

SOLID WASTE MANAGEMENT ORDINANCE POLK COUNTY, NORTH CAROLINA

PURPOSE: The purpose of this ordinance is to promote the public safety, health, and welfare of the citizens of Polk County by regulating the management of solid waste and recycling in Polk County.

ARTICLE I – TITLE

This ordinance shall be known and may be cited as the Solid Waste Management Ordinance of Polk County, North Carolina.

ARTICLE II – PREAMBLE

Whereas, the Polk County Board of Commissioners (Board of Commissioners) is authorized by North Carolina General Statute 153A-136 to regulate the storage, collection, transportation, use, disposal and other disposition of solid waste within Polk County.

The Board of Commissioners hereby adopts the following ordinance to regulate the storage, collection, transportation, use, disposal and other disposition of solid waste.

Now, therefore, be it ordained that the following regulations shall apply to Polk County, North Carolina.

ARTICLE III – JURISDICTION

On and after the effective date of this ordinance, the provisions of this ordinance shall govern the storage, collection, transportation, use, disposal and other disposition of solid wastes within Polk County, North Carolina.

ARTICLE V – DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of these regulations:

- A. Banned Material** – Those materials listed in Article VI, Letter B.
- B. Bulky Wastes** – Large items of solid waste such as household appliances, furniture, automobiles, large auto parts, trees, branches, stumps, and other oversized waste whose size precludes or complicates their handling

by normal solid waste collection, processing, or disposal methods.

- C. **Commercial Waste** – Non-hazardous putrescible and non-putrescible waste generated by entities other than an individual residence.
- D. **Compost** – Biodegradable material that is managed in such a way to promote its decomposition so that a usable soil amenity is produced.
- E. **Construction & Demolition Waste (C&D)** – Waste building materials, packaging, roofing shingles, and rubble resulting from construction, remodeling, repair. This includes concrete, bricks, uncontaminated earth, untreated wood waste clean of nails or other hardware, and demolition operations on pavements, houses, commercial buildings, and other structures as approved by Polk County.
- F. **Contractor** – Any builder or developer that generates a waste stream.
- G. **County**- Polk County, North Carolina
- H. **Environmental Manager** – Administrator of the County Solid Waste Department.
- I. **Excess Waste** – Solid wastes from individual residences exceeding 400 pounds per visit.
- J. **Garbage** – All putrescible wastes, including animal and vegetable matter, small animal offal and carcasses, and recognizable industrial by-products, but excluding sewage, human waste, and any liquid waste.
- K. **Hazardous Waste** – As defined in North Carolina General Statute 130A-290(8).
- L. **Illegal Dumping** – Any action that contributes to the illegal disposal or accumulation of litter, solid waste, or recyclables.
- M. **Industrial Waste** – Non-hazardous waste generated by an industrial or manufacturing process.
- N. **Land Clearing Debris**- Solid wastes generated solely from land-clearing activities.
- O. **Landfill Use Permit**- An annual permit available for purchase by individual households that deliver their own waste to the transfer station.
- P. **Litter** – Any amount of solid waste or recyclables, which has been disposed of, discarded, or abandoned improperly or illegally including solid waste and recyclables on roadsides, in water, or on public or private lands. Litter does not include biodegradable material collected in a safe manner for composting purposes, or solid waste or recyclables collected on a person's own property for some legal, safe purpose.
- Q. **Recyclables** – Those materials, which are capable of being recycled, which would otherwise be processed or disposed of as solid waste.
- R. **Recycling Center** – A staffed drop-off site that is owned or operated by the County to which people residing in Polk County can bring their recyclables.
- S. **Residential Waste** – Solid waste generated in the day-to-day activities of households.

- T. Solid Waste** – As specifically defined in North Carolina General Statute 130 A-290 (a) 35. In general, solid waste is garbage, refuse, rubbish, trash, and other discarded solid materials not recycled including solid waste materials resulting from industrial, commercial, and agricultural operations and from community activities, but not including solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollution.
- U. Solid Waste Enforcement Officer(s)** – The county employee(s) responsible for executing the enforcement provisions of the Solid Waste Ordinance.
- V. Transfer Station** – Facility used for staging and bulking of County solid waste prior to transport to an approved sanitary landfill.
- W. Waste Hauler** – Any person or company that hauls solid waste or recyclables for a fee.
- X. Waste Hauler Permit**- A required permit for the commercial collection of waste within the County.
- Y. Yard Waste** – All biodegradable clearing debris and vegetative matter including lawn clippings, leaves, brush, and garden refuse.

ARTICLE VI – USE OF TRANSFER STATION

A. Authority of County Agents to Regulate Use

1. The Transfer Station in Polk County is operated and maintained by the County and financed by revenues generated through Availability Fees, Residential Landfill Use Permits, Tipping Fees, and “Per Trip” fees. The landfill use permits will be sold at the Transfer Station. “Per Trip” fees will be charged and collected at the Transfer Station. The County Commissioners shall adopt a schedule of rates, fees and charges.
2. The purpose of these allocated monies is to provide solid waste management and recycling services to citizens in the incorporated and unincorporated areas of the county. Therefore, it shall be unlawful for any person to use the County Transfer Station unless such person is disposing of solid waste generated on property located within Polk County.
3. The North Carolina Department of Environment and Natural Resources (DENR) regulates the operation of the Polk County Transfer Station. The County shall have the authority to determine what types of waste can be transferred through the Transfer Station in accordance with the most current State and Federal rules and regulations governing such disposal.

- B. Materials- Materials may be excluded if they violate the conditions of the DENR Solid Waste Operating Permit or any permit conditions/restrictions imposed on the County by any landfill receiving the County's waste.
- C. Recyclables- it shall be illegal to deposit any material in a recycling container that is not specifically marked to accept the said material.
- D. Fire Prevention- It shall be unlawful for any person to set or cause to be set any fire in a solid waste container. No person shall place embers, ashes, or other material in a container that would create a fire hazard.
- E. Scavenging - It shall be unlawful for any person to enter or to remove any item from a solid waste or recycling container unless they have express written permission from the Environmental Manager or a duly authorized representative. No person shall climb on, around or inside a solid waste or recycling container. No person shall cause any damage to be inflicted upon a solid waste or recycling container. No person or persons shall loiter and/or congregate at the Transfer Station site or recycling drop-off site and no vehicle shall be left unattended on said property. Any vehicle left unattended may be towed away and placed in storage at the owner's expense, except in accordance with a "Reuse" program to be developed by the Solid Waste Enforcement Officer. This paragraph shall not apply Transfer Station employees acting in the normal course of their duties at the Transfer Station.
- F. Littering and Illegal Dumping
1. It shall be unlawful for any person to sweep, throw, deposit, dump, permit, allow, maintain or contribute to the sweeping, throwing, depositing, or dumping any litter, solid waste, or recyclables into, upon or along a drain, gutter, street, sidewalk, alley, vacant or occupied lot, walk, parking lot, embankment, within or near any public or private lake, pond, creek, river, stream, ditch, swamp, marsh, whether or not navigable, or upon any public or private premises within Polk County.
 2. It shall be unlawful for any owner, occupant, tenant or lessee of any building, structure or land jointly or severably to permit the deposit or accumulation of litter or other illegally dumped materials. Garbage or residential waste allowed to accumulate in excess of two weeks will be unlawful.
 3. Property owners and prime contractors in charge of a construction site shall both be required to take appropriate measures to ensure the control of litter generated by construction and related activities.
 4. It shall be unlawful to leave solid waste, litter, or improperly sorted recyclables at any county drop-off recycling center.
 5. It shall be unlawful for any person to leave, throw, or deposit any solid waste, recyclables, or litter at any former waste disposal site from which all solid waste containers have been removed.
 6. It shall be unlawful for anyone to improperly dispose of hazardous material

ARTICLE VII – SOLID WASTE TRANSPORTATION

Vehicles or containers used for the collection and transportation of garbage or refuse within Polk County shall be covered, leak proof, durable and of sturdy construction. These shall be cleaned as often as necessary to prevent a nuisance and shall be maintained in good repair. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill. The vehicles or containers shall be covered or securely tied to prevent blowing of material. If spillage should occur, the material shall be considered litter unless picked up immediately by the hauler and returned to the vehicle or container and the area properly cleaned.

ARTICLE VIII – WASTE HAULER PERMITS

- A. This subsection shall not apply to any persons disposing of solid waste from their own residence. No person within Polk County shall collect, transport or dispose of solid waste without a permit issued by the Solid Waste Department.
- B. Permits shall be obtained from the office of the Solid Waste Department, and are valid for one year.
 1. There will be a permit fee charged to all private haulers that collect and haul waste within Polk County.
 2. In order to receive a permit, the hauler must register with the Solid Waste Department. Each vehicle used in the collection of waste within the County must pass an inspection to establish the safety of the vehicle. The inspection will occur at the transfer station. The purpose will be to verify both a current tag and state vehicle inspection. The permit number must be conspicuously posted on the vehicle and easily visible to the scale house attendant.
 3. As a condition of the permit, all waste must be enclosed or covered with a tarp during transport. The waste must be delivered to the correct section of the transfer station property, as directed by site employees.
 4. As a condition of the permit, the hauler must provide certificates of insurance for appropriate coverage as required by law such as workers compensation, vehicle, and general liability. This must be kept current in order for the permit to remain active.
- C. It shall be illegal for haulers to bring solid waste or recyclables that have been banned into the transfer station commingled with other solid waste.
- D. All private haulers who collect residential waste for a fee will engage in good faith efforts to establish a program to collect and recycle aluminum cans, newspapers, magazines, steel food cans, glass bottles and plastic bottles, or else not accept the said materials commingled with the residential garbage that they collect.
- E. It shall be unlawful for any private hauler to falsely advertise that he is recycling any material when in fact he is not, and may result in the revocation of the hauler's permit
- F. Any failure to comply with this Ordinance may result in the suspension of the permit for collecting and hauling

solid waste in Polk County, pending a determination by the County Manager. The Waste Hauler, by written statement, may appeal the suspension. The County Manager or his designee may hold a hearing on the appeal of the suspension or may consider the matter on the written record. The County Manager or his designee shall issue a written decision on the Appeal within thirty days of receipt of the Appeal. A copy of the written decision shall be mailed to the Waste Hauler.

ARTICLE IX – SOLID WASTE DISPOSAL

Waste shall be disposed of in one of the following methods:

- A. By placing allowed household or commercial solid waste in plastic garbage bags and / or containers in preparation for delivery to the Polk County Transfer Station.
- B. By delivering allowed waste to the Polk County Transfer Station, or any other permitted sanitary landfill that meets all local, State, and Federal regulations.
- C. A resident may dispose of certain types of residential waste generated at his premises upon his residence premises, limited to reclaiming, composting, mulching, or recycling processes been approved, but only in a safe and sanitary manner approved by the Solid Waste Department or a duly authorized representative and agree with the North Carolina Division of Waste Management, Solid Waste Rules 15A NCAC 13B, Section 0500. A person's premise is the land on which his dwelling is situated and land contiguous therewith which is owned by said person.
- D. By any other method including disposal of solid waste by any other method, including dumping, burying or burning.
- E. The burial of animals is acceptable pursuant to the guidelines set forth by North Carolina General Statute 106-403 (NCGS).
- F. Tipping fees will be charged for all C&D waste in excess of 400 pounds.

ARTICLE X - ENFORCEMENT

Enforcement of this Ordinance shall be the County Manager or his designee.

- A. When litter is placed, thrown, or deposited into, upon or along any public or private property, the person responsible for the litter shall be responsible to remove said material and dispose of such in accordance with this ordinance.
- B. When litter is released from a vehicle, the operator thereof shall be presumed to have committed such offense.
- C. If any solid waste disposed of in violation of this Ordinance can be identified as having 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 prima facie evidence that such person disposed of or caused the disposal of such solid waste in violation of this Ordinance.
- D. Photographs or videotapes of an illegal dump, litter, or of a person in the process of committing such offense may be used as evidence to identify the person responsible.

ARTICLE XI – PENALTIES FOR VIOLATION

- A. The violation of any provision of this ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in G.S. 14-4 by imprisonment not to exceed thirty (30) days or a fine not more than \$500. Each day's violation of this ordinance may be a separate offense.
- B. In addition to criminal penalties and other sanctions which may be levied under this Ordinance, any person violating any of the provisions of this ordinance may be subject to a Civil Penalty for each violation. Each day a violation continues may be considered a separate offense. During the pendency of any enforcement proceedings hereunder, the County reserves the right to limit or prohibit the disposition of any solid waste or recycling material by the Waste Hauler against whom enforcement proceedings are pending at the Transfer Station.
1. Such civil penalties may be recovered by Polk County in a civil action in the nature of debt or may be collected in such other manner as prescribed herein within the prescribed time following the issuance of notice for such violation.
 2. Such notice shall, among other things:
 - a. State upon its face the violation committed, the place and approximate date, and the amount of the penalty.
 - b. Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty together with the cost of the action to be taxed by the Court.
 - c. Further provide that such offender may answer the notice by mailing said notice, and stated penalty to the Polk County Government at a location designated upon such notice, and that upon payment, such case or claim and right of action by Polk County will be deemed compromised and settled.
 - d. The notice of violation referred to herein may be delivered to the person violating the provisions of this ordinance in person, or may be mailed to said person at his last known address.
 - e. The County Manager or duly designated employee is authorized to accept such payments in full and final settlement of the claim or claims, right or rights or action which Polk County may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such alleged violation or violations.
- C. The County may enforce this Ordinance by appropriate equitable remedy issuing from a court of competent jurisdiction.

1. Civil penalties for violation of this ordinance shall be as follows:
 - a. Littering - \$50 per offense for unintentional, \$500 per offense for intentional.
 - b. Residential Violation (backyard dumping or burning) - \$50 per offense.
 - c. Any Waste Hauler of Commercial, Residential, or Industrial Waste that Disposes Waste Containing a Banned Material - Two times the tipping fee for the first offense; three times the tipping fee for each successive offense.
 2. All penalties paid to the County as well as those recovered in a civil action in the nature of debt as herein provided shall be paid into the schools fund of Polk County.
- D. The person or persons littering or dumping in violation of this ordinance and the person or persons generating said litter or unauthorized material so dumped shall be liable, jointly and severally, for all costs incurred by the County in the collection, removal, and disposal of said litter or unauthorized material.

ARTICLE XII – SEVERABILITY

Should any section or provision of this ordinance be for any reason held void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section or provisions herein.

ARTICLE XIII – REPEAL OF CONFLICTING ORDINANCES

To the extent this ordinance conflicts with any existing County Ordinances, the provisions of this Ordinance shall prevail.

ARTICLE XIV – EFFECTIVE DATE

All ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective, July 1, 2004.

Adopted the 22 day of March, 2004

Mr. Daryl K. Talbot
Chairman, Board of Commissioners

Attest:

Ms. Anne Britton
(Acting) Clerk to the Board