

Section 102. Applicability

This ordinance shall apply throughout Jackson County on the property of all county solid waste management facilities.

**ARTICLE II: ESTABLISHMENT OF JACKSON COUNTY
SOLID WASTE BOARD (JCSWB)**

Section 200. Purpose

The purpose of the JCSWB shall be to make recommendations to the Jackson County Board of Commissioners concerning ways to (1) reduce the economic, environmental, and social burdens of solid waste disposal, (2) provide long-range planning for the disposition of solid waste, and (3) make the operation of the solid waste system more responsive to citizen concerns. Other duties of the JCSWB shall be assigned by this ordinance.

Section 201. Membership

The JCSWB shall consist of a number of members equal to the number of Jackson County Commissioners, plus the number of incorporated towns in Jackson County, plus one each from Western Carolina University (WCU) and Southwestern Community College (SCC). Each of the five Commissioners, each of the incorporated towns, and WCU and SCC shall nominate a Person for membership on the JCSWB. Each of the members of the JCSWB shall be selected by a majority vote of the total Board of Commissioners. The County Commissioners may remove individual members from the JCSWB at any time without cause by a majority vote of the total Board of Commissioners.

Section 202. By-Laws

The JCSWB shall adopt by-laws that will govern the operation of the JCSWB.

Section 203. Protection of Members from Liability

The JCSWB and the individual members thereof are protected from liability in so far as their actions are within the scope of their duties and responsibilities.

ARTICLE III - DEFINITIONS

Section 300. General Provisions

Except as specifically defined within this section or elsewhere within this ordinance, all words used in this ordinance will be construed to have their customary dictionary definitions.

Words used in the present tense shall include, where appropriate, the past and future tense. Where appropriate, words in the singular shall include the plural and words used in the plural shall conversely include the singular. The word "shall" is mandatory; the word "may" is permissive.

Section 301. Defined Words and Terms

The following words and terms shall have the respective meanings ascribed to them:

A. **COMMERCIAL WASTE** means any solid waste generated by a business that is classified as a commercial business for the purpose of paying a Solid Waste Facility Fee by the Jackson County Tax Assessor's Office. Waiver of this fee by any government agency shall not remove such waste from the category of commercial waste.

B. **CONSTRUCTION AND DEMOLITION (C&D) WASTE** means solid waste generated solely from construction, remodeling, repair or demolition operations on pavement, buildings or other structures, but does not include inert debris, land clearing debris or yard waste.

C. **DAMAGE** means to cause harm.

D. **HAZARDOUS WASTE** means waste materials that because of their quantity, concentration or physical, chemical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

E. **JACKSON COUNTY SOLID WASTE OFFICE (JCSWO)** means the office of the chief administrator of the Jackson County solid waste operation.

F. **JACKSON COUNTY TRANSFER STATION (JCTS)** means a facility for the reuse, recycling and transfer of Solid Waste; excluding Hazardous Waste.

G. **LAND CLEARING AND INERT DEBRIS (LCID)** means solid waste generated solely from land-clearing activities and solid waste which consists solely of materials that are virtually inert and that are likely to retain their physical and chemical structure under expected conditions of disposal.

H. **LANDFILL** means a disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

I. **MIXED SOLID WASTE**, means any solid waste, C & D, and LCID material that has not been sorted for proper disposal in the Jackson County Landfill.

J. **OPEN DUMP** means any facility or site where solid waste is disposed that is not a solid waste facility.

K. **PERSON** means an individual, corporation, company association, partnership, unit of local government, state agency, federal agency or other legal entity.

L. **PRIVATE HAULER** means any person charging a fee for transporting solid waste for another person including maintenance services in which their duties include hauling residential solid waste.

M. **RECYCLABLE MATERIALS** means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

N. **RESIDENTIAL WASTE** means solid waste, (excluding C&D, LCID, and hazardous waste) generated in the normal daily activities of a single residence.

O. **SOLID WASTE** means any garbage, refuse, rubbish, litter, trash, or other discarded solid or semi-solid materials resulting from residential, industrial, commercial, and agricultural operations and from community activities. Solid waste does NOT include solid materials in domestic sewage, silt or suspended solids in industrial wastewater effluent, solid materials in irrigation return flows, or other suspended solid pollutants in water resources, fecal waste from animals other than humans and household pets, and non-hazardous mining refuse. Solid waste includes commercial waste, residential waste, C&D waste, LCID, hazardous waste, and recycling materials.

P. **SOLID WASTE CONTAINERS** means receptacles utilized for the collection and transportation of Solid waste.

Q. **SOLID WASTE FACILITY** means any sanitary landfill, LCID landfill, C&D landfill, or transfer station that is approved by the North Carolina Department of Environment and Natural Resources (DENR), or staffed recycling center.

R. **SOLID WASTE AVAILABILITY FEE** means a fee collected from those who reside or own businesses in Jackson County for the purpose of providing capital funds for the availability of solid waste facilities for the citizens of Jackson County.

S. **SOLID WASTE USER/TIPPING FEE** means a fee collected from those who use a solid waste facility for the purpose of operating and maintaining those facilities.

T. **STAFFED RECYCLING CENTER (SRC)** means a facility for Jackson County residents, where specified categories of residential waste will be accepted by the attendants, and recycling receptacles shall be provided.

U. **TIPPING FEE** means a charge for the use of solid waste facilities. It may be assessed by weight, or volume of materials discarded, or as a flat rate.

V. **WHITE GOODS** means refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

W. **YARD WASTE** means vegetative waste generated by outdoor landscaping activities on residential property.

ARTICLE IV - STORAGE, COLLECTION AND TRANSPORTATION

Section 400. Storage

- A. Solid waste shall be stored in such a manner that does not allow insect breeding, odor, that does not allow access to animals, and that will not create a fire or public health hazard.
- B. No person shall leave outside of any dwelling any abandoned, unattended or discarded ice box, refrigerator or other container of any kind that has an airtight door without first removing the door from such container.

Section 401. Proper Disposal of Waste

- A. Each person shall dispose of the solid waste she or he has generated at a solid waste facility or by contracting with a private hauler permitted by Jackson County.
- B. No person shall intentionally or negligently, discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a solid waste container at a location designated for the deposit of solid waste.
- C. No person shall burn or bury solid waste, except for vegetative yard waste and LCID waste burned with a state permit. Training burns conducted by one of the fire departments within the county are permitted.
- D. No person shall create or utilize an open dump on any land in Jackson County.
- E. All commercial waste shall be transported to an approved solid waste facility, not an SRC.
- F. Dead animals shall not be accepted at any solid waste facility unless approved by the JCSWO.
- G. Construction and demolition (C&D) waste consisting of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete, or similar non-hazardous material may be used as fill and need not be disposed of in solid waste disposal facility unless it is contaminated with lead-based paint. Such demolition debris may not be placed in the waters of the state or at or below the seasonal high water table.

Section 402. PRIVATE HAULER(S)

- A. Each private hauler shall obtain a permit from the JCSWO and pay the required fee on an annual basis. Terms of the permit shall be recommended by the JCSWB and approved by the Jackson County Board of Commissioners.
- B. Failure of a private hauler to comply with the terms of the permit shall result in a suspension or revocation of the hauler's permit as determined by the JCSWO.

C. Each private hauler shall recycle identified recyclable materials separated by the customer and placed in a container approved by the private hauler.

D. Private Hauler(s) shall be required to pay their own tipping fees for commercial waste at any solid waste facility.

E. Any private hauler or other haulers falsifying the type of waste or origin of the waste they are hauling into a solid waste facility will have their permit revoked immediately and will not be allowed to dispose of waste in any County solid waste facility.

F. Private haulers shall not be allowed to dispose of their customer's residential waste at county SRCs.

G. If a permit has been suspended, the private hauler may appeal the decision in writing to the Solid Waste Appeals Committee, described in Section 900, within 10 days. If the permit has been revoked, appeals may be taken to the Jackson County Board of Commissioners within 30 days after the permit is revoked.

Section 403. Transportation of Solid Waste

Vehicles or containers used for transporting solid waste shall be loaded and moved in such a manner that the contents shall not fall, leak, or spill and shall be covered when necessary to keep contents dry and to prevent blowing of material out of the vehicle. If spillage should occur, the material shall be picked up immediately by the solid waste collector and returned to the vehicle or container, and the area shall be properly cleaned. Loads consisting of bulky waste, white goods, lumber, pallets, and crates do not have to be covered but shall be secured with rope or tie downs to assure spillage does not occur. If waste is not secured in the proper manner when hauling waste, the driver may be subject to a fine and the private hauler may be subject to suspension of the permit. Repeat offenses may result in termination of the permit.

ARTICLE V - STAFFED RECYCLING CENTERS (SRC)

Section 500. General Provisions

A. The JCSWB shall approve a set of operating procedures that govern the operation of the SRCs. A copy of the procedures shall be posted and printed copies shall be available for residents of Jackson County at the JCSWO and at each SRC.

B. All persons shall comply with the disposal methods and rules of procedure posted at the Jackson County SRCs.

C. Only residential solid waste generated within the County shall be disposed of at the SRCs.

D. Private haulers shall not be allowed to dispose of their customer's residential waste at county SRCs.

E. Any white good containing Chlorofluorocarbons must be deposited directly to the

Cashiers Transfer Station, Jackson County Transfer Station or the Tuckaseegee SRC and cannot be deposited at any of the other SRC's.

F. Commercial recycling will only be allowed at designated solid waste facilities.

G. All cardboard deposited at an SRC shall be recycled.

ARTICLE VI – JACKSON COUNTY TRANSFER STATION (JCTS)

Section 600. General Provisions

A. The JCSWB shall approve a set of operating procedures that govern the operation of the JCTS not covered by this ordinance. A copy of the procedures shall be posted and printed copies will be available for residents of Jackson County at the JCSWO and at the JCTS.

B. Only approved solid waste (excluding hazardous waste), C&D waste and LCID waste generated within Jackson County shall be disposed of at the JCTS.

C. All commercial haulers shall give the scale clerk a job origin upon entering the transfer station so that it can be put on the ticket for that load.

D. Any Commercial business included in Categories 2 through 7 on Attachment I must provide proof of proper garbage disposal to the JCSWO upon request. Proof may be in the form of solid waste facility tickets, private hauler contract or large hauler contract. Failure to have this information will result in the business's temporary closure until such information is provided to the JCSWO.

ARTICLE VII – SOLID WASTE AVAILIBITY AND USER FEES

Section 700. Establishment of Fees.

A Solid Waste Availability Fee shall be imposed county wide upon all improved property in Jackson County that benefits from the availability of solid waste facilities, whether inside or outside incorporated areas within the county. Solid waste user fees/tipping fees shall be imposed upon persons who use the solid waste facilities. Both fees shall be applied uniformly throughout the county. The Jackson County Board of Commissioners may from time to time establish supplemental solid waste fees as needed as described in Section 702 of this ordinance.

Section 701. Properties and Persons Upon Which Fees Shall be Assessed

A. Solid Waste Availability Fees hereinabove imposed shall be assessed upon the owners of the following properties:

1. All habitable residential dwelling units, including but not limited to, houses, cabins, apartments, duplexes, townhouses, condominiums, and mobile homes located within Jackson County, whether occupied at the time or not.
2. All improved business sites within Jackson County.

3. The owners of all other improved properties within Jackson County.

B. Exemptions for the solid waste availability fees shall be granted to owners of properties as specified in Attachment III. Fee exemptions are effective in the year in which they are received as defined herein and are not retroactive. Only applications filed between January 1st and December 31st may be considered for the current tax year. Applications made after December 31st will be considered for the following tax year. Applications for solid waste fee exemption may be made only by the property owner or anyone with a controlling interest in the property. Any change in the use of the property should be reported to the Tax Assessor no later than December 31st of that current tax year. All exemptions are subject to the review and approval by a committee that includes the Public Works Director or designee, Finance Officer or designee, Tax Assessor or designee, and Tax Collector or designee.

C. Solid waste user fees/tipping fees hereinabove imposed shall be assessed upon all users (or potential users) of the Jackson County Solid Waste Facilities except for the exemptions listed in Attachment 3.

Section 702. Amount of Fees

The amount of the availability and user/tipping fees shall be established from time to time by the Jackson County Board of Commissioners After recommendations from the County Manager, in accordance with the provisions of N.C.G.S. 130A-309.08, N.C.G.S. 153A-277(a) and the provisions of N.C.G.S. 153A-292(b).The fees appear in Attachments 1 and 2. The fees as so established may be changed from time to time by resolutions adopted by the Jackson County Board of Commissioners, which changes shall be amendments to this Ordinance.

Section 703. Use of Fees

The total revenue derived from the availability fees and solid waste user/tipping fees shall be utilized to recover costs of operation (including closure) of solid waste facilities, collection, transportation and disposal incurred by Jackson County and shall not exceed that cost, in accordance with N.C.G.S. 153A-292.

Section 704. Method of Billing and Collection of Solid Waste Fees

A. The solid waste availability fees hereinabove imposed shall be added, as a separate identified charge, on the ad valorem property tax statements produced with respect to those Jackson County taxpayers who are owners of property improved with residential units or businesses or other improved properties, the use of which produces solid waste, so that they will be billed with the property taxes and shall be payable in the same manner as property taxes, and in the case of non-payment, may be collected in any manner by which delinquent personal or real property taxes can be collected. Such fee shall constitute a lien on the real property described on the bill that includes the fee and in the event of non-payment, there shall be included as an additional charge, interest, costs of collection including attorney fees and other costs as provided by N.C.G.S. 105-374.

B. The amount of the solid waste user/tipping fees shall be determined at the site through a measurement system using either weight or volume, depending on the type of solid waste being disposed of. The user fee so determined shall be either collected at the site or invoiced to the user monthly by Jackson County.

ARTICLE VIII - ENFORCEMENT

Section 800. Legal Status Provisions

A. The rules and regulations in this ordinance shall be enforced by the Jackson County Commissioners or their designees, the Jackson County Sheriff's Department, and any other agencies having duties and responsibilities in the area of health, solid waste disposal and by any methods authorized by N.C.G.S. 153A-123, 153A-277, 14-399, and 14-4. Each day's violation shall be treated as a separate offense.

B. Jackson County solid waste employees designated by the chief administrator of the JCSWO shall be authorized to enforce all rules noted within this chapter as well as those rules outlined in the North Carolina Administrative Code Subchapter (1OG, solid waste management) unless such authority is specifically denied.

C. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the JCSWO stating the basis for the complaint. The JCSWO shall investigate all written complaints and take such action as may be necessary to enforce the terms of this Ordinance.

Section 801. Criminal Penalties

A. Violations of this ordinance shall constitute a misdemeanor punishable by a fine not to exceed \$500, imprisonment for not more than thirty (30) days, community service, or some combination of the three. Each violation shall be treated as a separate offense; the JCSWO or Sheriff's Office shall cause a warrant or citation to be issued for the subsequent violation.

B. Upon the initial violation of a particular provision of this ordinance, an individual shall be issued a warning ticket. Such warning ticket shall identify the particular practice which is in violation of the ordinance and shall state the time, date and place of the violation. Such warning ticket shall further state that if the individual has similar violations within six (6) months following the date of the warning ticket, the JCSWO or Sheriff's Office shall cause a warrant or citation to be issued for the subsequent violation.

C. If an individual violates this ordinance within the six (6) months following the issuance of a warning ticket in a manner that is similar to the violation specified in the warning ticket, the JCSWO or Sheriff's Office shall cause a warrant to be issued for the arrest of the individual.

Section 802. Civil Penalties

A. Any person who is found in violation of this ordinance shall be subject to a civil penalty specified by a Schedule of Civil Penalties approved by the County Commissioners. Each violation shall be treated as a separate offense.

B. Before any civil penalty may be imposed, the JCSWO shall identify the circumstances giving rise to the violation, including the times, dates, and places of the violation and shall notify the offender thereof in writing. Such notification shall state that if the violation is not corrected within a reasonable time not to exceed fifteen (15) days, the individual will be subjected to a civil penalty. If circumstances exist such that the violation may not be corrected within fifteen (15) days, the JCSWO may, upon written request, grant an extension of time commensurate with the magnitude of the violation. The amount of the civil penalty to be imposed shall be stated. Such notification shall inform the individual of his rights to appeal the determination that the individual is in violation of this ordinance by submitting a notice of appeal to the JCSWO within ten (10) days of the date of the receipt of initial notification above.

C. If, after fifteen (15) days, or the end of any extension granted by the JCSWO, the violation has not been corrected, the JCSWO shall send to the violator a second notification. Such notification shall assess against the violator a civil penalty in accordance with paragraph B above. Such notification shall further inform the violator of his right to appeal the determination that he is still in violation of this ordinance.

D. If after three (3) more days the violation has not been corrected, the JCSWO may assess the second civil penalty in accordance with paragraph C above. Such assessment shall include a notification that further civil penalties may be assessed every three (3) days until either the violation is corrected or until the JCSWO decides that enough fines have accrued to warrant civil action to collect the accrued fines.

E. When necessary to collect any penalty or accrued penalties, the JCSWO shall cause an action to be instituted against an individual for the collection of all accrued fines. Unpaid penalties shall be subject to interest (1% per month or fraction thereof) and all costs associated with collection including court costs and attorney fees. Unpaid costs may be assessed as a lien on real property owned by the violator.

F. If penalties are paid within the prescribed time, they shall be reduced by 50%.

Section 803. Equitable Remedies

A. This ordinance may be enforced by equitable remedies, and any unlawful condition existing in violation of this ordinance may be enforced by injunction and order of abatement in accordance with N.C.G.S. 153A-123(e).

B. Where necessary to effectuate compliance with this ordinance, the JCSWO shall institute an action in a court of competent jurisdiction seeking an injunction against further violation of this

ordinance. Such action may be joined with a civil action instituted to collect accrued civil penalties in accordance with Section 702 above.

C. Where necessary to abate a condition existing upon land in violation of this ordinance or a use made of land in violation of this ordinance, the JCSWO shall institute an action in a court of competent jurisdiction seeking an order of abatement or the use of condition of land in violation of this ordinance. Such action may be joined to an action for an injunction and/or an action to recover civil penalties accrued against an individual for the use or condition of land in violation of this ordinance.

D. This ordinance may be enforced by any other equitable remedy which a court of competent jurisdiction deems just and proper.

Section 804. Delinquent Accounts

Article VI (6) Section 600 of this Ordinance provides the payment of a solid waste user fees by users of the JCTS. The JCSWO shall have the authority to set up accounts with regular users of the JCTS, to be billed on a monthly basis. When any account becomes more than sixty (60) days past due, the JCSWO shall be authorized to discontinue service to the holder of the delinquent account until such time as the account is paid in full. Further, the Jackson County Finance Office shall be authorized to use any means that a private citizen could use to collect a debt, including but not limited to the institution of a civil action to collect monies owed.

ARTICLE IX - APPEALS

Section 900. Right to Appeal

A. All appeals will be decided in a hearing held by the Solid Waste Appeals Committee (SWAC). This committee shall consist of three (3) to five (5) members of the JCSWB.

B. The JCSWB bylaws shall govern the procedures of the SWAC.

C. The SWAC shall meet as necessary to hear any appeals which have arisen since the previous meeting. The SWAC shall establish the date, place and time of the meeting and shall give written notice thereof to all appellants. Each appeal shall be heard within ninety (90) days of notice thereof having been given.

D. The SWAC shall issue a written decision within fifteen (15) days of the hearing. Any written decision of the SWAC shall notify the appellant that his or her further appeal rights will be to a court of competent jurisdiction. Notice of further appeal shall be filed in writing by the appellant with the SWAC within thirty (30) days of the date on the written decision given by the SWAC.

ARTICLE X - MISCELLANEOUS PROVISIONS

Section 1000. Severability

If any provision or part thereof, of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such provision shall be deemed a separate,

independent provision and such holding shall not affect the validity of any other provision, and to that end, the provisions of this ordinance are declared to be severable.

Section 1001. Non-Liability of County and Employees

The county provides the solid waste collection and disposal facilities as a public service. However, neither the county nor its employees shall be liable for any damage(s) to personal property or personal injury resulting from the use of these facilities.

Section 1002. Adoption and Effective Date

This ordinance is hereby ADOPTED and shall become effective and be in full force the 21st day of April, 2014.

W.J. Debnam, Chairman
Jackson County Board of Commissioners

Attest:

Patsy C. Parris, Clerk to the Board

ATTACHMENT I

Fee Schedule

Category 1	All improved property used as a residence (year around, part time, seasonal, and/or rental), including but not limited to a home, apartment, mobile home, trailer, and recreational vehicle but excluding improved properties having property tax homestead exclusion which are assessed as set out in Attachment 2.	\$63.00 per unit \$84.00 per unit \$105.00 per unit \$125.00 per unit
Category 2	All improved property used for professional offices, small retail/wholesale shops.	\$53.00
Category 3	All improved property used as a restaurant or food service establishment.	\$53.00
Category 4	All improved property used as a campground with tent and/or recreational vehicle sites. (Note that property with recreational vehicles and/or trailers as defined within this ordinance located thereon shall be assessed as set out in Category 1 above).	\$ 4.00 per site
Category 5	All improved property used for industrial purposes, waste will be hauled to/by the entity with whom the county contracts for such disposal and will be billed at the current waste disposal rate being charged to the county.	\$53.00
Category 6	Hospitals, nursing homes and group homes	\$4.00 per bed
Category 7	Motels, hotels, bed and breakfast, inns, or any other short term rental unit.	\$4.00 per unit

ATTACHMENT II

Solid Waste User Fees

Category 1	Yard Waste, Land clearing and Inert Debris	\$31.00 per ton
Category 2	Concrete & Brick	\$64.00 per ton
Category 3	Construction & Demolition waste (C&D)	\$64.00 per ton
Category 4	Industrial Solid Waste	\$64.00 per ton
Category 5	Other waste, including municipal solid waste destined for a solid waste facility	\$64.00 per ton
Category 5	Mixed Waste containing metal or any combination of two or more of the above categories.	\$87.00 per ton
Category 6	Cashiers Transfer Station C&D and Commercial Waste.	\$64.00 per ton

ATTACHMENT III

EXEMPTIONS

Category 1	All improved property who's owner has applied and been approved for the homestead exclusion pursuant to N.C.G.S. 105-277.1
Category 2	No solid waste user fee/tipping fee shall be charged for white goods as required by G.S. 130A-291(a)(44).
Category 3	No solid waste user fee/tipping fee shall be charged for vehicles and tires pursuant to G.S. 103A-309.58.
Category 4	<u>Single Residential Structure exemptions are as follows:</u> 1. If the owner meets the requirements of the Homestead Exclusion as defined in NC General Statute 105-277.1. 2. If the dwelling is deemed uninhabitable. Uninhabitable for this purpose is defined as having all electric utilities for the dwelling disconnected by the utility company. If utilities are re-connected then exemption is forfeited.
Category 5	<u>Apartment complexes, campgrounds and other commercial structure exemptions are as follows:</u> 1. If the building/structure is deemed uninhabitable. Uninhabitable for this purpose is defined as having all electric utilities for this structure disconnected by the utility company. If utilities are re-connected then exemption is forfeited. 2. If the owner of an apartment building/campground has a contract with a private company for dumpster service and the dumpster service is determined to be of sufficient capacity to handle the total garbage produced by the complex. 3. If the commercial property owner contracts with a private hauler to pick up and dispose of the waste generated by the applicable business.

