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**BERTIE COUNTY SOLID WASTE AVAILABILITY FEE ORDINANCE  
REGULATING AND IMPOSING THE ASSESSMENT AND COLLECTION OF  
SOLID WASTE AVAILABILITY FEES WITH PROPERTY TAXES**

**WHEREAS**, the need to protect the environment has led to new Federal and State solid waste management regulations, and

**WHEREAS**, the North Carolina Solid Waste Management Act requires counties to provide alternative solid waste disposal facilities for items which can be diverted from sanitary landfills, and

**WHEREAS**, Bertie County has a need to impose and collect fees for the availability and use of the collection, transportation and disposal of solid waste and/or recyclable materials, and

**WHEREAS**, North Carolina General Statutes § 153A-292 and § 153A-293, provide that such fees may become a lien on the improved property of the taxpayer, much the same way as ad valorem taxes are a lien, provided an **ORDINANCE** is adopted by the Board of Commissioners which complies with the provisions of the aforesaid statutes.

**NOW, THEREFORE**, the Bertie County Board of Commissioners adopts the following ordinance:

**I. Purpose and Objective**

The purpose of the Solid Waste Fees is to fund the cost of the Solid Waste, Recycling, Brown Goods and White Goods program(s) within BERTIE COUNTY, except within the boundaries of all municipalities within Bertie County (hereinafter, the County) and other costs incidental to the unit's handling and disposal of solid waste.

**II. Definitions**

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

- a. "Board" means the Board of Commissioners of Bertie County.
- b. "Brown Goods" means furniture including upholstered pieces and mattresses.
- c. "Cart" means a roll-out container for the storage of solid waste furnished by contractor for all residences.
- d. "Collection Service" means the act of removing solid waste or recyclable materials from a point of generation to a central storage

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point or to a disposal site and from a central storage point to a disposal site. Solid waste curbside service shall be provided to all customers by the contractor at least once-per-week and shall furnish recycling curbside service to all customers at least once-every-two weeks.

- e. "Commercial" means a customer generating more than one cubic yard of solid waste weekly and using dumpster equipment.
- f. "Construction and demolition waste" means waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.
- g. "Contractor" means a person who has been granted a contract for the collection, transportation and disposal of solid waste or recyclable materials.
- h. "County" means Bertie County, North Carolina, except within all incorporated municipalities located with Bertie County.
- i. "Curbside" means the location adjacent to but no more than 10 feet from the edge of a public roadway providing access to a residence or hand commercial establishment.
- j. "Customer" means the beneficiary of services provided by a contractor, including all owners of all improved real property within Bertie County, except within all incorporated municipalities located within Bertie County
- k. "Dumpster" means stationary solid waste containers which require mechanical pick-up by customized loading vehicles, including roll-off containers which involve the collection of industrial and/or construction debris.
- l. "Extra services" means solid waste collection services rendered in addition to once-per-week curbside collection for one roll out cart. These services may include any service relating to the collection of solid waste, but not recyclables, which may be agreed upon between the contractor and any customer authorized to receive such solid waste collection services from the contractor pursuant to an agreed upon rate. Charges for extra services billed customers by contractor for the roll outcarts shall be subject to reasonable review and approval of county. The County shall be billed by the contractor for the Availability Fee paid by the customer and credit for that regular service shall be indicated on the customer's invoice.
- m. "Hand Commercial Establishment" means any commercial entity capable of being reasonably served by one roll out cart or container to

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be distributed and used by the Contractor.

- n. "Hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitated reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- o. "Improved Property" means all improved real property within Bertie County including, but not limited to, residences, mobile homes, apartments, and commercial establishments, business and commercial establishments, schools, churches, rest homes, nursing homes, country clubs, governmental units and professions, but excluding business and commercial establishments generating more than one (1) cubic yard of solid waste weekly or industrial solid waste weekly and using dumpster equipment.
- p. "Industrial solid waste" means solid waste generated by industrial processes and manufacturing.
- q. "Ordinance" means the Bertie County Ordinance relating to the contracting for private solid waste and recyclable material collectors and the collection and disposal of solid waste and recyclable materials within Bertie County except within all incorporated municipalities in Bertie County.
- r. "Person" means an individual, corporation, company, association, partnership, unit of local government, State agency, Federal agency or other legal entity.
- s. "Property Owner" means the owner of record of property as of January 1 of the calendar year in which the fiscal year for which the fees are assessed opens.
- t. "Recycling" means any process by which solid waste, or materials, which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
- u. "Recycling container" means an ~~XX~~ gallon plastic container furnished by Contractor for collection of specified recyclable materials at the curb.
- v. "Recyclable material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste and are accepted by the contractor's program.

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- w. "Solid waste" means all material customarily referred to as garbage, or refuse, and other discarded material, including solid, semi-solid materials or materials resulting from community activities, but does not include hazardous waste or solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under the Federal Water Pollution Control Act as amended (86 STAT. 880) or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended, nor construction and demolition waste and vehicular tires.
- x. "Solid Waste Disposal Facility" shall mean the East Carolina Environmental Landfill located in Bertie County.
- y. "White Goods" means any and all household machines or appliances.
- z. "Yard Waste" means leaves, limbs and grass clippings but not stumps, rocks, dirt, or construction materials.

### **III. Collection Service**

The requirements and details of the solid waste collection service and the recycling collection and disposal are contained in this section

- a. **Point of Collection:** The collection of solid waste materials will occur at the curbside of each residence, subject to the following two exceptions.
  - a. **Subdivision Collection Service:** Home owners within subdivisions that have paved road and turn around provisions may be examined to determine if service can be delivered safely.
  - b. **Mobile Home Parks:** Mobile home owners and renters (more than 5 homes) located in mobile home parks located more than 500 feet from the state maintained road must have safe adequate road access and turn around provisions in order to be considered for within the Mobile Home Park collection.
- b. **Residential Collection of Solid Waste:** The Contractor shall provide curbside collection of household solid waste once per week basis.

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- c. Residential Collection of Recyclables:** The Contractor shall provide curbside collection of recyclables on a once every two weeks basis.
- d. Residential Collection of Brown Goods and White Goods:** The Contractor shall provide a “call-in-service” for scheduling the periodic curbside collection of brown goods and white goods. The service must be available at least once per month.
- e. Residential Handicapped Collection:** Residents who are unable to put their roll-out carts at the curbside or who have no other person residing or working within the residence (such as a caregiver) may request “Back Door Service”. However, a resident must provide a doctor’s note annually to the County, or for a shorter duration of time, detailing their inability to take the refuse to the curbside. The roll-out cart must be placed at the side of the house or in plain view of the collection vehicle operator. “Back door Service” will be available for houses located within two hundred and fifty (250) feet of the curbside.
- f. Residential Containers:** The Contractor shall provide each residence one rollout cart and one recyclable container. The cost of the containers shall be included in the regular monthly cost. The Contractor shall maintain and replace carts except in case of damage or destruction by Residents. Residents shall keep their roll-out carts clean. The Contractor shall maintain an adequate inventory of roll-out carts in order to provide delivery with forty-eight (48 hours).

  - a. Additional Containers:** An additional rollout cart may be purchased at a stated cost and the customer will be billed by the Contractor for that cost.
  - b. Alternate Containers:** Contractor shall offer dumpster service rather than the rollout cart and will bill the Customer for that service. However, the County will collect and be billed for the curbside collection service. The Contractor will have a reduced rate for the dumpster service which gives credit for the rollout cart service.
- g. Ownership of Collected Material:** The ownership of collected materials under this Contract shall vest in the Contractor once the materials have been loaded on the Contractor’s vehicles.
- h. Hours of Operation:** Residential collection services shall be performed generally on scheduled collection days, Monday through

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Friday on non-holiday weeks. Service shall not commence prior to 6:00 AM or extend after 7:00 PM unless exceptions are approved by the County.

- i. **Holidays:** In weeks when there is a designated National holiday, collections may be altered by one day which may include a Saturday.

**IV. Assessment of Fees**

The assessment of the availability fee for solid waste and/recycles disposal shall be as follows:

- a. In accordance with G.S. 153A-292(b), except as provided below, an annual fee is imposed on all improved property in the county that benefits from the availability of the County’s solid waste and recycling collection service. The annual fee schedule shall be determined by the Board of Commissioners and adopted as part of its Budget Ordinance. The aggregate proceeds generated by the annual fee shall not exceed the aggregate costs of operating the County’s solid waste and recycling collection service. In determining the amount of the annual fee, however, the County will consider solid waste management costs incidental to the County’s handling and disposal of solid waste at the disposal facilities, including the costs of the methods of solid waste management specified in G.S. 130A-309.04(a).
- b. The availability fee for solid waste and/or recyclables disposal shall be effective immediately. Said customers shall be initially assessed and billed this fee on the basis of improved real property owned on 1 January 2014. The collection of these fees, delinquent fees, and collection costs will be governed by the North Carolina General Statutes involving the collection of Ad Valorem taxes on real or personal property.
- c. Owners of improved property who require the initiation of solid waste and recyclables collection service during the year must pre-pay to the Bertie County Tax Collector an amount equal to one-twelfth of the annual fee for each remaining month in the year.
- d. The following property is exempt from the annual availability fee:
  - a. Improved property with no electric service.
  - b. Documentation from the electric power companies normally servicing the area that encompasses the property certifying that there is no electric service to the property for a period of greater than one month during fiscal year for which the fee applies.

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- c. Seasonal and vacation type homes occupied less than a total of three (3) months during the calendar year.
- e. The County reserves the right to pro-rate the annual availability fee in accordance with the annual fee schedule adopted by the Board of Commissioners as part of the Budget Ordinance if a property qualifies for an exemption for less than the full fiscal year.
- f. Certain exemptions from the availability fee may be established by the Bertie County Board of Commissioners when no benefit is derived by the property owner. Requests for such exemption must be submitted to the Bertie County Tax Assessor in writing during the calendar year the fee is billed and approved by the Board of Commissioners with such action by the Board of Commissioners being recorded in the official minutes of the meeting wherein the action was taken and the reason for such exemption as described under the provisions of North Carolina statutes governing availability fees.

**V. Collection and Billing of Fees**

In accordance with G.S. 153A-293, the Collection Availability Fee shall be billed with property taxes, and shall be payable in the same manner as property taxes.

- a. The Collection Availability Fee is due September 1 and are payable without interest through the following January 5. Interest accrues against the fees not paid by this date at the rate provided in G.S. 105-360. When January 5 falls on a Saturday, Sunday, or holiday, the property owner may pay the fees without interest on the next business day.
- b. The Collection Availability Fee is a lien on the real property described on the bill that includes the fee. The lien attaches on the date as of which the real property is to be listed under G.S. 105-285. In the event that the fees are billed subsequent to the year for which they are assessed, the lien attaches January 1 of the calendar year in which the bill is issued.
- c. All persons who have or who may have an interest in any real property that may be or may become subject to a lien for the Collection Availability Fee are hereby charged with notice that the fees may become a lien against the property and that if such fees are not paid the proceedings allowed by law for the collection of such fees may be taken against such property. This notice shall be conclusively presumed regardless of whether such persons have actual notice. The failure to bill for the Collection Availability Fee constitutes an immaterial irregularity within the meaning of G.S. 105-394 that does

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not invalidate the fees owed.

**VI. Severability**

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**VII. Penalties and Remedies**