

**ORDINANCE RELATING TO THE DISPOSAL OF SOLID WASTE
WITHIN THE DESIGNATED GEOGRAPHIC AREA OF
DAVIE COUNTY**

ARTICLE 1

Sec. 1.1. Title.

This Ordinance shall be known and may be cited as the "Davie County Disposal Ordinance".

ARTICLE 2

Sec. 2.1. Preamble.

WHEREAS, Davie County is a body politic in the State of North Carolina and is able to operate solid waste facilities in accordance with the General Statutes of North Carolina; and

WHEREAS, the Municipalities within the County by the execution of Interlocal Solid Waste Management Agreements have expressed their intent and desire to have the regulation of Solid Waste generated and collected within their borders subject to the control of the County; and

WHEREAS, the County proposes to own, operate and/or designate from time to time Solid Waste Disposal Facilities which are to be used for the management of Solid Waste generated within the County Service Area; and

WHEREAS, it is the intent of the County that the existing landfill in Davie County be closed and Solid Waste generated within the Designated Geographic Area be delivered to predetermined County Solid Waste Disposal Facilities; and

WHEREAS, the Municipalities within the Service Area have expressed their intent to be included in a Designated Geographic Area within which Designated Geographic Area the collection, transportation, storage, separation, treatment, processing, recycling, resource recovery, composting and management of all Solid Waste shall be accomplished in accordance with a Solid Waste Management Plan; and

WHEREAS, it is necessary for the promotion of the health, safety and welfare of the citizens of the County and its Municipalities comprising the Designated Geographic Area of the County to have an adequate system of Solid Waste disposal and resource recovery which both comply with Federal and State Environmental Standards and afford the

utmost protection against environmental contamination caused by Solid Waste disposal; and

WHEREAS, the County has proposed and proceeded with plans to build Solid Waste Disposal Facilities in order to meet the requirements of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et. seq.; and

WHEREAS, it is necessary for the County to assure that Solid Waste Disposal Facilities can be effectively managed and control Solid Waste in a safe manner within the Designated Geographic Area of the County; and

WHEREAS, the County is given the power to issue ordinances, rules, regulations, and fees relating to Solid Waste disposal and resource recovery within its Designated Geographic Area pursuant to N.C.G.S.

ARTICLE 3

SEC. 3.1. Findings.

It is hereby found and declared by the Davie County Board of Commissioners, in regular session duly convened:

- (1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass material discarded by the purchaser of such products;
- (2) that the economic and population growth of the County and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;
- (3) that the continuing concentration of our population in expanding areas has presented communities within the Service Area with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;
- (4) that the receiving and disposal of solid wastes should be primarily the function of the County;

- (5) that the problems of waste disposal as set forth above have become a matter regional in scope and in concern and necessitate County action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid waste disposal practices;
- (6) that land is too valuable a regional resource to be needlessly polluted by discarded materials, although most Solid Waste is disposed of on land in open dumps and a sanitary landfill;
- (7) that disposal of Solid Waste in or on the land without careful planning and management can present a danger to human health and the environment;
- (8) that as a result of the Clean Air Act [42 U.S.C.A. Sec. 7401 et. seq.], the Water Pollution Control Act [33 U.S.C.A. Sec. 1251 et. seq.], and other Federal and State laws respecting public health and environment, greater amounts of solid waste (in the form of sludge and other pollution treatment residues) have been created, and that similarly, inadequate and environmentally unsound practices for the disposal or use of Solid Waste have created greater amounts of air and water pollution and other problems for the environment and for health;
- (9) that open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies, and pollutes the air and the land;
- (10) that the placement of inadequate controls on Solid Waste Management will result in substantial risks to human health and the environment;
- (11) that if Solid Waste Management is improperly performed in the first instance, corrective action is likely to be expensive, complex, and time consuming;
- (12) that certain classes of land disposal facilities are not capable of assuring long-term containment of certain wastes, and to avoid risk to human health and the environment, reliance on land disposal should be minimized or eliminated, and land disposal, particularly landfill and surface impoundment, should be the least favored method for managing hazardous waste;

- (13) that tons of recoverable material which could be used are needlessly buried each year;
- (14) that methods are available to separate usable materials from Solid Waste;
- (15) that inefficient and improper methods of managing Solid Waste create hazards to public health, cause pollution to air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances;
- (16) that the continuing technological progress and improvements in methods of manufacture, packaging, and marketing of consumer products have resulted in an ever-mounting increase of the mass of material discarded by the purchasers of products;
- (17) that the economic growth and population growth of the Service Area have required increased industrial production together with related commercial and agricultural operations to meet our needs, resulting in a rising tide of unwanted and discarded materials;
- (18) that the failure or inability to economically recover material and energy resources from Solid Waste results in the unnecessary waste and depletion of our natural resources, such that maximum resource recovery from Solid Waste and maximum recycling and reuse of the resources must be considered goals of the County.

ARTICLE 4

Sec. 4.1. Definitions.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning hereinafter given, and, when not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) **"County"** - means Davie County, a political subdivision of the State of North Carolina.
- (2) **"Service Area"** - means the Incorporated Areas and the Unincorporated Areas within the County.
- (3) **"Availability Fee"** - means rates, fees and charges imposed, or caused to be imposed, by the County pursuant to the provisions of N.C.G.S. Sec. 153A

-292 (b) for the availability of the Solid Waste Disposal Facilities.

- (4) **"Designated Facility"** - means a permitted Solid Waste Disposal Facility or Facilities serving the Designated Geographic Area as more specifically set forth in Article 8, Sec. 8.1 of this Ordinance and as the same may be amended from time to time by the County and to which it is required by this Ordinance that all Solid Waste generated within said Designated Geographic Area that is placed in the waste stream for disposal be transported in order to be disposed of at such Solid Waste Disposal Facility.
- (5) **"Designated Geographic Area"** - means an area approved and designated as the County's Designated Geographic Area by the North Carolina Department of Environment, Health, and Natural Resources, and as the same may be amended by said Department from time to time, as a specified geographic area within which all Solid Waste generated and placed in the waste stream for management is required to be delivered to be Designated Facility.
- (6) **"Disposal"** - means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste into or on any land so that such Solid Waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwaters.
- (7) **"Incorporated Areas"** - means the area located within the municipal boundaries of any of the Municipalities.
- (8) **"Interlocal Solid Waste Management Agreement"** - means agreements of the same title entered into between the County and Municipalities.
- (9) **"Municipality"** - means a municipal corporation located within the County.
- (10) **"Person"** - means an individual, corporation, company, association, partnership, Unit of Local Government, authority, State agency, Federal agency or other legal entity.
- (11) **"Recycling"** - means the process by which recovered resources are transformed into new products in such a manner that the original products lose their identity.

- (12) **"Solid Waste"** - means any solid waste, as defined in Chapter 130A of the General Statutes of North Carolina, resulting from the operation of residential, commercial, industrial, Federal, State, special district, other governmental or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Solid Waste does not include hazardous waste or solid waste from mining or agricultural operations as defined in Chapter 130A of the General Statutes of North Carolina. Solid Waste also does not include trees, shrubbery, bushes or any other like foliage, limbs, or any other portion of trees, shrubbery, bushes or any like foliage, wood products of any sort, leaves, mulch, grass and any similar substance removed from commercial and residential yards, lots and areas.
- (13) **"Solid Waste Disposal Facilities"** - means any and all facilities owned, operated or designated by County, permitted by the North Carolina Department of Environment, Health and Natural Resources, if applicable, and used in the collection, transportation, management, processing or disposal of Solid Waste, including, but not limited to, recycling facilities, composting facilities, volume reduction plants, sanitary landfills, resource recovery facilities and transfer stations. Subsequent to October 9, 1993 such facilities, if a sanitary landfill, must also meet the requirements of the regulations set forth in 40 C.F.R. Part 258, including 258.40 (Subpart D), enacted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, et. seq.,
- (14) **"Solid Waste Management"** - means purposeful, systematic management control of the storage, transport, separation, treatment, processing, recycling, recovery and disposal of Solid Waste.
- (15) **"Solid Waste Management Plan"** - means a Solid Waste Management Plan approved by the North Carolina Department of Environment, Health and Natural Resources.
- (16) **"Tipping Fees"** - means rates, fees and charges imposed by the Authority for the use of the Solid Waste Disposal Facilities whether such rates, fees or charges are imposed at such Solid Waste Disposal Facilities or through other billing mechanisms.
- (17) **"Unincorporated Areas"** - means the area lying within the boundaries of the County but does not

include any area lying within the boundaries of any municipality located within said County.

- (18) **"Unit of Local Government"** - means a county, city, consolidated city-county, sanitary district or other local political subdivision, authority or agency of local government, within the County.

ARTICLE 5

Sec. 5.1. Purposes and Intent.

The intent and purposes of this Ordinance are:

- (1) To regulate in an environmentally safe manner the collection, transport, separation, processing, recycling and disposal of Solid Waste in order to protect the public health, safety, and welfare; enhance the environment for the citizens of the County Service Area and recover resources which have the potential for further usefulness.
- (2) To adequately plan and provide efficient, environmentally acceptable Solid Waste management programs.
- (3) To utilize all means reasonably available to promote efficient and proper methods of managing Solid Waste and to promote the economical recovery of material and energy resources from Solid Waste.
- (4) To promote the education of the general public and the training of solid waste professionals to reduce the production of Solid Waste, to ensure proper disposal of Solid Waste, and to encourage recycling.
- (5) To develop and implement recycling programs so that valuable materials may be returned to productive use, energy and natural resources conserved, and the useful life of Solid Waste Disposal Facilities extended.

ARTICLE 6

Sec. 6.1 Effect.

This Ordinance shall govern the disposal of all Solid Waste generated within the Designated Geographic Area and placed in the waste stream for disposal and shall also govern the disposition of all recyclable materials, if requested by a Municipality within such Municipality's jurisdictional boundaries, within the Designated Geographic Area of the County. This Ordinance is made applicable

within each Municipality and the County Service Area by virtue of separate Interlocal Solid Waste Management Agreements entered into by and between the County and the Municipality.

The County has authorized the operation of Designated Facilities to serve the citizens of the Designated Geographic Area. These Designated Facilities shall be utilized in accordance within the provisions of this Ordinance and in compliance with applicable State and Federal regulations.

Sec. 6.1.2 Administration and Enforcement.

The administration and enforcement of this Ordinance in both Incorporated Areas and Unincorporated Areas shall be the duty of the County.

ARTICLE 7

Sec. 7.1. Fees - In General.

The cost of operation, maintenance and debt service, of the Designated Facility shall be recovered by fees as set forth in regulations duly adopted by the County.

Sec. 7.2. Tipping Fees.

All Solid Waste disposed of pursuant to this Ordinance shall be weighed upon arrival at the Designated Facility and a Tipping Fee shall be charged based upon the weight. Unless prior arrangements have been made with the County for periodic billing, all Tipping Fees must be paid at the time of delivery to the Landfill. Regular billing will be accomplished in a manner as authorized by the County.

ARTICLE 8

Sec. 8.1. Designation of Facility.

The County shall designated the site for Designated Facilities to be used for the disposal of Solid Waste collected within the Service Area. The County hereby designates the following facility for the disposal of Solid Waste collected within the Designated Geographic Area:

1. Davie County Landfill on Dalton Road (S.R. 1605).
2. Convenience centers owned or operated by or on behalf of the County when available.

Sec. 8.2. Exclusivity.

All Solid Waste generated within the Designated Geographic Area of the County and placed in the waste stream

for disposal shall be transported to and disposed of exclusively at the Designated Facilities specified in Sec. 8.1. No person shall dispose of any Solid Waste generated within the Designated Geographic Area and placed in the waste stream for disposal, except at a Designated Facility. Any Person disposing of solid Waste generated within the Designated Geographic Area and placed in the waste stream for disposal shall comply with the provisions of this Ordinance.

Contracts for the disposal of Solid Waste at sites or facilities other than the County's Designated Facilities which were entered into before the effective date of this Ordinance and which have an expiration date no later than December 31, 1994 shall be exempted from this requirement until expiration of such contracts or until December 31, 1994, whichever date is earlier.

Sec. 8.3. Alternative Requirement.

In the event that the foregoing exclusivity requirement should be determined, whether by preliminary injunction or otherwise, to violate the provisions of the Commerce Clause as set forth in Article I, Section 8, cl. 3 of the United States Constitution, then all Solid Waste must be disposed of as follows:

- (1) If such Solid Waste is to be disposed of within the state of North Carolina, all Solid Waste shall be delivered exclusively to the Solid Waste Disposal Facility designated by the Authority, or
- (2) If such Solid Waste is to be disposed of in a Landfill in any state of the United States other than North Carolina, said Solid Waste must be delivered to a Landfill which fulfills the requirements set forth in 40 C.F.R. Part 258.40 (Subpart D) of the regulations enacted pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et. seq., or
- (3) If such Solid Waste is to be disposed of in a Solid Waste Management Facility in any state of the United States other than North Carolina other than such as hereinabove specified and subparagraph (2) of this Sec. 8.3, said Solid Waste must be delivered to a Solid Waste Management Facility which complies with the provisions of Federal environmental laws, rules and regulations.

ARTICLE 9

Sec. 9.1. Violations, Penalties and Remedies.

It shall be unlawful for any person to throw, dump, or cause to be dumped any Solid Waste generated within the Designated Geographic Area anywhere within the Designated Geographic Area except as provided in this Ordinance.

Penalties and remedies for violations of this Ordinance shall be as provided as hereinafter provided in this Article.

Sec. 9.1.2. Violation a misdemeanor.

A violation of any of the provisions of this Ordinance shall constitute a misdemeanor, punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed thirty days, or both, in the discretion of the Court. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

Sec. 9.1.3. Civil Penalty.

A violation of this Ordinance shall also subject the offender to a civil penalty of three hundred dollars (\$300.00) for the first violation, four hundred dollars (\$400.00) for the second violation and five hundred (\$500.00) for the third and subsequent violations.

After the effective date of this Ordinance each delivery of Solid Waste to a facility other than the County's Designated Facility shall be considered a separate violation.

If a person fails to pay this civil penalty within ten days after being cited for a violation, the County may seek to recover the penalty by filing a civil action.

Sec. 9.1.4. Equitable Remedy.

The provisions of this Ordinance may be enforced by injunctive relief as provided in Rule 65 of the North Carolina Rules of Civil Procedure, abatement or other appropriate available remedy and it shall not be a defense thereto that there is an adequate remedy at law.

ARTICLE 10

Sec. 10.1. Severability.

If any of the provisions of this Ordinance shall be held by a court of competent jurisdiction to be unconstitutional

or unenforceable, the decision of such court shall not affect or impair any of the remaining provisions of this Ordinance, and the County shall, to the extent it deems to be appropriate, take such actions as are necessary to correct any such unconstitutional or unenforceable provision. It is hereby declared to be the intent of the County that this Ordinance would have been approved and executed had such an unconstitutional or unenforceable provision been excluded therefrom.

Sec. 10.2. Conflict with other Laws.

It is not intended that this Ordinance repeal, abrogate annual, or in any way impair or interfere with any existing ordinances or regulations adopted by the County or by any Municipalities within the County. However, to the extent that it does conflict, the provisions of this Ordinance shall control.

ARTICLE 11

Sec. 11.1. Effective Date.

This Ordinance shall be effective at the date that it is adopted and from that date until such time as the County chooses to amend or repeal it.

Adopted this the 18th day of January, 1994.

DAVIE COUNTY

BY:

Joseph A. Long

ATTEST:

Brenda B. Hunter
CLERK