

TOWN OF DAVIDSON
RESIDENTIAL SOLID WASTE FEE
ORDINANCE

WHEREAS, North Carolina General Statutes, Chapter 153A, Sections 292 and 293, authorize counties to impose fees for the availability and use of solid waste disposal facilities provided by the counties and to bill such fees with property taxes; and

WHEREAS, the Town of Davidson Board of Commissioners imposed a Residential Solid Waste Fee for the fiscal year beginning July 1, 2010, and ending June 30, 2011, on all residences located in the Town of Davidson on January 1, 2009, by including the same in its Budget Ordinance; and

WHEREAS, the Town of Davidson Board of Commissioners has caused this Ordinance to be prepared to specify the administrative details relative to the billing and collection of the Residential Solid Waste Fee; now, therefore,

BE IT ORDAINED BY THE TOWN OF DAVIDSON BOARD OF COMMISSIONERS that the following Residential Solid Waste Fee Ordinance is hereby adopted.

Section 1. Definitions. The following definitions apply in this Ordinance:

(a) “Residence” means property used or, if vacant, designed to be used as a residential dwelling for one or more persons, whether or not the property is also used for other non-dwelling purposes. The term includes mobile homes, single family, multifamily, and other structures used or designed to be used as residential dwellings. There can be multiple residences within a single structure, such as apartments, duplexes, town houses, or condominiums. The term does not include hotels, motels, inns, tourist camps, or other similar places that are required to collect a room occupancy tax under the Mecklenburg County ordinance imposing a room occupancy tax.

(b) “Mobile home” means a structure, transportable in one or more sections, which, in the traveling mode, is 8 feet or more in width or is 40 feet or more in length, or, when erected on site, is more than 320 square feet, and which is built on a permanent chassis and used or designed for use as a residence, with or without a permanent foundation, when connected to the required utilities.

(c) “Fee” means the Residential Solid Waste Fee imposed by the Town of Davidson Budget Ordinance which is adopted from time to time.

(d) “Tax Administrator” means the Mecklenburg County Tax Administrator and any

persons designated by him or the Town of Davidson to levy and collect the Fee and administer the terms of this Ordinance.

(e) “Levy” or “levied” means the act of determining what property is subject to the Fee and the assessment and billing of the Fee by the Tax Administrator.

Section 2. Relationship to Machinery Act. The Fee shall be billed with property taxes, payable in the same manner as property taxes, and collected in any manner by which delinquent personal or real property taxes can be collected, all as provided in Subchapter II, Chapter 105, of the North Carolina General Statutes.

Section 3. Administration. The Mecklenburg County Tax Administrator will levy and collect the Fee and may promulgate additional rules and regulations necessary for the implementation of this Ordinance not inconsistent with the specific provisions set forth herein.

Section 4. Property Affected. The Fee is imposed upon all property in the Town of Davidson which is a residence. The Fee is imposed on each separate residence.

Section 5. Date as of Which Ownership and Eligibility for Imposition of the Fee is to be Determined. The ownership of property subject to the Fee shall be determined as of January 1, 2010, for the fiscal year beginning July 1, 2010, and as of January 1 of each year thereafter for each successive fiscal year for which the Fee is imposed. If any property subject to the Fee as of January 1 is destroyed, demolished, removed, becomes uninhabitable, or otherwise loses its eligibility for the Fee prior to July 1 and remains as such as of July 1 of that calendar year, the property will not be subject to the Fee. A change of ownership of the property between January 1 and July 1 will not cause the property to lose its eligibility for imposition of the Fee. A residence which is vacant due to being partially completed as of January 1 shall not be subject to the Fee, even though it is fully completed as of July 1. A residence which is vacant due to being renovated as of January 1 shall be subject to the Fee, provided the residence is occupied or available for occupancy as of July 1.

Section 6. Exclusion of the Fee. For the first fiscal year in which the Fee is imposed (July 1, 2010, through June 30, 2011), the Fee shall not be imposed on any residence which, at all times from July 1, 2010, through December 31, 2010, (i) has its waste collected by a private contractor who disposes of the solid waste at a solid waste facility provided by the private contractor and (ii) does not use any of the Town’s contracted solid waste collection services. For subsequent fiscal years, the Fee shall not be imposed on any residence which, at all times from January 1 of the calendar year in which the fiscal year opens through December 31 of said calendar year, meets the same requirements as set forth in (i) and (ii) of this paragraph.

Residences which are excluded from property taxation under the Homestead Exemption defined in N.C.G.S. §105-277.1, but would otherwise be subject to the Fee, shall also be exempt from the Fee. Likewise any Residence that falls within the Affordable Housing Program of the Town of Davidson or is considered an Affordable Housing Land Trust property, and that would otherwise be subject to the Fee, shall be exempt from the Fee.

Section 7. Assessment Procedure. The Tax Administrator shall determine on which properties the Fee shall be levied and shall include the amount of the Fee on the tax bill of the owner of the property as of January 1. The Fee imposed on a residence which is not assessed for property taxes by the Tax Administrator in connection with or as a part of a specific parcel of land shall be billed by a separate bill to the owner of the residence. Except for the exclusions listed in Section 6, Residences which are exempt from property taxation, but which are subject to the Fee, shall be billed by a separate bill to the owner of the residence.

Section 8. Late Levy of the Fee. If the Tax Administrator fails to levy the Fee on one or more residences in the County during the normal billing period due to inadvertence or other good reason, the Fee may be levied at any time during the applicable fiscal year or the next succeeding fiscal year. For purposes of determining the due date and applicability of interest, the late levy shall be deemed to be a Fee for the fiscal year beginning on July 1 of the calendar year in which the Fee is levied.

Section 9. Due Date; Interest for Nonpayment. The Fee is due September 1, 2010, and September 1 of each successive year for which the Fee is imposed. The Fee is payable at par if paid before January 6 following the opening of the fiscal year. Any portion of the Fee not paid on or before January 6 is delinquent and interest will accrue as follows: For the period January 6 to February 1, interest accrues at the rate of two percent (2.0%); and for the period February 1 until the principal amount of the Fee and the accrued interest is paid, interest accrues at the rate of three-fourths of one percent (3/4%) a month or fraction thereof.

Section 10. Appeals. The owner of property upon which a Fee is levied by the Tax Administrator shall have the right to file a notice of exception with the Tax Administrator at any time prior to the date the Fee becomes delinquent, unless the notice of the Fee is mailed less than thirty (30) days prior to the delinquent date, in which event the owner shall have thirty (30) days after the date of mailing in which to file a notice of exception. Upon receipt of a timely exception, the Tax Administrator shall arrange a conference with the owner to afford him an opportunity to present any evidence or argument he may have regarding the Fee and the Tax Administrator shall have the authority to authorize a rebate or refund of the Fee if he concludes the Fee is not owed. Within fifteen (15) days after the conference, the Tax Administrator shall give written notice to the owner of his final decision. In cases in which agreement is not reached, the owner shall have fifteen (15) days from the date the notice is mailed to appeal the Tax Administrator's decision to the Board of Commissioners of the Town of Davidson ("Board") for a final decision in accordance with the rules of procedure established by the Board. The Board shall have the right to appoint a special committee consisting of at least three persons from the Board to hear the appeals. Notwithstanding any pending exceptions by the owner to the Tax Administrator or appeal to the Board, the owner shall pay the Fee prior to the date interest accrues, subject to a refund, without interest, if the final appeal is decided in the owner's favor. If a Fee is refunded, the Town of Davidson Finance Director shall issue the refund from the Solid Waste Fund.

Section 11. Liens. The Fee shall be a lien on real and personal property under the same rules as set forth in N.C.G.S. §105-355, and other sections of The Machinery Act.

Section 12. Remedies for Collection. The Tax Administrator shall have the same remedies for collecting the Fee as provided in N.C.G.S. §105-366, 367, 368, 374, and other sections of The Machinery Act.

Section 13. Partial Payments. The Tax Administrator shall be entitled to collect partial payments of the Fee. If a bill from the Tax Administrator includes a combination of property taxes or other assessments with the Fee, the Tax Administrator shall apply any partial payments in the order in which such payments are now applied under the hierarchy utilized by the office of the Tax Administrator, with the Fee to be applied at the lowest priority of the hierarchy existing as of the date of this Ordinance.

Section 14. Imposition of Fee Against Property Owned and Listed by Multiple Owners. If there are multiple owners of property on which the Fee is imposed and such multiple owners are assessed separately for property taxes, the Fee shall be levied on a ratable basis in accordance with the percentage of interest owned by the multiple owners.

Section 15. Adjustment of Fee. In the event that the Board of Commissioners determines that a Fee has been levied against a type or types of residence in an amount which is in excess of the Fee which should have been levied, the Board of Commissioners shall have the authority to direct the Mecklenburg County Tax Administrator and/or the Town of Davidson Finance Director to refund, rebate, or credit an appropriate amount to the affected property owners either in the fiscal year for which the Fee was levied or in the next fiscal year. If a portion of a Fee is refunded, rebated, or credited, the adjustment of the Fee shall be from funds contained in the Solid Waste Fund.

Section 16. Effective Date. This Ordinance is effective for the fiscal year beginning July 1, 2010.

ADOPTED this _____ day of _____, 2010

APPROVED AS TO FORM:

Town Attorney