

ARTICLE III. - REGULATED RECYCLABLE MATERIALS AND LICENSING THE COLLECTION OF REGULATED RECYCLABLE MATERIAL ³¹

Footnotes:

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Editor's note— Per the county's instruction the Regulated Recyclable Materials Ordinance was enacted and amended as follows: Adopted 12-11-2001, eff. 7-1-2002; Amended 6-4-2002, eff. 10-1-2002; Amended 4-13-2004, eff. 4-13-2004; Amended 4-18-2006, eff. 4-18-2006.

Sec. 34-70. - Definitions.

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

Board means the Board of Commissioners of Orange County.

Clean wood waste means wood waste from construction and demolition activity that is not treated and free of paint. Clean wood waste does not include non-reusable wood waste as defined in this section.

Collection means the act of removing solid waste (including construction and demolition waste 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.

Condition of the license means any requirement of this article pertaining to the activity of any person licensed under this article to collect or otherwise haul regulated recyclable material within the county, other than a violation of this article set forth in subsection 34-75(h).

Construction and demolition waste means solid waste resulting generally from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures.

Corrugated cardboard means 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 food waste in its normal use before disposal is excluded from this definition.

Department means the solid waste management department.

Department director means the director of the solid waste management department.

Disposal means the discharge, deposit, injection, dumping in an open dump, 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.

Food waste means food that has been prepared for human consumption and was not served or otherwise used for food.

Garbage means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.

Hazardous waste means 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.

Industrial solid waste means 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 waste 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.

Inert debris means 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.

Landfill means 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.

Medical waste means 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.

Municipal solid waste means 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.

Nonreusable wood waste means trees cleared from land for any purpose other than sale as a commodity or chipping for use on site or for sale.

Open burning means the combustion of solid waste as a means of disposal of that waste.

Pallet means a portable, wooden platform for handling, storing, or moving materials and packages used in warehouses, factories, retail and wholesale sales locations and vehicles.

Person means a person, group of persons, firm, company, corporation, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

Processing means 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.

Project means a planned undertaking of construction, remodeling, deconstruction and demolition.

Putrescible means 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.

Radioactive waste material means solid waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.

RCRA means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq. as amended.

Recovered material means 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 G.S. § 130-309.05(c).

Recyclable construction and demolition material means 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.

Recyclable material means 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.

Recycling means 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.

Regulated recyclable material means the recyclable material as set forth in subsection 34-73(a).

Regulated recyclable material collector means any person who collects regulated recyclable waste.

Sludge means 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.

Solid waste means 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:

- (1) Fecal waste from fowls and animals other than humans.
- (2) Solid or dissolved material in:
 - a. 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.
 - b. Irrigation return flows.
 - c. 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 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.
- (3) 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.
- (4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
- (5) Mining refuse covered by the North Carolina Mining Act, G.S. §§ 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under 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.
- (6) Recovered material.
- (7) Yard waste.

Solid waste facility means any publicly owned solid waste management facility permitted by the State of North Carolina that receives solid waste for processing, treatment, or disposal.

Solid waste disposal site means any place at which solid waste is legally disposed of by any method.

Solid waste management means the purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

Storage means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.

Structure means any construction, production, or piece of work artificially built up or composed of parts purposefully joined together.

Treatment means 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.

Vehicle means any means by which someone or something is carried or transported.

Yard waste means 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.

(Ord. of 12-11-2001, § VIII, eff. 10-1-2002; Amend. of 4-18-2006, eff. 4-18-2006)

Sec. 34-71. - 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 Orange 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 G.S. § 130A-309.09A(b) to make a good faith effort to achieve the state's 40 percent 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 percent by the year 2006; and

Construction and demolition waste constitutes approximately one-third of the overall solid waste stream delivered to the Orange County Landfill, at least 15 percent 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 G.S. § 153A-136, § 153A-445 and § 130A-309.09B, to enact regulations with respect to the disposal of solid waste including recyclable material and to provide reasonable penalties and other provisions for the enforcement thereof.

(Ord. of 12-11-2001, § I, eff. 10-1-2002; Amend. of 4-18-2006, eff. 4-18-2006)

Sec. 34-72. - Purpose and application.

The purpose of this article is to regulate the storage, collection, transportation, use, disposal and other disposition of regulated recyclable material in Orange County. This article 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 article pertains to all solid waste activity in Orange County.

(Ord. of 12-11-2001, § II, eff. 10-1-2002)

Sec. 34-73. - Management of regulated recyclable materials—Designation of material.

- (a) Regulated recyclable material includes recyclable construction and demolition material, ferrous and nonferrous scrap metal, pallets, corrugated cardboard and other materials (regardless of originating in municipal solid waste stream or construction and demolition waste stream) as may be designated as such by amendments to this Ordinance.²
- (b) 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.
- (c) 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.
- (d) Regulated recyclable construction and demolition 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. Note: Regulated Recyclable Municipal Solid Waste may not be delivered to a certified facility and must be separated at point of origination.
- (e) 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.
- (f) 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.
- (g) Any person collecting or transporting regulated recyclable material for purposes of disposal 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.
- (h) No person may contaminate regulated recyclable materials so as to make them unrecyclable.

(i) No person may dispose of solid waste through open burning in Orange County.

(Ord. of 12-11-2001, § III, eff. 10-1-2002; Amend. of 4-13-2004, eff. 12-11-2001; Amend. of 4-18-2006, eff. 4-18-2006)

Note—² 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.

Sec. 34-74. - Certifying commingled recycling facilities—C/D material only .

(a) 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:

(1) 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:

- a. Solid Waste Landfill,
 - b. Processing and Recycling,
 - c. Solid Waste Transfer, or
 - d. Composting Facility permit;
- and

(2) One of the following:

- a. A documented performance of separating and marketing all those materials required by this Ordinance to be recycled demonstrated by 12 months of tonnage detailing all Regulated Recyclable Material the facility has received and receipts for all Regulated Recyclable Material marketed; or
- b. A documented performance of at least 30 percent recycling of all material that the Commingled Recycling Facility accepts demonstrated by 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 of fines (mechanically screened material resulting from the operation of a mechanical waste recovery system) shall be considered inert debris and the other 50 percent may be counted as material accepted and material recycled, or
- c. The technical ability to separate Regulated Materials from commingled waste and 90 days performance meeting all other criteria listed in Section 34-7. Facilities certified under this section shall be certified for a time period not to exceed 180 days. Following the expiration

of 180 days, the facility should submit a new application and fee and demonstrate compliance with Section 34-74.

(b) *Certification.*

- (1) 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.
- (2) 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 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.

(Ord. of 12-11-2001, § IV, eff. 10-1-2002; Amend. of 6-4-2002, eff. 10-1-2002; Amend. of 4-18-2006, eff. 4-18-2006)

Note—³ Regulated Recyclable Municipal Solid Waste may not be delivered to a certified facility and must be separated at point of origination.

Sec. 34-75. - Licensing collectors of regulated recyclable material.

- (a) Any person collecting or otherwise hauling regulated recyclable material within the county in any vehicle with a gross vehicle weight of 9,000 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.
- (b) 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:
 - (1) Name and address of the applicant and the applicant's business name;
 - (2) 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;
 - (3) Liability insurance coverage, proved by providing the department, at the time that the license is applied for, a certificate of insurance showing coverage equaling or exceeding legal limits in effect at the time of application;
 - (4) Name and location of facilities where collected regulated recyclable materials are to be delivered.
- (c) 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 secure, 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 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 inches high, the county license number of the licensee and the license sticker issued by the solid waste management department.

(d) *Issuance of license.*

- (1) 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 in compliance with this article, and the applicable rules of the department which implement this article, and that are consistent with it, and that the applicant will perform regulated recyclable material collection and disposal in a manner consistent with this article. 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 article.
 - (2) If the RM license application does not meet the requirements of this article, 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 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.
 - (3) A license shall be valid for a period of one year from the date of issuance.
- (e) With each license renewal application, a RM licensee shall, on a timely basis, submit annual reports to the department containing the following information:
- (1) New and replacement equipment;
 - (2) Identity of all equipment no longer in use by licensee that was listed in original application for RM license;
 - (3) Detailed list of total amounts of regulated recyclable material collected by type and amount;
 - (4) The locations to which the regulated recyclable material was delivered; and
 - (5) Updated certificate of insurance showing liability insurance coverage as required by subsection (b)(3).
- (f) The department may renew a RM license only when it is found that the applicant's facilities, equipment, insurance coverage and operating methods are in compliance with this article and the applicable rules of the department which implement this article, and that the applicant has, during the previous year, performed regulated recyclable material collection and disposal in a manner consistent with this article, or has timely corrected any violations any condition of the RM license as provided for in subsection 34-77(2)b.
- (g) No RM license issued pursuant to this article is assignable.

- (h) Violations of this article involving collectors of regulated recyclable material include:
- (1) Collecting or otherwise hauling regulated recyclable material within the county in any vehicle with a gross vehicle weight of 9,000 pounds or greater without a valid RM license constitutes a violation of this article.
 - (2) 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 article.
 - (3) Transporting or accepting for transport any regulated recyclable material that has not been separated for purposes of recycling, or which has been commingled with nonregulated 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 article.
 - (4) Failure to timely pay a civil penalty issued for violation of this article, failure to comply with a stop haul order, or failure to comply with any other applicable provision of this article or any rule, notice or order issued by the department director pursuant to this article.
 - (5) Repeated violations of this article may result in RM license suspension or revocation as provided in this article.

(Ord. of 12-11-2001, § V, eff. 10-1-2002; Amend. of 4-13-2004, eff. 12-11-2002; Amend. of 4-18-2006, eff. 4-18-2006)

Sec. 34-76. - Permits for the management of recyclable materials.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) The Department will review and, within ten days, make a decision on the RM permit. The applicant will then be notified of the Department's decision within two working days after the decision is made.
 - (1) 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 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.
 - (2) 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 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.

- (3) 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.
- (e) All new or expanded structures shall provide adequate space for separation and collection of recyclable materials pursuant to the policies and procedures of Orange County Solid Waste Management. A site plan shall be provided for review by Orange County Solid Waste prior to RM Permit issuance.
- (f) Any reference in codes or ordinances of the Town of Chapel Hill, Carrboro or Hillsborough pertaining to the Orange County Regulated Materials Ordinance (RRMO) shall refer to relevant sections of this Ordinance.

(Ord. of 12-11-2001, § VI, eff. 10-1-2002; Amend. of 6-4-2002, eff. 10-1-2002; Amend. of 4-18-2006, eff. 4-18-2006)

Sec. 34-77. - Enforcement.

The following shall pertain to violations of this article and shall be in addition to the remedies available to Orange County pursuant to Section 34-5:

- (1) *Double tip fee.* Any person disposing of regulated recyclable material at the Orange County Landfill in violation of this article, in addition to being subject to the other remedies provided in this article, shall pay, for the load or loads disposed of in violation of this article, double the tip fee in effect at the time of the disposal.
- (2) *Revocation of regulated recyclable material collection licenses.*
 - a. When the department finds that a RM licensee has violated a condition of the license, as defined in this article, 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 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.
 - b. The department may reinstate a RM license revoked for a violation of a permit condition after the revocation has been in effect for 30 working days if the department finds that the RM permit 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 nonregulated recyclable material or solid waste, unless

the material and/or waste is to be delivered to an approved commingled recycling facility, or otherwise violated this article as set forth in subsection 34-75(h), the RM license shall be revoked for one year if:

1. The violation has occurred within 30 days of another such violation, or
2. The violation is the fifth such violation to occur within one year.

If the department issues a notice of revocation of an RM license 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 revocation 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 reinstating the license or affirming the revocation 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 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 reinstated. 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.

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 article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00 or imprisonment for not more than 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 article as provided herein and as authorized by G.S. § 153A-123 shall, in addition to the other remedies provided in this article, be subject to a civil penalty not to exceed \$500.00 per offense. Each violation incident is a separate and distinct offense. By way of description and not of limitation, each container or vehicle load of regulated recyclable material that is stored, hauled, separated, marketed or delivered in violation of this article is a separate offense. The department director may issue to any person who or that has violated this article, 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 article. 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. Violators of this article shall be subject to the following civil penalties for each violation of this article:
 - a. Failure to obtain a regulated recyclable material collection license.
 - b. Failure to recycle regulated recyclable material as defined in this article.
 - c. Failure to obtain an approved RM permit as defined in this article.

Number of Prior Violations	Amount
0	\$50.00

1	\$100.00
2	\$200.00
3	\$300.00
4	\$400.00
5 or more	\$500.00

Notwithstanding the foregoing, failure to comply with a stop haul order shall subject the violator to an additional civil penalty in the amount of \$250.00 per vehicle or container that is hauled in violation of a stop haul order.

(5) *Stop haul orders.*

- a. Whenever any collector of regulated recyclable material has violated or is in the process of violating this article as set forth in subsection 34-75(h), the department may, either before or after the institution of any other action or proceeding authorized by this article, issue a stop haul order for the vehicle or container involved in the violation, specifying the violation of this article. Upon issuance of such an order and the posting of same on the vehicle or container, all specified hauling or other activity related to the vehicle or container that is the subject of the violation shall cease, except those activities necessary to bring the vehicle or container into compliance with this article. Notice of the stop haul order shall be in writing, directed to the person conducting the prohibited activity and shall state the reasons for the issuance of the order, and the conditions under which hauling may be resumed. Said notice may be served on the violator by mail or by posting on the vehicle or container that is in violation of this article.
- b. The person conducting the prohibited activity may appeal a stop haul order to the county manager within a period of five days after the order is issued. Notice of appeal shall be given in writing to the county manager, with a copy to the department. The county manager shall conduct a hearing at which the appellant and the department shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the manager on an appeal, no further hauling shall take place in violation of a stop haul order.

- (6) *Equitable remedies.* This article may be enforced by equitable remedies. Any unlawful condition existing or in violation of this article may be enforced by injunction and order of abatement in accordance with G.S. § 153A-123.

(Ord. of 12-11-2001, § VII, eff. 10-1-2002; Amend. of 4-13-2004, eff. 12-11-2001; Amend. of 4-18-2006, eff. 4-18-2006)