

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: January 24, 2019 AGENDA ITEM NUMBER: 16

SUBJECT: ORDINANCE REVISING CHAPTER 19 OF THE FORSYTH COUNTY CODE ENTITLED, "SOLID WASTE AND RECOVERED MATERIAL MANAGEMENT" (FORSYTH COUNTY ATTORNEY'S OFFICE)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION: See Attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Watts, Jr. /AMS* COUNTY MANAGER DATE: January 22, 2019

**ORDINANCE REVISING CHAPTER 19 OF THE FORSYTH COUNTY CODE
ENTITLED, "SOLID WASTE AND RECOVERED MATERIAL MANAGEMENT"
(FORSYTH COUNTY ATTORNEY'S OFFICE)**

BE IT ORDAINED by the Forsyth County Board of Commissioners that Chapter 19 of the Forsyth County Code, entitled, "Solid Waste and Recovered Material Management" consisting of Sections 19-1 through 19-51, is hereby revised as shown in the attached Sections 19-1 through 19-51.

BE IT FURTHER ORDAINED that this ordinance shall become effective upon final adoption.

Adopted this the 24th day of January 2019.

Chapter 19 - SOLID WASTE AND RECOVERED MATERIAL MANAGEMENT

ARTICLE I. - IN GENERAL

Sec. 19-1. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings set forth herein below, except as otherwise provided:

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

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

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

County manager: The Forsyth County Manager or his authorized representative.

~~Garbage: All putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.~~

Garbage: All putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

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

~~Household solid waste: Trash, garbage and refuse resulting from the normal operation of a household and which is routinely placed in a container or can for disposal. Household solid waste is not intended to include tree limbs, stumps, brush, rocks or substances accumulated from the destruction, construction or repair of a building or yard, such as cement, brick or lumber. It also does not include discarded furniture, household appliances, automobile parts or objects that constitute a hazard to the collector or the equipment used to collect and transport solid waste. The definition of solid waste includes household solid waste.~~

Litter: Solid waste or recovered material that is intentionally or recklessly thrown, scattered, spilled or placed or otherwise disposed upon any public property or private property not owned by the person within Forsyth County.

Management of solid waste: The control, storage, collection, transportation and disposal of all forms of solid waste including recyclables.

~~Materials recovery facility/materials reclamation facility (MRF): A specialized plant that receives, separates, sorts and prepares recyclable materials to be marketed for reuse.~~

Open dump: Any facility or site where solid waste is disposed of that is not a sanitary landfill and that is not a coal combustion residuals surface impoundment or a facility for the disposal of hazardous waste.

~~Open dump: The consolidation or collection of solid waste from one (1) or more sources at a disposal site which has unsanitary conditions, insignificant or no cover, or insignificant or no management. This term shall include any disposal area which has not been approved by applicable state and local regulations.~~

Putrescible: Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.

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

Recovered material: A material that has known recycling potential, can be feasibly recycled, and has been diverted or removed from the solid waste stream for sale, use, or reuse. In order to qualify as a recovered material, a material must meet the requirements of G.S. 130A-309.05(c).

~~Recyclable materials/recyclables: Refuse items which are reclaimable and capable of being used again, including, but not limited to: containers made of aluminum, glass, plastic and steel; paper products including chipboard (cereal boxes), office paper, magazines, catalogs, newspaper, telephone books and corrugated cardboard.~~

Recycling: Any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.

Regulated ~~M~~medical waste: Any solid waste that is generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, household waste as defined in 40 C.F.R. part 261.404(1), or those substances excluded from the definition of "solid waste" in this chapter.

Refuse: All nonputrescible wastes ~~of any nature.~~

Resource Conservation and Recovery Act (RCRA): the federal public law that creates the framework for the proper management of hazardous and non-hazardous solid waste.

Sanitary landfill: A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article. A facility permitted by the North Carolina Department of Environmental Quality for disposal of solid waste on land in a sanitary manner.

~~Sanitary landfill: A method of disposing of solid waste on land in a sanitary manner without creating nuisances or hazards to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical~~

~~volume, and to cover it with a layer of compacted earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.~~

Sharps: Needles, syringes, and scalpel blades.

Solid waste: 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 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. Notwithstanding sub-sub-subdivision b.3. of this subdivision, the term includes coal combustion residuals. The term does not include:

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

b. Solid or dissolved material in:

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

2. Irrigation return flows.

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 G.S. 143-215.1 by the Commission, including coal combustion products. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. 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 Article.

d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).

e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-293.1). 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 Article.

f. Recovered material.

g. Steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

~~Solid waste: Nonhazardous garbage, refuse, rubbish, trash and other discarded solid materials, including 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 pollutants as further defined in G.S. § 130A-290.~~

Solid waste/recovered material collector: Any person who collects and transports solid waste and/or ~~recyclables~~ recovered material.

~~Garbage, refuse, and recovered material generator: Any owner or occupant of any premises that produces garbage, refuse, and recovered material.~~

~~Solid waste disposal: The collection, storage, treatment, utilization, processing or final disposition of solid waste and/or recyclables.~~

Solid waste receptacle: A container used for the temporary storage of solid waste while awaiting collection such as dumpsters, rollout carts and other containers in various sizes.

~~Solid waste disposal facility: Land, personnel, equipment or other resources used in the disposal of solid waste and/or recyclables.~~

~~Solid waste disposal site: Any place at which solid wastes and/or recyclables are disposed of by sanitary landfill or any other methods.~~

White goods: Refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

(Ord. of 4-10-72, § 1; Ord. No. 5-79, § 1, 11-5-79; Ord. No. 4-2011, 10-10-11)

Sec. 19-2. - Enforcement of regulations and laws pertaining to solid waste and recovered material management ~~and disposal and this chapter.~~

(a) The county manager is hereby authorized to enforce all applicable state and local regulations and laws pertaining to the management and disposal of solid wastes and/or ~~recyclables~~ recovered material. In addition, such county officials and departments as the county manager may designate are charged with the administration, supervision, and enforcement of provisions contained in this chapter.

(b) *Equitable Remedies.* In accordance with G.S. § 153A-123, ~~without limiting other remedies, this chapter may be enforced~~ enforced by by equitable remedies which may include, but are not limited to, and any unlawful condition existing or in violation of this chapter may be enforced by injunction and order of abatement in accordance with G.S. § 153A-123.

(Ord. No. 4-75, § 1, 8-18-75; Ord. No. 9-92, § 1, 10-26-92; Ord. No. 4-2011, 10-10-11)

Sec. 19-~~Y~~3. - Penalty.

(a) *Criminal penalty.* Any person violating this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment for not more than 30 days, or both, as provided in G.S. § 14-4. Each day's violation shall be treated as a separate offense.

(b) *Civil penalty.* Any person who is found in violation of this chapter shall be subject to a civil penalty of not to exceed \$500 as provided in G.S. § 153A-123. Each day's violation shall be treated as a separate offense.

~~(Ord. No. 4-75, § 1, 8-18-75; Ord. No. 9-92, § 1, 10-26-92; Ord. No. 4-2011, 10-10-11)~~

Sec. 19-X4. -Generator of garbage, refuse, and recovered material.

(a) Any owner or occupant of any premises that produces garbage, refuse, or recovered material shall be responsible for the satisfactory storage, collection and disposal of all garbage, refuse, and recovered material.

(b) Any owner or occupant of any premises that produces garbage, refuse, or recovered material shall ensure that his all garbage, refuse, and recovered material is disposed of at a site or facility which is permitted to receive the garbage, refuse, or recovered material.

Sec. 19-35. - Storage.

~~No person owning or occupying any premises shall permit any solid waste and/or recyclables to accumulate upon such premises that is not stored in a sanitary manner approved by applicable state and local regulations.~~

The owner or occupant of any property, except that exempted as specified in Rule .0103(c) of this Subchapter shall be responsible for the sanitary storage of all solid waste and recovered material accumulated on the property.

(a) Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close-fitting, fly-tight cover in place, with adequate handles or bails to facilitate handling. Solid waste receptacles, such as dumpsters, rollout carts, and other containers in various sizes may also be used for storage provided they meet the requirements of this subsection. The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.

(b) Refuse and recovered material shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse and recovered material under this section includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods.

(c) Hazardous waste shall be stored as prescribed in the applicable state or federal rules.

(d) All containers for the storage of solid wastegarbage, refuse, and recovered material shall be maintained in such a manner as to prevent the creation of a nuisance or unsanitary conditions. Containers that are broken or otherwise fail to meet this Rule shall be replaced with acceptable containers.

(e) No owner or occupant of any property may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended white goods or other receptacle that has an airtight door without first removing the door.

(f) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.

(Ord. of 4-10-72, § 3; Ord. No. 4-2011, 10-10-11)

Sec. 19-46. - Collection and transportation ~~generally~~ of solid waste and recovered material.

~~No person shall collect or transport solid waste and/or recyclables except in accordance with applicable state and local regulations.~~

~~(a) Any person collecting and transporting solid waste or recovered material generated on the person's property for disposal at an approved disposal site. The solid waste/recovered material collector shall comply with § 19-46(de) of this chapter concerning vehicles and containers.~~

~~(ab) The solid waste/recovered material collector shall be responsible for the collection and transportation of all solid waste to a solid waste management facility as defined in G.S. 130A-290 that is permitted by the North Carolina Department of Environmental Quality.~~

~~(c) The solid waste/recovered material collector shall be responsible for the collection and transportation of all recovered material to a facility approved by the county manager.~~

~~(bd) The solid waste/recovered material collector shall transport to a site or facility only those those materials/solid wastes that are allowed by the facility's permit.~~

~~(ee) Vehicles or containers used for the collection and transportation of solid waste garbage, refuse, and recovered material, by whatever means, including highway, rail, and navigable waterway, shall be constructed, operated, and maintained to be leak resistant in order to prevent the creation of a nuisance to public health from the escape of solid, semi-solid, or liquid waste. In order to meet the requirement to be leak resistant, the owner and/or operator of the vehicle or container shall adhere to the following standards:~~

~~(1) All surfaces that come in contact with waste shall be smooth and non-absorbent.~~

~~(2) All drain holes and valves shall be closed, plugged, or sealed.~~

~~(3) The vehicle or container shall be equipped with seals, gaskets, or other devices pursuant to manufacturer specifications in order to prevent the escape of liquids. Such seals, gaskets, and other devices shall be maintained and replaced pursuant to manufacturer specifications.~~

~~(4) The vehicle or container body, waste holding area, and hopper, if so equipped, shall be free of holes, cracks, rusting, corrosion, or other evidence of damage or weakness that may allow the escape of solid, semi-solid, or liquid waste.~~

~~(5) The waste holding area, including the hopper and around the packer blade, if so equipped, shall be clean of debris to prevent vectors or the accumulation of litter.~~

~~(6) The vehicle or container shall be loaded, transported, operated, and maintained to prevent the escape of solid, semi-solid, or liquid waste to the environment.~~

~~(7) The vehicle or container shall be serviced, repaired, and cleaned to maintain sanitary conditions, to preserve the integrity of the door seal, to prevent the accumulation of mechanical fluids, dirt, and filth on the vehicle's exterior, and to prevent contamination of the environment by fluids.~~

(Ord. of 4-10-72, § 7; Ord. No. 4-2011, 10-10-11)

Sec. 19-~~57~~. - Frequency of removal.

~~(a) The owner or occupier-occupant of all premises upon which solid waste is accumulated or stored shall remove or cause to be removed or disposed of all such materials from such premises at least once each week, meaning once each seven (7) days. This provision does not apply to~~

~~(b) The owner or occupant of all premises upon which recovered material which is to be recycled is accumulated or stored, materials which are to be recycled, which materials shall remove or cause to be removed all such materials from such premises by the owner at least bi-weekly, meaning at least once each fourteen (14) days.~~

(Ord. of 4-10-72, § 4; Ord. No. 4-2011, 10-10-11)

~~Sec. 19-68. - Inspection and approval of transporting vehicles.~~

~~No person for hire shall transport solid wastes and/or recyclables upon the public streets, roads or highways by any mode of conveyance that has not been inspected and approved by the county manager or his authorized representative and certified as being in compliance with applicable state and local regulations, including but not limited to all motor vehicles or vehicular devices.~~

~~(a) No person shall, for hire, collect or transport garbage, refuse, or recovered material without first having obtained the approval by the county manager.~~

~~(b) No person shall, for hire, transport solid waste upon the public roads by any mode of conveyance that has not been inspected and approved for use by the county manager as being in compliance with federal, state and local regulations or the county manager's authorized representative.~~

(Ord. of 4-10-72, § 5; Ord. No. 4-2011, 10-10-11)

~~Sec. 19-79. - Method of Disposal generally.~~

~~(a) (ea) No person shall dispose of solid waste and/or recyclables or recovered material except by deposit at a site or facility approved and permitted by the North Carolina Department of Environmental Quality to receive the solid waste or recovered material.~~

~~deposit in a sanitary landfill or other approved facility that is designed, operated, equipped and approved in accordance with applicable state and local regulations; (b) No person shall dispose of recovered material except by deposit at a site or facility approved for use by the county manager as being in compliance with federal, state and local regulations. provided, this chapter shall not be construed to prevent any person from properly disposing of solid waste and/or recyclables produced from his own residence by burying it on his own property in a manner approved and authorized by applicable state and local regulations.~~

~~(dc) Construction waste must be disposed of at a disposal site approved and permitted by the North Carolina Department of Environmental Quality to receive the construction waste.~~

~~(ed) Regulated medical, hazardous and radioactive waste must be disposed of according to written procedures approved by the North Carolina Department of Environmental Quality.~~

~~(fde) Any person not using a collector or choosing not to utilize the services a solid waste or recovered material collection service, will be required, upon request, for cause or as a result of complaints received by the county, to demonstrate to the county explain and show to the Division the method and means of proper disposal of his or her solid waste or recovered material.~~

~~(Ord. of 4-10-72, § 6; Ord. No. 4-75, § 2, 8-18-75; Ord. No. 4-2011, 10-10-11)~~

~~(Sec. 19-8.— Deposit in open dump prohibited; deposit upon street or highway. —~~

~~(agef) The disposal of solid waste and/or recyclables-recovered material by deposit in any open dump is hereby prohibited.~~

~~()~~

~~(bigfh) It shall be unlawful for any person to place, discard, dispose, leave or dump any trash, debris, garbage, litter, discarded cans or receptacles, solid waste, recyclables, or any waste matter whatsoever upon a street or highway within Forsyth County or upon any property within the county unless such trash, debris, garbage, litter, discarded cans or receptacles, solid waste, recyclables, or any waste matter is placed in an authorized and lawfully designated location or container for removal by an authorized solid waste/recovered material collector.~~

~~(Ord. of 4-10-72, § 6; Ord. No. 4-75, § 2, 8-18-75; Ord. No. 4-2011, 10-10-11)~~

~~(e) The placing, discarding, disposing, leaving or dumping of the articles or waste matter in a manner prohibited by this section shall, for each day or portion thereof that this provision is violated, constitute a separate offense. In addition thereto, the violation of this section shall subject the offender to a civil penalty in the amount of one hundred dollars (\$100.00) to be recovered by the county in a civil action in the nature of a debt if the offender does not pay the penalty within a period of thirty (30) days after the offender has been cited for violation of this section.~~

~~(Ord. of 4-10-72, § 6; Ord. of 7-1-74, §§ 1, 2; Ord. No. 4-2011, 10-10-11)~~

~~Sec. 19-9.— Open burning. —~~

~~Nothing in this chapter shall be construed to allow open burning of solid waste and/or recyclables, except as authorized, if at all, by applicable state and local air quality control regulations.~~

~~(Ord. of 4-10-72, § 4; Ord. No. 4-2011, 10-10-11)~~

~~Cross-reference—Provisions of air quality control ordinance relative to open burning, § 3-42 et seq.~~

Sec. 19-10. - Additional regulations.

- (a) Additional regulations pertaining to the management of solid waste and ~~or recyclables~~ recovered material other than set forth in this chapter may be promulgated pursuant to this chapter by the board of county commissioners.
- (b) Open burning of solid waste is strictly prohibited.

(Ord. No. 4-10-72, § 2A; Ord. No. 9-92, § 2, 10-26-92; Ord. No. 4-2011, 10-10-11)

Sec. 19-11. - ~~Owner, lessee, etc., not to permit~~Open dump~~s, etc.~~

~~(a) Any owner or operator of an open dump, as defined by G.S. 130A-290(20), for disposal of solid waste or any person(s) who owns, leases or otherwise controls land on which such an open dump is or has been operating shall immediately close the site in accordance with the requirements established by the North Carolina Department of Environmental Quality.~~

~~It shall be unlawful for any owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any lot or land in the county, regardless of whether the lot is occupied or not, to permit or maintain on any such lot or land,~~(b) Any open dump or deposit or unsanitary accumulation of any waste matter whatsoever is prohibited.

(Ord. No. 4-75, § 3, 8-18-75; Ord. No. 4-2011, 10-10-11)

~~Sec. 19-12.—Duty of owner, lessee, etc., to remove.~~

~~It shall be the duty of any owner, lessee or occupant of any lot or land to remove or properly dispose of or cause to be removed or properly disposed of any open dump or unsanitary accumulation of waste as often as may be necessary to comply with the provisions of sections 19-8 and 19-11.~~

~~(Ord. No. 4-75, § 3, 8-18-75; Ord. No. 4-2011, 10-10-11)~~

~~Sec. 19-13.—Failure of owner, lessee, etc., to remove—Notice to comply with article.—~~

~~If the provisions of sections 19-8, 19-11, and 19-12 are not complied with, the county manager or his authorized representative shall serve written notice, by registered or certified mail or hand delivery, upon the owner, lessee or occupant, if any, or upon any person having the care or control of any such lot or land to comply with the provisions of this article.~~

~~(Ord. No. 4 75, § 3, 8-18-75; Ord. No. 9 92, § 3, 10-26-92; Ord. No. 4 2011, 10-10-11)~~

~~Sec. 19-14. Same Failure to remove within ten days after notice.~~

~~If the person upon whom the notice is served under section 19-13 fails, neglects or refuses to remove or properly dispose of or cause to be removed or properly disposed of any open dump or unsanitary accumulation of waste within ten (10) days after receipt of such notice, the county manager or his authorized representative may apply to the court having jurisdiction for an injunction and order of abatement. Upon the request of the owner, lessee, or occupant of such lot or land, the county manager may be authorized to remedy the violation with the expense thereof to be charged to and paid by the person in violation; provided, however, that nothing herein shall relieve the owner, lessee, or occupant of his responsibility to remedy the violation as required by this article.~~

~~(Ord. No. 4 75, § 3, 8-18-75; Ord. No. 9 92, § 3, 10-26-92; Ord. No. 4 2011, 10-10-11)~~

~~Sec. 19-15. Violation of or failure to comply with article.~~

~~Any person who shall fail or neglect to remove any open dump or unsanitary accumulation as directed in this article or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall violate any of the provisions of this article, shall be guilty of a violation of this Code.~~

~~(Ord. No. 4 75, § 3, 8-18-75; Ord. No. 4 2011, 10-10-11)~~

Secs. 19-~~16~~12—19-20. - Reserved.

ARTICLE II. - PERMIT TO COLLECT OR TRANSPORT

Sec. 19-21. - Required.

No person for hire shall collect or transport solid waste ~~and/or recyclables or recovered material~~ without an appropriate solid waste management permit issued by the county.

(Ord. of 4-10-72, § 7; Ord. No. 4-2011, 10-10-11)

State Law reference— State law references: Authority to require license for commercial collection and disposal of solid waste, G.S. § 153A-136(a)(2).

Sec. 19-22. - Inspection and approval of applicant's facilities, equipment and operating methods.

The county manager shall issue no permits for the collection or transportation of solid waste ~~and/or recyclables or recovered material~~ without inspection of the facilities, equipment and proposed operating methods of the person making application therefor, and certifying that such facilities, equipment and operating methods are in compliance with applicable state and local regulations.

(Ord. of 4-10-72, § 7A; Ord. No. 4-2011, 10-10-11)

Sec. 19-23. - Term; renewal.

Permits for the collection and transportation of solid waste ~~or recovered material~~ shall be issued for a one-year period, and shall be renewable for similar periods.

(Ord. of 4-10-72, § 7B; Ord. No. 4-2011, 10-10-11)

Sec. 19-24. - Revocation.

(a) Any permit to collect or transport solid waste ~~and/or recyclables or recovered material~~ may be revoked in the manner prescribed by the county manager for violation of applicable state and local regulations pertaining to the management of solid waste ~~and/or recyclables or recovered material~~ materials.

(b) Whenever, upon the inspection of the facilities, equipment or operating methods of any person holding a permit to collect or transport solid waste ~~and/or recyclables or recovered materials~~, the county manager finds that conditions or practices of such permit holder are in violation of applicable state and/or local regulations, the county manager shall give notice, by registered or certified letter addressed to such person, that unless such conditions or practices are corrected within ten (10) days, the permit will be revoked. At the expiration of the ten-day period, the county manager shall perform a re-inspection, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the permit holder that the permit has been revoked. Upon receipt of such notice or refusal of acceptance, no person whose permit has been revoked shall thereafter collect or transport solid waste ~~and/or recyclables or recovered material~~ unless and until the permit has been reinstated. No such permit shall be reinstated by the county manager until he ~~or she~~ finds, upon inspection, ~~that all that the conditions causing the violation have been corrected~~ applicable regulations have been complied with.

(Ord. of 4-10-72, §§ 7B, 7C; Ord. No. 4-2011, 10-10-11)

Sec. 19-25. - Record of issuance and revocation to be transmitted to board.

A record of permits granted and revoked under this article shall be transmitted to the board of county commissioners, through the county manager, after issuance or revocation.

(Ord. of 4-10-72, § 7D; Ord. No. 4-2011, 10-10-11)

Secs. 19-26—19-36. - Reserved.

ARTICLE III. - FRANCHISE FOR COLLECTION, TRANSPORTATION OR DISPOSAL

Sec. 19-37. - Required.

No person shall, for a fee, hire or consideration, collect or transport solid waste for disposal or processing unless such person holds a valid, current franchise issued by the board of county commissioners empowering ~~him~~ the person to collect and transport solid waste, and describing the territory or area for which the franchise is issued.

(Ord. of 4-10-72, § 8; Ord. No. 4-2011, 10-10-11; Ord. No. 3-2016, 10-24-16)

Cross reference— Cross references: Franchises not affected by Code or ordinance adopting Code, § 1-4(3).

State Law reference— State law references: Authority of county relative to franchises for collection and disposal of solid waste, G.S. § 153A-136(a)(3).

Sec. 19-38. - Filing and contents of application.

Applications for franchises under this article shall be filed with the county, through the county manager, on forms prescribed by the county manager and setting forth or accompanied by the following information and such other information as the county manager may request in order that the county may properly consider the application:

(1) Full name and address of the applicant and whether a proprietorship, corporation or partnership, with disclosure of ownership interests. (2) The type of franchise (collection and transportation of solid waste and/or recyclables) and proposed area for which the franchise is requested (with a list of residents or customers presently served therein, if any). (3) An itemized list of the applicant's equipment intended to serve the franchised area. (4) Experience, if any, which the applicant has in rendering the services for which the franchise is requested. (5)

Balance sheet or equivalent financial statement submitted as of the close of the applicant's last business year, showing the net worth of said business.

(Ord. of 4-10-72, § 8B; Ord. No. 4-2011, 10-10-11)

Sec. 19-39. - Findings prerequisite to grant.

Franchises required by this article shall be granted only upon the board being satisfied that the applicant will render prompt, efficient and continuing service to the area for which the franchise is granted, and that the applicant has sufficient equipment and personnel to render such service to all within the franchised area.

(Ord. of 4-10-72, § 8C; Ord. No. 4-2011, 10-10-11)

Sec. 19-40. - Determination of area to be served.

The county shall determine the area for which a franchise is granted under this article, and its decision shall be final.

(Ord. of 4-10-72, § 8C; Ord. No. 4-2011, 10-10-11)

Sec. 19-41. - Fees charged by applicant to be fixed prior to grant; amendment of fee schedules.

(a) The board of county commissioners shall set and approve all fees charged for the collection and transportation of solid waste, prior to the granting of any franchise hereunder. The board of county commissioners shall regulate and may classify fees according to residential, business and commercial services, so that reasonable compensation may be provided for such services in accordance with the best interests of the public. Notwithstanding anything to the contrary herein, fees charged by a holder of any nonexclusive franchise granted hereunder for services outside of his exclusive franchise duties are subject to review and approval by the county manager ~~or his authorized representative~~ as to reasonableness if it is deemed advisable.

(b) All fee schedules fixed in accordance with this section may be amended or altered from time to time by the board of county commissioners. Regulations may provide for the period during which the schedules are to be effective.

(Ord. of 4-10-72, §§ 9B, 9D; Ord. No. 4-2011, 10-10-11; Ord. No. 3-2016, 10-24-16)

State Law reference— State law references: Authority to regulate fees to be charged by franchise holders, G.S. § 153A-136(a)(4).

Sec. 19-42. - Authorized fees.

(a) The board of county commissioners may adopt uniform franchise fees to be paid by franchise holders, for franchises to collect, transport, and properly dispose of solid waste, which fees shall be paid to the county in consideration of receiving or being issued a franchise hereunder. Regulations may be adopted pertaining to the payment of such franchise fees, the period for which the fee applies, methods for computing or determining the fee (if other than lump sum) and other matters.

(b) The board of county commissioners may impose a fuel surcharge fee on certain residential and small business collection, transportation, disposal, and recycling services.

(Ord. of 4-10-72, § 9A; Ord. No. 4-2011, 10-10-11; Ord. No. 3-2016, 10-24-16)

Sec. 19-43. - May be exclusive; term.

(a) The board of county commissioners may grant exclusive franchises to collect, transport, and properly dispose of solid waste within a specified area, and may specify the period for which the franchise is effective.

(b) It shall be unlawful for unauthorized persons to collect, transport, or dispose of solid waste or ~~recyclables~~ within such specified areas for a fee.

(Ord. of 4-10-72, § 8; Ord. No. 4-2011, 10-10-11; Ord. No. 3-2016, 10-24-16)

Sec. 19-44. - Holder to have solid waste management permit and comply with chapter and applicable state and local regulations.

(a) No franchise to collect, transport, and dispose of solid waste within the county shall be valid, unless the franchise holder:

(1) Holds a currently valid solid waste management permit issued by the county manager ~~or the county manager's authorized representative~~, pursuant to Article II of this chapter, to collect, transport and properly dispose of solid waste and/or recyclables; and

(2) Complies with this chapter and all applicable state and local regulations.

(b) Except regarding waste acceptance requirements, the provisions of ~~e~~Chapter 19 do not apply to landfill operators or owners.

(Ord. of 4-10-72, § 8A; Ord. No. 4-2011, 10-10-11; Ord. No. 3-2016, 10-24-16)

Sec. 19-45. - Holder to present fee schedule to customers; duty of holder to remove customers' solid waste.

(a) Any person operating under a franchise granted under this article shall present to each customer, in advance of any agreement with that customer, a schedule of his fees, as authorized under this article, to be charged.

~~(b) Household solid~~ Solid waste shall be removed by the franchise holder from the customer's premises at least once per week, provided the customer is no more than thirty (30) days in arrears in payment of such fees.

(Ord. of 4-10-72, § 8G; Ord. No. 5-79, § 2, 11-5-79; Ord. No. 4-2011, 10-10-11; Ord. No. 3-2016, 10-24-16)

Sec. 19-46. - Temporary franchises.

The board of county commissioners may grant temporary franchises for the collection, transportation, and proper disposal of solid waste ~~and/or recyclables or recovered material~~ to provide service in the event of abandonment of an existing franchise or for other good cause.

(Ord. of 4-10-72, § 8D; Ord. No. 4-2011, 10-10-11)

Sec. 19-47. - Nonexclusive franchise for collection from commercial, industrial and business establishments.

Notwithstanding any provisions of this article to the contrary, the board of county commissioners shall have the authority to grant nonexclusive franchises for the collection, transportation, and proper disposal of nonhazardous solid waste from commercial, industrial and business establishments throughout the county and to grant nonexclusive franchises for the collection, transportation, and proper disposal of ~~recyclables~~ recovered material from any establishments throughout the county.

(Ord. of 4-10-72, § 8H; Ord. No. 4-2011, 10-10-11)

Sec. 19-48. - Determination of disputes relating to grant of franchise or franchised territory.

All conflicts and disputes regarding the granting of a franchise and disagreements over franchised territory shall be determined by the board of county commissioners, and its decision shall be final.

(Ord. of 4-10-72, § 8F; Ord. No. 4-2011, 10-10-11)

Sec. 19-49. - Transfer or abandonment.

No franchise granted under this article shall be transferred by a holder without the prior approval of the board of commissioners, and no person shall abandon such a franchise without one hundred eighty (180) days' prior written notice thereof being given to the board of county commissioners, through the county manager. For purposes of this section, the transfer or change

of ownership of any share or shares of stock of a corporation not sold or customarily traded on any recognized public stock exchange constitutes a transfer by a holder.

(Ord. of 4-10-72, § 8D; Ord. No. 9-89, § 1, 10-9-89; Ord. No. 4-2011, 10-10-11)

Sec. 19-50. - Termination or suspension.

(a) All or any portion of a franchise granted under this article may be terminated or suspended by the board of county commissioners for any of the following reasons:

- (1) Loss of solid waste management permit by the franchise holder;~~;~~
- (2) Noncompliance with the franchise, collection, transportation, and disposal fee schedules authorized by the board of county commissioners;~~;~~
- (3) The attempted transfer of the franchise without prior approval of the board of county commissioners;~~;~~
- (4) Failure to render prompt and effective service to persons within the area in which the franchise holder has a permit to operate; ~~or-~~
- (5) Failure to comply with any provisions of this chapter or applicable state and local regulations.

(b) Complaints or grievances may be brought to the attention of the county by submission in writing to the county manager ~~or his representative(s).~~

(Ord. of 4-10-72, § 8E; Ord. No. 4-2011, 10-10-11)

Sec. 19-51. - Records to be kept.

(a) A record of all franchises granted under this article, defining the areas by geographical features identifiable on the ground or other appropriate description and enumerating the holders of each franchise, shall be maintained in the office of the clerk to the board of county commissioners.

(b) A copy of all authorized fee schedules and franchises granted under this article shall be filed in the office of the clerk to the board of county commissioners.

(Ord. of 4-10-72, §§ 8I, 9C)

~~Sec. 19-52. - Violations and penalties. ———~~

~~If any person shall violate this ordinance or chapter or any provision thereof, he shall be guilty of a class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).~~

~~(Ord. No. 2-92, §§ 3, 4, 4-13-92; Ord. No. 3-95, §§ 1, 2, 7-10-95)~~