

## **Chapter 23 SOLID WASTE\***

\*Cross references: Environment, ch. 14; buildings and building regulations, § 20-61 et seq.; utility requirements in subdivisions, § 20-315; manufactured homes and trailers, § 20-406 et seq.

State law references: Authority to regulate solid waste collection and disposal, G.S. 153A-291 et seq.

### **ARTICLE I. IN GENERAL**

#### **Sec. 23-1. Burning, disposal or dumping of garbage or refuse near occupied building prohibited.**

- (a) No owner, occupant, tenant or lessee of any premises located within 1,000 feet of any dwelling house or business building in the county shall permit to be burned, placed, dumped or accumulated upon such premises any garbage or refuse unless stored in containers approved by the county board of health or burned in incinerators of a type approved by the county board of health.
- (b) For the purpose of this division the term "refuse" means garbage or rubbish. The term "garbage" means all putrescible solid waste, including vegetable matter, animal offal, and carcass of animals, including human body waste, animal manure, and recognizable industrial by-products, used milk cartons, or other discarded food containers that are not dry and clean. The term "rubbish" means nonputrescible solid waste and includes discarded appliances and automobiles. The term "person" means any individual, firm, governmental unit, partnership, corporation or company.
- (c) Any person who violates the provisions of this division shall be guilty of a misdemeanor punishable by a fine or not more than \$500.00 or imprisonment for not more than 30 days in the discretion of the court as provided by G.S. 14-4.
- (d) This section shall be a supplement to any existing rules and regulations of the county board of health and a supplement to any rules and regulations hereafter adopted by the county board of health and shall not operate to repeal or replace any rules or regulations of the county board of health.
- (e) This section shall not be construed to prevent any person from properly disposing of refuse from his own residence or business establishment by burning or burying it in a safe and sanitary manner approved by the county board of health.

(Ord. of 1-1-1971, §§ 1--5)

Cross references: Fire prevention, ch. 17.

**Sec. 23-2. Abatement of Public Health Nuisances.**

(a) Nuisances Prohibited.

It shall be unlawful for any person to cause permit, maintain, allow or create a nuisance.

(b) Enumeration Of Nuisances

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property any of the following items, conditions or actions are declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be exclusive, limiting or restrictive:

1. Any open place of concentration of combustible items such as mattresses, boxes paper, automobile tires or tubes, garbage, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;\
2. Any property, which meets the following criteria concerning vegetative growth;
  - (1) Vacant lots that are adjacent to intersection of streets that pose a problem with the sight distance surrounding the intersection;
  - (2) Lots occupied by any structure (dwelling or commercial) that the height of growth is inconsistent with neighboring properties.
  - (3) Vacant lots within a Village Residential Zoning District, an established mill village, and/or an established residential development that the height of growth is inconsistent with neighboring properties.
3. Any open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;
4. Any dilapidated furniture, appliances, machinery equipment, building materials or any similar items not enclosed in a building with functional doors;
5. Any furniture, appliances or other metal products of any kind or nature openly kept which have jagged edges of metal or glass or areas of confinement;
6. Any motor vehicle located on private property, which is wholly or partially dismantled, and any related motor vehicle parts and tools not enclosed in a garage with functional doors or covered with a tarp or canvass when not actively being repaired.

7. Any manufactured home, mobile home, trailer, camper, recreational vehicle and such other similar units, in a state of dilapidation and/or abandonment, whether set up for use or not.
8. Any other condition specifically prohibited in this subchapter or any other condition specifically declared to be a nuisance or a danger to the public health, safety, morals and general welfare of inhabitants of the county and a public health nuisance by the Board of County Commissioners.

(Ord.11-15-2011)(Ord. of 10-16-2013)

(c) Investigation Of Conditions; Order Of Abatement; Notice

The Code Enforcement Officer, upon compliant from any person of any of the conditions described in this subchapter shall make or cause to be made such investigation as may be necessary to determine whether, in fact, such conditions constitute a public health nuisance as declared.

Upon a determination by the Code Enforcement Officer that such conditions constitute a public nuisance, as outline in subsection b (above) the Code Enforcement Officer shall notify, in writing, return receipt requested, the owner and occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof.

(d) Contents Of Written Notice; Order To Abate

The notice to abate a nuisance issued under the provisions of this subchapter shall contain:

1. A statement that conditions exist on the property which constitute a public nuisance;
2. The conditions existing;
3. The location of such condition; and
4. A statement ordering the owner and the occupant or person in possession of the premises to abate the public nuisance, and that unless the condition is abated within 15 days from the mailing of the notice as specified, the conditions constituting a nuisance will be abated by the County and the cost of abatement shall constitute a lien against the premises.

(e) Appeal Notice.

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the Code Enforcement Officer to the Board of Adjustment and Appeal by giving written notice of appeal to such officer, such appeal to stay the abatement of the nuisance by the County until a

final determination by the Board. In the event no appeal is taken, the County may proceed to abate the nuisance.

(f) Hearing.

The Board of Adjustment and Appeal, in the event an appeal is taken as provided herein, may, after hearing all interested persons and reviewing the findings of the Code Enforcement Officer, reverse or affirm the finding that a nuisance exists in the jurisdiction of the County. Any and all appeals from a decision by the Board of Adjustment and Appeal shall be filed with the Clerk of Superior Court of Richmond County within 30 days from the decision.

(g) Right Of Entry.

The Code Enforcement Officer and other designated personnel shall have all the rights and authority to enter upon premises upon which probable cause is established that a nuisance exists under the provisions of this subchapter for the purpose of abating the nuisance as provided in this subchapter. If at any time the right of entry is refused or denied, then the Code Enforcement Officer shall obtain an Administrative Search Warrant to continue the investigation.

(h) Cost Of Abatement Declared Lien.

After the abatement of a nuisance as provided in this subchapter, the cost of the abatement may become a lien against the premises upon confirmation of the cost thereof by the Board of County Commissioners. The confirmation shall take place only after ten days written notice to the owner of the premises where the nuisance existed of the proposed confirmation. Upon confirmation, the cost of abatement shall be a lien against the premises from which the nuisance was abated to be collected as unpaid tax.

(i) Legal Action May Be Taken

The Board of County Commissions may direct the Code Enforcement Office to pursue the matter of collection of the assessed penalties in a civil action court case.

(Ord. of 10/2/2006)

**Secs. 23-3--23-30. Reserved.**

## **ARTICLE II. COLLECTION AND DISPOSAL**

### **DIVISION 1. GENERALLY**

**Secs. 23-31--23-45. Reserved.**

## **DIVISION 2. MEDICAL, HAZARDOUS, AND/OR LOW-LEVEL RADIOACTIVE WASTE FACILITIES\***

**\*Cross references: Environment, ch. 14.**  
(Ord. of 9/12/2006)

### **Sec. 23-46. Title.**

The title of this division is the "Richmond County Comprehensive Ordinance for the Regulation of the Location, Operation, and Management of Medical, Hazardous and/or Low-Level Radioactive Waste Facilities." This division may be cited as the "Richmond County Medical, Hazardous, and or Low-Level Waste Ordinance."

(Ord. of 9-10-1990, § I; Ord. of 9/12/2006)

### **Sec. 23-47. Purpose.**

The purpose of this division is to:

- (1) Regulate the location, operation and management of medical, hazardous and/or low-level radioactive waste facilities dealing with the storage, transfer, treatment and/or disposal of such waste in the county.
- (2) Assure that the best available management practices are used in the location, operation and management of medical, hazardous and/or low-level waste facilities in the county.
- (3) Assure that operation of such facilities in the county poses no threat to the water, land, and air resources of the county or to the public health and safety of its citizens.

(Ord. of 9-10-1990, § II; Ord. of 9/12/2006)

### **Sec. 23-48. 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:

*Facility* means all land, buildings, and equipment which is used or intended to be used for the handling, storage, treatment, or disposal of waste, including necessary buffer zones.

*Hazardous waste* shall have the same definition as in G.S. 130A-290(8).

*Hazardous waste facility* shall have the same definition as in G.S. 130A-290(9).

*Incinerator* means a device or facility designed to burn solid, liquid or gaseous waste material. For the purposes of this division, this definition does not include on-site incineration at the point of generation, although it does include facilities, which burn wastes for other purposes, such as an energy source.

*Low-level radioactive waste* shall have the same definition as in G.S. 104E-5(9a).

*Low-level radioactive waste facility* shall have the same definition as in G.S. 104E-5(9b).

*Medical waste* shall have the definition as in G.S. 130A-290(18).

*Medical waste facility* means a facility for the storage, collection, processing, treatment, recycling, recovery, incineration or disposal of medical waste.

*Storage* shall have the same definition as in G.S. 130A-290(41) but does not include on-site storage at the point of generation for periods less than 30 days.

*Waste* for the purpose of this Division, waste means all types of medical, hazardous and low-level radioactive waste.

*Waste facilities* for the purposes of this Division waste facilities includes all facilities for the storage, transfer, treatment or disposal of medical, hazardous or low-level radioactive waste.

Words and phrases not otherwise defined shall have the same definitions as in state and federal statutes and regulations.

(Ord. of 9-10-1990, § III; Ord. 9/12/2006)

Cross references: Definitions generally, § 1-2.

**Sec. 23-49. Applicability.**

- (a) This division is applicable to all medical, hazardous, or low-level radioactive waste facilities, which operate within the boundaries of the county. This specifically includes, but is not limited to, hazardous waste treatment and disposal facilities, low-level radioactive waste disposal facilities, commercial incinerators, and similar facilities which receive medical, hazardous, or low-level radioactive waste from off-site for storage, treatment, or disposal. This division is expressly not applicable to solid waste facilities, which are regulated by the State pursuant to G.S. Chapter 130A, Article 9 and 15A NCAC 13B, and Division 3 of this Article.

- (b) This division supersedes and consolidates all previous ordinances regulating the location, operation and management of commercial incineration facilities, and site selection of hazardous waste facilities.
- (c) Sections 23-61 and 23-62 do not apply to facilities, which do not incinerate waste or otherwise emit air pollutants. When specifically stated, a section may be limited to certain types of facilities.

(Ord. of 9-10-1990, § IV; Ord. 9/12/2006)

**Sec. 23-50. Permit required.**

It shall be unlawful for a medical, hazardous, or low-level radioactive waste facility to operate in the county without a permit issued by the board of commissioners pursuant to this division.

(Ord. of 9-10-1990, § V; Ord. 9/12/2006)

**Sec. 23-51. Application.**

(a) A permit applicant shall prepare and file an application for a permit with the board of commissioners. The permit application shall include all related documents submitted to the United States government and to the state as well as the following supplemental information:

(1) A description of the company, to include:

- a. Information on its financial capability;
- b. A detailed history of all its past activities in the handling various types of waste and the operation of waste facilities;
- c. A description of every other facility it has operated;
- d. A detailed account of all past and pending litigation, favorable and unfavorable;
- e. The record of any subsidiary or parent corporation having an interest greater than five percent of the outstanding shares of the applicant corporation; and
- f. A list of all past and present litigation, favorable and unfavorable, which any subsidiary or parent corporation has been involved in.

(2) Evidence of liability insurance, to include:

- a. Coverage in the amount of \$1,000,000.00 for sudden and \$10,000,000.00 for nonsudden;
  - b. Evidence of \$10,000,000.00 liability insurance to cover closure and post-closure costs; and
  - c. A history of any claims against the company at any site, including the record of any subsidiary or parent corporation as defined in subsection (a)(1) of this section.
- (3) Justification for and anticipated benefits from the project.
  - (4) A full description of the scope and design of the proposed project, including complete engineering details of the proposed facility.
  - (5) An estimated schedule of how much and what kinds of waste the facility would accept and what corrective measures will be required of wastes unacceptable to the facility without additional handling.
  - (6) The duration of the facility's operation, with yearly site operation expenses and an estimate of the costs for the lifetime of the project.
  - (7) The proposed method of financing the project, including siting, development, operation, closure and post-closure stages, with a list of the financial institution name which will be funding each stage.
  - (8) Provide resumes of management personnel and 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.
  - (9) The anticipated dates of the initiation of construction and 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, including details on emergency assistance and emergency medical treatment that will be required from the area's medical facilities, the 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 the environment 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.
- (16) A comprehensive listing of known, prospective or potential generators, so noted, from which waste will be received; volumes and type of wastes from each generator; and the method of transportation and the routes to be followed.
- (17) A provision for a buffer area of at least 1,250 feet in width from the area on the facility site in which materials are to be handled, stored, treated, or disposed of to the nearest adjacent property.
- (18) A description of on-site drainage systems to be designed to protect all surface water drainage, ground water movement, sanitary sewer systems and stormwater management systems from the probability of contamination.
- (19) A demonstration that no adverse effect to the health, welfare and safety of its citizens will result from the siting of the filing, using the following criteria:
  - a. Hydrological and geological factors, including floodplains, depth to water table, groundwater travel time, soil pH, soil cation exchange, capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines and climate.
  - b. Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds.
  - c. Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites.
  - d. Local land uses.
  - e. Transportation factors, including the visibility, appearance, and noise level of the facility.
  - f. Availability and reliability of public utilities.
  - g. Availability of emergency response personnel and equipment.

- h. Availability of a public water supply to the facility or a well with sufficient capacity to operate the facility and fight fire at the facility.
- (20) A detailed analysis of how the applicant will meet all of the requirements in this division, as well as all applicable state and federal requirements.
- (b) Maps and other written material attached to the application shall include but are 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 right-of-way or easements affecting the property.
    - d. Reference to any existing restrictive covenants on the property.
  - (2) Description. Location of property by tax map and parcel number. This description should include a reference to the deed book and page of other evidence of title the current property owner may have.
  - (3) Features. Each map shall contain the following information:
    - a. Drawn to a scale of not less than 200 feet to the inch.
    - b. Location sketch map showing relationship of the project to the surrounding area within one-quarter mile.
    - 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 proposed project and adjacent property.
    - 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, residences, easements, buildings, railroads, cemeteries, bridges, sewers, water mains, culverts, wells, gas lines, electric transmission lines, and other land uses.
  - i. The location of water bodies, watercourses, groundwater aquifers, springs and other pertinent features.
  - j. The location, dimensions, and acreage of all property proposed to be set aside for various uses in the applicant's property.
  - k. The location of all test wells and/or borings, with copies of the drilling logs.
  - l. The location of the 500- and 100-year floodplain, and records of flood, including inundation due to dam break.
  - m. The location of historic properties and gravesites, including any plans for relation of graves and properties having historical significance.
- (4) Hydrological and geological maps. Maps showing location of faults, dikes, sills and other pertinent geologic features including bedrock type and strike and dip of any 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.
- (5) Topographic map. A topographic map with contours at vertical intervals of not more than five feet at the same scale as the project site map shall be included. Date, method of preparation, and name of person preparing such survey shall be stated.
- (6) Transportation 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 during each month during the year.
- (c) The application shall additionally address the following factors if applicable:
- (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; and other engineered barriers.
  - (2) Contaminant movement in groundwater, including groundwater monitoring systems at the site, at engineered barriers, and in the potentially affected area; the need for subsurface "slurry wall" barriers; and monitoring at other groundwater withdrawals in the area.

- (3) Predictability of contaminant movement, based on preconstruction borings and groundwater modeling.
- (4) Potential effect on surface waters; planned collection systems for surface water runoff; planned exclusion systems for surface water run-on.
- (5) Potential effect of 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 provisions for alternate supply systems; the need for planned oversized or redundant treatment capacity, effluent monitoring and automatic shutdown 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.
- (9) The prevailing wind current direction, 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. This subsection is limited to incineration facilities and those which otherwise emit air pollutants.
- (10) Potential for noise impact from delivery vehicles, facility operation, including planned limitations on operating hours for high-noise operations.
- (11) Potential for impact on existing and future economic activity, including predicted negative impact on area property tax base expansion as related to property value and growth.
- (12) Post-use plans, including bonding, care liability, financial responsibility, and monitoring of community and environmental health.
- (13) Safety of transportation route, including evacuation and rerouting plans, planned training of emergency fire and medical personnel and local institutional support arrangements; planned training and certification of truck drivers and other waste handling personnel and truck safety features.
- (14) Proximity to residential areas or sensitive sites, including planned purchase of buffer zones on adjacent land, 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, if any.
- (17) Potential for seismic activity, including special facility design and evacuation plans to deal with such occurrences.
- (18) Other site-specific factors as requested by the environmental affairs board or its designee.

(Ord. of 9-10-1990, § VI)

**Sec. 23-52. Application and processing fees.**

- (a) Each application for a permit shall, at the time the application is filed, pay to the county an application fee of a minimum \$150,000.00, no part of which is refundable. The county shall pay from this fee the costs of any needed professional assistance that may be required to evaluate the permit application and amendments, verify its contents and evaluate the impact of such a permit on the community, public health and environment. This assistance may include, but shall not be limited to, the assistance of lawyers, biologists, geologists, engineers, accountants, chemists, hydrologists, emergency response, transportation and public health experts, land appraisers and professional testing laboratories. Cost of these services when exceeding the established minimum fee shall be reimbursed to the county by the applicant within 30 days.
- (b) Failure to provide these funds within 30 days of demand therefore 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 beyond the minimum fee up to the point of termination.
- (c) Upon petition by an applicant, the board of commissioners in its discretion may reduce the amount of the application if it finds that special circumstances warrant it. Special circumstances include but are not limited to the size and type of the facility, its proposed location, the types and quality of waste it proposes to handle, and the overall need for the county to review the application.

(Ord. of 9-10-1990, § VII)

**Sec. 23-53. Application procedures.**

- (a) The permit applicant shall submit to the board of commissioners 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 environmental affairs board meetings, reports by consultants and similar materials. These shall be placed in one location with free access by the public and availability of copying any portion or all of any document at cost.
- (c) Within 45 days of the submission of the application, the board of commissioners' designee shall hold a public hearing so that the applicant can present its plans to the environmental affairs board and answer questions regarding the application.
- (d) To be exempted from any section of the application, the applicant shall demonstrate to the satisfaction of the commissioners' designee, after consultation with the environmental affairs board, that the information is not relevant to the safe location, operation, and management of the proposed waste facility; that public health and safety, and the environment will not be threatened; and that special circumstances, such as the cost or feasibility of obtaining the information, otherwise warrant it.
- (e) After the first hearing, the commissioners' designee, after consultation with the environmental affairs board, shall have 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 months to complete the application. However, the applicant may at the end of the six months make a showing of cause to the board of commissioners and if the board finds that the delay is justified and in good faith, they can grant the applicant a maximum three-month extension.
- (f) 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 environmental affairs board. The analysis shall be completed within 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 90 days, the county staff and/or consultant may request an additional 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.
- (g) The board of commissioners' designee and each consultant shall make reports on the application to the environmental affairs board at their meetings.

- (h) The environmental affairs 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 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 14 days prior to the date specified thereon. Such posted notices shall be at intervals of not greater than 1,500 feet. Notices shall also be placed by the applicant in the county newspaper not less than 14 days prior to the dates specified thereon.
- (i) Within 45 days after receipt of the final analysis, completed application and public comment, the environmental affairs 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 accept it with modifications, the environmental affairs 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, including site closure and post-closure care.
  - (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.
  - (5) That the environmental impact statement required in section 23-54 is complete.
- (j) At its next scheduled meeting, the board of commissioners shall make its decision to grant the permit, deny it, or grant it with specified conditions. The board of commissioners may in its discretion condition the permit on any aspect of its construction and operation.
- (k) A permit shall be valid for no more than 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 section 23-51 and the filing fee of section 23-50.

(Ord. of 9-10-1990, § VIII)

**Sec. 23-54. Environmental impact statement required.**

- (a) Pursuant to G.S. 113A-8, the applicant for a permit under this division is further required to submit detailed statements, as defined in G.S. 113A-4(2), of the impact of such projects. These statements shall be part of an environmental impact statement (EIS) and no permit under this division shall be granted until the environmental impact statement is deemed a sufficient statement by the board of commissioners upon advice of the environmental affairs board.
- (b) In addition to the permit application described in each ordinance, the permit applicant shall submit to the environmental affairs board a proposed scope of the environmental impact statement to include specific issues relating to the following:
  - (1) The environmental impact of the proposed action;
  - (2) Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
  - (3) Mitigation measures proposed to minimize the impact;
  - (4) Alternatives to the proposed actions;
  - (5) The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity;
  - (6) Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented; and
  - (7) Other requirements for an environmental impact statement under G.S. 113A-4 and 1 NCAC 25.0107 et seq.
- (c) The environmental affairs board shall hold a public hearing upon the scope of the environmental impact statement and then make the determination what issues relating to the factors above shall be included in the environmental impact statement. The environmental affairs board shall act as in an advisory role to the applicant during the preparation of the environmental impact statement. Following the completion of a draft environmental impact statement, the environmental affairs board shall hold a public hearing to solicit public comments regarding the sufficiency of the document. This hearing may be held simultaneously with the hearing regarding the completed application. The draft environmental impact statement shall also be submitted to the

state clearinghouse for review and comment following the process outlined in 1 NCAC 25.0801 et seq. The comments by the public and agencies and the response by the applicant to the comments shall become part of the environmental impact statement. After consideration of the public and agency comments and the applicants response, the environmental affairs board shall make a recommendation to the board of commissioners that it accept the document as complete.

- (d) The board of commissioners shall use the environmental impact statement, along with the permit application, in determining whether to accept, deny, or accept with modifications a permit under this division.

(Ord. of 9-10-1990, § IX)

**Sec. 23-55. Siting criteria and permit conditions.**

- (a) No permit for a low-level radioactive waste facility shall be granted until the applicant has met all siting criteria set forth by the G.S. 104E, and G.S. 104G, as amended, plus all criteria promulgated by the state low-level radioactive waste management authority and the state radiation protection commission in effect at the time of the application.
- (b) No permit for a hazardous waste facility shall be granted until the applicant has met all siting criteria set forth in G.S. 130A, any amendments hereafter enacted, and rules promulgated by the state health services commission. Additionally, if it is a facility sited under G.S. 130B, the facility shall fully comply with all criteria promulgated by the state hazardous waste management commission, and those set forth in G.S. 130B-11 as amended which may be in effect at the time of the application of the permit.
- (c) The site shall be accessible to the interstate highway system by a highway having not less than two travel lanes in each direction, i.e. a four-lane highway.
- (d) A site shall not be located in or on wetlands, sandy soils, existing state or national parks or forests, existing historical sites, existing wildlife refuges, or the Pinehurst aquifer.
- (e) A site shall not be located in or on land, which a fish hatchery is located, Indian reservations, or federal military reservations.
- (f) No waste facility shall be located within ten miles of a public water supply, school, hospital, nursing home, or other waste facility.
- (g) All hazardous and low-level radioactive wastes disposed of or placed into long-term storage shall be retrievable and identifiable using best management practice.
- (h) Mixed wastes, i.e., those wastes, which are both hazardous and radioactive, shall not be handled, treated, stored, or disposed of at the same facility or adjoining facilities.

- (i) The operator of the facility shall submit to the board of commissioners or its designee copies of all reports and documents which it is required to submit concerning the facility to the state department of environment, health and natural resources or any division therein, the United States Environmental Protection Agency, and any other state and federal agency.
- (j) Based upon its review of the facility's operations, the board of commissioners or its designee may limit the amounts and types of waste entering the proposed site, may limit or restrict types of treatment, handling and/or disposal activities or may require additional treatment or handling of the waste before entering, leaving, or being disposed of on the site.
- (k) No activity shall be allowed in the buffer zone, which shall be either owned or lease-controlled by the applicant for the useful life of the facility, including closure and post-closure care.
- (l) The soil under and within 75 feet of any storage, handling, treatment, or disposal of wastes, as well as approaching paved areas leading to the facility, shall not have a percolation rate in excess of 3.5 by 10.4 centimeters per second.

(Ord. of 9-10-1990, § X)

**Sec. 23-56. Monitoring and safety.**

- (a) Purpose. The purpose of this section is to supplement and complement 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, it also recognizes that appropriations and manpower to fulfill this responsibility have often been inadequate, and that county responsibility is therefore necessary and lawful for protection of life, health, property, and environment. The duties described in this section shall begin upon receipt of a permit.
- (b) Duties and powers of department. The county health, inspection and emergency management departments or whoever else the board of commissioners designates, hereafter referred to as the "department," shall have the following duties and powers:
  - (1) To monitor the air, surface water, and ground water 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 to trace any accidental discharges of hazardous or low-level radioactive wastes or materials.
- (4) To verify the content of shipments and storage of hazardous 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 for hazardous, unhealthy, or otherwise unlawful conditions.
  - (6) To inspect and take samples within the site boundaries of any 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 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 or low-level 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 in conjunction with the department of transportation near facilities 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 require any shipment of waste to be temporarily stored on the facility site while laboratory analysis is being performed. This waste may not be otherwise handled, treated or disposed of until the laboratory analysis is complete and the department verifies in writing to the site manager that the shipment may be processed.
  - (11) To perform such other duties as the board of commissioners or environmental affairs board may find necessary from time to time to safeguard the public health and welfare.
- (c) Authorization of designated department. In order to carry out the duties specified above, the department is authorized to do the following:
- (1) Immediately upon issuance of the first permit in the county, the department may hire or designate an individual or individuals trained to identify unsafe, unsanitary, or otherwise hazardous conditions in waste facility structures. This building 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 and/or low-level

radioactive waste management facilities in the county. The building inspector shall also make unannounced inspections, by presenting his credentials at a reasonable hour, 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 department may hire or designate persons capable of performing a background health study on the people of the county. The department shall present a plan to the environmental affairs board for monitoring the people of the county in order that health effects of any hazardous waste management facility in the county could be detected sufficiently early in their development and in order that appropriate legal action could be taken. The environmental affairs board shall recommend to the board of commissioners the plan for this task within six months, and the board of commissioners shall have one month thereafter to approve the plan and hire the appropriate services.
- (3) The department may hire or designate a chemist or other person qualified to sample wastes at the gate to the facility and to visually inspect the truck, the manifest forms and/or other documentation 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.
- (4) The department may hire or designate an individual or individuals trained to safely handle and sample hazardous waste and wastes 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 at a reasonable hour, for the purpose of collecting such samples as the department, following the recommendations of the environmental affairs board shall deem necessary to adequately monitor the site.
- (5) The 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 the waste facilities and transportation of waste to and from such facilities.
- (6) The department is authorized to require from the facility operator a list of trained emergency personnel at the facility, particularly persons trained in emergency response to spills or discharges of hazardous or low-level radioactive wastes.
- (7) The department is authorized to request administrative support from the county, including secretarial time, paper, telephone time, copying, and other support as may be necessary to carry out these functions through the county manager.

- (8) The department is authorized to purchase such equipment as may be necessary to carry out the monitoring and emergency preparedness duties of this section.
- (9) The department is authorized to prepare and disseminate educational materials and consult with adjoining landowners to the facility, farmers, schools, and other groups, which may be affected concerning health effects of hazardous and low-level radioactive waste.
- (10) The department is authorized to carry out such other duties as it or the environmental affairs board may find necessary from time to time to insure the public health, safety, and welfare.
- (d) Finance director to report defaults. The county finance officer is directed to see that applicants and permit holders furnish bonding, insurance, and other bonds required by this division and properly report defaults to the county commissioners.
- (e) County attorney's duties. The county attorney is directed to provide legal advice, drafting, and other assistance as needed by the county or any agency of it to enforce this division.
- (f) Board of commissioners to direct monitoring. 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 division.

(Ord. of 9-10-1990, § XI)

**Sec. 23-57. Certificate of need required.**

- (a) All persons who operate facilities to handle, treat, transfer, store or dispose of solid, medical, hazardous, or low-level radioactive waste in the county, other than on-site storage and/or treatment at the point of generation, shall provide the environmental affairs board or its designee a certificate of need for each shipment of waste.
- (b) This certificate of need shall 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, storage 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 contents of the shipment, and proper visible labeling of the wastes on the vehicle, before the shipment enters the county.
- (c) This certificate of need shall be on file with the county along with a copy of the approval by the environmental affairs board or its designee prior to shipment to the county or within the county to such facilities.

- (d) If the environmental affairs 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 environmental affairs 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 board's decision. The board of commissioners shall schedule a public hearing within ten days to hear such challenge. The facility operator shall have the burden of proof in any such hearing.

(Ord. of 9-10-1990, § XII)

**Sec. 23-58. Update of best management practices.**

- (a) The environmental affairs board shall perform all duties designated in this division and shall keep abreast of developments in waste management technology and practices.
- (b) If the environmental affairs board discovers a new management practice, not currently in use at facilities within the county covered by this division, which could be employed to recycle, reuse, neutralize, detoxify, incinerate, or reduce the volume of hazardous or low-level radioactive waste generated, stored, disposed, or transferred in the county, it shall prepare a report to that effect. The environmental affairs board 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 shall reply in writing to the environmental affairs board within 45 days, specifying plans to implement the practice, or reasons why the facility operator believes the practice should not be implemented.
- (c) If after the exchange of reports, the environmental affairs 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 permit. The facility operator may appeal the order within 30 days, by so requesting in writing to the county commissioners. The board of commissioners shall announce a public hearing within 30 days thereafter at which the environmental affairs board and the facility operator shall present their cases, and at which the facility operator shall be assigned the burden of proof. The board of commissioners shall then either reaffirm the order or remit the matter to the environmental affairs board for further study.

(Ord. of 9-10-1990, § XIII)

**Sec. 23-59. Privilege license tax.**

- (a) A privilege license tax will be required and paid annually in conformity with G.S. 153A and 153A-152.1. The privilege license tax will be in direct proportion to the

costs incurred by the county to monitor the facility to ensure compliance with the regulations contained in this division and the amount necessary to prepare the county to respond to emergencies which may result from the operation of the facility. This fee will be calculated during the application fee process and updated annually.

(b) The board of commissioners finds that the following costs are associated with waste facilities and their operations; the county is not otherwise compensated for such costs; and that such costs shall therefore properly be assessed under G.S. 153A-152.1(a) to the facility operator:

(1) Emergency service needs, to include:

- a. The acquisition of special emergency equipment for dealing with hazardous and low-level radioactive substances, to include protective clothing, detoxification equipment, breath apparatus, collection apparatus, alarm systems, direct telephone or radio connection equipment, special medical vehicles, and other such equipment as the county may reasonably require.
- b. The cost of necessary maintenance and replacement of equipment as described in subsection (b)(1)a of this section.
- c. 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.
- d. The cost of initial training for the county's emergency response personnel, to include psychological preparedness training, to deal with emergency situations involving hazardous or low-level radioactive waste, and the cost of expanding such training as necessary.
- e. The cost of updating such training as described in subsection (b)(1)d of this section from time to time, and the cost of training new personnel.
- f. Additional costs to the county's hospitals and clinics as a result of the need for special emergency units at those hospitals and clinics to handle hazardous and low-level radioactive waste emergencies.
- g. An additional amount to purchase insurance to cover the costs of emergencies caused by accidents involving the transportation of hazardous or low-level radioactive waste to or from such facilities, for accidents occurring between the site boundary and the county line.
- h. An additional amount to purchase insurance to cover the costs of emergency services required to handle emergencies caused by the waste facility during closure and post-closure care.

- i. The cost of other emergency services and preparedness which shall be required from time to time.
- (2) Monitoring functions, to include:
- a. Salaries of county personnel and contracted services 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 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 and other persons to assist the county in monitoring.
  - e. An additional sum, to be established by the board of commissioners after consulting with the facility operator, for maintaining monitoring of the environment and human health effects throughout the operation of the facility, including post-closure care. 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.
  - f. Other reasonable costs of monitoring as may be necessary.
- (3) Other costs, to include but not limited to:
- a. Public information costs. 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 the relevant information. Therefore, the following costs shall be assessed to the facility operator:
    1. The cost of advising adjoining landowners as to their legal rights with respect to the facility, and as to health precautions.
    2. The costs of advising farmers in the surrounding area as to precautionary measures for their livestock and crops in the event of accidents or spills.
    3. The costs incurred to the extent not already provided for by county or school budgets in presenting instructional materials to county school

children, on the facility, its potential hazards, and emergency preparedness.

4. The costs incurred by the county health department in disseminating information concerning the facility and its effect on the public health.
    - b. To the extent that the county is not otherwise compensated by the federal or state governments, 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 with it.
    - c. To the extent that the operation of the facility or off-site contamination from the facility, regardless of negligence on the part of the facility operator, reduces ad valorem revenues to the County, the loss to the county shall be compensated by the facility operator.
    - d. The cost to the county of an annual review of this division and other laws and regulations in the field of waste management.
    - e. The cost to the county of reasonable legal representation and attorney's fees in all cases arising out of the operation of the facilities in the county, or arising out of challenges to this division, provided that:
      1. The county is the prevailing party; or
      2. The county has had substantial justification for its position, and has not litigated vexatiously.
    - f. 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.
    - g. 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.
- (c) The privilege license tax shall be calculated as follows:
- (1) Annual levy. There shall be levied and paid in advance an annual tax to pay all above stated expenses. The annual tax shall be estimated for the first year of operation and paid in advance before operations begin. Thereafter the annual tax shall be calculated by adding together all of the above enumerated expenses for the past year and estimated additional expenses anticipated in the next year. At the end of each tax year any amount over or under the actual cost incurred will be adjusted

in the second year's tax. The taxpayer will be credited with excess and shall pay any deficiency within 30 days at the end of the year.

- (2) Due date. Each annual payment is due and payable on each anniversary of the first payment.
- (3) More than one facility. If there is more than waste facility in the county subject to this division, the total tax for each facility shall be prorated among the various facility operators according to the percentage of the gross receipts for the wastes each operator has handled, treated, stored, or disposed of in the county for that calendar year.
- (4) 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 shall specify in writing in a report to the environmental affairs board, setting forth the grounds for such belief with particularity, and stating the level of tax which would enable such operation. The environmental affairs board is empowered to negotiate the total tax, provided that:
  - a. All such negotiations shall include at least one public meeting;
  - b. Any decision be reported in writing to the county commissioners, with the reason therefor; and
  - c. Such agreement must be approved by the board of commissioners before becoming final.

(Ord. of 9-10-1990, § XIV)

**Sec. 23-60. Waste clean-up fund additional privilege tax.**

- (a) Purpose. The purpose of this section is to establish an emergency response fund, to be funded by an additional privilege license tax, particularly for individual accidents, and other costs arising out of the location and operation of waste facilities in the county. The board of commissioners finds the establishment of this fund necessary, in order to:
  - (1) Protect the health and welfare of the public;
  - (2) Provide for the safe and effective operation, management and operation of waste facilities; and
  - (3) Provide for costs resulting from inefficient clean-up of past accidents and closed waste facilities.

The board of commissioners recognizes the benefit of speedy clean-up, manifest in monetary savings, and in the prevention of permanent damage to life and property. The board of commissioners also recognizes that the clean-up fund established under G.S. 130-166.19A only covers on-site clean-up and care, and that the federal response fund established under the Comprehensive Emergency Response, Compensation and Liability Act, P.L. 96-150, 42 USC 9601 et seq. is inadequate to ensure speedy and adequate compensation, particularly for damages to individuals.

- (b) Establishment of fund. There is hereby established, pursuant to the authority vested in the county commissioners by the General Statutes, a special waste clean-up fund, to be disbursed liberally and speedily upon notification of any dangerous spill or leakage that is not immediately remedied by the part responsible or by the federal or state governments. The fund will supplement the state fund established under G.S. 130-166.19A, and it is the intent of the county 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 moneys collected and accrued interest shall be returned to the facility operator in the same shares as it was paid in; otherwise, the fund shall be nonreverting.
- (c) How collected. The privilege license tax collected under this section shall be two percent of the gross annual receipts of all hazardous waste facilities in the county subject to this division, and shall continue until the principal of this fund shall reach \$25,000,000.00 with all interest to accrue to the fund.
- (d) Management. The county finance officer, the county manager and one member of the board of commissioners shall be appointed managers of the fund. The managers of the fund 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 30 days of the receipt of an application for a waste facility in the county. It is the intent of the board of commissioners that these revenues shall not be vested 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 county attorney is directed when the first permit is granted under this division, to draw up a plan and procedures for disbursement, which shall be signed to:
  - (1) Ensure prompt response to individual claims and clean-up actions;
  - (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 so requires.

- (f) Authority to disburse. The environmental affairs board, by majority vote, shall be the disbursing authority for payments made from the fund. The environmental affairs board shall prepare a written report of any meeting at which such vote is taken, including the names of persons voting for and against, amount voted, and reason. The board of commissioners shall review such report at its next meeting.
- (g) Collection of expenditures. The county attorney, when the first permit is granted under this division, shall prepare a plan for collecting expenditures from the fund from parties responsible for discharges requiring such expenditures.
- (h) Procedures for closing of fund. The county finance officer shall prepare a plan for the closing of the fund within a reasonable time after the closure of the facility but shall not take place until 15 years after the closing date of the facility.

(Ord. of 9-10-1990, § XV)

**Sec. 23-61. Emission standards.**

- (a) This section is applicable to incinerators only.
- (b) Emissions from all incinerators at a waste facility shall meet the regulations governing the control of toxic air pollutants at 15A NCAC 2D.1101 et seq. and 15A NCAC 2H.0610 et seq., as amended by the state environmental management commission. A waste facility shall comply with all other applicable air quality rules and standards.
- (c) Ambient air concentrations shall be determined by using appropriate Environmental Protection Agency dispersion modeling procedures or other methods specified by the director. Ambient air concentrations are to be evaluated for annual period over a calendar year, 24-hour periods from midnight to midnight, for one-hour periods beginning on the hour, and for 15 minute periods beginning on the hour of 15, 30, or 45 minutes after the hour. The identification of each toxic air pollutant emitted and its corresponding emission rate shall be determined using mass balancing analysis, source testing, or other methods acceptable to the director.
- (d) For incinerators at a plant site where the total incinerator capacity is greater than 250 pounds per hour, the emissions of:
  - (1) Hydrogen chloride shall not exceed four pounds per hour unless the emission is reduced by at least 99 percent by weight; and
  - (2) Mercury shall not exceed seven pounds per 24-hour period.

(Ord. of 9-10-1990, § XVI)

**Sec. 23-62. Civil penalty for exceeding emission limits.**

- (a) This section shall apply to incinerators only.
- (b) Any person, firm, or legal entity who permits an incineration facility in the county to exceed the emission limits set forth above shall pay to the county a penalty of \$150.00 for each day the violation occurs.

(Ord. of 9-10-1990, § XVII)

**Sec. 23-63. Grounds for revocation of permit.**

The board of commissioners, after due notice to the holder of a permit to operate a waste facility in the county and an opportunity to be heard, may revoke the permit upon any of the following grounds:

- (1) If the emission from an incineration facility exceeds for a period of more than ten continuous days, the air emission limits set forth in this division.
- (2) As a result of operation of the plant in such a manner, the emission limits or any other criteria set forth in this division or conditions upon the permit are exceeded and result in the impairment of the health of persons or livestock living in the area, or the contamination of real estate in the area.
- (3) Failure to pay any penalties, taxes or assessments due under this division or the laws of the state.
- (4) Negligent supervision, or operation, or monitoring of the operation by the permit holder.
- (5) Violations of state and federal laws which protect public health and safety and the environment.

(Ord. of 9-10-1990, § XVIII)

**Sec. 23-64. Owner or operator in residence.**

If the owner or operator of a waste facility in the county is a corporation, a corporate officer of at least the status of vice president and who is a stockholder in the corporation shall reside with his family within two miles of the facility. If the facility is owned or operated by an individual, the individual must reside with his family within two miles of the facility. If the facility is owned by a partnership or any other entity, a partner or senior officer of the entity shall reside with his family within two miles of the facility. If the facility is owned by a trust, an officer of the trust must reside with his family within two miles of the facility.

(Ord. of 9-10-1990, § XIX)

**Sec. 23-65. Notification of transportation.**

Any person transporting medical, hazardous, or low-level radioactive waste into the county by truck or motor vehicle shall notify the office of the sheriff of the county by telephone of his expected time of arrival at the county line. Before entering the county, the transporter shall wait for an escort by the sheriff's department. The sheriff shall dispatch a deputy to meet the truck at or near the county line. Before proceeding the driver shall furnish the deputy a copy of his manifest or other documentation. The deputy shall inspect the truck to determine that it complies with all rules and regulation for such transportation as required by this division and the laws and statutes of the state and federal governments. If the truck is in compliance, the deputy shall then escort the truck to the waste facility. The deputy shall file the manifest with the county manager or his designee within 24 hours.

(Ord. of 9-10-1990, § XX; Ord. of 9/12/2006)

**Sec. 23-66. Criminal penalties.**

Any person, firm, or legal entity violating this division shall be guilty of a misdemeanor and, upon conviction, fined not more than \$500.00 for each offense or imprisoned for not more than 30 days for each offense. Each day this division is violated shall constitute a separate offense.

(Ord. of 9-10-1990, § XXI)

**Sec. 23-67. Civil remedies.**

- (a) Any person injured by failure of a permit holder to comply with this division shall have a civil cause of action against the permit holder, or anyone violating it, for any damages sustained as a result of the violation and the right to injunctive relief against the permit holder to enforce this division.
- (b) The county shall have the right to enforce this division by injunction, and shall have a cause of action for any damages the county sustains as a result of any violation of this division by the permit holder.
- (c) Any person or corporation violating this division by operating a waste facility in the county without a permit shall pay to the county a fine of \$1,500.00 per day for each day of operation. Each day shall be a separate offense.

(Ord. of 9-10-1990, § XXII)

**Secs. 23-68--23-85. Reserved.**

## DIVISION 3. MANAGEMENT OF SOLID WASTE

### Sec. 23-86. Purpose and statutory authority.

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

(Ord. of 9-14-1992, § I)

### Sec. 23-87. Definitions.

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

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

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

*Commercial solid waste* means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial waste.

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

*County Solid Waste Management Plan* shall mean the plan developed by the County pursuant to G.S. 130A-309.09A

*Department* means the department of environment and natural resources.

*Garbage* shall have the same definition as in G.S. 130A-290(a)(7).

*Hazardous waste* shall have the same definition as in G.S. 130A-290(a)(8).

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

*Industrial solid waste* shall have the same definition as in G.S. 130A-290(a)(13a).

*Inert debris* shall have the same definition as in G.S. 130A-290(14).

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

*Land-clearing debris* shall have the same definition as in G.S. 130A-290(15).

*Landfill* shall have the same definition as in G.S. 130A-290(16).

*Landlord* means the owner of property utilized for a single-family dwelling such as houses, mobile homes, modular homes or apartments.

*Medical waste* shall have the same definition as in G.S. 130A-290(18).

*Municipal solid waste* shall have the same definition as in G.S. 130A-290(18a).

*Municipal solid waste management facility* shall have the same definition as in G.S. 130A-290(18b).

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

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

*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 animal carcasses.

*Radioactive waste* means waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.

*Recycling* shall have the same definition as in G.S. 130A-290(27).

*Refuse* means solid waste, other than garbage or ashes, from residences, commercial establishments, and institutions.

*Regulated medical waste* means blood and body fluids in individual containers in volumes greater than 20 milliliters, microbiological waste, and pathological waste that has not been treated pursuant to rules promulgated by the department.

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

*Sanitary landfill* shall have the same definition as in G.S. 130A-290(31).

*Scrap tire* means a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.

*Septage*. shall have the same definition as in G.S. 130A-290(32)

*Sharps* means needles, syringes, and scalpel blades.

*Sludge* shall have the same definition as in G.S. 130A-290(34).

*Solid waste* shall have the same definition as in G.S. 130A-290(35).

*Solid waste collection* means any person who collects or transports solid waste.

*Solid waste disposal site* shall have the same definition as in G.S. 130A-290(36).

*Solid waste receptacle* means a county-owned container used for the temporary storage of residential solid waste while awaiting collection.

*Source separation* means setting aside recyclable materials at their point of generation by the generator.

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

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

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

*White goods* shall have the same definition as in G.S. 130A-290(44).

*Yard trash* shall have the same definition as in G.S. 130A-290(45).

Words and phrases not otherwise defined in the Division shall have the same definitions as contained in Chapters 103A and 153A of the General Statutes and the Federal Solid

Waster Disposal Act in Title 42 of the United States Code, as well as regulations duly promulgated by North Carolina federal agencies pursuant to those statutes, , and where and to the extent there is any conflict between the definition in the Division and those contained in those North Carolina and federal statutes and rules, those North Carolina and federal statutes and rules shall apply.

(Ord. of 9-14-1992, § II; Ord. 9/12/2005)

Cross references: Definitions generally, § 1-2.

**Sec. 23-88. Storage and disposal.**

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

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

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

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

(e) 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.

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

(1) In a landfill approved by the department;

(2) In an incinerator that has all required local, state, and federal control permits;

(3) By any other method, including recycling and resource recovery, that has been approved by the department.

- (g) In addition to the methods listed in subsection (f) of this section, residential solid waste may be disposed of in solid waste receptacles in accordance with Section 23-90 of this Division.
- (h) No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or private property unless such solid waste is placed in a receptacle at a location designated for the deposit of solid waste.
- (i) Construction wastes must be disposed of at disposal sites approved and permitted by the department.
- (j) Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the department.
- (k) Any person collecting and transporting solid waste generated on such person's property for disposal at an approved disposal site shall comply with subsection 23-92(f) concerning vehicles and containers.
- (l) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.
- (m) Open burning of solid waste is prohibited.

(Ord. of 9-14-1992, § III; Ord. of 9/12/2005)

**Sec. 23-89. Solid waste management.**

- (a) The county solid waste transfer station, convenience and recycle centers and demolition landfill may be used for the proper disposal of solid waste generated by county residents and nonresident property owners. These facilities shall be open not less than 44 hours weekly according to business hours established by the board of commissioners. Except when open during regular business hours, these facilities shall be kept locked, and entry shall not be permitted. Placement of solid waste at locked entrances to these facilities is prohibited and shall be considered a violation of this division.
- (b) The following wastes may not be disposed of in the county sanitary landfill or in any municipal solid waste landfill:
  - (1) Burning or smoldering materials, or any other materials that would create a fire hazard;
  - (2) Hazardous waste;
  - (3) Liquid waste;
  - (4) Untreated waste;

(5) Radioactive waste;

(6) Lead-acid batteries;

(7) Clean wood waste;

(8) Used oil;

(9) White goods;

(10) Yard trash;

(11) Asbestos;

(12) Barrels;

(13) Sludges;

(c) The county shall provide facilities meeting the department regulations and permitted by the department as appropriate for the proper disposal of used tires. Operating rules and procedures shall be as established by the board.

(d) The county shall make provisions for composting all clean, unpainted wood waste, yard waste, trees, limbs and stumps. Municipal and industrial sludges approved by the department may also be disposed of by this or another approved method.

(e) Loitering, scavenging or rummaging through solid waste containers and/or facilities is prohibited.

(f) No person may deposit material at any county facility except where indicated by authorized employees or by official signs.

(g) No unauthorized person may discharge firearms, fireworks or explosives on county property.

(h) The maximum allowable speed of all vehicles through solid waste facilities is 15 miles per hour.

(Ord. of 9-14-1992, § IV)

**Sec. 23-90. Solid waste receptacles.**

(a) Solid waste receptacles are maintained at strategic sites throughout the county for the disposal of residential solid waste, maintained and serviced by the county. Solid

waste may be deposited in the receptacles only in accordance with the provisions of this division.

(b) The following wastes may not be deposited in solid waste receptacles:

- (1) Asbestos;
- (2) Burning or smoldering materials, or any other materials that would create a fire hazard;
- (3) Commercial waste;
- (4) Construction waste;
- (5) Hazardous waste;
- (6) Industrial waste;
- (7) Institutional waste;
- (8) Lead-acid batteries;
- (9) Liquid waste;
- (10) Radioactive waste;
- (11) Regulated medical waste;
- (12) Tires;
- (13) Yard trash;
- (14) Sludges;
- (15) Barrels;
- (16) Sharps not properly contained.

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

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

- (e) The board shall approve operating rules and procedures governing the daily operation of all county residential collection sites, manned or unmanned.

(Ord. of 9-14-1992, § V)

**Sec. 23-91. Flow control.**

- (a) All solid waste generated within the designated geographic area of the county solid waste management plan that is placed in the waste stream for disposal or recycling shall be collected, transported, and disposed of at the county solid waste facility or the county landfill, or a privately owned municipal solid waste facility for which the County has granted a franchise. The removal of solid waste from within the geographic area for disposal except by the county or a private entity, which has been granted a franchise from the county is prohibited. This section shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.
- (b) No person, except licensed solid waste collectors and county or municipal collectors shall collect or remove any solid waste within the county for disposal.
- (c) The county shall establish a system of classification for classes of solid waste that shall be consistent with a system of classification in the county solid waste management plan. The classification system shall be used as a basis for requiring that solid waste be delivered to an appropriate county disposal facility in accordance with the county solid waste management plan.

(Ord. of 9-14-1992, § VI, Ord. of 9/12/2005)

**Sec. 23-92. Licensing of solid waste collectors.**

- (a) No person may engage in business as a solid waste collector except as defined in this division and without possessing a license issued by the county pursuant to this division.
- (b) Applications for licenses to engage in the business of solid waste collector shall be filed with the county solid waste superintendent on forms approved by the county. The applicant shall furnish the following information:
  - (1) Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
  - (2) A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;
  - (3) Number of employees the applicant expects to use in the business;

- (4) Experience of the applicant in solid waste collection;
  - (5) Map of the planned routes and areas of the county the applicant expects to serve;
  - (6) Schedule of fees the applicant expects charge;
  - (7) Evidence of liability insurance coverage;
  - (8) Names and addresses of all residential customers updated semi-annually.
- (c) Before issuing a license pursuant to this section, the county may inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.
- (d) The county solid waste superintendent may issue the applicant a license only when he finds that the applicant's facilities, equipment, and proposed operating methods are in compliance with this division and applicable rules of the department and that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this division.
- (1) If the county denies an applicant a license, the applicant may request a hearing before the county manager. The county manager shall keep summary minutes of the hearing and within 30 days after the hearing shall give the applicant written notice of his decision either granting the license or affirming his denial of the license. The applicant may appeal the county manager's decision to the board of commissioners by giving written notice of appeal to the county manager within five days of receipt of the county manager's decision following the hearing. After a hearing on the appeal, the board shall either affirm the denial or direct the county manager issue the license.
  - (2) A license shall be valid for a period of one year from the date of issuance.
- (e) A licensee shall submit a semi-annual report to the county manager containing the following information:
- (1) Number with names and addresses of customers added or deleted;
  - (2) Changes in routes;
  - (3) New and replacement equipment;
  - (4) Any other information requested by the county and pertinent to the solid waste collection business.

- (f) Vehicles and containers used for the collection and transportation of solid waste shall be:
- (1) Covered, leakproof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in numbers at least three inches high the county license number of the licensee and the license sticker issued by the county.
  - (2) Loaded and moved in such a manner that the contents will not fall, leak, or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.
- (g) When the county solid waste superintendent finds that a licensee has violated this division or the conditions of the license, he shall give the licensee written notice of the violation and inform him that if another violation occurs within 30 days, or in the case of a continuing violation, if it is not corrected within ten days, the license will be revoked. If another violation occurs within the 30-day period, or, if the continuing violation is not corrected within ten days, the county shall give the licensee written notice that the license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting or disposing of solid waste. The county may reinstate a revoked license after the revocation has been in effect for 30 days if the solid waste superintendent finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the county manager by giving written notice of appeal to the county manager within ten days of receiving notice of revocation from the county solid waste superintendent. After a hearing on the appeal, the county manager shall either affirm the revocation or direct the county solid waste superintendent to reinstate the license.
- (h) No license issued pursuant to this division shall be assignable.
- (i) The county shall assesses and collect a \$150.00 licensee applications fee. There shall be a nonrefundable annual renewal fee of \$75.00.
- (j) A provision is made for a landlord to collect garbage from his rental properties and dispose of such garbage at the solid waste disposal facilities in accordance with the following conditions:
- (1) If collection is from less than 25 residential dwellings, garbage may be taken to the nearest convenience center or landfill for disposal.
  - (2) No license shall be required of a landlord servicing 25 or less residential dwellings. No additional fee will be assessed by the county for this provision.
  - (3) If a landlord services more than 25 dwellings, he shall be required to obtain a license as outlined in this section and transport the collected waste to the landfill

or the transfer station for disposal. The landlord may not dispose of such waste at a county dumpster site or convenience center.

(4) A landlord providing collection for more than 25 dwellings and having been issued a license may apply for a credit of \$36.00 per residential household served annually as a result of not utilizing the county collection system. This adjustment shall be effective for as long as the service is provided and/or the license is current.

(k) The county will monitor the monthly tonnage of residential waste disposed of by all licensed haulers.

(Ord. of 9-14-1992, § VII)

### **Sec. 23-93. Fees and collection (landfill assessment)**

The county shall establish fees for the collection, transporting and disposal of solid waste services provided by the county. All residential fees established shall be billed and collected as provided in G.S. 153A-292. Any solid waste fee imposed by the board may be billed and collected in the same manner as property taxes according to the provisions of G.S. 153A-293, with such fees becoming delinquent on January 6. The following July 1 shall serve as the date of attachment of liens for those accounts continuing being delinquent.

(Ord. of 9-14-1992, § IX)

### **Sec. 23-94. Littering and Enforcement (Violations of GS 14-399 and/or Richmond County Solid Waste Ordinance)**

Any person found to be violating the disposal provisions or improperly disposing of solid waste as defined in G.S. 14-399 shall be subject to the penalties listed in Sec 23-95. In addition, the following fines for violating the Richmond County Solid Waste Ordinance, adopted by the Richmond County Board of Commissioners (as allowed under GS 153A-123) shall be enforced by a Solid Waste Enforcement Officer. All fines issued must be settled within 30 days of the citation date to prevent further legal action. Payments will be collected at the Richmond County Solid Waste Facility.

#### **Improper Transportation of Solid Waste (unsecured load)**

1st Offense: Warning of non-compliance with notice of Ordinance

2<sup>nd</sup> Offense: \$ 25 fee

3<sup>rd</sup> Offense: \$ 75 fee

Additional Offenses: \$ 500 or Court

#### **Open / Illegal Burning of Solid Waste**

1<sup>st</sup> Offense: Warning of non-compliance with notice of Ordinance

2<sup>nd</sup> Offense: \$ 100 fee  
3<sup>rd</sup> Offense: \$ 200 fee  
Additional Offenses: \$ 500 or Court

**Improper Storage**

1st Offense: Warning of non-compliance with notice of Ordinance  
2<sup>nd</sup> Offense: \$ 50 fee  
3<sup>rd</sup> Offense: \$ 150 fee  
Additional Offenses: \$ 500 or Court

**Littering / Illegal Dumping of Solid Waste**

*(Under 250 lbs / or Littering up to one bag)*

1<sup>st</sup> offense: \$50 fee  
2<sup>nd</sup> offense: \$ 150 fee  
3<sup>rd</sup> and each additional offense: \$ 500 fee

*(Litter of 2-5 bags)*

1<sup>st</sup> offense: \$ 100 fee  
2<sup>nd</sup> offense: \$ 250 fee  
3<sup>rd</sup> and each additional offense: \$ 500

*Litter of more than 5 bags*

1<sup>st</sup> offense: \$ 250  
2<sup>nd</sup> offense: \$ 500  
3<sup>rd</sup> and each additional offense: \$ 1000 fee

*More than 250 lbs.*

1st offense: \$ 500 fee  
2<sup>nd</sup> offense: \$ 1000 fee  
3<sup>rd</sup> and each additional offense: \$ 2000

(Ord. of 9-14-1992, § X) (Ord of 6-7-16)

**Sec. 23-95. Enforcement.**

- (a) Criminal penalty. Any person in violation of this division shall be guilty of a misdemeanor punishable by a fine of not to exceed \$500.00 or imprisonment for not more than 30 days, or both. Each day's violation shall be treated as a separate offense.
- (b) Civil penalty. Any person who is found in violation of this division shall be subject to a civil penalty of \$500.00 as provided in G.S. 153A-123. Each day's violation shall be treated as a separated offense.

- (c) Remedies. This division may be enforced by equitable remedies, and any unlawful condition existing or in violation of this division may be enforced by injunction and order of abatement in accordance with G.S. 153A-123.
- (d) Any solid waste disposed of in violation of this ordinance that can be identified as having last belonged to, been in the possession of, sent to or received by or to have been the property of any person prior to being disposed of, such identification shall be presumed to be prima facia evidence that such person disposed of or caused the be disposed of such solid waste in violation of this ordinance.

(Ord. of 9-14-1992, Ord. of 5-2-05)