

NORTH CAROLINA
LINCOLN COUNTY

**RESOLUTION ADOPTING AN ORDINANCE AMENDING REGULATIONS
FOR THE PROPER AND LAWFUL MANAGEMENT AND DISPOSAL
OF SOLID WASTE AND RECYCLING WITHIN LINCOLN COUNTY
AND THE ADMINISTRATION AND ENFORCEMENT THEREOF**

WHEREAS, the Lincoln County – Board recognizes that the proper management of solid wastes and recycling within Lincoln County is needed to maintain the value and enjoyment of properties in Lincoln County; and

WHEREAS, the Lincoln County – Board realizes the need the amend and update ordinances related to Solid Waste management and heretofore enact and adopt an ordinance to this effect which is codified as Chapter 52 to replace the prior versions of Chapter 52; and

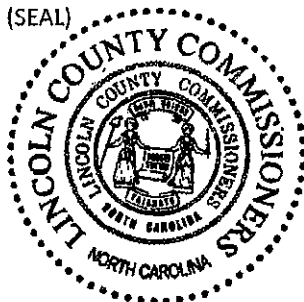
WHEREAS, the North Carolina Department of Environmental Quality, Lincoln County Public Works, and Lincoln County Health Department have adopted regulations with the force of law pursuant to sections of the North Carolina General Statutes (NCGS) §130A and other related State laws, providing for proper solid waste management and associated penalties for the mismanagement and illegal disposal of solid waste in Lincoln County; and

WHEREAS, the Lincoln County – Board, pursuant to NCGS §153A-292 and related laws, is empowered to adopt more stringent ordinances relative to the management of solid waste within Lincoln County including more strict enforcement and stringent penalties for unsanitary and unsafe disposal practices; and

WHEREAS, the Lincoln County – Board desires to adopt this amendment to the ordinance to establish regulations for the proper and lawful management and disposal of solid waste within Lincoln County, North Carolina and provide for the administration and enforcement thereof, within the requirements and authority of state law.

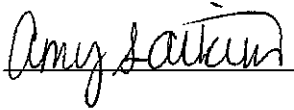
NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY LINCOLN COUNTY – BOARD that the code of Ordinances Lincoln County, North Carolina, **Chapter 52 “SOLID WASTE”** be amended to replace Sections 52.1 to 52.99, attached hereto and incorporated herein by reference, in order to establish regulations for the proper and lawful management and disposal of solid waste within Lincoln County, North Carolina and to provide for the administration and enforcement thereof.

ADOPTED this 18th day of September, 2017, and made effective, on 1st day of December, 2017.



Bill Beam, Chairman
Lincoln County – Board

ATTEST:



Amy Atkins
Clerk to the Board

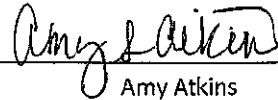
At the September 18, 2017 regular session of the Lincoln County Board of Commissioners, do hereby certify that the foregoing ordinance amendment was duly adopted by the governing body of Lincoln County after a lawful public notice and at a regular meeting thereof, a quorum being present.

Ayes:

Noes:

I, Amy Atkins, Clerk to the Lincoln County – Board, do hereby certify that the foregoing ordinance amendment was duly adopted by the governing body of Lincoln County after a lawful public notice and at a regular meeting thereof, a quorum being present.

This is the 18th day of September, 2017.



Amy Atkins
Clerk to the Board

This ordinance was introduced at the September 18th, 2017 meeting of the Lincoln County – Board.



GENERAL PROVISIONS

52.01 PURPOSE AND INTENT.

The purpose of this chapter is for the management of solid waste and recyclables for Lincoln County.

52.10 DEFINITIONS

For the purpose of this chapter, definitions of words contained in NCGS § 130A-290 shall have the meanings ascribed therein. The following definitions are additionally defined words not contained in the statutory definitions and shall apply unless the context clearly indicates or requires a different meaning.

1. **BOARD OF LINCOLN COUNTY COMMISSIONERS.** The Lincoln County Board of Commissioners, hereafter referred to as the "Board".

2. **BUILDING MATERIALS.** Lumber, bricks, plaster, loam, and other substances accumulated as a result of repairs to existing building or construction of a new building, and demolitions wastes of old building or structures.

3. **BULK CONTAINER.** A metal container of not less than one-half cubic yard. The container is to be of tight construction and constructed so that it may be handled and emptied by a special truck.

4. **CASUALTY DAMAGE.** Damage to or loss of property due to a sudden or unexpected event.

5. **COMMERCIAL and INSTITUTIONAL ESTABLISHMENT.** Any office, retail store, wholesale store, bottling plant, printing establishment, private club, hospital, group of mobile homes, apartment, group of apartments, religious, charitable, or government office, or similar establishment, provided, however, that the establishment shall not be construed to refer to individual mobile homes or individual apartments.

6. **COVERED.** Encased by a tarpaulin, camper cover, metal cover, rigid cover, plastic, canvas, or other suitable material which is secured to prevent spillage, leakage or materials from blowing from the vehicle. Solid waste in plastic bags shall not be considered covered.

7. **DEMOLITION LANDFILL.** A landfill that is limited to receiving concrete, brick, wood, and uncontaminated earth.

8. **GARBAGE RECEPTACLES.** Receptacles for garbage constructed of metal or plastic, of substantial construction, watertight, rodent proof, with tight-fitting lids, provided with handles sufficient for sale and convenient handling, kept in serviceable condition, and covered at all times.

9. **HAZARDOUS WASTE.** A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(a). Cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or

(b). Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

10. **INDUSTRIAL ESTABLISHMENTS.** Factories, processing plants, and other manufacturing enterprises.

11. **LINCOLN COUNTY RECYCLING AND CONVENIENCE SITE.** A manned drop-off site provided by Lincoln County for disposal of household refuse and recyclables.

12. **MANUFACTURED HOME PARK.** Land used or intended to be used, leased, or rented for occupancy by three or more manufactured homes which are mounted on a permanent frame, anchored in place by a foundation or other stationary supports, and to be used for living purposes.

13. **OPERATING PROCEDURES MANUAL.** Document containing expanded and detailed information concerning Lincoln County rules and regulations for landfill operation, scale house policies, office procedures, and other areas as determined by the Lincoln County Solid Waste Manager.

14. **PUTRESCIBLE WASTE.** 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.

15. **RESIDENTIAL UNIT, MULTIPLE.** Any duplex, group of apartments, or group of mobile homes.

16. **RESIDENTIAL UNIT, SINGLE.** Any dwelling place occupied by one family.

17. **RUBBISH.** Combustible and noncombustible waste materials, except garbage, but including paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, the residue from the burning of wood, coal, coke, and other combustible materials or similar materials.

18. **SOLID WASTE COLLECTOR.** Any person who collects or transports solid waste, by authority granted by Lincoln County.

19. WASTE. Litter, rubbish, refuse, building material, garbage, and miscellaneous unusable or unwanted materials.

52.11 SOLID WASTE ON PROPERTY – PROHIBITIONS; REMOVAL

(A) Generally, it shall be unlawful for any person to:

- (1) Maintain, allow, cause or permit the accumulation of excessive, unsightly, or improperly contained (as determined by the provisions of this chapter relating to containers) solid waste upon premises owned, occupied, or controlled by that person; or
- (2) In any manner, place or allow to remain on property any solid waste in such a quantity and manner as to constitute a nuisance;
- (3) Cause or create the likelihood of injury to the health or welfare of other persons; or
- (4) Cause or create the likelihood of injury to adjoining property.

(B) Notice to remove. Notwithstanding any provision of division (A) of this section, no person shall be deemed to have violated the provisions of this section who, within ten days after receiving a written notice to remove from the Solid Waste Manager or designee, removes the prohibited solid waste from the property.

(C) Restaurants. Food service establishments shall be subject to state regulations governing the sanitation of food service establishments. All restaurants shall be required to have a bulk container.

52.12 LITTERING AND SCAVENGING PROHIBITED

(A) It shall be unlawful for any person to litter the ground on a Lincoln County owned property (including a Lincoln County Recycling and Convenience Site) by throwing, dumping, or dropping thereon any solid waste as defined in Chapter 52.10.

(B) It shall be unlawful for any person to pilfer or scavenge at any Lincoln County solid waste management facility, Lincoln County Recycling and Convenience Site, or any sanitary landfill site. This includes all Lincoln County employees.

52.13 TIRES

All scrap tires shall be delivered to the designated scrap tire disposal facility and disposed of in the approved manner as provided in the Scrap Tire Disposal Act (N.C.G.S. § 130A-309 Part 2B).

PRE-COLLECTION OF SOLID WASTE

52.20 GENERAL REQUIREMENT

Solid Waste that shall be accumulated or stored prior to being disposed of shall be handled in the manner provided in this subchapter.

52.21 CONTAINERS

Containers or receptacles shall be used for the collection and storage of solid wastes, and shall be constructed as to accommodate and properly control wastes prior to disposal. Containers and receptacles shall be maintained in serviceable condition at all times and located so that no unsightly condition, health hazards, or nuisances are created, and in such a manner as to be durable, watertight, fly proof, and rodent proof. Under no conditions shall liquid or putrescible wastes be stored in open containers or receptacles. Automobiles, including but not limited to cars, pickup trucks, non-enclosed trailers, and boats, shall not be considered appropriate garbage containers or receptacles.

52.22 RESIDENTIAL REQUIREMENTS

- (A) Solid waste from single-family residential units shall be placed in appropriate garbage receptacles.
- (B) Solid waste from multiple residential units, including but not limited to manufactured home parks, duplexes, apartments, and condominiums, shall be placed in garbage receptacles or bulk containers. If a bulk container is not provided, a sufficient number of containers shall be provided to hold at least (1) week's accumulation of garbage. Garbage receptacles and bulk containers shall be emptied on a regular basis so as to prevent a public health hazard or nuisance.

52.23 COMMERCIAL, INSTITUTIONAL, AND INDUSTRIAL REQUIREMENTS

Solid waste from commercial, institutional, and industrial establishments shall be placed in garbage receptacles, bulk containers, or other containers. Liquid or putrescible wastes shall be placed in containers which are constructed of durable metal or plastic, are watertight, and have tight-fitting lids, with handles sufficient for convenient handling.

52.24 LINCOLN COUNTY RECYCLING AND CONVENIENCE SITES

Lincoln County Recycling and Convenience Sites are provided by Lincoln County at designated places for the exclusive use of residents of Lincoln County and shall be used as specified in this chapter for disposal of household solid waste and recyclable material only. Dead animals, hazardous wastes, demolished structures, and additional items as described in the *Operating Procedures Manual* shall not be disposed of at Lincoln County Recycling and

Convenience Sites. Lincoln County Recycling and Convenience Sites shall not be used by commercial, institutional, or industrial establishments.

52.25 RECYCLABLE MATERIALS; YARD WASTE; REQUIREMENTS.

- (A) No person may dispose of those solid waste materials in a landfill that are prohibited by N.C.G.S. § 130A-309.10(f).
- (B) Yard waste. Leaves, grass trimmings, tree trimmings, shrubbery trimmings, or other yard waste shall be accepted at the designated yard waste area at the landfill site and must be emptied from bags before being accepted. Yard waste may be accepted at designated Lincoln County Recycling and Convenience Sites and the landfill.

FRANCHISING, COLLECTION, AND TRANSPORTATION OF SOLID WASTE

52.30 GENERAL REQUIREMENT.

- (A) Franchise Vehicles used for the collections and transportation of solid wastes shall be loaded and moved in such a manner that the contents will not fall, leak, or spill onto a Lincoln County property and shall be covered by an approved method. Solid waste in plastic bags shall not be considered covered. If spillage should occur, the materials shall be picked up immediately by the person or collector and returned to the vehicle or container.
- (B) If any object of solid waste is discovered on Lincoln County property other than specifically designated for that use, bearing a person's name, address, or any other means of identification of a person or persons, it shall be *prima facie* evidence of ownership. The Solid Waste Manager or designee shall make an attempt to contact the person or persons so identified and advise those individuals to clean up the objects of solid waste by taking them to a designated Lincoln County landfill, with those individuals being advised to return to the Solid Waste Manager or designee within ten days with a receipt from a Lincoln County landfill indicating the deposit of the objects in the landfill. If the person or persons fail to comply with the specific directions of the Solid Waste Manager or designee, the failure to comply shall be considered a violation of this chapter.
- (C) No waste generated outside the boundaries of Lincoln County may be disposed of at a Lincoln County landfill site or at a Lincoln County Recycling and Convenience Site.
- (D) Solid waste collectors and transporters permitted by Lincoln County to haul municipal solid waste must dispose of municipal solid waste at facilities permitted and operated within Lincoln County. Municipal solid waste generated within Lincoln County must be disposed at the Lincoln County Landfill at 5291 Crouse Road, Crouse, NC.

- (E) Commercial, industrial, and institutional establishments shall be totally responsible for the proper collection and transportation of any and all of their solid wastes. All commercial, industrial, and institutional establishments failing to comply with the terms, conditions, and provisions of this chapter shall be subject to all fines, penalties, and punishment contained herein.
- (F) The landfill shall be designated to accept solid waste generated exclusively by residents, businesses, and other institutions located in Lincoln County.
- (G) No person, except permitted private collectors, Lincoln County or municipal collectors, shall collect or remove any solid waste within Lincoln County for disposal.

52.31 RESIDENTIAL REQUIREMENTS.

All residential solid wastes generated within Lincoln County shall be conveyed to an approved and permitted in-Lincoln County sanitary landfill site or a Lincoln County operated solid waste management facility by approved and licensed private agencies or by individuals. Individuals residing in Lincoln County may deposit household wastes at Lincoln County Recycling and Convenience Sites in accordance with this chapter.

52.32 COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL REQUIREMENTS.

Commercial, industrial, and institutional establishments shall provide for disposal of solid waste by authorized collection agencies or shall be individually responsible for disposal of waste in accordance with the provisions of this chapter. No commercial, industrial, or institutional wastes shall be disposed of at Lincoln County Recycling and Convenience Sites. Commercial, industrial, and institutional establishments shall be subjected to any fees as may be approved by the Board or as may be provided by this chapter.

52.33 PERMITTING OF SOLID WASTE COLLECTORS AND TRANSPORTERS.

- (A) No person may engage in the business of solid waste collection and/or transportation prior to receiving all required Lincoln County permits.
- (B) All persons who collect or transport solid waste in Lincoln County must apply annually for a permit before collecting or transporting solid wastes. The applicant shall furnish the following information to Lincoln County Solid Waste Manager during the application process:
 - (1) Name of applicant and whether a sole proprietorship, partnership, corporation, or other business entity with a disclosure of the ownership's interest.
 - (2) Home address, business address and both business and home phone number of applicant.

- (3) A list of equipment used by applicant in his or her everyday business.
- (4) Number of individuals employed by the business.
- (5) Experience of the applicant in solid waste collection.
- (6) License plate numbers of all solid wastes trucks used in the business.
- (7) Planned routes and/or areas of Lincoln County the applicant expects to serve.
- (8) Location of disposal facility to be used.
- (9) Schedule of charges the applicant plans to charge for services.
- (10) Proof of liability insurance.

- (C) The applicant may cause to be inspected all facilities and equipment used in the solid waste collection/transporting business before a permit is issued by Lincoln County to the applicant when it is determined that all equipment used by the applicant's business is found to be clean and in good working condition.
- (D) An applicant which has been denied a permit may request a hearing before the Lincoln County Manager. The Lincoln County Manager shall keep summary notes of the hearing and notify the applicant at least 10 days after the hearing in writing of its decision. If the permit is still denied, the applicant may appeal the Lincoln County Manager's decision to the Lincoln County-Board. The Lincoln County-Board shall either affirm the denial or direct the Solid Waste Manager to issue the permit to the applicant.
- (E) A permit to collect and transport solid wastes in Lincoln County shall expire annually on September 1.
- (F) A permitted solid waste collector/transporter shall submit a quarterly report to Lincoln County containing the following information:
- (1) Number of customers added or deleted since last quarterly report.
 - (2) Any changes in routes or areas served by the business.

(3) Any new, deleted, or replaced equipment added to the business.

(4) Any other pertinent information requested by Lincoln County.

(G) No permit issued pursuant to this ordinance is assignable.

52.34 FRANCHISING SOLID WASTE COLLECTORS.

(A) Pursuant to N.C.G.S. § 153A-136(a)(3), the Lincoln County-Board may grant a license to any person, firm, or corporation to engage in the collection and transportation of solid wastes. The Board may additionally grant general or exclusive franchises to those licensed or permitted under this chapter. The exclusive right to collect and transport solid wastes for compensation within the entire Lincoln County or specified areas of Lincoln County may be granted in order to prohibit any non-franchised persons, firms, or corporations from engaging in the same service within the area where the exclusive right has been granted. The franchise license and permit shall be displayed at the place of business.

(B) Lincoln County may charge a license fee after an application is submitted and approved for licensing.

(C) No person may be issued a franchise by the Board unless he holds a license to engage in the business of solid waste collector issued by Lincoln County.

(D) Applications for franchises shall be filed with the Lincoln County Manager or his designee, through the Solid Waste Manager or designee, on forms prescribed by the Lincoln County Manager and shall include a copy of the applicant's license application to the Solid Waste Manager and any other information the Lincoln County Manager deems pertinent.

(E) The Lincoln County Manager may grant a franchise only upon finding 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 service to all persons generating solid wastes within the service area.

(F) The Lincoln County Manager shall determine the area for which a franchise is granted.

(G) No person may engage in the business of solid waste collection unless that person holds both a franchise and a license issued by Lincoln County authorizing the collection and transportation of solid wastes.

(H) The Board shall have the authority pursuant to N.C.G.S. §153A-136(a)(4) to approve all rates charged by solid waste collectors prior to granting a franchise. The Board may

classify rates according to the type of service provided (residential, commercial, institutional, or industrial collection), so that reasonable compensation may be provided in accordance with the public interest. Rate schedules may be amended no more than once a year (annually) and must receive Board approval prior to implementation.

- (I) A franchise shall be for a minimum term of one year, but may be granted for up to 3 years in accordance with N.C.G.S. § 153A-136(a)(3), and may be renewable.
- (J) A solid waste collector franchised under this ordinance shall present to each prospective customer, in advance of any agreement with that customer, a schedule of rates as authorized by this ordinance. All solid wastes shall be removed from the customer's premises at least once a week, provided the customer is no more than thirty days in arrears in payment of the required collection charges.
- (K) The Board may grant temporary franchises for the collection, transportation, or disposal of solid wastes to provide service in the event of abandonment of an existing franchise or for other causes.
- (L) Notwithstanding any other provision of this ordinance, the Board may grant non-exclusive franchises for the collection of commercial, industrial, institutional, and construction and demolition wastes throughout Lincoln County.
- (M) All disputes regarding the granting of a franchise and disagreements concerning franchised areas shall be determined by the Board.
- (N) No franchise issued pursuant to this ordinance is assignable without the prior consent of the Board.
- (O) A solid waste collector granted a franchise under this ordinance shall give thirty days' written notice to Lincoln County before abandoning the franchise.
- (P) The Board may terminate or suspend any or all portions of a franchise for any of the following reasons:
 - (1) Loss of the franchisee's license to operate as a solid waste collector;
 - (2) Failure of the franchisee to comply with the authorized fee schedule;
 - (3) Failure of the franchisee to render prompt and effective services to persons within the service area;

(4) Failure of the franchise to comply with any provision of this ordinance or applicable regulations of the North Carolina Department of Environmental Quality.

(Q) During a natural emergency, Lincoln County reserves the right to suspend a franchise license or portion thereof, for a period of 30 days in order to meet specific conditions of the natural emergency.

52.35 HAZARDOUS SOLID WASTE AND LIQUID WASTE.

No hazardous solid waste as defined in N.C.G.S. § 130A-290 or liquid waste shall be placed in any receptacle used for collection of waste by Lincoln County. Hazardous or highly combustible waste shall not be disposed of at any Lincoln County solid waste management facility. Lincoln County Solid Waste may assist in managing the disposition of certain materials to appropriate facilities for processing.

52.37 LOT CLEARING OR CONSTRUCTION.

Materials such as trees, shrubbery, or underbrush resulting from land being cleared will not be picked up by Lincoln County staff. Building materials shall be collected, removed, and disposed of by the contractor or builder, or in the event of his or her failure to do so, by the owner of the property. No such materials shall be disposed of at Lincoln County Recycling and Convenience Sites.

52.38 CASUALTY DAMAGED SOLID WASTE.

No owner, occupant, tenant, or lessee of any commercial, industrial, or residential premises shall permit the solid waste from any building or other structure which has been damaged beyond repair by fire, storm, or other casualty, to remain on the premises for more than (6) months after the event unless ongoing investigations by the fire marshal or other local or state entity.

52.39 DEMOLITION LANDFILLS.

(A) Generally. The authority to regulate demolition debris landfill is pursuant to N.C.G.S. §130A-294(a)(5c). Delegation of authority and responsibility of demolition debris landfills shall be issued by the North Carolina Resources, Solid Waste Section. The Department of Environmental Quality shall retain exclusive authority and responsibility for the assessment under .0701 of administrative penalties for violations of the Solid Waste Management Act or Rules.

(B) Application requirements. All persons, businesses, corporations, and public entities shall obtain a permit from Lincoln County before constructing, opening, or operating a demolition debris landfill. Additionally, all applicants shall meet the requirements of the

Lincoln County Unified Development Ordinance (UDO). Nothing in this ordinance shall prohibit the individuals or organizations, who operate a permitted demolition debris landfill, from establishing charges to those persons disposing of debris waste at the permitted site. Lincoln County shall approve all permitted demolition debris landfill rate schedules before the site can be opened for use. Lincoln County shall be notified of any changes in charges after a permitted site is opened for use. Applications for permits to construct and use demolition landfills in Lincoln County must be submitted to Lincoln County. A minimum of four (4) sets of plans must be submitted at the time the application is submitted. The following information is required by Lincoln County before a permit can be processed:

- (1) A map or aerial photograph accurately showing the area within one-fourth mile of the site and identifying the following:
 - i. Entire property owned or leased by the person providing the disposal site.
 - ii. Location of all homes, industrial building, public or private utilities, roads, wells, watercourses, and other applicable details regarding the general topography.
 - iii. If site is in a 100-year floodplain, provide map showing relationship.
- (2) An approval letter from the unit of local government having zoning authority over the area where the site will be located.
- (3) Location of site on Lincoln County road map.
- (4) The types of wastes to be disposed of.
- (5) Any other information pertinent to the suitability of the proposed site.
- (6) A construction plan application for a proposed or existing demolition landfill must be submitted to Lincoln County with the following information:
 - i. A plot plan of the proposed site, by a North Carolina licensed surveyor, showing the property boundaries, proposed landfill limits, access controls, and features such as roads, streams, etc.
 - ii. Provisions for controlling erosion.
 - iii. Procedures for promoting vegetation growth at the site on all completed areas.
 - iv. A copy of deed or other legal description of the site.

- v. Types of materials to be disposed of at the site.
- vi. Name and phone number of responsible individual.
- vii. Projected use of land after completion of the fill.
- viii. Any other pertinent information to the proposed construction plan.

LANDFILL SITE

52.80 METAL DRUMS RESTRICTED.

Metal 55-gallon drums, such as oil and chemical containers, shall not be accepted at the landfill site, unless the drums have both ends (top and bottom) completely removed and meet other requirements of this chapter.

52.81 LIMITATIONS.

- (A) From time-to-time certain solid waste may arrive at the landfill site which in the opinion and judgment of the operators of the site would be hazardous or detrimental to personnel or operators. The operators may delay the unloading of these wastes until the Director of Health, or his or her representative, has the opportunity to review the situation and decide upon the disposition of the waste. With regard to the decision upon the disposition, appeal may be made by the hauler to the Lincoln County Manager, whose decision shall be final and subject to no appeal.
- (B) In order to properly operate the landfill site, the duly authorized landfill operators of necessity must exercise discretion as to where certain types of solid wastes are unloaded. Persons delivering wastes to the landfill site shall be required to discharge the wastes at locations as directed by the operator. This provision shall under no circumstances empower landfill site operators to require that drivers make or attempt maneuvers that would abuse or injure equipment or that would jeopardize the safety of the driver or equipment.
- (C) No solid waste from outside Lincoln County shall be accepted at the landfill site or at Lincoln County Recycling and Convenience Sites.

52.82 UNLAWFUL ENTRY TO THE LANDFILL SITE.

It shall be unlawful for any person to enter the landfill or Lincoln County Recycling and Convenience Site outside of times of normal operations, except persons specifically authorized. Any person violating this provision shall be prosecuted for trespass under state law.

52.83 REFUSAL TO ALLOW DEPOSIT.

The operator of a landfill site or a solid waste management facility shall not allow the deposit therein of solid waste from a vehicle which has been loaded or moved in such a manner as to fail to comply with the provisions.

52.84 TAMPERING WITH EQUIPMENT.

It shall be unlawful for any unauthorized person to operate, tamper with, enter, pilfer, or damage any structures, equipment, or machinery at the landfill site.

ADMINISTRATION AND ENFORCEMENT

52.93 USER FEES.

Any person depositing solid waste at a Lincoln County operated solid waste management facility shall pay user fees as determined by the Board of Lincoln County.

- (A) Purpose and Intent. The provisions of this ordinance are to impose fees for the availability and use of a disposal facility provided by Lincoln County. Availability fees imposed shall not exceed the cost of providing for the facility and shall be imposed on all improved property in Lincoln County that benefits from the availability of the facility. Fees for the use of the facility shall not exceed the cost of operating the facility and may be imposed only on those who use the facility.
- (B) Authority. This ordinance is adopted under the authority of N.C.G.S. § 153A-292.
- (C) Applicability. This ordinance is applicable to all owners of improved real property in Lincoln County that benefit from the availability of the facility, as well as commercial, municipal, and industrial users of the facility, subject to the provisions of N.C.G.S. §153A-292.
- (D) Fees. Except as otherwise herein provided, fees and rates may be found in the *Operating Procedures Manual*.
 - (1) A yearly fee shall be imposed on the improved property of each owner (as of January 1 of the calendar year for which the fee is collected) within the county that benefits from the availability of the facility. For the purposes of this subchapter, UNIT means a potential generator of solid waste and shall include, but not be limited to, each individual residence, mobile home, and/or available mobile home site, apartment unit, condominium unit, commercial enterprise, manufacturer, industrial plant, utility, church, school, hospital, rest home facility, and nonprofit institution. This fee shall be applied separately for each individual business, store, or other entity within a commercial enterprise.

- (2) A tonnage fee shall be imposed on all solid waste deposited by commercial, municipal, and industrial entities which use the facility; provided, however, that this fee shall not apply to solid waste deposited by commercial and municipal haulers which is collected from residential customers within the county.
- (3) A tonnage fee shall be collected from commercial, municipal and industrial haulers that deposit stumps, limbs, leaves, concrete, brick, wood, and uncontaminated earth in the demolition landfill.

(E) Collection.

(1) Improved Real Property. The fee imposed upon owners of all improved property that benefit from the availability of the facility shall be billed with property taxes pursuant to N.C.G.S. §153A-293 and shall be payable in the same manner as property taxes, provided, however, that in the event of nonpayment, said fee shall be collected in any manner in which delinquent personal or real property taxes can be collected, and that until paid, the fees imposed shall constitute a lien on the real property described on the bill that includes the fee. In conjunction with and in the same manner as used for billing owners for property taxes, the Lincoln County Tax Administrator shall bill owners who are not otherwise subject to taxation for the availability fees imposed by this ordinance.

(2) Partial Exemption for Elderly or Disabled Owners. Owners of this class of residential property described hereinafter shall be liable for only 50% of the availability fee imposed under this ordinance subchapter. The following class of property is designated a special class of property: Property owned by a North Carolina resident, if, as of January 1 of the year for which benefit of this section is claimed:

- i. The owner is either 65 years of age or older or is totally and permanently disabled;
- ii. The owner's income does not exceed the Income Eligibility Limit as defined in N.C.G.S. § 105-277.1; and
- iii. The owner makes the required application. The Tax Administrator shall have the responsibility to develop and supply the required application to eligible applicants.

(3) For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is registered in both names. Property owned and occupied by spouses as tenants by the entirety shall be entitled to the full benefit of this classification if either of them meets the age or disability requirements herein provided.

(4) Commercial, Municipal, and Industrial Users. As a condition for the disposition of solid waste of all kinds by commercial, municipal, and industrial users at the facility, the users shall pay the fees charged hereunder for the use of said ~~the~~ facilities at the time of the disposition of the solid waste products or shall run an account approved by the Board of Lincoln County as defined in the *Operating Procedures Manual*, which account shall be payable in full on a monthly basis. In the event of nonpayment of the monthly account, the privilege of the monthly account may be suspended, thereby requiring the delinquent user to pay at the time any further solid waste is deposited at the facility by the delinquent user, Until the account is fully paid, the suspension, as herein provided, may remain in full force and effect. Lincoln County retains rights to seek collection of unpaid fees.

(F) Effective Date. This ordinance shall be effective as of its adoption.

52.94 ADMINISTRATION; ENFORCEMENT.

- (A) The Public Works and/or Planning Director(s) or their designee(s) shall be charged with the enforcement of the provisions of this ordinance. If the Director(s) finds that any of the provisions of this ordinance are being violated, they shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct the violation. They shall also take any other action authorized by this section to ensure compliance with or to prevent violation of its provisions.
- (B) The Director(s) shall have the discretion to stay the accrual of civil penalties pending reasonable efforts by the violator to correct the violation. The owner of the property on which the violation occurs may submit to the Code Enforcement Official a written request for extension of the order's specified time limit for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Code Enforcement Official may extend the time limit as reasonably necessary to allow timely correction of the violation.

52.95 OPERATIONS; PROCEDURES AND REGULATIONS.

Procedures and regulations for the administration and implementation of this chapter are set forth in the *Operating Procedures Manual* and incorporated by reference into this chapter as if fully set forth herein. The *Operating Procedures Manual* may be modified or amended from time to time by the Lincoln County Manager.

52.96 PENALTY.

- (A) Generally. Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to Section 52.96.
- (B) In accordance with G.S. § 153A-123, any person violating any provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine or

imprisonment. Each day a violation continues shall be deemed a separate offense. The following penalties are hereby established:

Warning Citation.....	Correct Violation within 10 days
First Citation.....	\$25.00 (Correct Violation within 10 days)
Second and Subsequent.....	\$50.00 per day for first through the seventh days
Citations for Same Offence.....	\$100.00 per day for eighth through the fourteenth days
	\$150.00 per day for fifteenth through the twenty-first days
	\$250.00 per day for twenty-second through the twenty-eighth days
	\$500.00 per day thereafter

(C) If the offender fails to pay the civil penalties within 20 days after having been cited, the County may recover the penalties in a civil action in the nature of debt.

(D) Repeat violations. After having been once cited for a violation this Ordinance, a violator shall be subject to the following civil penalties for any additional violations within the following 12-calendar-month period. For a second violation within the period, civil penalties will begin at \$100 per day for each day that the violation continues and will escalate according to the following schedule: \$150 per day for the eighth through the fourteenth days; \$200 per day for the fifteenth through the twenty-first days; \$250 per day for the twenty-second through the twenty-eighth days; and \$300 per day for each day that the violation continues beyond the twenty-eighth day. A third violation during the same period shall subject the violator to civil penalties beginning at \$200 per day and escalating in the same fashion for as long as the violation continues.

(E) Injunctive relief or equitable remedy. Notwithstanding the assessment of civil penalties as provided above, Lincoln County may pursue a civil action seeking a mandatory or prohibitory injunction and order of abatement or other equitable remedy against the violator of this Ordinance. The action may be in addition to, and not in lieu of, civil penalties.

(F) Criminal prosecution. A misdemeanor warrant may be issued either immediately or upon the issuance of a citation and the violator's failure to pay the penalty within the time provided. A violation of this Ordinance upon the issuance of a misdemeanor warrant shall be punishable as a Class 3 misdemeanor under N.C.G.S. § 14-4 by a maximum sentence of 30 days and/or a maximum fine of \$500.