

Chapter 20 SOLID WASTE MANAGEMENT*

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***State law reference(s)**--Solid waste management, G.S. 130A-290 et seq.

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ARTICLE I. IN GENERAL

Secs. 20-1--20-25. Reserved.

ARTICLE II. STORAGE, COLLECTION, TRANSPORTING AND DISPOSAL

Sec. 20-26. Definitions.

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

Agricultural waste means waste materials produced from the raising of plants and animals, including animal manures, bedding, plant stalks, hulls and vegetable matter.

Ashes means residue from burning of wood, coal, coke or other combustible materials.

Board of health means the county board of health.

Demolition landfill means a sanitary landfill that is limited to receiving stumps, concrete, brick, treated wood, uncontaminated earth or other solid wastes as approved by the county.

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

Division means the solid waste management division of the state department of environment, health and natural resources.

Garbage means all putrescible solid wastes, including vegetable matter, animal offal, carcasses of animals and recognizable industrial byproducts, but excluding human body wastes and animal manure.

Hazardous waste means a solid waste, or combination of solid wastes, which because of its quantity, concentration, physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase serious irreversible or incapacitating reversible illness, or may pose a substantial present or potential hazard to human health or the environment when properly treated, stored, transported or disposed of or otherwise managed.

Health director means the health director of the county or his authorized agent.

Incineration means the process of burning solid, semisolid, liquid or gaseous combustible waste to an inoffensive gas and residue containing little or no combustible material.

Infectious waste means:

- (1) Equipment, instruments, utensils and fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having communicable disease and must, therefore, be isolated as required by public health agencies.
- (2) Laboratory waste, such as pathological specimens (e.g., all tissues, specimens of blood elements, excreta and secretions from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto.
- (3) Surgical operating room pathologic specimens and disposable fomites attendant thereto, and similar disposable materials from outpatient areas and emergency rooms.

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

Premises means each single residential dwelling unit housed in a building used for residential purposes, or mobile home, or a structure used for residential purposes on any property. Premises also means each unit contained in any structure serving a separate owner, tenant, lessee or used for any purpose other than residential. Premises is also property conveyed in a deed.

Radioactive waste means any waste which emits ionizing radiation spontaneously.

Refuse means all nonputrescible solid waste. Refuse consists of both combustible and noncombustible materials such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, metals and similar materials.

Sanitary landfill means a facility for the disposal of solid waste on land in a sanitary manner, in accordance with G.S. 130A-290 et seq.

Solid waste means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served in its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include fowl and animal fecal waste; solid or dissolved material in domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters, in irrigation return flows and in wastewater discharges and the sludges incidental thereto and generated by the treatment thereof, which point sources are subject to permits granted under section 402 of the Federal Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the environmental management commission; except that any sludges that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580) as amended, shall also be a solid waste for the purpose of this article; or oils and other liquid hydrocarbons controlled under G.S. 143-211 et seq. except that any such oils or their liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580) as amended, shall also be a solid waste for the purpose of this article; or any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 et seq.; or mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated under the North Carolina Mining Commission (as defined under G.S. 143B-290); except that any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580) as amended, shall also be a solid waste for the purpose of this article.

Solid waste collector means any person who collects, transports or disposes of solid waste for pay, and transports the solid waste to an approved disposal facility.

Solid waste convenience center means a permanent structure with mechanical equipment used for the collection and/or compaction of solid waste prior to the transporting of solid waste for final disposal. It is also an area used by the county for the collection of recyclable materials from county residents, as approved by the board of commissioners, upon recommendation by the board of health.

White goods means household appliances including, but not limited to refrigerators, washing machines, water heaters and clothes dryers.

Yard waste means yard trash and land clearing debris as defined in G.S. 130A-290, including stumps, leaves, grass and untreated wood.

(Ord. of 1-1-92, § I)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 20-27. Penalties and remedies.

(a) Any person violating this article shall be guilty of a misdemeanor and punished in accordance with section 1-7.

(b) Notwithstanding the penalties described in subsection (a) above, the county may seek restitution for damages or extra expenses caused by the violation of this article in any court having jurisdiction.

(Ord. of 1-1-92, § XI)

Sec. 20-28. Accumulation and storage of solid waste.

(a) No owner, occupant, tenant or lessee of any public or private premises shall permit the accumulation upon his premises of any garbage, rubbish or solid waste that has been in contact with or soiled by animal or vegetable wastes, that is not stored or disposed of in the following manner:

(1) All garbage shall be stored in a container that is durable, rust-resistant, nonabsorbent, watertight, rodentproof, and easily cleanable with a close-fitting, flytight cover in place with adequate handles to facilitate the easy removal of garbage.

(2) It shall also be unlawful for any person to store garbage of a perishable or offensive nature for more than one week in any type of container.

(b) Solid waste and garbage shall not be deposited, stored or permitted to accumulate on any property for more than 48 hours in such a manner that it will provide food or harborage for insects or rodents, or constitute a fire or safety hazard.

(1) It shall be unlawful for any occupant of any dwelling or dwelling unit to place or leave outside of any such building any furniture, refrigerator, stove or other appliance, machinery, equipment, building material or other item which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition, and which is not completely enclosed within a building or a privacy fence. This section shall not apply to a licensed junk dealer.

(2) It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded refrigerator or any other container of any kind which has an airtight snap lock or other device thereon without first removing the snap lock doors from the refrigerator or any other container of any kind which is

crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited solid waste on a street or highway, upon public parks or recreation areas, or upon any other public or private property.

(d) It shall be unlawful for any person to dispose of garbage or solid waste to any place other than in a manner approved by law. Acceptable means of disposal by person include the following:

(1) Contracting with a solid waste hauler.

(2) A resident hauling his own garbage and solid waste to a public sanitary landfill site or to a solid waste convenience center.

(3) Burning solid waste in an incinerator of a type approved by the state department of environment, health and natural resources.

(e) Where there is more than one premises located in a residential building or mobile home park, it shall be the ultimate responsibility of the owner of each building or mobile home park to maintain proper storage and disposal of all solid waste.

(Ord. of 1-1-92, § II)

Sec. 20-29. Collection of solid waste; solid waste permits.

(a) The owner, occupant, tenant or lessee of any premises upon which garbage is stored shall remove or cause to be removed all garbage from the premises at least once weekly (seven days).

(b) Solid waste collectors shall remove all solid waste from the premises, when they receive compensation for their services, at least once weekly. The work shall be done in a clean and orderly manner, without causing damage to the container. Any solid waste that is spilled shall be removed, and the premises left in a sanitary manner.

(c) No person shall collect, transport or dispose of refuse, garbage or solid waste for pay without a written permit from the health director.

(d) The health director shall issue such permit only when, upon inspection, findings demonstrate that the facilities, equipment and proposed operating methods of the applicant are in compliance with the requirements of this article.

(e) The health director is authorized and directed to refuse to issue any permit to collect, transport or dispose of refuse, garbage or solid waste whenever he finds upon inspection that the facilities, equipment and proposed operating methods are not in compliance with the requirements of this article.

(f) Vehicles or containers used for the collection and transporting of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be covered to prevent blowing of material. If spillage should occur, the material shall be picked up immediately by the occupant of the vehicle and returned to the vehicle or container and the area properly cleaned.

(g) Permitting of collection and transporting of solid waste by a solid waste collector will be on an annual basis.

(h) Permitting of collection and transporting of solid waste by a governmental unit shall be valid as long as the permittee conforms to this article.

(i) Whenever, upon inspection of the facilities, equipment or operating methods of any person collecting, transporting or disposing of garbage, refuse or solid waste, the health director finds that conditions or practices exist which are in violation of the provisions of this article the health director shall give notice in writing to such person that unless such conditions or practices are corrected within ten days the operating permit of such person shall be suspended. At the end of such ten-day period the health director shall make a reinspection, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to such person that his permit has been suspended. Upon receipt of notice of suspension, such person shall immediately cease to collect, transport or dispose of refuse, garbage or solid waste. No such permit shall be reinstated by the health director until he finds upon reinspection that all provisions of this article have been complied with, except that following a hearing as provided in this section such permit may be reinstated by the county board of health.

(j) Upon written petition from a person whose permit to collect, transport or dispose of rubbish, garbage and solid waste has been suspended, the board of health shall hold a hearing, at which time such person shall be given an opportunity to show that his permit should not have been suspended. No such hearing shall be held unless written petition therefor shall have been filed in the office of the health director to communicate the request to the chairman of the board of health as soon as practicable. Such hearing shall be held by the board of health within five working days following receipt of the petition by the chairman. After the hearing, the board of health may either revoke or reinstate the permit, depending upon its finding as to whether this article has been complied with. If no such petition is filed on or before the tenth day following the day on which such a permit was suspended, the permit shall be deemed to have been automatically revoked.

(k) When any person has made application for a permit to collect, transport and dispose of refuse, garbage or solid waste and the health director has refused to issue a permit to the applicant, the applicant may file a written petition for a hearing before the board of health. Petition for hearing must be filed with the health director within ten days after the refusal. The health director must communicate the request to the chairman of the board of health as soon as practicable. The board of health shall act upon the petition within ten days of its receipt to grant the permit, depending upon compliance with this article.

(Ord. of 1-1-92, § III)

Cross reference(s)--Businesses, ch. 8; health and sanitation, ch. 16.

Sec. 20-30. Disposal sites.

(a) The disposal of solid waste shall be lawful only by the following methods as approved by the state department of environment, health and natural resources:

- (1) Sanitary landfill.
- (2) Demolition landfill.
- (3) Incineration.
- (4) Disposal by any other sanitary method which may be developed and demonstrated to be capable of fulfilling the basic requirements of the state solid waste management rules, as amended, which have been approved by the state department of environment, health and natural resources.

(b) Any disposal facility in the county shall be operated according to rules and regulations for solid waste disposal adopted by the division. The operational requirements for a disposal facility as adopted by the division on April 4, 1990, and recodified on March 1, 1991, or as amended thereto, are made a part of this article by reference.

(c) All persons using a disposal facility operated by the county shall abide by the rules and regulations governing its use and a violation of such rules and regulations shall constitute a violation of this article.

(d) A person using or allowing others to use an open dump for disposal of solid waste located on his property is in violation of this article and must close the site in accordance with 15A N.C.A.C. 13B (.0502).

(e) In accordance with the Solid Waste Management Act of 1989 and as amended, certain special waste have been banned from the landfill. The special waste bans and effective dates are as follows:

- (1) Whole tires, July 1, 1990.
- (2) Used motor oil, October 1, 1990.
- (3) White goods, January 1, 1991.
- (4) Lead acid batteries, January 1, 1991.
- (5) Yard waste, June 30, 1991.

(f) It shall be unlawful to dispose solid waste containing any corrugated cardboard in the county sanitary landfill. This ban applies to any corrugated cardboard originating from an institution, commercial or industrial operation. This ban shall be in effect as of July 1, 1992. Persons in violation of this ban will be fined in the following manner:

- (1) First offense--written warning.
- (2) Second offense--two times the regular tipping fee of the entire load.
- (3) Third offense--four times the regular tipping fee of the entire load.
- (4) Each offense thereafter--ten times the regular tipping fee of the entire load.

(g) It shall be unlawful to dispose of infectious waste as defined in this article as of July 1, 1992. Solid waste management rules as adopted by the division, as amended, shall govern infectious waste disposal in the county until June 30, 1992.

(Ord. of 1-1-92, § IV)

Sec. 20-31. Use of county solid waste convenience centers.

(a) The use of the county solid waste convenience centers is restricted to household solid waste generated in unincorporated areas of the county.

(b) The types of solid waste not accepted at these centers are:

- (1) Agricultural waste.
- (2) Hazardous waste.
- (3) Industrial waste.
- (4) Institutional waste.
- (5) Municipal waste.
- (6) Radioactive waste.

(c) Residents using the county solid waste convenience centers must comply with the following rules for disposing of household solid waste:

- (1) Household garbage must be bagged.
- (2) Burning or smoldering materials may not be disposed of at these sites.

(3) No tires, bricks, large stumps, logs, concrete, shingles, animal carcasses, animal waste, autos and other waste as determined by the board of health will be accepted at the convenience sites. These materials must be taken to an approved landfill or otherwise disposed of in accordance with this article.

(4) Only those materials as specified on container signs shall be deposited in the container.

(5) County residents are encouraged to separate recyclable materials from their household trash, depositing them in special collection containers at the solid waste convenience center.

(6) It shall be unlawful to scavenge, loiter, solicit or trespass at the county solid waste convenience centers or the county landfill.

(d) Only those county residents who have paid the solid waste convenience center user fee are allowed to use the centers.

(Ord. of 1-1-92, § V)

Sec. 20-32. Operation of county solid waste convenience centers.

(a) Operation hours at county solid waste convenience centers must not begin prior to 7:00 a.m. Monday through Saturday, nor 1:00 p.m. on Sundays; nor shall they extend past 8:00 p.m. Monday through Sunday.

(b) The attendant shall be on duty during all hours of operation.

(c) Centers must be operated in a clean and sanitary manner. Any blowing trash or debris must be controlled by the attendant. Odors and insects must be controlled in the most effective way possible.

(d) Centers must be maintained in good repair at all times.

(Ord. of 1-1-92, § VI)

Sec. 20-33. Use of county solid waste containers.

The use of county solid waste containers are restricted to noncommercial, county residential household solid waste. Only those establishments who provide container site space may be exempted. Residents using the county solid waste containers must comply with the following rules for depositing household solid waste in the containers:

(1) Household solid waste must be bagged before it is placed into containers. Boxes and cartons must be flattened so as to occupy the least amount of space.

(2) Burning, smoldering or highly flammable material cannot be placed into containers.

(3) No building material, bricks, lumber, tree trimmings, stumps, logs, animal carcasses, animal wastes, appliances, furniture, autos, auto parts, industrial waste, business wastes, agricultural wastes and the like shall be placed in containers. This type material shall be taken to the county landfill or otherwise disposed of in accordance with this article.

(4) Solid waste will not be dumped on top of containers or on the ground. Solid waste spilled during dumping will be immediately picked up and properly placed in the container.

(5) Scavenging through these containers for recoverable materials is strictly prohibited.

(Ord. of 1-1-92, § VII)

Sec. 20-34. Solid waste user fees.

(a) Tipping fees at the county landfill shall be approved by the board of commissioners upon recommendation by the board of health.

(b) Solid waste convenience center user fees shall be approved by the board of commissioners upon recommendation by the board of health.

(c) No resident of unincorporated areas of the county shall be exempt from a portion or all of the convenience center user fee unless he pays for the services of a solid waste collector, as of January 1 of each calendar year.

(d) To be exempted from any or a portion of the convenience center user fee, a county resident must first show satisfactory evidence that he utilizes the services of a solid waste collector.

(e) Solid waste collectors must supply a client list upon written request by the health director for the sole purpose of determining proper exemptions of clients from a portion or all of the convenience center user fee. These client lists are not subject to the Freedom of Information Act.

(Ord. of 1-1-92, § VIII)

Sec. 20-35. Appeals.

(a) Should any controversy arise regarding the denial or revocation of a solid waste permit required by this article or should action pertaining to the enforcement of this article seem unwarranted, the person aggrieved may appeal to the health director of the county for a hearing. No such hearing shall be held unless a written petition has been filed in the office of the health director on or before the fifth day following the action or lack of action which caused the petitioner to be aggrieved. The written petition requesting the hearing must set out the grievance or grievances of the petitioner. Within five working days of receipt of the petition, a hearing shall be held before two members of the solid waste section and the health director of the county health department.

(b) If the grievances are not resolved at the hearing and the aggrieved party so requests, it shall be the duty of the health director to communicate the request for a hearing to the chairman of the board of health as soon as practicable. Such hearing shall be held by the board of health within seven days following receipt of the request by the chairman. After the hearing, the board of health may either affirm or reverse the initial decision.

(c) If grievances are not resolved at a hearing before the board of health the aggrieved party may appeal to the superior court.

(Ord. of 1-1-92, § IX)

Sec. 20-36. State solid waste management rules.

In addition to the terms and provisions of this article, the state solid waste management rules, as set forth in 15A N.C.A.C., subchapter 13B, as amended from time to time, are hereby incorporated into and made a part of this article by reference. A violation of the state solid waste management rules shall also be a violation of this article.

(Ord. of 1-1-92, § X)

Secs. 20-37--20-55. Reserved.

ARTICLE III. HAZARDOUS WASTE AND INCINERATION FACILITIES

Sec. 20-56. Title.

The title of the ordinance from which this article is derived is A Comprehensive Ordinance for the Regulation of the Location, Operation and Management of Hazardous Waste, Low-Level Radioactive Waste, and Incineration Facilities Utilizing Hazardous Waste in its Operations in Nash County, North Carolina. This article may be cited as the county Comprehensive Waste Ordinance.

(Ord. of 7-6-92, § I)

Sec. 20-57. Purpose.

The purpose of this article is to:

- (1) Regulate the location, operation and management of hazardous and/or low-level radioactive waste facilities as well as incineration facilities dealing with the storage, transfer, treatment and/or disposal of such waste in the county.
- (2) Assure the best available management practices are used in the location, operation and management of hazardous 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 7-6-92, § II)

Sec. 20-58. 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. Words and phrases not otherwise defined shall have the same definitions as in state and federal statutes and regulations:

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

Hazardous waste shall have the same definition as in G.S. 130A-290(8), except that all liquid, gaseous and other materials creating the potential for that risk as described in G.S. 130A-290(8)(a) and(b) are also included as hazardous wastes.

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

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

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

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

Storage shall have the same definition as in G.S. 130A-290(41).

(Ord. of 7-6-92, § III)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 20-59. Applicability.

(a) This article is applicable to all hazardous, low-level radioactive waste facilities and other incineration facilities utilizing hazardous waste in their operations within the territorial jurisdiction 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 hazardous waste of any kind from off site for storage, treatment, processing or disposal.

(b) This article supersedes and consolidates all previous ordinances regulating the location, operation and management of commercial hazardous waste facilities, and site selection of hazardous waste facilities.

(c) Section 20-62 does 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 7-6-92, § IV)

Sec. 20-60. Relation to zoning ordinances.

The county board of commissioners and any board serving under it shall ensure compliance with this article by any person, firm or legal entity seeking a special or conditional use permit, variance or zoning permit or other entitlement under zoning regulations. Prior to the issuance of any such permit, any such issuance shall be conditioned upon compliance with this article.

(Ord. of 7-6-92, § XVIII)

Sec. 20-61. Criminal penalties.

Any person, firm, or legal entity violating this article shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not more than \$50.00 for each offense or imprisonment for not more than 30 days for each offense. Each day this article is violated shall constitute a separate offense.

(Ord. of 7-6-92, § XV)

Sec. 20-62. Civil remedies.

(a) Any person injured by failure of a permit holder to comply with this article 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.

(b) The county shall have the right to enforce this article by injunction, and shall have a cause of action for any damages the county sustains as a result of any violation of the ordinance by the permit holder.

(c) Any person or corporation violating this article by operating a waste facility in the county without a permit or otherwise operating a waste facility while not in compliance with this article 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 7-6-92, § XVI)

Sec. 20-63. Permit--Required.

It shall be unlawful for a hazardous waste facility, low-level radioactive waste facility or incineration facility utilizing such waste in its operations to operate in the county without a permit issued by the county board of commissioners pursuant to this article.

(Ord. of 7-6-92, § V)

Sec. 20-64. Same--Application.

(a) A permit applicant shall prepare and file an application for a permit under this article with the county 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 of various types of waste and the operation of waste facilities;

c. A description of every other facility it has operated or is currently operating;

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 non-sudden;

b. Evidence of \$10,000,000.00 liability insurance to cover closure and postclosure costs; and

c. A history of any claims against the company at any site, including the record of any subsidiary or parent corporation.

(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 postclosure stages, with a list of the financial institution names which will be funding each stage.
- (8) 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, county emergency medical services, 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, an estimate of the volume of material to be transported, and the methods of transportation to be used, during each year of operation.
- (14) A description of the site closure plan for the facility and the anticipated due date of closure.
- (15) A description of anticipated need for postclosure care.
- (16) A comprehensive listing of known, prospective or potential generators, so noted, from which waste will be received; volumes and types of waste 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, processed 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, groundwater 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 the citizens will result from the siting of the facility, 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 water 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 use.
- 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 to this article, as well as the applicable state and federal requirements.

(b) Maps and other written material attached to the applications 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 of 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 or other evidence of title the current property owner may have.

(3) *Features.* Each map shall be drawn to a scale of not less than 100 feet to the inch and contain the following information:

a. Location sketch map showing relationship of the project to the surrounding area within one-fourth mile.

b. Graphic scale, date, north arrow and legend.

c. Location of property with respect to surrounding property and roads, and the names and addresses of adjacent property owners according to county tax records.

d. Zoning classification of proposed project and adjacent property.

e. The location of all boundary lines of the property.

f. The total acreage of land in the project.

g. 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.

h. The location of water bodies, watercourses, groundwater aquifers, springs and other pertinent features and the relationship of the proposed location to all watersheds within the county.

i. The location, dimensions and acreage of all property proposed to be set aside for various uses in the applicant's property.

j. The location of all test wells and/or borings, with copies of the drilling logs.

k. The location of the 500- and 100-year floodplains, and records of flood, including inundation due to dam break.

l. 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 geological 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; location of the water table as to the 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 the survey shall be stated.

(6) *Transportation route map.* A map, showing proposed transportation routes to and from the facility site, including location of county and emergency and safety facilities. Include an estimate of the volume of material to travel on each route during each month of 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 of surface waters; planned collection system for the surface water run-off; 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 run-off 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, instructions 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 feedback and recording, until emission levels are constantly demonstrated to be in the 99.99 level of D.R.E. over a 30-day period; planned segregation of incompatible wastes. (This subsection (c)(9) of this section is limited to incineration facilities and those which otherwise emit, or potentially emit, air pollutants.)

(10) Potential for noise impact from delivery vehicles and 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 location of 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 7-6-92, § VI)

Sec. 20-65. Application and processing fees.

- (a) Each applicant for a permit under this article shall, at the time the application is filed, pay to the county a minimum application fee of \$150,000.00. 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 of demand. Any portion of the application fee not utilized shall be refunded to the applicant upon determination by the board of commissioners that the application process is complete.
- (b) Failure to provide these funds within 30 days of demand from the county finance officer shall result in termination of the permit process or cancellation of the permit. The county board of

commissioners may take legal action against the applicant for any costs incurred beyond the minimum fee collected up to the point of termination.

(Ord. of 7-6-92, § VII)

Sec. 20-66. Environmental affairs board; creation; appointment.

Upon notification to the county that a facility has applied to bring into the county, or otherwise has taken any action to bring into the county, any hazardous waste or low-level radioactive waste or intends to use such waste in its operations, the board of commissioners shall immediately appoint and create an environmental affairs board. The board shall be constituted by membership of five individuals selected by the board of commissioners, serving for three-year terms, and with such qualifications as the board then determines are necessary to carry out the dictates and requirements of this article.

(Ord. of 7-6-92, § VIII)

Sec. 20-67. Application procedures.

(a) The permit applicant under this article shall submit to the county board of commissioners 12 copies of all information required by federal and state agencies for the facility for which it requests a county permit at the same such information is submitted to the state and federal government. 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.

(b) A designee of the county board of commissioners shall compile copies of all reports, applications, minutes of the environmental affairs board, meetings, reports by consultants and similar material. 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 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 same.

(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 consulting with the environmental affairs board, shall have 60 days in which to determine if the application is complete and shall mail notice of determination to the applicant. If the application is not complete, the applicant will have six months to complete the application. However, the applicant at the end of six months may make a showing of cause to the county board of commissioners and if the commissioners

find 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/or a consultant or consultants selected by the county board of commissioners upon the recommendation of the environmental affairs board. The analysis shall be completed within 120 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 120 days, the county's staff and/or consultant may request an additional 60 days from the county board of commissioners and the applicant has the option of requesting the county board of commissioners to extend the analysis period to allow time for responding to staff and/or consultant requests for additional information on a completed application.

(g) The commissioners' designee and each consultant shall make reports on the application to the environmental affairs board at its 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. The 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. The posted notices shall be at intervals of not greater than 1,500 feet. Notices shall also be placed by the applicant in at least newspapers of general circulation in the county 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 county 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 county commissioners to 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 postclosure care.

(3) That the applicant or operator has taken or consented in writing to take any and all measures to comply with applicable federal, state or county 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.

(j) At its next scheduled regular meeting, the county 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 county board of commissioners unless the applicant begins construction of the facilities 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, the applicant shall follow the procedures of section 20-64 and the filing fee of section 20-65.

(Ord. of 7-6-92, § IX)

Sec. 20-68. 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 G.S. chs. 104E and 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. ch. 130A, any amendments enacted after the effective date of the ordinance from which this article is derived, and rules promulgated by the state health services commission. Additionally, if it is a facility sited under G.S. ch. 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 for the permit.

(c) 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 any watershed of the county.

(d) A site shall not be located in or on land on which a fish hatchery is located, Indian reservations or federal military reservations.

(e) No waste facility shall be located within one-half mile of a public water supply, school, hospital or nursing home.

(f) All hazardous and low-level radioactive wastes disposed of or placed into long-term storage shall be retrievable and identifiable using best management practices.

(g) 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.

(h) The operator of the facility shall submit to the county 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 U.S. Environmental Protection Agency, and any other state and federal agency.

(i) Based upon its review of the facility's operations, the county 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 wastes before entering, leaving or being disposed of on the site.

(j) No industrial storage, processing or manufacturing 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 postclosure care.

(k) 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 3.5×10^{-4} centimeters per second.

(Ord. of 7-6-92, § X)

Sec. 20-69. Monitoring and safety.

(a) The purpose of this section is to supplement and complement the monitoring and safety activities of the federal and state governments. The county board of commissioners recognizes the primary responsibility of the federal and state governments in this area. However, it also recognizes that appropriations and personnel 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) The county health, planning, and emergency management departments or whoever else the county board of commissioners designate, in conjunction with a mutual support agreement, and referred to in this section as the "department," shall have the following duties and powers:

(1) To monitor the air, surface water and groundwater during the operation of the facility.

(2) To monitor soil, plant, microbial, viral and animal samples during the operation of the facility.

(3) To conduct human health surveys and monitoring in the area around the facility, including statistical surveys, blood samples, and other surveys which may be necessary to determine the effect of exposure or to track any accidental discharges of hazardous or low-level radioactive wastes of 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 within 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 radioactive waste in the county, to the extent that such measures are not otherwise undertaken by the facility operator or the state and federal governments.
- (9) To monitor traffic flow in conjunction with the state 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, and to limit or prohibit transportation of hazardous or low-level radioactive wastes during school bus hours or during inclement weather, which includes rain, hail, sleet, or snow and high winds, or during hurricane or tornado watches.
- (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 county board of commissioners may find necessary from time to time to safeguard the public health and welfare.

(c) In order to carry out the duties specified in subsection (b) of this section, 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 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 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, or those people living within a reasonable radius of the facility, as may be determined by the

department. 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 county 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 county 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 low-level radioactive 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's office.

(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 wastes.

(10) The department is authorized to carry out such other duties as it, the environmental affairs board, or the county board of commissioners may find necessary from time to time to ensure the public health, safety and welfare.

(d) The county finance officer is directed to see that applicants and permit holders furnish bonding, insurance and other bonds required by this article and properly report defaults to the county board of commissioners.

(e) 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 article.

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

(Ord. of 7-6-92, § XI)

Sec. 20-70. Privilege license tax.

(a) A privilege license tax for a facility licensed under this article will be required and paid in conformity with G.S. ch. 153A and G.S. 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 article 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 county 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, breathing 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 excavation 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 new personnel.

- f. Additional costs to the area'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's borders.
- 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 postclosure 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's monitoring personnel, to include office supplies, secretarial time, the maintenance of a public document room and other costs.
- c. The costs of training inspectors 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 county 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 postclosure 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 county board of commissioners.
- f. Other reasonable costs of monitoring as may be necessary.

(3) Other costs, to include but not be limited to:

- a. Public information costs. The location of a waste facility is a matter in 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 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 article 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 article, provided that:
 1. The county is not the prevailing party; or
 2. The county has substantial justification for its position, and has not litigated vexatiously.
 - f. The costs to the county for 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) 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 next year's tax. The taxpayer will be credited with the excess and shall pay any deficiency within 30 days at the end of the year.

- (2) Each annual payment is due and payable on each anniversary of the first payment.
- (3) If there is more than one waste facility in the county subject to this article, the total tax for each facility shall be prorated among the various facility operators according to the percentage of gross receipts for the wastes each operator has handled, treated, stored or disposed of in the county for that calendar year.
- (4) Should the facility operator(s) 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(s), he or she 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 to 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 board of commissioners, with the reasons therefor; and
 - c. Such agreement must be approved by the county board of commissioners before becoming final.

(Ord. of 7-6-92, § XII)

Sec. 20-71. 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 county 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 and management of waste facilities; and
- (3) Provide for costs resulting from inefficient clean-up of past accidents and closed waste facilities.

The county 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 county board of commissioners also recognizes that the clean-up fund established under G.S. 130A-298 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. 95-150, 42 U.S.C. 9601 et seq., is inadequate to ensure speedy and adequate compensation, particularly for damages to individuals.

(b) *Establishment.* There is established, pursuant to the authority vested in the county board of commissioners by the General Statutes of North Carolina, 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 party responsible or by the federal and state governments. The fund will supplement the state fund established under G.S. 130A-298, and it is the intent of the county board of commissioners that it should be first used 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 operators 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 each hazardous waste facility in the county subject to this article, and shall continue until the principal of this fund shall reach \$25,000,000.00 for each facility with all interest to accrue to the fund.

(d) *Management.* The county finance officer, the county manager and one member of the county board of commissioners shall be appointed managers of the funds. They shall give an annual accounting of the fund to the county 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 after the receipt of an application for a waste facility permit in the county. It is the intent of the county 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 article, to draw up a plan and procedures for disbursement, which shall be designed to:

- (1) Ensure prompt response to individual claims and clean-up actions;
- (2) Ensure that all disbursements are made in accordance with the 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 county board of commissioners, by majority vote, shall be the disbursing authority for payments made from the fund. The board shall prepare a written report of any meeting at which such a vote is taken, including the names of persons voting for and against, amount voted and reason. The county board of commissioners shall review such report at its next regular meeting.

(g) *Collection of expenditures.* The county attorney, when the first permit is granted under this article, 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 officers shall prepare a plan for the management, disbursement and closing of the fund within a reasonable time after the closure of

the facility, but closing of the fund shall not take place until 50 years after the closing date of the facility.

(Ord. of 7-6-92, § XIII)

Sec. 20-72. 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 N.C.A.C. 2D.1101 et seq., and 15A N.C.A.C. 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) To the extent the state and federal agencies which are responsible for the monitoring and enforcement of the emission standards fail to monitor or enforce its own regulations and

requirements relating to emissions control, the county reserves the right and authority to assert the full enforcement powers of those agencies otherwise responsible for such enforcement.

(Ord. of 7-6-92, § XIV)