the discharge of contamination was the result of intentional or negligent conduct, accident or other cause.

(c) *Duration.* It is the intent of the hazardous waste management board that this section shall be temporary in nature, to remain in effect until such time as the General Assembly addresses the issue directly.

(d) *Transportation.* It is further ordained that persons transporting hazardous waste, infectious waste or low-level radioactive waste to destinations in this county shall be held to the same standard of strict liability for all emergency cleanup costs, cleanup costs in general, damages and other costs resulting from discharges or other contamination caused by spills or accidents, intentional releases during transportation within the county, or such discharges or contamination occurring while the transportation vehicle is anywhere within the county except within the boundaries of the actual facility site for which it is destined, at which time it shall be considered stored by the facility operator.

(Ord. of 6-28-90, § 702)