

**SOLID WASTE MANAGEMENT ORDINANCE OF
CLAY COUNTY, NORTH CAROLINA**

PURPOSE AND AUTHORITY:

The purpose of this Ordinance is to promote the public safety, health, and welfare of the citizens of Clay County by regulating the management of solid waste and recycling in Clay County. This Ordinance is authorized by the provisions of N.C. Gen. Stat. §§ 153A-121, 153A-122, 153A-132.1, 153A-136, and 153A-292 and the laws of the State of North Carolina.

ARTICLE I – TITLE

This ordinance shall be known and may be cited as the Solid Waste Management Ordinance of Clay County, North Carolina.

ARTICLE II – JURISDICTION

On and after the effective date of this ordinance, the provisions of this ordinance shall govern the collection, transportation, use, disposal and other disposition of solid wastes within Clay County, North Carolina which are outside and beyond the corporate limits of any municipality of Clay County, North Carolina.

ARTICLE III – DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of these regulations:

- A. **Banned Material** – Those materials listed in Article IV, B.
- B. **Bulky Wastes** – Large items of solid waste such as household appliances, furniture, branches, and other oversized waste whose size precludes or complicates their handling by normal solid waste collection, processing, or disposal methods.
- C. **Commercial Waste** – Non-hazardous putrescible and non-putrescible waste generated by entities other than an individual residence.
- D. **Compost** – Biodegradable material that is managed in such a way to promote its decomposition so that a usable soil amenity is produced.
- E. **Construction & Demolition Waste (C&D)** – Waste building materials, packaging, roofing shingles, and rubble resulting from construction, remodeling, repair. This includes concrete, bricks, uncontaminated earth, untreated wood waste clean of nails or other hardware, and demolition operations on pavements, houses, commercial buildings, and other structures as approved by Clay County, but shall not include construction materials which are recycled.
- F. **Contractor** – Any builder or developer that generates a waste stream.

G. County – Clay County, North Carolina

H. Transfer Station Supervisor – Administrator of the County Solid Waste Department.

I. Garbage – All putrescible wastes, including animal and vegetable matter, small animal offal and carcasses, and recognizable industrial by-products, but excluding sewage, human waste, and any liquid waste.

J. Hazardous Waste – As defined in North Carolina General Statute 130A-290(8).

K. Illegal Dumping – Any action that contributes to the illegal disposal or accumulation of litter, solid waste, or recyclables which are not recycled.

L. Industrial Waste – Non-hazardous waste generated by an industrial or manufacturing process.

M. Land Clearing Debris- Solid wastes generated solely from land-clearing activities.

N. Residential Solid Waste Disposal Permit - An annual permit available for purchase by individual households that deliver their own waste to the transfer station.

O. Litter – Any amount of solid waste or recyclables, which has been disposed of, discarded, or abandoned improperly or illegally including solid waste and recyclables on roadsides, in water, or on public or private lands. Litter does not include biodegradable material collected in a safe manner for composting purposes, or solid waste or recyclables collected on a person's own property for some legal, safe purpose.

P. Recyclables – Those materials, which are capable of being recycled, which would otherwise be processed or disposed of as solid waste, and which may specifically include construction materials which are recycled.

Q. Recycled. - The process followed by which solid waste or materials which would otherwise become solid waste, are collected, separated, reused or returned to use in the form of raw materials or products.

R. Recycling Center – The drop-off site at the Clay County Transfer Station to which people residing in Clay County can bring their recyclables.

S. Residential Waste – Solid waste generated in the day-to-day activities of households.

T. Solid Waste – As specifically defined in North Carolina General Statute 130A-290 (a) 35. In general, solid waste is garbage, refuse, rubbish, trash, and other discarded solid materials which are not recycled including solid waste 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 pollution.

U. Clay County Sheriff – The Clay County Sheriff is responsible for executing the criminal enforcement provisions of the Solid Waste Ordinance.

V. Transfer Station – Facility used for staging and bulking of County solid waste prior to transport to an approved sanitary landfill.

W. Waste Hauler – Any person or company that hauls solid waste or recyclables for a fee.

X. Yard Waste – All biodegradable clearing debris and vegetative matter including lawn clippings, leaves, brush, and garden refuse.

ARTICLE IV – USE OF TRANSFER STATION

A. The right to use of the Clay County Transfer Station is expressly subject to and conditioned upon the payment of the rates, fees and/or charges established by the Clay County Commissioners in this Ordinance and as shown on Exhibit A attached hereto, as may be amended from time to time by amending this Ordinance.

1. The Transfer Station in Clay County is operated and maintained by the County and financed by revenues generated through Use Permits, Tipping Fees, and “Per Trip” fees. The Transfer Station Use Permits will be sold at the Transfer Station. “Per Trip” fees will be charged and collected at the Transfer Station. The County Commissioners shall adopt a schedule of rates, fees and charges as set forth in Exhibit A attached hereto and the same may be amended from time to time by amending this Ordinance.
2. The purpose of these allocated monies is to provide solid waste management and recycling services within Clay County, North Carolina. Therefore, it shall be unlawful for any person to use the County Transfer Station unless such person is disposing of solid waste generated on property located within Clay County.
3. The North Carolina Department of Environment and Natural Resources (DENR) regulates the operation of the Clay County Transfer Station. The County shall have the authority to determine what types of waste can be transferred through the Transfer Station in accordance with the most current State and Federal rules and regulations governing such disposal.

B. Materials- Materials may be excluded if they violate the conditions of the DENR Solid Waste Operating Permit or any permit conditions/restrictions imposed on the County by any landfill receiving the County's waste.

C. Recyclables- it shall be illegal to deposit any material in a recycling container that is not specifically marked to accept the said material.

D. Fire Prevention- It shall be unlawful for any person to place embers, ashes, or other material in a container that would create a fire hazard.

E. Scavenging - It shall be unlawful for any person to remove any item from the Transfer Station unless they have express written permission from the Environmental Manager or a duly authorized representative. No person or persons shall loiter and/or congregate at the Transfer Station site and no vehicle shall be left unattended on said property. Any vehicle left unattended may be towed away and placed in storage at the owner's expense. This paragraph shall not apply Transfer Station employees acting in the normal course of their duties at the Transfer Station.

F. Littering and Illegal Dumping

1. It shall be unlawful for any person or entity to sweep, throw, deposit, dump, permit, allow, maintain or contribute to the sweeping, throwing, depositing, or dumping any litter, solid waste, recyclables, or banned material into, upon or within or upon any public or private premises within Clay County. However, nothing in this provision shall prevent or prohibit the owner or lawful possessor of lands within Clay County from storing recycled materials upon such lands provided that the same have not been disposed of, discarded or abandoned improperly. **That notwithstanding anything to the contrary contained herein**, a person or entity who violates the provisions of Article IV, F. 1. concerning the sweeping, throwing, depositing, dumping, permitting, allowing, maintaining or contributing to the sweeping, throwing, depositing, or dumping any litter, solid waste, recyclables, or banned material into, upon or within any private premises which are owned or lawfully possessed by such person or entity shall not be subject to criminal prosecution and/or penalties and/or civil penalties unless the Sheriff of Clay County or Clay County shall have first provided to such person or entity notice of the original violation or violations and provides such person or entity 10 full days from such notice to fully clean up the same. In the event, that such person or entity fails to fully clean up the same within 10 days of such notice, then such person or entity may then be criminally prosecuted for violating this ordinance and shall be also be subject to criminal penalties and/or civil penalties for violating the same as provided for herein.
2. It shall be unlawful for any owner, occupant, tenant or lessee of any building, structure or land jointly or severally to permit the deposit or accumulation of litter or other illegally dumped materials thereon. Garbage or residential waste allowed to accumulate thereon for any period of time which creates a health hazard or becomes unsightly shall be unlawful. However, nothing in this provision shall prevent or prohibit the owner or lawful possessor of lands within Clay County from storing recycled materials upon such lands provided that the same have not been disposed of, discarded or abandoned improperly. **That notwithstanding anything to the contrary contained herein**, a person or entity who violates the provisions of Article IV, F. 2. shall not be subject to criminal prosecution and/or penalties and/or civil penalties unless the Sheriff of Clay County or Clay County shall have first provided to such person or entity notice of the original violation or violations and provides such person or entity 10 full days from such notice to fully clean up the same. In the event, that such person or entity fails to fully clean up the same within 10 days of such notice, then such person or entity may then be criminally prosecuted for violating this ordinance and shall be also be subject to criminal penalties and/or civil penalties for violating the same as provided for herein.

3. Property owners and prime contractors in charge of a construction site shall both be required to take appropriate measures to ensure the control of litter generated by construction and related activities.
4. It shall be unlawful to leave solid waste, litter, or improperly sorted recyclables at the drop-off recycling center at the Transfer Station or outside Transfer Station's gate.
5. It shall be unlawful for anyone to improperly dispose of hazardous material

ARTICLE V – SOLID WASTE TRANSPORTATION

Vehicles or containers used for the collection and transportation of garbage or refuse within Clay County shall be covered, durable and of sturdy construction. These shall be cleaned as often as necessary to prevent a nuisance and shall be maintained in good repair. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall or spill. The vehicles or containers shall be covered or securely tied to prevent blowing of material. If spillage should occur, the material shall be considered litter unless picked up immediately by the hauler and returned to the vehicle or container and the area properly cleaned.

ARTICLE VI – WASTE HAULERS

- A. This subsection shall not apply to any persons disposing of solid waste from their own residence.
- B. All waste must be enclosed or covered with a tarp during transport. The waste must be delivered to the correct section of the transfer station property, as directed by site employees.
- C. It shall be illegal for haulers to bring solid waste or recyclables that have been banned into the transfer station commingled with other solid waste.
- D. Any failure to comply with this Ordinance may result in the suspension of the Waste Hauler's privileges for disposition of solid waste at the Clay County Transfer Station and/or a fine pending a determination by the Clay County Board of Commissioners and/or the Clay County Sheriff's Office. The Waste Hauler, by written statement, may appeal the suspension. The Clay County Board of Commissioners or its designee may hold a hearing on the appeal of the suspension or may consider the matter on the written record. Clay County Board of Commissioners or its designee shall issue a written decision on the Appeal within thirty days of receipt of the Appeal. A copy of the written decision shall be mailed to the Waste Hauler.

ARTICLE VII – SOLID WASTE DISPOSAL

Subject to and conditioned upon the payment of rates, fees and charges established by the Clay County Commissioners in this Ordinance and as shown on Exhibit A attached hereto and as from time to time

amended by amendment to this Ordinance, solid waste shall be disposed of in one of the following methods:

- A. By placing allowed household or commercial solid waste in plastic garbage bags and / or containers in preparation for delivery to the Clay County Transfer Station.
- B. By delivering allowed waste in plastic garbage bags and / or containers in preparation for delivery to the Clay County Transfer Station.
- C. A Clay County, NC, resident may dispose of certain types of residential waste generated at his premises upon his residence premises, limited to reclaiming, composting, mulching, or recycling processes that have been approved, but only in a safe and sanitary manner approved by the Solid Waste Department or a duly authorized representative and in agreement with the North Carolina Division of Waste Management, Solid Waste Rules 15A NCAC 13B, Section 0500.
- F. Tipping fees will be charged for all C&D waste.

ARTICLE VIII - ENFORCEMENT

Enforcement of this Ordinance shall be by the Clay County Sheriff's Office and/or Clay County.

- A. When litter is placed, thrown, or deposited into, upon or along any public or private property, the person responsible for the litter shall be responsible to remove said material and dispose of such in accordance with this ordinance.
- B. Photographs or videotapes of an illegal dump, litter, or of a person in the process of committing such offense may be used as evidence to identify the person responsible.

ARTICLE IX - PENALTIES AND ENFORCEMENT FOR VIOLATION

- A. The violation of any provision of this ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in G.S. 14-4 by imprisonment not to exceed thirty (30) days or a fine not more than \$50. Each day's violation of this ordinance shall be a separate offense (a violation shall include the placing, discarding, disposing, leaving, or dumping of articles in violation of this Ordinance and each day or portion thereof that the article(s) or matter(s) are left shall constitute a separate offense .
- B. In addition to criminal penalties and other sanctions which may be levied under this Ordinance, any person violating any of the provisions of this ordinance may be subject to a Civil Penalty for each violation concerning illegal disposal of solid waste including littering and injunctive relief and abatement orders. Each day a violation continues may be considered a separate offense (a violation shall include the placing, discarding, disposing, leaving or dumping of articles in violation of this Ordinance and each day or portion thereof that the article(s) or matter(s) are left shall constitute a separate offense. During the pendency of any enforcement proceedings hereunder, the County reserves the right to limit or prohibit the

disposition of any solid waste or recycling material by the Waste Hauler against whom enforcement proceedings are pending at the Transfer Station.

1. Such civil penalties may be recovered by Clay County in a civil action in the nature of debt or may be collected in such other manner as prescribed herein within the prescribed time following the issuance of notice for such violation.
 2. Such notice shall, among other things:
 - a. State upon its face the violation committed, the place and approximate date, and the amount of the penalty.
 - b. Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty together with the cost of the action to be taxed by the Court.
 - c. Further provide that such offender may answer the notice by mailing said notice and stated penalty to the Clay County Government at a location designated upon such notice, and that upon payment, such case or claim and right of action by Clay County will be deemed compromised and settled.
 - d. The notice of violation referred to herein may be delivered to the person violating the provisions of this ordinance in person or may be mailed to said person at his last known address.
 - e. The County Manager or duly designated employee is authorized to accept such payments in full and final settlement of the claim or claims, right or rights or action which Clay County may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such alleged violation or violations.
- C. The County may enforce this Ordinance by appropriate equitable remedy issuing from a court of competent jurisdiction.
1. Civil penalties for violation of this ordinance shall be as follows:
 - a. Littering - \$50 per offense.
 - b. Residential Violation (backyard dumping or burning) - \$50 per offense.
 - c. Any Waste Hauler of Commercial, Residential, or Industrial Waste that Disposes Waste Containing a Banned Material .
- D. The person or persons littering or dumping in violation of this ordinance and the person or persons generating said litter or unauthorized material so dumped shall be liable, jointly and severally, for all costs incurred by the County in the collection, removal, and disposal of said litter or unauthorized material.

ARTICLE X – SEVERABILITY

It is expressly understood that this Ordinance is consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources for the State of North Carolina. Should any section or provision of this ordinance be for any reason held void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section or provisions herein.

ARTICLE XI – REPEAL OF CONFLICTING ORDINANCES

To the extent this Ordinance conflicts with any existing County Ordinances, the provisions of this Ordinance shall prevail.

ARTICLE XII – EFFECTIVE DATE

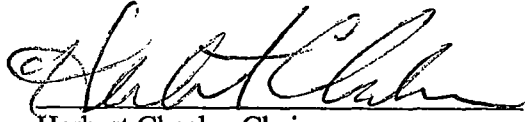
The effective date of this Ordinance shall be the date of its adoption by the Clay County Board of Commissioners.

Whereas, the Clay County Board of Commissioners is authorized by North Carolina General Statute 153A-136 to regulate the storage, collection, transportation, use, disposal and other disposition of solid waste within Clay County, and

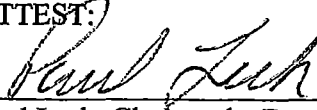
Whereas, the Board of Commissioners hereby adopts the foregoing ordinance to regulate the storage, collection, transportation, use, disposal and other disposition of solid waste;

Now, therefore, be it ordained that the preceding regulations articulated in this Solid Waste Management Ordinance shall apply to Clay County, North Carolina and all ordinances in conflict with this ordinance are hereby repealed.

ADOPTED BY THE CLAY COUNTY BOARD OF COMMISSIONERS ON THIS
THE 6th day of December, 2007.


Herbert Cheeks, Chairman
Clay County Commission

12/6/07
Date

ATTEST:

Paul Leek, Clerk to the Board

12-6-07
Date