

**ORDINANCE FOR THE
ASSESSMENT OF DISPOSAL FEE
TO BE CHARGED
COMMERCIAL AND INDUSTRIAL GENERATORS
OF SOLID WASTE
DOING BUSINESS WITHIN
RUSSELL COUNTY, VIRGINIA**

WHEREAS, Section 15.2-928 of the Code of Virginia, 1950, as amended, enables any locality to provide and operate, within its boundaries solid waste facilities and appurtenances for the collection management, recycling and disposal of solid waste, recyclable materials, and other refuse of the residents and businesses in the locality; and,

WHEREAS, Section 15.2-928 of the Code of Virginia, 1950, as amended, enables any locality providing a solid waste collection and disposal system to charge and collect compensation for such services, not to exceed the actual cost incurred by the locality in procuring and to impose penalty and interest on said fee if not timely paid; and,

WHEREAS, Russell County, Virginia provides a solid waste collection and disposal system for all solid waste generators situate, located, and being within the geographical boundaries of Russell County; and

WHEREAS, Russell County desires to levy a fair and equitable fee on Commercial and Industrial Solid Waste Generators doing business within Russell County and adopt a fee that reflects a portion of the current costs of solid waste disposal in Russell County; and,

WHEREAS, Russell County desires to base this fee on the estimated average amount of waste produced and generated by the Commercial and Industrial Solid Waste Generators in Russell County based on review and evaluation of solid waste disposal tonnages at the Russell County, Virginia, solid waste transfer station; statistical information of average waste generation of

Commercial and Industrial Solid Waste Generators, documentation of waste container size and pick-ups for businesses, institution and industries located in the towns of Cleveland, Honaker and Lebanon located in Russell County and historical costs of waste disposal in Russell County; and,

WHEREAS, Russell County has received and analyzed reports of commercial and industrial solid waste generation statewide and county specific, and has reviewed and evaluated numerous waste disposal ordinance, reviewed pending solid waste legislation, and conducted a general costs analysis of waste disposal for the Russell County solid waste collection and disposal system, utilizing transfer station records, and records from the towns of Cleveland, Honaker and Lebanon; and,

WHEREAS, Russell County has calculated the average costs of solid waste disposal per ton in Russell County; and,

WHEREAS, Russell County has previously implemented a system of convenience center sites for solid waste disposal located outside the incorporated boundaries of the towns located in the County; and,

WHEREAS, Commercial, industrial and institutional entities are prohibited from using such convenience center sites and must deliver waste to the transfer station themselves or contract for pick-up and delivery by private hauler, if located outside of incorporated areas, or by town pick-up and delivery if located within incorporated boundaries; and

WHEREAS, solid waste deposited at the Russell County transfer station for solid waste disposal does so at significant cost to Russell County; and,

WHEREAS, Russell County has determined after analysis that the commercial, industrial and institutional users of the Russell County transfer station for solid waste disposal generates significant volumes of waste and impact proportionally waste disposal costs in Russell County to a greater extent than residential users; and,

WHEREAS, Russell County has determined such entities have or shall have waste dumpsters/containers to store waste generated until pick-up and delivery for

disposal to the Russell County transfer station; and

WHEREAS, Russell County accordingly desires also to implement a uniform base flat fee and in addition a uniform fee per ton of estimated waste disposed of in Russell County, which said fee shall be applicable to commercial, industrial, and institutional users of the Russell County Transfer station; and

WHEREAS, Russell County desires to implement fees applicable to commercial, industrial, and institutional users of the Russell County Transfer station that will recover only a portion of the cost of disposal of solid waste generated by the commercial, industrial and institutional located in Russell County; and,

WHEREAS, the Russell County Board of Supervisors, determines that each commercial, industrial and institution entity be assessed a base flat fee and in addition a charge based on the average tonnage of waste produced based on container size and frequency of pick-up multiplied by the cost per ton to dispose of solid waste in Russell County.

NOW THEREFORE, be it ordained by the Russell County Board of Supervisors as follows:

DEFINITIONS

COMMERCIAL WASTE: All acceptable solid waste emanating from establishments engaged in business, other than manufacturing or construction operations. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, shopping centers, theaters, retail stores, convenience stores, gas and/or "filling stations," repair shops and trucking businesses.

INDUSTRIAL WASTE: Any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. 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 water treatment. This terms does not include mining waste or oil and gas waste.

INSTITUTIONAL WASTE: Any solid waste emanating from institutions such as, but not limited to, hospitals, healthcare clinics, nursing homes, orphanages, and public or private schools. Infectious waste generated from any such institutions is specifically excluded and prohibited from the waste stream designated for disposal in Russell County.

CONSTRUCTION/DEMOLITION WASTE: The waste building material, packaging and rubble resulting from construction, remodeling, repair, fire loss, water loss and demolition operations on pavement, houses, commercial buildings, and other structures. Construction waste include, but are not limited to lumber, wire, sheet rock, brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gasses or semi-liquids and garbage are not construction waste.

SOLID WASTE: Any garbage, rubbish, refuse, sludge, and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from commercial or industrial activities. Solid Waste shall include but not be limited to animal or vegetable waste, glass, metal paper, plant growth and wood, furniture, white metal goods, and all other materials which are capable of being disposed of through the County's transfer station, but does not include (i) solid or dissolved materials in domestic sewage, (ii) solid or dissolved materials in irrigation return flows or in industrial discharges which are sources subject to a permit from the Virginia Department of Environmental Quality, (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended, or (iv) Hazardous Waste.

INFECTIOUS WASTE: Any solid waste if it is capable of producing an infectious disease in humans, is one of the controlled infectious wastes listed in any relevant section or section of the infectious waste management regulations of the state department of environmental quality as applicable at any given time, or is

identified as infectious by a licensed physician or registered nurse. A waste shall be considered to be capable of producing an infectious disease if it has been, is or may have been contaminated by an organism that is or may be pathogenic to humans and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease. If the exact cause of a disease is unknown, but the health care professional in charge suspects the presence of a pathogen in the waste is the cause, such waste shall be managed as if the pathogen were identified and such waste shall be considered to be infectious waste.

UNACCEPTABLE WASTE: Infectious waste, Ignitable waste, including explosives and volatile liquids, Hazardous waste, Radioactive waste, Waste Oil, Kerosene, Antifreeze, Acid Batteries, Poisons, Dead Animals, Infected Materials, Inoperable vehicles, and other such wastes prohibited for deposit by the County, the Department of Environmental Quality or the United States Environmental Protection Agency.

COMMERCIAL ESTABLISHMENT: A building or other structure and/or lot or tract of land used for or as a part of the operation of a business enterprise, whether for profit or not, which is not used in whole as a residential unit. For the purposes of this ordinance, any structure which is used by the same owner or tenant for both residential and business purposes shall be deemed to be a commercial establishment, provided however, that if the administrator determines that a mixed use structure generates a volume of solid waste that does not exceed the average amount of waste generated by a residence in Russell County, then such mixed use structure may be deemed to be a residential unit.

RESIDENTIAL WASTE: Solid waste resulting from household wastes.

HOUSEHOLD WASTE: Any waste material, including garbage, trash and refuse normally produced or derived from single and/or multiple residential household and residences. Household waste does not include sanitary waste in septic tanks.

Where terms are not defined in this Ordinance and the context or practice requires definition they shall have the meanings specified in Chapter 14 (Virginia

Waste Management Act) of Title 10.1 of the Code of Virginia 1950 as amended and/or as specified in other relevant statutes, and/or the Solid Waste Management Regulations of the Virginia Department of Environmental Quality, as now or hereafter adopted as are applicable. In case of conflict, the statutes and regulation applicable to the particular requirement involved shall prevail over those in this Ordinance.

NOW THEREFORE be it further ordained by the Russell County Board of Supervisors:

That Russell County will receive and dispose of all acceptable residential, commercial, institutional, and industrial waste which is properly contained and which is generated within the geographical limits of the County of Russell, upon the terms and conditions, and subject to the exceptions and limitations, as provided in this Ordinance.

RESIDENTIAL EXEMPTION: There shall be no solid waste disposal fee levied for each occupiable residential dwelling unit in Russell County.

COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL DISPOSAL

FEE: The solid waste disposal fees for commercial, industrial, and institutional entities shall be calculated at \$31.56 per ton or \$1.31 per cubic yard multiplied by dumpster volume multiplied by the frequency of pick-ups per month of the dumpster or dumpsters. Solid waste disposal fees for commercial, industrial and institutional accounts shall be subject to a minimum charge of \$10.00 per month. Quantities for calculation for the disposal fee charge shall be based upon records of container size and pick-up frequency provided by independent or private solid waste haulers authorized to do business in Russell County, the records of container size and pick-up frequency of the towns within the County, and if necessary by verification from the commercial, institutional and industrial entity as necessary to consider the appropriate fee and/or any increase or decrease in estimated waste production and thus the disposal fee charge.

For purposes of calculating the appropriate fees, waste containers and dumpster measurements shall be converted to cubic yard measurements if not already measured in cubic yards.

Each Town located in Russell County shall provide annually and at other times upon request an accurate listing of all commercial establishments, institutional and industrial entities/sites located within the incorporated Town boundaries, the current waste pick-up/disposal information detailing the size of waste containers and number of pick-ups per month of each respective entity.

Each Independent or Private Hauler shall provide annually and at other times upon request an accurate listing of all commercial establishments, institutional and industrial entities/sites for which they provide a pick-up and delivery to the transfer station facility, and the current waste pick-up/disposal information detailing the size (cubic yard measurement) of waste containers and number of pick-ups per each respective entity.

Bulk containers shall be required for all commercial, institutional and industrial entities unless due to lack of available space for location of such containers, or by reason of characteristics, volume, and/or density of waste the County Administrator determines that other or alternative containers should be used and issues a written variance specifying the type and number of containers which said County Administrator determines to be acceptable. Any such variance shall in no event be deemed to be a vested right, but shall be revocable for reasonable cause at the discretion of the County Administrator.

The County Administrator or his designate shall upon request of commercial, institutional or industrial entities meet, review and evaluate documentation or reports to obtain more accurate information about quantities of solid waste produced.

Each commercial, institutional, and industrial establishment shall properly dispose of its waste in compliance with the ordinances of Russell County and state and federal law.

CONSTRUCTION AND DEMOLITION FEE: The solid waste disposal fee for construction and demolition waste shall be \$31.56 per ton or \$1.31 per cubic yard multiplied by dumpster volume.

FORMULA FOR TONNAGE/CU YARD CONVERSION: For purposes of this ordinance a cubic yard shall contain 83 pounds.

COLLECTION: Russell County, may either collect the fees itself or enter into a contractual agreement to be negotiated by the County Administrator, with the towns located in the County and/or a public service corporation within the County for the collection of the fee. The commission for such collection service shall not exceed five (5%) percent of the amount of the fees due and collected.

All fees billed pursuant to this ordinance shall be due and payable within 30 days of the invoice date. Payment adjustments may be made by the County Administrator or his designate in order to achieve a fair and just billing for all waste disposal system users. Any exemptions, or exclusions shall be determined by the Board of Supervisors.

Said fee will be assessed for all commercial establishments, quasi-commercial establishments, institutional and industrial entities, located in Russell County as of billing date.

All fees and charges for solid waste disposal in Russell County shall be deposited in a separate fund to be designated as the Solid Waste Disposal Fund and be dedicated to the operations, maintenance and disposal for solid waste generated within Russell County.

If payment of the fee is not made, then a notice of delinquency will be mailed to each commercial establishment, institution or industrial entity not having paid the fee, advising that collection proceedings will begin in thirty (30) days. Supplemental assessments may be issued after the due dates and such assessments will be due thirty (30) days after mailing.

Any payment of the solid waste disposal fee shall be credited first against the most delinquent solid waste disposal fee account owing. Any overpayment will be documented and credited to subsequent billing invoices.

APPEAL PROCESS: Within thirty (30) days after each commercial, industrial, and/or institutional entity receives its fee bill, any commercial, industrial, and/or institutional entity which wishes to challenge the fee or the method of its assessment may give notice in writing to the County Administrator of Russell County setting forth the nature and details of the challenge. Within thirty (30) days thereafter the County Administrator of Russell County or his/her

designate shall conduct a meeting at which an authorized representative of the commercial, industrial, and/or institutional entity may present evidence in support of the challenge. The County Administrator of his/her designate will make a decision at the meeting or within five business days thereafter which decision will be in writing and will be final. Assessment of the penalty and interest for failing to pay the fee shall be suspended during the period of time challenge is before the County Administrator pursuant to this paragraph. Such fee as is determined by the final decision of the County Administrator to be due shall be paid within thirty (30) days of the final decision and if payment is not made, then a Notice of Delinquency will be mailed advising that collection proceedings will begin in thirty (30) days. Challenges to the fee, the method of its assessment and challenges to the ordinance as to matters other than the amount and/or method of assessing the fees may be made as the law of Virginia otherwise provides.

PENALTY: Any person, firm, or corporation subject to this solid waste disposal fee who fails to make payment of such fee shall be required to pay penalty on said fee beginning from the due date of ten (10%) percent and interest at one (1%) percent per month upon any fee found to be overdue and unpaid.

A lien may be placed upon real estate for the amount of any fees, or other charges by the County to the owner of the real estate for the use and services of the solid waste disposal system by or in connection with the real estate from and after the time when the fees and/or charges are due and payable, and for any late charges and interest which may accrue thereon.

MODIFICATION: These fees as stated herein shall be subject to annual review by the Russell County Board of Supervisors to be adjusted accordingly should expenses of solid waste disposal necessitate such modifications. Any such modification shall be by resolution duly adopted.

The above schedule of fees do not exceed the actual cost incurred by the County in providing solid waste disposal.

SEVERABILITY: If any part of this ordinance shall be declared invalid, for any reason whatsoever, such declaration of invalidity shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby

repealed.

EFFECTIVE DATE: The effective date of this Ordinance shall be July 1, 2006.

RECORDING IN OFFICE OF THE CIRCUIT COURT: The County Administrator is directed to record a copy of this Ordinance in the Office of the Clerk of the Circuit Court of Russell County, Virginia upon it's adoption and passage.

Adopted this the 5th day of May, 2006 upon motion duly made and passed by the Board of Supervisors of Russell County, Virginia.