

**NORTH CAROLINA
SWAIN COUNTY**

**“SECOND AMENDED” ORDINANCE REGULATING AND IMPOSING AN
ASSESSMENT
OF FEES FOR THE COLLECTION OF SOLID WASTE AND FOR THE
AVAILABILITY OF A SOLID WASTE DISPOSAL FACILITY
PROVIDED BY SWAIN COUNTY**

WHEREAS, the General Assembly of North Carolina has made a finding that problems of solid waste management have become a matter statewide in scope necessitating state action to assist local governments in improving methods and processes to promote more efficient methods of solid waste collection and disposal N.C.G.S. 130A-309.03(a)(2); and,

WHEREAS, the General Assembly has also made a finding that the failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources such that maximum resource recovery from solid waste and maximum recycling and reuse of the resources must be considered goals of the State. (N.C.G.S. 130A-309.03(a)(5); and,

WHEREAS, the General Assembly has listed as one of the purposes of the Solid Waste Management Act of 1989 (the “Act”) as amended, to encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality. (N.C.G.S. 130A-309.03(b)(9); and,

WHEREAS, the General Assembly has required counties to determine the full cost of providing for the collection, transport, separation, processing, and disposal of solid waste and environmentally safe manner and to, if possible, contract with private persons or entity for any or all of its solid waste services to insure that services are provided in the most co effective manner. (N.C.G.S. 130A-309.03(b)(16); and,

WHEREAS, the North Carolina Constitution gives General Assembly the ability to enact laws whereby any county may contract with any person for the accomplishment of a public purpose. (North Carolina constitution, Article V Section 2); and,

WHEREAS, the General Assembly has expressly given permission for a County to contract with and appropriate money to any person, association, or corporation, in order to carry out any public purposes that the County is authorized by law to engage in. (N.C.G.S. 153A-449); and,

WHEREAS, the General Assembly has specified that a county or municipality may enter into a written agreement with other persons, including persons transporting solid wastes, to undertake to fulfill some or all of the county’s or municipality’s responsibilities. (N.C.G.S 130A-309.09c(a)(3) and (b); and,

WHEREAS, the Board of County Commissioners of any county is authorized to enact ordinances governing the removal, method or manner of disposal, depositing or dumping any trash, debris, garbage, litter, discarded cans or receptacles or any waste matter whatsoever (N.C.G.S. 153 A-132.1); and,

WHEREAS the General Assembly of North Carolina in the 1991 session amended N.C.G.S. 153A-292 and 153A-293 to authorize the imposition of certain fees, including an availability and collection fee, for the collection and disposal of solid waste by the County; and,

WHEREAS, it is the intent of the Swain County Commissioners to charge a county-wide availability and collection fee, as allowed by statute, to offset the expense of providing by contract for the collection, transportation and disposal of solid waste in Swain County with such availability and collection fee being imposed and billed with property taxes by the Swain County Tax Collector and collected in the manner by which delinquent personal or real property taxes are collected, all in accordance with N.C.G.S. 153A-292 and 293.

NOW, THEREFORE, by virtue of the authority to enact ordinances and to regulate the collection, transportation, and disposal, and other disposition of solid waste, the Board of Commissioners of Swain County (hereinafter referred to as "The Board") hereby ordains the following:

ARTICLE I Definitions

The following terms used in this ordinance have the meanings indicated in this section unless the context of the ordinance clearly requires otherwise:

- (1) "Assessor" means the Swain County Tax Assessor
- (2) "Board" means the Board of Commissioners of Swain County.
- (3) "Collection" means the act of removing solid waste from a point of collection (i.e. dumpster) to a transfer point or to a disposal site.
- (4) "Construction and demolition waste" means waste building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures.
- (5) "County" means Swain County, North Carolina.
- (6) "Dumpster" means stationary solid waste containers, which require mechanical pick-up by customized loading vehicles, including roll-off containers.
- (7) "Hazardous waste" means 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 mortality or an increase in serious irreversible, or incapacitative 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.

(8) "Improved property" means all improved real property within Swain County, including but not limited to, residences, mobile homes, trailers, recreational vehicles, apartments, commercial establishments, restaurants, schools, churches, rest homes, nursing homes, country clubs, governmental units, campgrounds, and professions.

(9) "Industrial solid waste" means solid wastes generated by industrial processes and manufacturing.

(10) "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity owning property in Swain County.

(11) "Recreational vehicle/Trailer" means improved property with an affixed porch, deck, and/or is connected to septic and/or water.

(12) "Solid Waste" means all material customarily referred to as garbage, or refuse, and other discarded material, including solid or semi-solid materials or materials resulting from community activities, but does not include hazardous waste or solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of Federal Water Pollution Control Act as amended (86 STAT. 880) or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 STAT. 923), nor construction and demolition waste or vehicular tires.

ARTICLE II PURPOSE AND INTENT

It is the purpose and intent of this ordinance to protect public health, safety and welfare, to protect the environment and the County's natural resources, and to provide a means to generate sufficient funds to fully cover the costs of collection and disposal of all solid waste generated within Swain County. The services rendered are to be under the supervision and regulation of Swain County, both as to the means and method of collection, and also as to the sanitary disposition of solid waste.

It is specifically the purpose and intent of this ordinance to provide a means for the imposition and collection of an availability and collection fee from all improved property owners within Swain County annually in a sum sufficient to enable the County to contract for and pay responsible persons, businesses or entities, for the collection, transportation and disposal of solid waste within Swain County.

The Board, pursuant to the authority vested in it under North Carolina General Statutes 153A-45 and 153A-46, reserves the right to amend this ordinance from time to time when such amendment would be in the best interest of the citizens and residents of Swain County.

Additionally, the Board may, upon the determination that its solid waste collection, transportation and disposal plan and/or contract for same are not serving the needs and best interests of the public, repeal this ordinance in its entirety, or that portion of the ordinance it deems necessary and make provisions for governmental or other free enterprise operation or franchised operations of the solid waste collection business.

ARTICLE III EFFECT

This ordinance shall govern the collection, transportation and disposal of solid waste throughout all of Swain County pursuant to the provisions of N.C.G.S. 153A-136 and N.C.G.S. 130A-309.09.

ARTICLE IV COLLECTION AND DISPOSAL

All citizens and residents of Swain County shall dispose of solid waste in the manner provided in this Article IV of this ordinance.

4.1

County shall provide for the availability and siting of collection dumpsters and/or collection sites throughout the County, situated so as to be accessible and available to all County residents and/or citizens. County shall further construct and maintain a solid waste transfer station for use in storing, transferring and/or transporting all solid waste from Swain County to a collection site for transfer to the ultimate disposal facility.

4.2

All citizens and/or residents of Swain County, and all persons within the geographical boundaries of the County, shall dispose of Construction and Demolition Waste, Hazardous Waste, Industrial Solid Waste, and Solid Waste in appropriate locations or containers, as provided by applicable state and federal law and by this Article.

4.3

Construction and Demolition Waste and vehicular tires, shall be disposed of only at the designated County Construction and Demolition Waste landfill site, as provided by the rules and regulations of the landfill under authority of this Ordinance. All such waste shall be deposited only at properly designated areas and/or as directed by the County Solid Waste Coordinator.

4.4

Hazardous Waste shall not be collected or disposed of within the County except in accordance with federal and state law and except as per-approved by the County Solid Waste Coordinator.

4.5

Industrial Solid Waste shall be collected and disposed of by the industry generating the waste except as said waste shall qualify as Solid Waste of Construction and Demolition Waste, as defined by this ordinance.

4.6

Solid Waste shall be disposed of only in designated County dumpsters or at designated County collection sites, and in accordance with any rules or regulations officially post at such sites or upon or adjacent to said dumpsters in accordance with this Ordinance. No solid waste shall be removed from dumpsters or collection sites except by persons or businesses duly authorized by the County to collect, transport and /or dispose of solid waste.

ARTICLE V
FEEES AND COLLECTION

5.1

There shall be an annual availability and collection fee imposed upon the owner of each improved real property within Swain County to recover the costs of collection, transportation and disposal of solid waste in Swain County. This fee shall be imposed county-wide. This fee shall be collected by Swain County and paid into the “ Swain County Solid Waste Fund.”

5.2

The amounts to be charged as and availability and collection fee for solid waste collection and disposal shall be established and adjusted as necessary by the Swain County Board of Commissioners, shall be recorded in the official minutes of the Board meeting at which the fees were adopted, and shall appear on a fee schedule attached to the ordinance.

5.3

The total revenue derived from the solid waste availability and collection fee shall be set to cover the full cost of solid waste collection, transportation and disposal incurred by Swain County, in accordance with N.C. G.S. 153A-292.

5.4

Owners of improved property shall be assessed and billed the availability and collection fee on

the basis of all improved real property owned by them on January 1 of any given year and this fee shall be billed on the annual Ad Valorem tax bill to improved property owners which will be due on September 1st of any given year. Such fees are due on each September 1st and shall become delinquent if not paid on or before the following January 6th. Late charge and penalties shall be assessed as provided by law for Ad Valorem taxes owing on real property. The collection of these fees, delinquent fees, and collection costs will be governed by the North Carolina General Statutes involving the collection of Ad Valorem taxes on real or personal property. This ordinance shall become effective upon adoption, with the fee hereby established accruing from and after January 1, 2005.

5.5

The availability and collection fee shall be assessed by the Swain County Tax Assessor and billed and collected by the Swain County Tax Collector from the owners of all improved real property within Swain County.

5.6

In accordance with N.C.G. S. 153A-293, the availability and collection fee for solid waste disposal imposed pursuant to N.C.G.S. 153A-292 shall be billed with property taxes, shall be payable in the same manner as property taxes, and in the case of non-payment, shall be collected in any manner by which delinquent personal or real property taxes can be collected, and the fees shall be a lien on the real property described in the bill that includes the fee.

ARTICLE VI EXEMPTIONS

6.1

Certain exemptions from the availability and collection fee may be allowed by the Assessor if the person owning residential property makes a written request to the Assessor along with satisfactory proof of the following:

- 1) that the improved residential property has been disconnected from electric/power usage for a continuous one year period immediately preceding the written request for exemption being made to the Assessor; and
- 2) that the written request is received by the Assessor prior to January 1 of the year for which the request for exemption is made.

6.2

When improved residential property is determined exempt from the availability and collection fee as set out in this Article, the person owning the exempt shall notify the Tax Assessor within five (5) days of any change in the use of the improved property and/or the power/electric becomes re-supplied or reconnected to the improved property. Upon this notification to the Tax Assessor, the availability and collection fee will be assessed to the person on a pro-rata basis from the date of the change for the tax year in which the use change takes place.

ARTICLE VII LOITERING AND PILFERING

7.1

Loitering and pilfering through solid waste prohibited.

7.2

No person other than the authorized employees or agents of Swain County shall loiter or linger around any solid waste collections site, nor shall any person handle, pilfer, or otherwise come in contact with the contents of solid waste collection containers, or solid waste located at the Swain County Convenience Centers or Recycling Center. The provisions of this section shall not be interpreted so as to prohibit users of the solid waste collection facilities from coming to the collection sites for the purpose of disposing of solid waste in an orderly and efficient manner. Violation of this section shall be punishable by a fine up to \$50.00 plus court cost.

ARTICLE VIII PENALTIES AND REMEDIES

8.1

As provided in Section 5.6 hereinabove, and in accordance with N.C.G. S. 153A-293, the availability and collection fee for solid waste disposal imposed pursuant to N.C.G.S. 153A-292 shall be billed with property taxes, shall be payable in the same manner as property taxes, and in the case of non-payment, shall be collected in any manner by which delinquent personal or real property taxes can be collected, and the fees shall be a lien on the real property described in the bill that includes the fee.

8.2

A violation of any of the provisions of this ordinance shall constitute a misdemeanor, punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or both, in the discretion of the Court.

8.3

A violation of any of the provisions of this ordinance shall also subject the offender to a civil penalty of five hundred dollars (\$500.00). If a person fails to pay this civil penalty within ten

(10) days after being cited for a violation, the County may seek to recover the penalty by filing a civil action in the nature of debt.

8.4

The County may seek to enforce this article through any appropriate legal or equitable action and relief.

8.5

Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offence.


8.6

The County may seek to enforce this article by using any one or any combination of the foregoing and /or by using any available contractual, legal or equitable remedies.

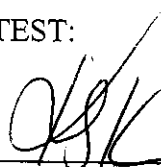
This amended ordinance shall be effective January 1, 2005

Adopted this the 14 day of December, 2004.

SWAIN COUNTY

By: 
Glenn Jones, Chairman

ATTEST:

By: 
Kevin King, Clerk

FEE SCHEDULE

Category 1: All improved property used as a residence (year around, seasonal, and/or rental), including but not limited to a home, apartment, mobile home, trailer, and recreational vehicle but excluding improved properties having property tax homestead exclusion which are assessed as set out in Category 8 below: \$75.00 per residential unit.

Category 2: All improved property used for commercial purposes, except those that operate as a solely as a motel/hotel/bed and breakfast establishment: \$300.00

Category 3: All improved property used as a Motel, Hotel, and/or Bed and Breakfast establishments: \$25.00 per unit or room.

Category 4: All improved property used as a restaurant: \$400.00

Category 5: All improved property used as a campground with tent and/or recreational vehicle sites: \$10 per site and/or unit.

(Note that property with recreational vehicles and/or trailers as defined within this Ordinance located thereon shall be assessed as set out in Category 1 above).

Category 6: For all improved property used for industrial purposes, waste will be hauled to/by the entity with whom the County contracts for such disposal and will be billed at the current waste disposal rate being charged to the County.

Category 7: All improved property being used for more than one use or a combination of any of the above uses/categories shall be assessed for each use type as set out in categories 1-6 hereinabove.

Category 8: The owner of improved property who receives the property tax homestead exclusion pursuant to N.C.G.S. 105-277.1: 40% of the current amount collection fee responsibility (i.e. currently residential fee is \$75.00, therefore the fee for those who qualify said exclusion is \$30.00)

Category 9: Special Waste, including but not limited to building/construction materials shall be assessed at \$40.00 per ton or \$0.02 per pound.

NORTH CAROLINA
SWAIN COUNTY

"AMENDED" ORDINANCE REGULATING AND IMPOSING AN ASSESSMENT
OF FEES FOR THE COLLECTION OF SOLID WASTE AND FOR THE
AVAILABILITY OF A SOLID WASTE DISPOSAL FACILITY
PROVIDED BY SWAIN COUNTY

WHEREAS, the General Assembly of North Carolina has made a finding that problems of solid waste management have become a matter statewide in scope necessitating state action to assist local governments in improving methods and processes to promote more efficient methods of solid waste collection and disposal N.C.G.S. 130A-309.03(a) (2); and,

WHEREAS, the General Assembly has also made a finding that the failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources such that maximum resource recovery from solid waste and maximum recycling and reuse of the resources must be considered goals of the State. (N.C.G.S. 130A-309.03(a) (5); and,

WHEREAS, the General Assembly has listed as one of the purposes of the Solid Waste Management Act of 1989 (the "Act") as amended, to encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality. (N.C.G.S. 130A-309.03(b) (9); and,

WHEREAS, the General Assembly has required counties to determine the full cost of providing for the collection, transport, separation, processing,, and disposal of solid waste in an environmentally safe manner and to, if possible, contract with private persons or entities for any or all of its solid waste services to insure that services are provided in the most cost-effective manner. (N.C.G.S 130A-309.03(b) (16); and,

WHEREAS, the North Carolina Constitution gives the General Assembly the ability to enact laws whereby any county may contract with any person for the accomplishment of a public purpose. (North Carolina constitution, Article V Section 2); and,

WHEREAS, the General Assembly has expressly given permission for a County to contract with and appropriate money to any person, association, or corporation, in order to carry out any public purposes that the County is authorized by law to engage in. (N.C.G.S. 153A-449); and,

June 19, 2000

WHEREAS, the General Assembly has specified that a county or municipality may enter into a written agreement with other persons, including persons transporting solid wastes, to undertake to fulfill some or all of the county's or municipality's responsibilities. (N.C.G.S. 130A-309.09c(a)(3) and (b); and,

WHEREAS, the Board of County Commissioners of any county is authorized to enact ordinances governing the removal, method or manner of disposal, depositing or dumping any trash, debris, garbage, litter, discarded cans or receptacles or any waste matter whatsoever. (N.C.G.S. 153A-132.1); and,

WHEREAS, the General Assembly of North Carolina in the 1991 session amended N.C.G.S. 153A-292 and 153A-293 to authorize the imposition of certain fees, including an availability and collection fee, for the collection and disposal of solid waste by the County; and,

WHEREAS, it is the intent of the Swain County Commissioners to charge a county-wide availability and collection fee, as allowed by statute, to offset the expense of providing by contract for the collection, transportation and disposal of solid waste in Swain County with such availability and collection fee being imposed and billed with property taxes by the Swain County Tax Collector and collected in the manner by which delinquent personal or real property taxes are collected, all in accordance with N.C.G.S. 153A-292 and 293.

NOW, THEREFORE, by virtue of the authority to enact ordinances and to regulate the collection, transportation, and disposal, and other disposition of solid waste, the Board of Commissioners of Swain County (hereinafter referred to as "The Board") hereby ordains the following:

ARTICLE I

Definitions

The following terms used in this ordinance have the meanings indicated in this section unless the context of the ordinance clearly requires otherwise:

- (1) "Board" means the Board of Commissioners of Swain County.
- (2) "Collection" means the act of removing solid waste from a point of collection (i.e. dumpster) to a transfer point or to a disposal site.
- (3) "Construction and demolition waste" means waste building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures.

June 19, 2000

ARTICLE II

PURPOSE AND INTENT

It is the purpose and intent of this ordinance to protect public health, safety and welfare, to protect the environment and the County's natural resources, and to provide a means to generate sufficient funds to fully cover the costs of collection and disposal of all solid waste generated within Swain County. The services rendered are to be under the supervision and regulation of Swain County, both as to the means and method of collection, and also as to the sanitary disposition of solid waste.

It is specifically the purpose and intent of this ordinance to provide a means for the imposition and collection of an availability and collection fee from all improved property owners within Swain County annually in a sum sufficient to enable the County to contract for and pay responsible persons, businesses or entities, for the collection, transportation and disposal of solid waste within Swain County.

The Board, pursuant to the authority vested in it under North Carolina General Statutes 153A-45 and 153A-46, reserves the right to amend this ordinance from time to time when such amendment would be in the best interest of the citizens and residents of Swain County.

Additionally, the Board may, upon the determination that its solid waste collection, transportation and disposal plan and/or contract for same are not serving the needs and best interests of the public, repeal this ordinance in its entirety, or that portion of the ordinance it deems necessary and make provisions for governmental or other free enterprise operations or franchised operations of the solid waste collection business.

ARTICLE III

EFFECT

This ordinance shall govern the collection, transportation and disposal of solid waste throughout all of Swain County pursuant to the provisions of North Carolina General Statute 153A-136 and North Carolina General Statute 130A-309.09.

ARTICLE IV

COLLECTION AND DISPOSAL

All citizens and residents of Swain County shall dispose of solid waste in the manner provided in this Article IV of this ordinance.

June 19, 2000

- (4) "County" means Swain County, North Carolina.
- (5) "Dumpster" means stationary solid waste containers which require mechanical pick-up by customized loading vehicles, including roll-off containers.
- (6) "Hazardous waste" means 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 mortality or an increase in serious irreversible, or incapacitative 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.
- (7) "Industrial solid waste" means solid waste generated by industrial processes and manufacturing.
- (8) "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.
- (9) "Solid waste" means all material customarily referred to as garbage, or refuse, and other discarded material, including solid or semi-solid materials or materials resulting from community activities, but does not include hazardous waste or solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act as amended (86 STAT. 880) or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 STAT. 923), nor construction and demolition waste or vehicular tires.
- (10) "Improved property" means all improved real property within Swain County, including, but not limited to, residences, mobile homes, apartments, commercial establishments, schools, churches, rest homes, nursing homes, country clubs, governmental units and professions, but excluding properties to which any state elderly or disabled tax exemption applies against the tax value of the property, pursuant to any legislative enactment now or hereafter effected.

June 19, 2000

4.1

County shall provide for the availability and siting of collection dumpsters and/or collection sites throughout the County, situated so as to be accessible and available to all County residents. County shall further construct and maintain a solid waste transfer station for use in storing, transferring and/or transporting all solid waste from Swain County to a collection site for transfer to the ultimate disposal facility.

4.2

All citizens and/or residents of Swain County, and all persons within the geographical boundaries of the County, shall dispose of Construction and Demolition Waste, Hazardous Waste, Industrial Solid Waste, and Solid Waste in appropriate locations or containers, as provided by applicable state and federal law and by this Article.

4.3

Construction and Demolition Waste and vehicular tires, shall be disposed of only at the designated County Construction and Demolition Waste landfill site, as provided by the rules and regulations of the landfill. All such waste shall be deposited only at properly designated areas and/or as directed by the County Solid Waste Coordinator.

4.4

Hazardous Waste shall not be collected or disposed of within the County except in accordance with federal and state law and except as pre-approved by the County Solid Waste Coordinator.

4.5

Industrial Solid Waste shall be collected and disposed of by the industry generating the waste, except as said waste shall qualify as Solid Waste or Construction and Demolition Waste, as defined by this ordinance.

4.6

Solid Waste shall be disposed of only in designated County dumpsters or at designated County collection sites, and in accordance with any rules or regulations officially posted at such sites or upon or adjacent to said dumpsters. No solid waste shall be removed from dumpsters or collection sites except by persons or businesses duly authorized by the County to collect, transport and/or dispose of solid waste.

ARTICLE V

FEES AND COLLECTION

5.1

There shall be an annual availability and collection fee imposed upon the owner of each improved real property within Swain County to recover the costs of collection, transportation and disposal of solid waste in Swain County. This fee shall be imposed county-wide. This fee shall be collected by Swain County and paid into the "Swain County Solid Waste Fund."

5.2

The amounts to be charged as and availability and collection fee for solid waste collection and disposal shall be established and adjusted as necessary by the Swain County Board of Commissioners, shall be recorded in the official minutes of the Board meeting at which the fees were adopted, and shall appear on a fee schedule attached to the ordinance.

5.3

The total revenue derived from the solid waste availability and collection fee shall be set to cover the full cost of solid waste collection, transportation and disposal incurred by Swain County, in accordance with N.C.G.S. 153A-292.

5.4

Owners of improved property shall be assessed and billed the availability and collection fee on the basis of all improved real property owned by them on January 1 of any given year and this fee shall be billed on the annual Ad Valorem tax bill to improved property owners which will be due on September 1st of any given year. Such fees are due on each September 1st and shall become delinquent if not paid on or before the following January 6th. Late charges and penalties shall be assessed as provided by law for Ad Valorem taxes owing on real property. The collection of these fees, delinquent fees, and collection costs will be governed by the North Carolina General Statutes involving the collection of Ad Valorem taxes on real or personal property. This ordinance shall become effective upon adoption, with the fees hereby established accruing from and after July 1, 1994.

5.5

The availability and collection fee shall be assessed by the Swain County Tax Assessor and billed and collected by the Swain County Tax Collector from the owners of all improved real property within Swain County.

5.6

In accordance with N.C.G.S. 153A-293, the availability and collection fee for solid waste disposal imposed pursuant to N.C.G.S. 153A-292 shall be billed with property taxes, shall be payable in the same manner as property taxes, and in the case of non-payment, shall be collected in any manner by which delinquent personal or real property taxes can be collected, and the fees shall be a lien on the real property described in the bill that includes the fee.

5.7

Certain exemptions from the availability fee may be established by the Swain County Board of Commissioners when no benefit is derived by the property owner. Requests for such exemption must be submitted to the Swain County Tax Assessor in writing and approved by the Board of Commissioners with such action by the Board of Commissioners being recorded in the official minutes of the meeting wherein the action was taken, including the reason for such exemption.

ARTICLE VI

PENALTIES AND REMEDIES

6.1

A violation of any of the provisions of this ordinance shall constitute a misdemeanor, punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or both, in the discretion of the Court.

6.2

A violation of any of the provisions of this ordinance shall also subject the offender to a civil penalty of five hundred dollars (\$500.00). If a person fails to pay this civil penalty within ten (10) days after being cited for a violation, the County may seek to recover the penalty by filing a civil action in the nature of debt.

6.3

The County may seek to enforce this article through any appropriate legal or equitable action and relief.

6.4

Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

6.5

The County may seek to enforce this article by using any one or any combination of the foregoing and/or by using any available contractual, legal or equitable remedies.

June 19, 2000

ARTICLE VII

LOITERING AND PILFERING

Loitering and pilfering through solid waste prohibited.

No person other than the authorized employees or agents of Swain County shall loiter or linger around any solid waste collection site, nor shall any person handle, pilfer, or otherwise come in contact with the contents of solid waste collection containers, or solid waste located at the Swain County Convenience Centers or Recycling Center. The provisions of this section shall not be interpreted so as to prohibit users of the solid waste collection facilities from coming to the collection sites for the purpose of disposing of solid waste in an orderly and efficient manner. Violation of this section shall be punishable by a fine up to \$50.00 plus court costs.

This amended ordinance shall be effective July 1, 2000

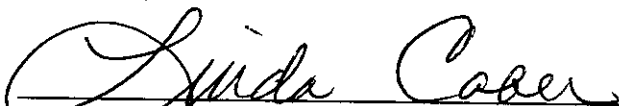
Adopted this the 19th day of June, 2000.

SWAIN COUNTY

By: 

Jim Douthit, Chairman

ATTEST:


Linda Cable, Clerk

June 19, 2000

FEE SCHEDULE

- Category 1: Personal residences, mobile homes, apartments.
Amount of Fee: \$75.00
- Category 2: Private businesses that operate an office only.
Amount of Fee: \$225.00
- Category 3: Gift shops, restuarants, and fast foods: \$250.00
Retail Business: \$300.00
- Category 4: Industrial/Commercial Waste
Will be hauled to the Cherokee Tribal Transfer Station and will be billed at the current waste disposal rate being charged to the county.
- Category 5: Campgrounds:
Amount of Fee: \$25.00 per unit
- Motels:
Amount of Fee: \$25.00 per unit
- Category 6: Properties having elderly or disabled exemption applied against the tax value of the property
Amount of Fee: \$36.00
- Category 7: Special Waste - such as shingles, sheetrock, etc.

Vehicle	Amount of Fee
short-wheel base and small pickups(S10&Toyota)	\$25.00
Long-wheel base pickup or single axle trailers	50.00
One ton trucks	50.00
Large or long-wheel base one ton trucks and other trailers	75.00
Two ton trucks	150.00

These fees are based on an average load, oversized loads will be subject to additional fees.

June 19, 2000