

§ 50.22 FRANCHISE FOR CONSTRUCTION AND DEMOLITION DEBRIS LANDFILLS.

(A) For purposes of this section, a construction and demolition debris (C&D) landfill is defined as a facility for the disposal of solid waste pursuant to G.S. § 130A-294 and 15A NCAC 13B.0542.

(B) Every permit holder for operation of a C&D landfill in Wake County's unincorporated area must obtain a franchise from the Wake County Board of Commissioners. With respect to franchises in existence on and as of the effective date of this section, such franchises are subject to the conditions and requirements set forth in divisions (D), (E)(2) through (E)(7), (H), and (I) of this section. The expiration date of any franchise already in effect as of the effective date of this section will not change as a result of this section.

(C) For a new C&D landfill, the Board of County Commissioners may issue a franchise upon presentation of the following information to the county:

- (1) The name and address of the applicant and owner of the proposed landfill site;
- (2) The trade or other names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name;
- (3) All information required under G.S. § 130A-294(b1)(2);
- (4) Evidence that the Wake County Board of Adjustment has granted a special use permit for the proposed C&D landfill; and
- (5) Evidence of the owner/applicant's compliance history at waste disposal facilities in North Carolina if the owner/applicant has experience owning or operating such facilities within the last three years. Evidence includes a copy of all federal, state, or local notices of violation (NOV) the facility has received in the previous three years, and a copy of all inspection reports received in the previous three years from any regulatory agency that has conducted routine inspections at the facility during the previous three years.

(D) For a revision to the franchise of an existing C&D landfill, the Board of County Commissioners may issue a revised franchise upon presentation of the following information to the county:

- (1) A transmittal letter that highlights the requested changes by comparing the key points of the existing franchise to the requested revision;
- (2) The name and address of the applicant and owner of the landfill site;
- (3) The trade or other names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name;
- (4) All information required under G.S. § 130A-294(b1)(2);
- (5) A letter from the Wake County Planning Development and Inspections Division stating:
 - (a) That to its knowledge there are no existing violations of the permits, ordinances, and regulations governing the C&D landfill that the Division enforces, including but not limited to the special use permit for the C&D landfill; and
 - (b) Whether or not the proposed franchise change would require action from the Wake County Board of Adjustment to modify the special use permit.
- (6) A letter from the Wake County Environmental Services Department stating that to its knowledge there are no existing violations of the permits, ordinances, and regulations governing the C&D landfill that the Department enforces, including but not limited to well, septic, sedimentation and erosion control, and grading permits;
- (7) A letter from every section of the North Carolina Department of Environment and Natural Resources (NCDENR) that has issued a permit to the C&D landfill stating that to its knowledge there are no existing violations of the permits, statutes, and regulations governing the C&D landfill that that section of NCDENR enforces;
- (8) A copy of all federal, state, or local notices of violation (NOV) the C&D landfill has received in the previous five years;
- (9) A copy of all inspection reports from any NCDENR inspection during the previous five years;
- (10) A copy of the five most recent reports submitted to NCDENR reporting the total annual tonnage received at the C&D landfill and the geographic origin of the tonnage; and
- (11) Evidence that the Wake County Board of Adjustment has modified or reissued the special use permit for the C&D landfill if required in division (D)(5) above.

(E) Unless alternate language is approved by the Board of County Commissioners, all new franchises shall have the following specifications:

- (1) Franchises automatically expire five years after the date of Board of County Commissioner approval unless the owner/applicant:
 - (a) Submits a letter to the Environmental Services Director that includes a copy of any and all required NCDENR permit(s) to operate the C&D landfill under the conditions described in the new franchise; or
 - (b) Requests an extension from the Board of County Commissioners;

Upon satisfaction of division (E)(1)(a) above, the term of the franchise shall be 20 years from the date the NCDENR permit issued, or such shorter period set by the Board of County Commissioners.

(2) Any change to the list of specific conditions noted in the application or offered by the owner/applicant, including but not limited to a description of the geographic service area, a description of the volume and characteristics of the waste stream, and the annual tonnage threshold, shall require the owner/applicant to request a franchise revision from Board of County Commissioner as described in division (D) above;

(3) Any change to the operation of the C&D landfill that is considered a substantial amendment of the operating permit from NCDENR as defined by G.S. § 130A-294(b1)(1) shall require the owner/applicant to request a franchise revision from Board of County Commissioner as described in division (D) above;

(4) The only materials acceptable at the C&D landfill are those permitted under 15A NCAC 13B.0542 as of the effective date of this section. The owner/applicant may propose, and the Board of County Commissioners may accept, a more restrictive list of materials than those permitted under 15A NCAC 13B.0542 as of the effective date of this section;

(5) Any request by the owner/applicant to modify the list of acceptable waste pursuant to 15A NCAC 13B.0542(e)(4) shall require the owner/applicant to request a franchise revision from Board of County Commissioner as described in division (D) above;

(6) The owner/applicant shall copy the Wake County Environmental Services Department on all correspondence with NCDENR regarding operational changes at the landfill;

(7) The owner/applicant shall provide to the Wake County Environmental Services Department annually a document signed by the owner/applicant listing the conditions of the franchise (geographic service area, annual tonnage limit, etc.) and certifying whether or not the C&D landfill complied with those conditions over the past year; and

(8) Any other specification or condition that the Board of County Commissioners chooses to impose.

(F) The Board of County Commissioners shall schedule and hold a public hearing consistent with the requirements of G.S. § 130A-294(b1)(3). In addition to the public notice requirements of G.S. § 130A-294(b1)(3), a notice of the hearing shall be:

(1) Published at least once in a newspaper of general circulation not less than 30 calendar days prior to the date established for the hearing; and

(2) Posted on the property at a place(s) visible to all public roads adjacent to the landfill site.

(G) All forms of public notice described in division (F) above shall be reasonably calculated to inform the public of the location, date, time and purpose of the hearing. The owner/applicant shall provide an affidavit to the county not less than ten days before the date of the hearing that the required notices have been posted. All expenses associated with public notice requirements shall be borne entirely by the owner/applicant.

(H) Due to the administrative burden of processing C&D franchise requests, the owner/applicant may only submit one request per C&D landfill facility every 18 months unless the owner/applicant can demonstrate to the Board of County Commissioners that the additional request is substantially different than the original request, is due to unforeseen circumstances or an emergency, or is for the purpose of correcting a minor technical deficiency or administrative error.

(I) The C&D franchise may be revoked and/or suspended for violation of the conditions and specifications of the franchise. If county staff discovers a violation, the Solid Waste Director shall give notice in writing to the person responsible for operation of the facility that the facility's franchise will be revoked or suspended unless the violation is remedied. The notice shall set forth the measures necessary to bring the site back into compliance with the franchise ordinance and specify a deadline for the corrective actions to be completed. If after the deadline the violation has not been remedied, the operator will be notified that the franchise has been revoked or suspended. Upon receipt of this notice of revocation or suspension, the operator of the facility shall terminate operations immediately. The operator may request in writing to the Solid Waste Director a hearing before the Board of County Commissioners in order that the operator may justify why the franchise should not be revoked or suspended. The request shall be received by the Solid Waste Director no later than ten days following notice of franchise revocation or suspension. The hearing shall be scheduled for the next regular meeting of the Board of County Commissioners. After hearing of the appeal, the Board shall affirm the revocation or suspension, or direct the Solid Waste Director to reinstate the franchise.

(Ord. passed 9-7-1999; Ord. OA-01-12, passed 3-19-2012)