**SUMTER COUNTY ORDINANCE NO. 05-22**

AN ORDINANCE OF SUMTER COUNTY, FLORIDA, MAKING FINDINGS CONCERNING SOLID WASTE LANDFILLS AND THEIR IMPACTS, PROVIDING DEFINITIONS, ESTABLISHING PURPOSE AND INTENT, REQUIRING LANDFILLS TO MEET ESTABLISHED STATE STANDARDS, PROVIDING FOR PARCEL SIZE AND LOCATION STANDARDS, FOR SITE STANDARDS, ACCESS REQUIREMENTS, SETBACKS, SCREENING, CONSTRUCTION STANDARDS, OPERATIONAL STANDARDS, MONITORING, REQUIRING CERTAIN PERFORMANCE GUARANTEES, ESTABLISHING A COMMUNITY SOLID WASTE TRUST FUND, PROVIDING AUTHORIZATION FOR HOST FEES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND FOR SCRIVENER'S ERRORS, AND PROVIDING AN EFFECTIVE DATE

**WHEREAS,** the Sumter County land development regulations currently do not contain provisions relative to Class 1 Solid Waste Landfills, and

WHEREAS, the Board of County Commissioners of Sumter County has determined that the county needs a comprehensive set of regulations in place to properly regulate the location and operation of such landfills,

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA:**

**Section 1.** Definitions.

The definitions found in Florida Administrative Code at 62-701.200 concerning solid waste matters in general are incorporated herein by reference.

**Section 2. Class I Solid Waste landfill (Class I ).**

(a) *Purpose and intent.* Class I solid waste landfills are permissible as conditional uses in areas of Agricultural or Industrial land use, as shown on the Sumter County Land Use map, and as required herein. This use applies to public or privately owned or leased solid waste disposal facility for Class I landfills as defined, established and operated in accordance with chapter 17-701, F.A.C. and other provisions of this chapter. In addition to the other provisions of this chapter, it is the intent of this section to provide for such use in a manner which will have the least possible adverse impact to the community. The standards set forth in this section are the minimum standards required. As a conditional use, it is the right of the Board to require additional or more stringent standards to mitigate impacts to the community from the proposed

site.

(b) *State standards.* As a minimum, these landfills shall be established and operated in conformance with the requirements of this chapter, and requirements and definitions of Chapter 17-701, F.A.C., unless more stringent standards are required by the Commission to mitigate against negative impacts to the community.

(c) *Parcel size and location standards.*

*Class I landfills* shall be on parcels of such size, shape and location as to permit development of well organized facilities and able to meet all requirements of this chapter, as follows:

a. *Parcel size.* Parcels with a minimum usable land area of not less than 250 acres are required:

b. *Location.* Class I landfills shall be located as follows :

a) The aerial distance from any proposed cell shall not be less than as specified from the following existing facilities or features:

1) From any residence, ½ mile if downgradient and 1/4 mile if upgradiant to flow of underground water.

2) One-half mile from any lake, river, stream, or a drainage canal that directly connects or is part of a system with direct connection to a lake, river, stream, sink or similar formation with a connection to the aquifer.

3) Three hundred feet from any jurisdictional wetland, subject to the ability to mitigate for that wetland in a different location.

4) ½ mile if downgradient and 1/4 mile if upgraidiant to flow of underground water from any existing private well, existing or proposed community or regional water system.

b) Class I landfills must be placed within the Agricultural or Industrial land use areas as designated on the Future Land Use Map.

c) Sites must abut only properties with agricultural or industrial land uses.

(d) *Site Standards*:

*Subsurface Conditions*: Class I landfills shall not be located in:

a) Areas subject to frequent flooding.

b) Areas where the seasonal average high water table is less than ten (10) feet below existing ground surface, unless the applicant can show, to the satisfaction of the Board, that site modifications can be accomplished to prevent a wash out of solid waste and degradation of the liner system.

c. A limestone pit or any other excavation which has penetrated the upper Floridan aquifer.

d) In an area where geologic formations or subterranean features would not support the facility.

(e) *Access*:

1. The facility shall be located so as to provide for direct access to arterial or major collector roads, as identified in the Sumter County Comprehensive Plan, without use of local roads or streets. Necessary improvements such as accel/decel lanes and turn lanes shall be made at the applicant's expense.

2. The access roadway into the facility shall be paved.

(f) *Setbacks, buffering & screening*

1. Buildings used for administrative purposes only must meet current established setbacks from arterial or collector roadways. Such structures shall be a minimum of 30' from adjoining property lines. Class B screening shall be employed to minimize visual impacts.

2. Areas used for disposal within the facility must be at least 400 feet any adjoining property line where the adjoining use is other than industrial and 100 feet from industrial, wastewater treatment plant or any use similar in intensity to a landfill.

3. Active disposal areas shall contain temporary fencing to assist in control of fugitive litter.

4. Disposal areas adjacent to roadways and within 400 feet of property lines shall be screened by use of earthen berms no less than sixteen (16) feet in height, topped with a chain link security fence no less than six (6) feet in height. The

berm shall be grassed and maintained to afford a neat appearance. Along roadways, the berm must be landscaped in addition to being grassed. The landscape plan shall use xeriscaping principals and components.

(g) *Construction standards*

1. The landfill shall use a double liner system, as defined and described in 62.-701.400 (3) (c) FAC. The liners used shall be a minimum of 60 mils.

2. The facility shall use a leachate re-circulation system as defined and described in 62.-701.400 (5) FAC.

3. *Maximum Cell height.*

a. Maximum cell height shall be established by the approving authorities. The reviewing and approving authorities shall consider the finished slope as established by FDEP, the uses and nature of the surrounding area, and the visual impact from the surrounding area.

b. The application shall contain the proposed height and slope of the finished landfill, and a topographic rendering of the finished landfill and the surrounding area to a distance of 1 mile, or greater as requested by the reviewing authorities or staff.

4. *Construction plans.* A duplicate copy of any landfill design, specifications and construction plans shall be filed with the county 90 days prior to commencement of any construction.

5. *As-built drawings.* Within 60 days of final completion of a liner system or any other landfill or cell construction, the developer shall file with the county a duplicate copy of as-built drawings reflecting completion of construction. A professional engineer authorized to practice in the state shall certify such as-built drawings.

(h) *Operational standards.*

1. Access to the site shall be controlled by installation of a security chain link fence of at least 6' in height, with a locking gate. Gates shall be locked when the site is not open for business. All disposal sites shall be fenced or otherwise secured and gated to prevent unauthorized or uncontrolled access. Only one (1) entrance to the site shall be allowed unless otherwise approved and attended.

2. Hours of operation shall be limited to daylight hours only, unless otherwise approved. Days of operation shall be Mondays through Saturday for collection and disposal of waste. Facilities maintenance or office operation may occur seven

days per week.

3. No trespassing signs shall be posted at each corner and every 500 feet apart along the fence line.

4. The applicant shall submit a litter control plan and an odor control plan for approval by the County.

5. The developer shall provide third party quality assurance to the county in the form of construction inspection, monitoring and observation for each liner system. Such liner system construction monitoring and observation shall be constant and at a minimum provide for photographs or videotape recordings of significant aspects of the liner system installation or cell construction procedures together with daily logs, weekly reports and immediate notification of the developer, the contractor installing the liner system and the county whenever construction plans or specifications are not followed.

6. *Disposal of materials.*

a. The trained operator and trained spotter shall be available onsite at the location of current operations delivery inspection area whenever debris is received at the facility.

b. As to any landfill that is designated as the official county solid waste disposal landfill, there shall be an operator installed, maintained, and operated Community Disposal Area shall be required on site. This area shall be located to be convenient to customers bringing waste to the facility. It shall be open to the public at all times that the landfill disposal site is open.

c. Unauthorized solid waste, which is any solid waste that is delivered to the site but which is legally prohibited from being disposed of at the site, shall be stored in a watertight, nonabsorbent bulk container maintained on the disposal site and deposited at a permitted solid waste disposal site weekly unless approved otherwise by the authority.

d. Burning shall be prohibited.

(i) *Monitoring.*

1. The developer shall construct and provide groundwater monitoring devices around the perimeter of the landfill. Access to monitoring devices shall be by and through the developer's agents. Split sampling shall be required when a regular sampling shows a problem. Such monitoring devices may be constructed within any buffer areas, provided the monitoring devices do not substantially impair the

effectiveness or purpose of the buffer area. The location and frequency of monitoring devices shall, at a minimum, be that required by state and federal regulatory agencies. All drilling logs shall be retained by the developer and made available to the county at the county's request. Water samples shall be taken as required by state and federal regulatory agencies and analyzed for parameters required by those agencies. This information and the results of any water samples shall be provided to the county. In no event shall water samples be taken less often than quarterly.

2. Whenever it is determined that a water sample indicates a significant change in background data previously reported, the developer shall use its best efforts to perform additional analysis to reasonably identify why the parameters have changed and identify the source of any such pollutants.

3. The developer shall establish a methane gas monitoring system in the landfill. Methane gas measurements will be made no less often than monthly around the perimeter of the landfill. Indications of the presence of explosive gas equal to or greater than 90 percent of that gas' lower explosive limit shall require the developer to initiate investigations to determine the source and timely develop corrective solutions.

4. The developer shall submit a plan for the capture and use of methane as an energy source.

5. *Annual report.* The owner/operator shall file an annual report for each year within thirty (30) days of the operating permit anniversary. This report shall contain an estimate of the total quantity of waste deposited for the past year, an estimate of existing unused capacity and an estimate of waste expected to be deposited during the next year. In addition, the owner/operator shall notify and furnish copies to the County of any permit, permit renewal or permit modification applications submitted to the Florida Department of Environmental protection (FDEP), as well as any Notices of Violation or other correspondence related to regulatory compliance issues by FDEP.

6. *Inspection.* Department inspections shall be made as provided in Section 13-276. Detection of unauthorized material may, upon determination by the commission, constitute sufficient grounds for risk assessment action by the owner and/or operator. Such action will be based on acceptable risk assessment procedures, coordinated with the appropriate state agency and specified in writing.

(j) *Performance guarantees.*

1. *Mitigation requirement.* In addition to the mitigation, remediation or cleanup obligations imposed upon the developer by any state or federal law, statute, rule, regulation or requirement, the developer shall, at its expense, timely take the

actions referred to in this subsection that are necessary to mitigate adverse environmental impacts resulting directly from the operation of a solid waste disposal facility.

2. *Local mitigation fund.* In addition to any governmentally required proof of financial responsibility for the closure, monitoring and maintenance of the landfill, including but not limited to the proof of financial responsibility addressed in Florida Administrative Code, the developer shall establish a local mitigation fund to mitigate any adverse environmental impacts which result directly from the operation of a the landfill facility. The local mitigation fund shall be established prior to operation of the landfill. The purpose of the local mitigation fund is to provide for mitigation of adverse environmental impacts resulting directly from the operation of the landfill facility, but not to address claims based upon diminishing property value by virtue of proximity to the landfill.

3. *Claims.*

a. In the event a landowner notifies the developer and the county with credible evidence that the operation of the landfill facility has damaged the landowner's groundwater or well, or otherwise polluted the land, the developer and the county will immediately investigate the allegation by referring the complaint to the Florida Department of Environmental Protection, Sumter County Department of Health, the hydrogeological consultant to the county as well as other investigative agencies. Investigation may include requiring current data from the monitoring wells and other information considered relevant to those agencies.

b. If there is preliminary evidence that the claim is valid, the developer shall immediately assist the property owner in developing an alternative source of potable water which will ensure that the landowner will not be required to go without potable water for human consumption and acceptable water for livestock for more than 48 hours.

c. It is not the intent of this subsection to allow the harassment of the owner/operator by a landowner. If the landowner has filed a previous claim which proved to be baseless, the costs of any further claims shall be born by the landowner, subject to reimbursement by the owner/operator if the subsequent claims prove the claim to be valid.

4. *Letter of credit.*

a. The local mitigation fund shall be partially comprised of and backed by an irrevocable standby letter of credit from an issuer acceptable to the county. The amount of the letter of credit shall be $1,000,000.00 and the letter of credit shall remain in effect for not less than 20 years from the last

closure of a landfill. The amount of the letter of credit shall be adjusted on each anniversary after establishment to reflect changes in the Consumer Price Index-Southeastern Region, as issued by the U.S. Department of Labor. However, once the adjustment of the amount of letter of credit reaches $3,000,000.00, no further adjustments shall be required.

b. Upon any payment of claims made against this fund resulting in a partial or complete draw against the letter of credit, the developer shall amend or otherwise reinstate the original amount of the letter of credit within 45 days of the county's written demand to do so. Failure to reinstate the original amount of the letter of credit, as required herein, shall, in addition to other remedies available to the county, authorize a complete draw against all available funds under the letter of credit. The county shall return these funds to the developer with interest earned and available to the county, less any proper claims, at such time as the developer provides another letter of credit meeting the requirements of this section.

c. In the event that any state or federal agency or authority shall require the developer to maintain a similar fund for the landfill facility after the effective date of this Code, the developer shall be permitted to reduce or terminate the letter of credit as may be necessary to establish the alternate fund, provided the balance, if any, of the community solid waste trust fund referred to in subsection 5, below then exceeds principal amount of $3,000,000.00. If such state or federal authority or agency ever removes such requirement, the developer shall within 30 days thereafter then again be required to provide a letter of credit pursuant to this section.

5. *Community solid waste trust fund.*

a. *Establishment and purpose.*

The county shall establish a community solid waste trust fund to be administered and controlled by the board of county commissioners. The community solid waste trust fund shall be created to provide financial security to the county and its citizens by setting aside funds to absorb or defray expenses or unforeseen cost necessitated by or reasonably related to the operation of the landfill facilities or any other facilities required to serve the solid waste disposal needs of the citizenry of the county. Additionally, this fund may be used for the purposes of mitigation or remediation, in the sole discretion of the board, if other financial guarantees, obligations or responsibilities are not met by the developer, or the state or federal government, and funding through the local mitigation fund is not available. The county shall, from time to time and in its sole discretion, be free to use these funds for any lawful expenditure whether that expenditure be related to solid waste disposal needs or not.

b. *Funding.*

(1) The community solid waste trust fund shall be funded from the proceeds of a surcharge of $1.00 per ton of solid waste deposited in the landfill. These funds shall be collected by the developer/operator, remitted and paid to the county on a calendar quarterly basis and shall be paid within 20 days after the end of each calendar quarter. The above-stated dollar amount to be paid to the community solid waste trust fund shall be subject to adjustment on every anniversary date of the effective date of this Code to reflect changes in the Consumer Price Index--Southeastern Region as issued by the U.S. Department of Labor. That should the county have entered into an agreement prior to the effective date of this Code to calculate the adjustment based upon a different date, the date contained in such agreement shall prevail.

(2) For the purpose of funding the community solid waste trust fund, yard trash which is mulched, chipped or similarly processed in a manner so as not to take up air space in any landfill, other than for cover purposes, shall not be subject to the surcharge described in this subsection.

(3) The County reserves the right and authority to impose a host fee on all solid waste generated outside of Sumter County which is brought to a landfill in Sumter County.

**Section 3.** Severability. It is the declared intent of the Board of County Commissioners of Sumter County, Florida, that, if any section, subsection, sentence, clause, phrase or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

**Section 4.** Inclusion in the Code, Scrivener's Error. It is the intention of the Board of County Commissioners of Sumter County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Sumter County, Florida; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the County Manager or designee without public hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

**Section 5.** Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and shall take effect upon filing with the

Department of State.

DULY ADOPTED in regular session, this 30 day of August, 2005.

ATTEST: GLORIA HAYWARD

BOARD OF COUNTY COMMISSIONERS
SUMTER COUNTY, FLORIDA

Gloria R Hayward, Clerk

(SEAL)

By: Joey A Chandler
Joey Chandler, Chair