

FRANCHISE ORDINANCE COUNTY SOLID WASTE DISPOSAL SERVICES

THAT WHEREAS, pursuant to N.C.G.S. 130-A-294 (Solid Waste Management Program); 153 A-121 (General Ordinance-Making Power); 153 A-46 (Franchises); 153 A-134 (Regulating and Licensing Businesses, Trade, Etc.); and 153 A-136 (Regulation of Solid Wastes), Scotland 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. 130 A-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 sanitary landfill situated within its geographical boundaries; and

WHEREAS, in order to protect the public health, welfare, and safety of the citizens of Scotland County, and to also comply with said legislative mandate, the County Board of Commissioners has found it necessary and convenient to establish the requirement 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 of the County of Scotland does 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 Scotland.
- (2) "CERCLA/SARA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510.04 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) "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.
- (4) "Municipal Solid Waste" means any solid waste resulting from the operation of residential, commercial, industrial, government, or institutional establishments that would normally be collected, processed and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste

for management of the waste, or solid waste from mining or agricultural operations.

- (5) "Municipal Solid Waste Management Facility" means any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal.
- (6) "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.
- (7) "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, limited liability partnership, limited liability corporations, or all other legal entities.
- (8) "RCRA" means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580.90 Stat. 2795, U.S.C. Section 6901 et. Esq., as amended.
- (9) "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 Scotland or any appropriate federal agency.
- (10) "Solid Waste Management" means purposeful, systematic control of generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
- (11) All additional definitions set out in N.C.G.S. 136A-290(a.) which are not specifically set forth herein but which may be utilized in this Ordinance, as amended, or any franchise issue hereunder. Such definitions being incorporated herein by reference thereto.

SECTION 2. GRANT OF FRANCHISE

- A. Prior to obtaining from the North Carolina Department of Environmental and Natural Resources ("DENR") 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 Scotland 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 for and exclusionary provisions of paragraph D of this Section 2.
- B. Any person operating or maintaining a sanitary landfill in Scotland County pursuant to a contractual agreement with Scotland 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 DENR 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(b1)(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 Scotland 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 is limited to, the following information.
1. Name and address of the applicant and whether a sole proprietorship, corporation, including a limited liability company or a limited liability partnership;
 2. A designation of the population to be served, including a description of the geographic area;
 3. A description of the volume and characteristics of the waste stream; and
 4. A projection on the useful life of 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 DENR 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 Scotland County Solid Waste Disposal Services Ordinance and any other Scotland 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. 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 pursuant to this Ordinance. Provided, however, that any franchise granted hereunder shall not be for a term less than seven (7) 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 5. 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 any provision of this Ordinance, any franchise document issued in connection herewith, making any false or misleading statements or the application or any other documents, or any regulations of DENR or of the United States of America which are applicable to a sanitary landfill operated pursuant to the proposed or requested franchise; or

2. 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.

SECTION 6. PENALTIES

- A. Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine and/or imprisonment 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 the 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 7. 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 8. EFFECTIVE DATE

This Ordinance shall be in full force and effort on or before the 7th day of Nov, 2005

The above Ordinance was adopted by the Scotland County Board of Commissioners on November 7 2005. The motion was made by Commissioner John Alford, seconded by Commissioner Scoofer Jordan and passed (vote).

UNANIMOUS VOTE

FOR: Chairman J.D. Willis, Vice Chair Betty Blue Gholston
and Commissioners John Alford, Leon Butler, Charles "Scoofer"
Jordan, Joyce McDow, Clarence SCOTLAND COUNTY BOARD OF COMMISSIONERS
McPhatter



Chairman

ATTESTED BY:



Clerk