

# JAN F. SASSAMAN

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607 Greenwood Road • Chapel Hill, NC 27514 • (919) 933-1609 • fax (919) 933-0824

AGENDA #3a(7)

March 9, 2005

Mayor Kevin Foy  
Town of Chapel Hill  
306 N. Columbia Street  
Chapel Hill, NC 27516

Re: Regulated Recyclable Materials Ordinance (RRMO)

Dear Mayor Foy:

In December 2001 the Board of County Commissioners adopted an ordinance which requires the recycling of certain recyclable materials found in the local waste stream. Following a grace period, the ordinance went into effect in October 2002. The RRMO was originally included as a recommendation by the Construction & Demolition Waste Recycling Task Force in its August 2000 final report.

The Town of Hillsborough adopted the ordinance in July of 2002. The Town of Carrboro adopted the ordinance in September 2002. At this time, it has not been adopted by the Town of Chapel Hill.

The RRMO regulates both recyclable C&D materials and other materials with the goal of keeping them from being landfilled and requiring that they be separated for recycling instead. In summary The Ordinance:

1. Creates a list of "Regulated Recyclable Materials" that must be kept separate and recycled. These are:
  - Unpainted, Untreated Wood Waste
  - Scrap Metal
  - Pallets
  - Clean Corrugated Cardboard
2. Requires Recyclable Material Permits, estimating the types of waste anticipated from a project and explaining how the waste is to be disposed of, be obtained before development (Building and Zoning Compliance) permits are issued.
3. Licenses haulers operating in Orange County subject to annual renewal
4. Can delay large demolition projects up to 60 days in order to conduct assessments of the recyclability of the materials in the structure.

Enforcement is focused exclusively on commercial (non-residential) sector services at this time and for the foreseeable future.



Mayor Kevin Foy

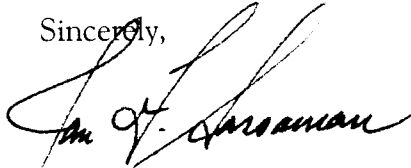
March 9, 2005

Page 2

Solid Waste staff worked with Chapel Hill Town staff intermittently during 2002 and 2003 to develop and clarify necessary administrative procedures and had understood that Town staff was prepared for implementation. An inquiry as to the status of the ordinance to the Town Manager last spring resulted in some additional questions, which were responded to in a memo dated May 26, 2004. However, the Town Council apparently has not yet chosen to consider the ordinance.

This letter is a request to the Town Council to consider adoption of the RRMO (attached), or alternatively, to seek any additional information necessary from Gayle Wilson and his staff so that the ordinance can be considered in the near future. Chapel Hill's adoption of the ordinance would greatly enhance the success and effectiveness of this waste reduction mechanism. I would appreciate your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan V. Sassaman". The signature is written in a cursive style with a large initial "J".

Jan Sassaman, Chair  
for the Solid Waste Advisory Board

cc: Cal Horton, Chapel Hill Town Manager  
John Link, Orange County Manager



ORANGE COUNTY  
BOARD OF COMMISSIONERS

ACTION AGENDA ITEM ABSTRACT

Meeting Date: March 16, 2004

Action Agenda  
Item No. 8-h

**SUBJECT:** Regulated Recyclable Material Ordinance Amendments

**DEPARTMENT:** Solid Waste Management

**PUBLIC HEARING:** (Y/N)

**ATTACHMENT(S):**

Resolution w/Ordinance Amendments

**INFORMATION CONTACT:**

Gayle Wilson, Solid Waste Management  
Director, 968-2885  
Dave Ghirardelli, Solid Waste  
Enforcement Supervisor, 968-2788  
Geof Gledhill, County Attorney, 732-  
2196

**TELEPHONE NUMBERS:**

Hillsborough 732-8181  
Chapel Hill 968-4501  
Durham 688-7331  
Mebane 336-227-2031

**PURPOSE:** To present suggested amendments to the Regulated Recyclable Material Ordinance to the Board of County Commissioners for consideration and approval.

**BACKGROUND:** In December 2001, the BOCC adopted the Regulated Recyclable Material Ordinance (RRMO) requiring the recycling of targeted materials (wood, metal, and cardboard), the permitting of construction projects (coordinated with municipal Inspections Departments within the County), the licensing of waste haulers, and the Certification of mixed recycling facilities. The effective date of enforcement was October 1, 2002. In the 18 months since enforcement began, the ordinance has generally been highly successful. Per capita waste reduction for the fiscal year ending June 30, 2003 improved to 45% from 40% the previous year, attributable in no small part to the implementation of the RRMO.

While the RRMO has achieved many of its anticipated outcomes, Solid Waste staff have identified several areas of potential improvement to the ordinance. They are:

- Amendments to the Certification of recycling facilities section that clarify: (1) that the ordinance is in no way directing the flow of waste to specific facilities; (2) what documentation the Solid Waste Management Department requires with an application; and (3) how the Department determines a recycling performance calculation.
- Requirements for visible: (1) serial numbering; (2) company identification; and (3) indication of materials intended for collection, on waste containers for the purposes of identification and tracking.

- Correction of inaccurate references to a "permit" - replaced with "license" in the enforcement section of the RRMO.

The County Attorney has drafted the amendments, approval of which by the BOCC will accomplish the changes noted above.

**FINANCIAL IMPACT:** Adoption of these amendments will have no effect on either the Solid Waste Department Enterprise Fund budget or on fees related to RRMO licensing, permitting or certification.

**RECOMMENDATION(S):** The Manager recommends that the Board consider and adopt the attached resolution, which will amend the Regulated Recyclable Material Ordinance as described above.

NORTH CAROLINA  
  
ORANGE COUNTY

RESOLUTION TO AMEND THE ORDINANCE  
REGULATING RECYCLABLE MATERIALS AND  
LICENSING THE COLLECTION OF REGULATED  
RECYCLABLE MATERIAL IN ORANGE COUNTY

WHEREAS, the Board of Commissioners of Orange County has received the recommendation of the Solid Waste staff and the County Manager to amend THE ORDINANCE REGULATING RECYCLABLE MATERIALS AND LICENSING THE COLLECTION OF REGULATED RECYCLABLE MATERIAL IN ORANGE COUNTY (hereafter "the Ordinance).

NOW THEREFORE BE IT RESOLVED by the Board of Orange County Commissioners that:

Section 1. The Ordinance is hereby amended as indicated on Exhibit A to this Resolution, deleting from the Ordinance those portions of it that are shown on Exhibit A with a strikethrough and adding to the Ordinance those portions of it that are shown on Exhibit A in bold and underlined.

Section 2. This Resolution shall take effect immediately upon its passage.

Upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution was adopted this the 16<sup>th</sup> day of March, 2004.

I, Donna S. Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a meeting held on March 16, 2004 as relates in any way to the adoption of the foregoing and that said proceedings are recorded in the minutes of said Board.

WITNESS my hand and the seal of said County, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk to the Board of Commissioners

**Exhibit A**

**AN ORDINANCE REGULATING RECYCLABLE MATERIALS AND LICENSING THE COLLECTION OF REGULATED RECYCLABLE MATERIAL IN ORANGE COUNTY**

**SECTION I. FINDINGS.** Orange County, North Carolina does hereby find that:

Orange County has heretofore adopted ordinances governing the storage, transportation, and recycling of solid waste within the unincorporated sections of County; and

Orange County owns and operates solid waste management facilities as a public enterprise to protect the citizens of Orange County and the environmental health both within the unincorporated areas of the County and within the municipalities in Orange County; and

Orange County, Chapel Hill, Carrboro, Hillsborough, and Mebane have heretofore adopted and followed separate ordinances for the regulation of solid wastes within their respective jurisdictions; and

Siting and permitting of construction and demolition landfills and sanitary landfills has become increasingly difficult; the disposal of solid waste and construction and demolition waste has become increasingly more expensive; and construction and demolition waste continues to be disposed of through open burning, adding to the increasing air pollution problem within the County; and

Units of local government are charged by the legislature in N.C.G.S. § 130A-309.09A(b) to make a good faith effort to achieve the State's forty percent (40%) municipal solid waste reduction goal by the year 2006; and

Orange County has committed itself to recycling recyclable materials, including construction and demolition waste, as part of its own solid waste reduction goal of 61% by the year 2006; and

Construction and demolition waste constitutes approximately one-third (1/3) of the overall solid waste stream delivered to the Orange County Landfill, at least fifteen percent (15%) of which is readily recoverable for purposes of recycling, secondary-market salvage, or re-integration into existing or subsequent projects; and

Orange County has the legal authority under State law, including but not limited to N.C.G.S. § 153A-136, § 153A-445, and § 130A-309.09B, to enact regulations with respect to the disposal of solid waste including recyclable material, land-clearing debris that is not sold as timber or chipped for use onsite or sale, and to provide reasonable penalties and other provisions for the enforcement thereof,

NOW THEREFORE be it ordained by Orange County as follows:

**SECTION II. PURPOSE AND APPLICATION.**

The purpose of this ordinance is to regulate the storage, collection, transportation, use, disposal and other disposition of regulated recyclable material in Orange County. This ordinance is adopted pursuant to the authority contained in N.C.G.S. §§ 153A-121, 123, 132.1, 136, 274-278, 291-293, 445, and N.C.G.S. §§ 130A-309.01-309.08, 309.09A, 309.09B, 309.09C, 309.09D. Unless otherwise indicated, this ordinance pertains to all solid waste activity in Orange County.



**SECTION III. MANAGEMENT OF REGULATED RECYCLABLE MATERIAL;  
NO OPEN BURNING OF SOLID WASTE.**

1. Regulated recyclable material includes recyclable construction and demolition material, ferrous and nonferrous scrap metal other than recyclable construction and demolition material, pallets, corrugated cardboard, and other materials as may be designated as such by amendments to this ordinance.<sup>1</sup>
2. All regulated recyclable material generated in Orange County shall be recycled (1) unless doing so would pose a threat to public health and safety through exposure to carcinogens and other toxic substances including, but not limited to, lead, asbestos, fuel oils, gasoline, or (2) unless the regulated recyclable material is attached to other material, including other regulated recyclable material, in a way that it is not reasonably possible to separate the regulated recyclable material into its constituent parts or from non regulated recyclable material. It is a violation of this ordinance for any person to dispose of regulated recyclable material except as permitted in this ordinance.
3. Regulated recyclable material shall be disposed of through (1) delivery to a recyclable waste center, (2) delivery to a licensed collector of regulated recyclable material, (3) reuse, (4) sale or (5) other means that allow for the safe recycling of the material. Regulated recyclable material shall be separated from other solid waste unless delivered to a Commingled Recycling Facility certified as such in the manner provided for in this ordinance.
4. No person shall discard, dispose of, leave or dump any regulated recyclable material on or along any street or highway or on public or private property, unless such material is placed in a receptacle, placed at a location designated by the County, Carrboro, Chapel Hill, Hillsborough or Mebane for the deposit of regulated recyclable material, or otherwise placed in possession and control of a licensed collector of regulated recyclable material.
5. Transporting or accepting for transport any regulated recyclable material for purposes of disposal as solid waste or treatment in a manner inconsistent with this ordinance constitutes a violation of this ordinance
6. Any person collecting or transporting regulated recyclable material for purposes of disposal or recycling at an approved disposal site must do so in a manner that prevents this material from escaping that vehicle or container used for the collecting or transporting.
7. No person may dispose of solid waste through open burning in Orange County.
8. No person may contaminate regulated recyclable materials so as to make them unrecyclable

Amended 3/16/04

<sup>1</sup> Additional materials may be added to the list of regulated recyclable materials, including but not limited to: aluminum, drink boxes, kraft paper, glass bottles and jars, magazines, used motor oil, newspaper, office paper, scrap paper, plastic bottles including milk jugs, soda bottles, steel and tin cans, telephone directories, food waste when exclusively source-separated for composting, non-reusable wood waste, drywall

SECTION IV. CERTIFYING COMMINGLED RECYCLING FACILITIES.

1. Any facility accepting regulated recyclable materials, commingled with other solid waste (hereafter "commingled regulated recyclable materials") originating from within Orange County, must be certified as an approved Commingled Recycling Facility. Any person wishing to dispose of commingled regulated recyclable materials originating from within Orange County may only do so by delivery to a facility which has been certified as an approved Commingled Recycling Facility. In order to be certified as an approved Commingled Recycling Facility, the facility must make application for certification as an approved Commingled Recycling Facility. All applications must be accompanied by a processing fee. The amount of the fee will be set by the Board annually with the adoption by the Board of the annual budget ordinance of Orange County. The application must include documentation that the applicant has:

Amended 3/16/04

~~A. a valid North Carolina (1) Solid Waste Landfill, (2) Processing and Recycling, (3) Solid Waste Transfer, or (4) Composting Facility permit; and~~

~~B. One of the following:~~

~~(1) the technical ability to separate and market all those materials required by this ordinance to be recycled by Orange County; or~~

~~(2) a documented performance of at least 30% recycling of all materials that the Facility accepts. Inert debris shall be excluded from the material accepted and from the material recycled in the recycling performance calculation.~~

A. one of the following valid state permits issued by the state where the facility is located to which Regulated Recyclable Material is to be delivered (1) Solid Waste Landfill, (2) Processing and Recycling, (3) Solid Waste Transfer, or (4) Composting Facility permit to operate; and

B. one of the following:

(1) a documented performance of separating and marketing all those materials required by this ordinance to be recycled demonstrated by twelve (12) months of tonnage detailing all Regulated Recyclable Material the facility has received and receipts for all Regulated Recyclable Material marketed; or

(2) a documented performance of at least 30% recycling of all material that the Commingled Recycling Facility accepts demonstrated by twelve (12) months of tonnage detailing all material the facility has received and receipts for all material separated and marketed. In making this recycling performance calculation: (1) inert debris (such as, for example, concrete, dirt, rock and asphalt paving) shall be excluded from the material accepted and from the material recycled; and (2) fifty percent (50%) of fines (mechanically screened material resulting from the operation of a mechanical waste recovery system) shall be considered inert debris and the other fifty percent (50%) may be counted as material accepted and material recycled.

2. Certification.

A. A Facility complying with the above requirements shall be certified as an approved Commingled Recycling Facility by the Department. This certification will be valid for one year from the date of approval by the Department and must be renewed annually.

B. If the certification application does not meet the requirements of this ordinance, the notification of denial shall state the reasons that the application was denied. If the Department denies certification pursuant to this Section, the applicant may request a hearing with the Department Director. The Department Director shall keep minutes of the hearing, including all documents that are part of the application and all documents

submitted at the hearing. Within one week after the hearing the Department Director shall give the applicant written notice of the decision either granting the certification or affirming the denial of the certification. The applicant may appeal the Department Director's decision to the Orange County Manager by giving written notice of appeal to the County Manager within five (5) working days of receipt of the Department Director's decision. The Manager shall reverse, affirm or remand the decision of the Department Director to the Department Director based on the minutes of the hearing, including all documents that are part of the minutes. If the decision of the Orange County Manager is to reverse the decision of the Department Director, the applicant is deemed certified. If the Orange County Manager remands to the Department Director, the remand decision shall direct the matters to be reconsidered by the Department Director on remand.

**SECTION V. LICENSING COLLECTORS OF REGULATED RECYCLABLE MATERIAL.**

1. Any person collecting or otherwise hauling regulated recyclable material within the County in any vehicle with a gross vehicle weight of nine thousand (9000) pounds or greater must obtain a regulated recyclable material collection license ("RM license"). Each vehicle used by the licensed collector or hauler must be registered with the Department.
2. Applications for an RM license shall be filed with the Department on forms furnished by Orange County. All applications must be accompanied by a processing fee for each vehicle that will collect regulated recyclable material. The amount of the fee will be set by the Board annually with the adoption by the Board of the annual budget ordinance of Orange County. The applicant shall furnish the following information:
  - A. Name and address of the applicant and the applicant's business name
  - B. A list of the equipment possessed, available, or otherwise to be used by the applicant in regulated recyclable material collection, including motor vehicle license tag numbers;
  - C. Liability insurance coverage, proved by providing the Department, at the time that the license is applied for, a certificate of insurance showing coverage in effect at the time of application;
  - D. Name and location of facilities where collected regulated recyclable materials are to be delivered.
3. Before issuing a license pursuant to this section, the Department may inspect or cause to be inspected all facilities and equipment the applicant plans to use in the regulated recyclable material collection business. Vehicles and containers used in the collection and transportation of regulated recyclable material shall be covered, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Containers used for the collection of Regulated Recyclable Material shall be conspicuously labeled with the collection company's name, shall be serially numbered with distinct numbers displayed at least 4 (four) inches high, and shall have signage affixed, permanently or temporarily, defining what materials are intended or prohibited from being deposited in them. Vehicles shall display, in numbers at least three (3) inches high, the county license number of the licensee and the license sticker issued by the Solid Waste Management Department.
4. Issuance of license.
  - A. The Department may issue the applicant a RM license only when it is found that the applicant's facilities, equipment, insurance coverage and proposed operating methods are

Amended 3/16/04

in compliance with this ordinance and the applicable rules of the Department which implement this ordinance and that are consistent with it and that the applicant will perform regulated recyclable material collection and disposal in a manner consistent with this ordinance. A condition of the RM license shall be that the licensee shall serve every person in such a manner that the RM licensee does not cause the person served to be in violation of this ordinance.

- B. If the RM license application does not meet the requirements of this ordinance, the notification of denial shall state the reasons that the application was denied. If the Department denies a RM license, the applicant may request a hearing with the Department Director. The Department Director shall keep minutes of the hearing, including all documents that are part of the application and all documents submitted at the hearing. Within one week after the hearing the Department Director shall give the applicant written notice of the decision either granting the license or affirming the denial of the license. The applicant may appeal the Department Director's decision to the Orange County Manager by giving written notice of appeal to the County Manager within five (5) working days of receipt of the Department Director's decision. The Manager shall reverse, affirm or remand the decision of the Department Director to the Department Director based on the minutes of the hearing, including all documents that are part of the minutes. If the decision of the Orange County Manager is to reverse the decision of the Department Director, the license is deemed issued. If the Orange County Manager remands to the Department Director, the remand decision shall direct the matters to be reconsidered by the Department Director on remand.
  - C. A license shall be valid for a period of one year from the date of issuance.
5. With each license renewal application, a RM licensee shall submit report to the Department containing the following information:
    - A. New and replacement equipment;
    - B. Identity of all equipment no longer in use by licensee that was listed in original application for RM license;
    - C. Total amount of regulated recyclable material collected by type and amount; and
    - D. The locations to which the regulated recyclable material was delivered.
  6. No RM license issued pursuant to this ordinance is assignable.
  7. Violations of this ordinance involving collectors of regulated recyclable material include:
    - A. Collecting or otherwise hauling regulated recyclable material within the County in any vehicle with a gross vehicle weight of nine thousand (9000) pounds or greater without a valid RM license constitutes a violation of this ordinance.
    - B. Regulated recyclable material which is to be delivered to an approved Commingled Recycling Facility may be commingled so long as all of the material in a given container is to be delivered to that Facility. Otherwise, placement of regulated recyclable material into any solid waste container, including the solid waste compartment of a collection vehicle, for any length of time, constitutes a violation of this ordinance.
    - C. Transporting or accepting for transport any regulated recyclable material that has not been separated for purposes of recycling, or which has been commingled with non-regulated recyclable material or solid waste, unless the material and/or waste is to be delivered to an approved Commingled Recycling Facility constitutes a violation of this ordinance.
    - D. Repeated violations of this ordinance may result in RM license suspension or revocation as provided in this ordinance.

**SECTION VI. PERMITS FOR THE MANAGEMENT OF REGULATED RECYCLABLE MATERIALS.**

1. Any person applying for a building permit and/or a zoning compliance permit from any unit of local government in Orange County authorized to issue such permits, shall, prior to applying for such permits and before construction, demolition, land clearing or other preparatory activity commences, make application to the Department for a regulated recyclable material management permit (RM permit) for the management of regulated recyclable material.
2. The RM permit application shall provide estimates of the amount and types of solid waste to be generated by the project, the amount and types of regulated recyclable material to be generated by the project, whether the project requires demolition or deconstruction and the methods to be employed for disposal of the solid waste and regulated recyclable material generated by the project.
3. Applications for a RM permit shall be filed with the Department on forms furnished by Orange County. All applications must be accompanied by a processing fee. The amount of the fee will be set by the Board annually with the adoption by the Board of the annual budget ordinance of Orange County.
4. The Department will review and, within ten (10) days, make a decision on the RM permit. The applicant will then be notified of the Department's decision within two (2) working days after the decision is made.
  - A. If the RM permit application meets the requirements of this ordinance, a RM permit will be issued to the applicant. The RM permit applies only to the project for which the application was made. The permit shall prescribe the permissible methods of disposal of regulated recyclable material. If the project requires demolition or deconstruction not resulting from condemnation under the North Carolina Building Code, the permit may direct a delay in demolition or deconstruction, not exceeding sixty (60) days from the issuance of the RM permit, in order for the Department to perform an assessment of whether and to what extent the structure to be demolished or deconstructed consists of regulated recyclable materials that can be reasonably recycled.
  - B. If the RM permit application does not meet the requirements of this ordinance, the notification of denial shall state the reasons that the application was denied. If the Department denies a RM permit, the applicant may request a hearing with the Department Director. The Department Director shall keep minutes of the hearing, including all documents that are part of the application and all documents submitted at the hearing. Within one week after the hearing the Department Director shall give the applicant written notice of the decision either granting the permit or affirming the denial of the permit. The applicant may appeal the Department Director's decision to the Orange County Manager by giving written notice of appeal to the County Manager within five (5) working days of receipt of the Department Director's decision. The Manager shall reverse, affirm or remand the decision of the Department Director to the Department Director based on the minutes of the hearing, including all documents that are part of the minutes. If the decision of the Orange County Manager is to reverse the decision of the Department Director, the permit is deemed issued. If the Orange County Manager remands to the Department Director, the remand decision shall direct the matters to be reconsidered by the Department Director on remand.

- C. A permit shall be valid from the date it is issued and shall expire upon the expiration of the building permit and/or zoning compliance permit issued for the project for which application was made.

**SECTION VII: ENFORCEMENT.**

The following shall pertain to violations of this ordinance:

1. Double Tip Fee. Any person disposing of regulated recyclable material at the Orange County Landfill in violation of this ordinance, in addition to being subject to the other remedies provided in this ordinance, shall pay, for the load or loads disposed of in violation of this ordinance, double the tip fee in effect at the time of the disposal.
2. Revocation of regulated recyclable material collection licensees.
  - A. When the Department finds that a RM licensee has violated a condition of the license, the licensee shall receive written notice of the violation and be informed that if the violation is not corrected or if another violation occurs within thirty (30) working days the RM license shall be revoked. Notice of the revocation shall be by written notice from the Department delivered or mailed by first class mail to the licensee. Delivery by first class mail shall be the method of delivery if the licensee cannot readily be served with the notice of revocation in person. Upon receipt of the revocation notice, the RM licensee shall stop collecting, transporting, or disposing of regulated recyclable material originating in Orange County.
  - Amended 3/16/04 B. The Department may reinstate a RM license revoked for a violation of a permit license condition after the revocation has been in effect for thirty (30) working days if the Department finds that the RM permit license conditions causing the violation have been corrected.
  - C. When the Department finds that a RM licensee has transported or accepted for transport any regulated recyclable material that has not been separated for purposes of recycling, or which has been commingled with non-regulated recyclable material or solid waste, unless the material and/or waste is to be delivered to an approved Commingled Recycling Facility, the RM license shall be revoked for one year if:
    1. the violation has occurred within thirty (30) days of another such violation, or
    2. the violation is the fifth such violation to occur within one (1) year.
 The holder of a revoked RM license may reapply after one year of the date of revocation for a new license. Any person whose RM license was previously revoked and who subsequently received a new license will have that license revoked upon the receipt by that person of a single additional violation.
3. Criminal Penalty. Any person violating this ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred (\$500) dollars or imprisonment for not more than thirty (30) days, or both. Each day's continuing violation is a separate and distinct offense. Each violation is a separate and distinct offense.
4. Civil Penalty. Any person who is found in violation of this ordinance shall be subject to a civil penalty of not to exceed five hundred (\$500) dollars as provided herein and as authorized by N.C.G.S. § 153A-123. Each violation incident is a separate and distinct offense.

The Department Director may issue to any person who or that has violated this ordinance, a citation giving notice of the alleged violation(s) and the civil penalty imposed. Citations so issued may be delivered or mailed by first class mail to the person violating this ordinance. Delivery of the citation by first class mail shall be the method of delivery if the person violating the ordinance cannot readily be served in person. The following civil penalties shall be assessed for each violation of this ordinance:

- (1) Failure to obtain a regulated recyclable material collection license.
- (2) Failure to recycle regulated recyclable material as defined in this Ordinance.
- (3) Failure to obtain an approved RM permit as defined in this Ordinance.

| Number of Prior Violations | Amount |
|----------------------------|--------|
| 0                          | \$50   |
| 1                          | \$100  |
| 2                          | \$200  |
| 3                          | \$300  |
| 4                          | \$400  |
| 5 or more                  | \$500  |

- 5. Equitable remedies. This ordinance may be enforced by equitable remedies. Any unlawful condition existing or in violation of this ordinance may be enforced by injunction and order of abatement in accordance with N.C.G.S. § 153A-123.

**SECTION VIII. DEFINITIONS.**

For the purposes of this Ordinance, the following definitions shall apply:

- 1. *Ashes*. refuse resulting from the burning of wood, coal, cork or other combustible material which has no live embers.
- 2. *Board*. The Board of Commissioners of Orange County.
- 3. *Bulk material*. A tightly constructed metal, plastic or other material container of two (2) cubic yards or greater capacity and of a design approved by the County manager as being capable of being emptied by equipment.
- 4. *Clean wood waste*. wood waste from construction and demolition activity that is not treated and free of paint.
- 5. *Collection*. The act of removing solid waste (including construction and demolition waste, land-clearing debris or recyclable materials) from a point of generation to a central storage point or to a disposal site, and from a central storage point processing center to a disposal site.
- 6. *Construction and demolition waste*. solid waste resulting generally from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures.
- 7. *Corrugated cardboard*. three-layered cardboard material with a middle, wavy layer. Nonrecyclable cardboard, such as waxed boxes, cardboard adhered to packing material (such as Styrofoam or wooden or plastic supports) and cardboard saturated with motor oil or foodstuffs in its normal use before disposal are excluded from this definition.
- 8. *Department*. The Solid Waste Management Department
- 9. *Department Director*. The Director of the Solid Waste Management Department

10. *Disposal*. The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
11. *Food waste*. food that has been prepared for human consumption and was not served or otherwise used for food.
12. *Garbage*. all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.
13. *Hazardous waste*. solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
14. *Industrial solid waste*. all waste generated from factories, processing plants and other manufacturing enterprises that is not hazardous waste as defined in this section. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals, iron, and steel manufacturing; leather and leather products; nonferrous metals manufacturing foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and waste treatment. The term does not include mining waste or gas waste.
15. *Inert Debris*. solid waste which consists solely of material that is virtually inert or that is likely to retain its physical and chemical structure under expected conditions of disposal, including but not limited to brick, block, rock, asphalt, and dirt.
16. *Landfill*. a disposal facility or part of a disposal facility where waste is placed in or on land, and that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility, or a surface storage facility.
17. *Medical waste*. any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste identified or listed pursuant to Chapter 130A, Article 9, of the North Carolina General Statutes, radioactive waste, household waste as defined in 40 C.F.R. § 261.4(b)(1) in effect on 1 July 1989, or those substances excluded from the definition of solid waste in this Chapter.
18. *Municipal solid waste*. any solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste program management service. Municipal solid waste includes construction and demolition waste and inert debris. Municipal solid waste does not include hazardous waste, sludge, industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste for management of that waste, or solid waste from mining or agricultural operations.
19. *Non-reusable wood waste*. trees cleared from land for any purpose other than sale as a commodity or chipping for use on site or for sale.
20. *Open burning*. The combustion of solid waste as a means of disposal of that waste.
21. *Open dump*. a solid waste disposal site that does not have the permit or permits required by law or which does not comply with the rules set forth in this ordinance.
22. *Pallet*. A portable, wooden platform for handling, storing, or moving materials and packages used in warehouses, factories, retail and wholesale sales locations and vehicles.



23. *Person*. a person, group of persons, firm, company, corporation, association, partnership, unit of local government, state agency, federal agency, or other legal entity. |
24. *Processing*. any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for deposit; or reduced in volume or concentration.
25. *Project*. a planned undertaking of construction, remodeling, deconstruction and demolition.
26. *Putrescible* solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors, gases or liquids, such as kitchen wastes, offal and carcasses.
27. *Radioactive waste material*. solid waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.
28. *RCRA*. The Resource Conservation and Recovery Act of 1976, Pub.L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq. as amended.
29. *Recovered material*. a material that has known recycling potential, can be feasibly recycled, and has been diverted or removed from the solid waste stream for sale, use, or reuse. In order to qualify as a recovered material, a material must meet the requirements of N.C.G.S. § 130-309.05(c).
30. *Recyclable construction and demolition material*. clean wood waste and metals (except closed drums and tanks) resulting generally from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures.
31. *Recyclable material*. The term "recyclable material" includes, but is not limited to, recyclable construction and demolition materials, aluminum, drink boxes, corrugated cardboard and Kraft paper, glass bottles and jars, magazines, ferrous and nonferrous scrap metals, motor oil, newspaper, office paper, scrap paper, plastic bottles including milk jugs, soda bottles, steel and tin cans, telephone directories, yard waste, cooking grease, clean wood waste, rubble, food waste when exclusively source-separated for composting, and other materials as may be specified by the Board of County Commissioners.
32. *Recycling*. The process by which solid waste or recovered materials are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
33. *Regulated recyclable material*. The recyclable material as designed in this ordinance as recyclable material.
34. *Regulated recyclable material collector*. any person who collects regulated recyclable waste.
35. *Scrap tires*. a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
36. *Septage*. solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a septic tank system.
37. *Sharps*. needles, syringes, scalpel blades, and other sharp objects generated in the same manner and subject to the same limitations as medical waste.
38. *Sludge*. any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.
39. *Solid waste*. construction and demolition waste; regulated recyclable material; hazardous or nonhazardous garbage; refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment, and disposal systems; and any other material that is either discarded or is being accumulated, stored, or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:
  - a. Fecal waste from fowls and animals other than humans.

- b. Solid or dissolved material in:
    - 1) Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.
    - 2) Irrigation return flows.
    - 3) Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under N.C.G.S. § 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be considered a solid waste for the purposes of this Article.
  - c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
  - d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
  - e. Mining refuse covered by the North Carolina Mining act, N.C.G.S. § 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under N.C.G.S. § 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
  - f. Recovered material.
  - g. Yard waste.
40. *Solid Waste Advisory Board.* The policy advisory board of the Board, the County Manager and the Solid Waste Management Department as described and with membership as provided in the Agreement for Solid Waste Management among Orange County and the Towns of Carrboro, Chapel Hill and Hillsborough.
  41. *Solid waste facility.* any publicly owned solid waste management facility permitted by the State of North Carolina that receives solid waste for processing, treatment, or disposal.
  42. *Solid waste disposal site* any place at which solid waste is legally disposed of by any method.
  43. *Solid waste management.* The purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
  44. *Special waste.* solid waste that can require special handling and management, including white goods, whole tires, used oil, lead-acid batteries, and medical wastes.
  45. *Storage* The containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
  46. *Structure.* any construction, production, or piece of work artificially built up or composed of parts purposefully joined together.
  47. *Treatment.* any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.
  48. *Vehicle.* any means by which someone or something is carried or transported.
  49. *White goods.* The term "white goods" includes refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

50. *Yard waste.* The term "yard wastes" means those organic materials commonly consisting of leaves, grass, weeds, hedge clippings, yard and garden waste, Christmas trees, pine straw, branches, small logs, twigs, and all vegetative matter resulting from residential landscaping activities.

**SECTION IX. EFFECTIVE DATE.**

The effective date of this ordinance is December 11, 2001.

lsg:orangecounty\recyclable materials ordinance version with 2004 amendments

Adopted 12/11/2001  
Amended 10/1/2002  
Amended 3/16/2004

