

SAMPSON COUNTY LANDFILL FRANCHISE ORDINANCE

THAT WHEREAS, pursuant to N.C.G.S. 130A-294 [Solid Waste Management Program]; 153A-121 [General Ordinance-Making Power]; 153A-46 [Franchises]; 153A-134 [Regulating and Licensing Businesses, Trades, Etc.]; and 153A-136 [Regulation Of Solid Wastes], Sampson County has the authority to regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes within its boundaries, and under N.C.G.S. 130A-294 [b1] [3] has the statutorily mandated duty to adopt a franchise ordinance prior to an applicant filing for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill situate within its geographical boundaries; and

WHEREAS, in order to protect the public health, welfare, and safety of the citizens of Sampson County, and to also comply with said legislative mandate, the Sampson County Board of Commissioners has found it necessary and convenient to establish the requirements for disposal of solid wastes in those sanitary landfills over which it exercises jurisdiction and to grant special privileges in the form of franchises for the creation and/or operation of such landfills, including but not limited to pre and post closure requirements applicable thereto.

NOW, THEREFORE, the Board of Commissioners for the County of Sampson doth ordain:

Section 1: DEFINITIONS. Unless a different meaning is required by the context, the following definitions shall apply throughout this Ordinance:

[1] "**Board**" means the Board of Commissioners for the County of Sampson.

[2] "**CERCLA/SARA**" means the Comprehensive Environmental Response, Com-

pensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et. seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended.

[3] "**Disposal**" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part thereof may enter the environment or be emitted into the air or discharged into any waters, including but not limited to groundwaters.

[4] "**Garbage**" means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

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

[6] "**Closure**" means the cessation of operation of a solid waste management facility and the act of securing the facility so that it will pose no significant threat to human health or the environment.

[7] "**Operator**" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or periods of operation during any part of the day.

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

[9] **"RCRA"** means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. Section 6901 et. seq., as amended.

[10] **"Refuse"** means all nonputrescible waste.

[11] **"Sanitary landfill"** means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted by the State of North Carolina and the County of Sampson or any appropriate federal agency.

[12] **"Sludge"** means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

[13] **"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 discharged, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and/or agricultural operations, and from community activities. The term does not include:

a. Fecal waste from fowls and animals other than humans;

b. Solid or dissolved material in:

1. Domestic sewage sludges and generated by treatment thereof in sanitary sewage collection, treatment and disposal systems designed to discharge effluents to the surface waters;

2. Irrigation return flows; and
 3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended [P.L. 92-500], and permits granted under N.C.G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Ordinance;
- c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes for the State of North Carolina. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Ordinance;
- d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended [42 U.S.C. Section 2011]; and
- e. Mining refuse covered by the North Carolina Mining Act, N.C.G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission [as defined under N.C.G.S. 143B-290]. However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this ordinance.

[14] **"Solid Waste Disposal Site"** means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

[15] **"Solid Waste Management"** means purposeful, systematic control of the

generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

[16] All additional definitions set out in N.C.G.S. 290[a] which are not specifically set forth herein but which may be utilized in this Ordinance, as amended, or any franchise issued hereunder. Such definitions being incorporated herein by reference thereto.

Section 2. GRANT OF FRANCHISE

A. Prior to obtaining from the North Carolina Department of Environment, Health, and Natural Resources ["DEHNR"] a new permit, a renewal of a permit, or a substantial amendment to a permit for a sanitary landfill located, all or in part, in Sampson County, the operator of such landfill shall, in accordance with the provisions of this Ordinance, apply for and obtain from the Board a franchise to operate such landfill, subject only to the exclusionary provisions of Paragraph D of this Section 2.

B. Any person operating or maintaining a sanitary landfill in Sampson County pursuant to a contractual agreement with Sampson County in effect at the time of adoption of this Ordinance, and who, pursuant to activity authorized under such agreement, becomes subject to this Ordinance based on a need to file an application with DEHNR for a new permit, a renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, shall be entitled to obtain a franchise under this Ordinance for the sole purpose of compliance with G.S. 130A-294[b 1][3]. However, the provisions of this Ordinance and any franchise issued under it shall apply to such person only to the extent that it does not limit, affect, alter, modify, revoke or invalidate any aspect of that person's existing contract with Sampson County.

- C. An Application for a franchise submitted pursuant to this Ordinance shall be filed with the Board or its designee, and shall include, but not necessarily be limited to, the following information:
1. Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
 2. An application fee as set by the Board of Commissioners;
 3. A list of equipment possessed, available, or to be obtained by the applicant and used in the operation of the landfill for which the franchise is requested;
 4. The number of employees the applicant expects to use in its business;
 5. A balance sheet or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the person filing the application.
 6. A designation of the population to be served, including a description of the geographic area;
 7. A study or other information satisfactory to the Board detailing the need of the designated area for the sanitary landfill;
 8. Traffic studies demonstrating the adequacy of existing road structures for the estimated increase in traffic to, from, or around the landfill site; and, if existing roads are inadequate, plans for road improvements;
 9. A description of the volume and characteristics of the waste stream;

10. A projection on the useful life of the landfill; and

11. The initial proposed fee schedule for fees to be charged at the landfill.

D. This ordinance shall not apply to any new permit, renewal of a permit, or a substantial amendment to a permit for a sanitary landfill which was issued by DEHNR prior to the adoption of this Ordinance.

Section 3. COMPLIANCE WITH OTHER LAWS.

Any person granted a franchise hereunder shall, as the condition of the franchise, comply with the Sampson County Solid Waste Ordinance and any other Sampson County ordinances which now or hereafter relate thereto and with all laws and regulations of the State of North Carolina and the United States of America with respect to the operation of the particular sanitary landfill for which a franchise may be granted pursuant to this Ordinance.

Section 4. FEES.

The Board shall approve all fees to be charged by the operator of a sanitary landfill not operating at the time of the adoption of this Ordinance or not otherwise subject to existing contract terms as of the date of this Ordinance. The fees to be charged by any such operator may be changed by the Board as it deems necessary or expedient. Such sanitary landfill operator shall submit any proposed fee changes to the Clerk to the Board for transmittal to the Board at least sixty [60] days prior to the proposed effective date of the fee changes.

Section 5. TERM.

A franchise shall be for a term of years not to exceed the maximum allowable by law at the time of the filing of a franchise application pur-

suant to this Ordinance. Provided, however, that any franchise granted hereunder shall not be for a term less than five [5] years. Any person who has been granted a franchise for a sanitary landfill hereunder shall be subject to the provisions and requirements of this Ordinance.

SECTION 6. TERMINATION/SUSPENSION OF FRANCHISE.

The Board may terminate or suspend, upon notice and hearing, all or any portion of a franchise granted hereunder for any of the following reasons:

1. Failure of the operator to comply with the authorized fee schedule;
2. Failure of the operator to comply with any provision of this Ordinance, any franchise document issued in connection herewith, or any regulations of DEHNR or of the United States of America which are applicable to a sanitary landfill operated pursuant to the proposed or requested franchise;
3. Failure of the operator to comply with any applicable provision of the Sampson County Solid Waste Ordinance or of any Sampson County Recycling Ordinance, now or hereafter enacted;
4. Failure of the operator to comply with provisions of CERCLA/SARA or RCRA which are applicable to a sanitary landfill operated pursuant to the proposed or requested franchise; or
5. Falsification of any information in the application for a franchise.

SECTION 7. ASSIGNABILITY.

No franchise or any portion thereof may be assigned without prior written authorization of the Board.

Section 8. PENALTIES.

- A. Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed the maximum allowable by law at the time of the violation. Each day's violation shall be treated as a separate offense.
- B. Any violation of this Ordinance shall subject the offender to judicial enforcement of this Ordinance by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by mandatory or prohibitory injunction and order of abatement, issuing from or through a court of competent jurisdiction, wherein the offender is commanded to correct or cease the violations[s].

Section 9. SEVERABILITY.

If any sentence, clause, paragraph, subsection, or section of this Ordinance shall be judged by a court of competent jurisdiction as invalid and of no legal affect, such decision[s] shall not affect the remaining sentences, clauses, paragraphs, subsections, or sections of this Ordinance, and the same shall thereafter be construed as if that portion declared invalid and of no effect had never been included in the Ordinance.

Section 10. EFFECTIVE DATE.


This Ordinance shall be in full force and effect on or after the 5th day of June, 1995.

This the 5th day of June, 1995.


RAEFORD DAUGHTRY-Chairman


NORMAN WAYNE NAYLOR-Vice Chairman


JOHNNY MELVIN-Commissioner


LARRY M. BELL-Commissioner


QUINCY EDGERTON-Commissioner