

LUMPKIN COUNTY RESOLUTION NO. 2011 – 27

A RESOLUTION TO DECLARE AN EMERGENCY MORATORIUM ON LAND FILL AND WASTE RELATED RECEPTION OF APPLICATIONS AND RENDERING OF APPROVALS

Whereas, Lumpkin County currently operates under the Ten-Year Solid Waste Management Plan between the City of Dahlonega and Lumpkin County; and

Whereas, the Lumpkin County Board of Commissioners is in the process of updating its Solid Waste Management Plan and desires to adopt a stand-alone solid waste management plan and withdraw from its joint solid waste management plan with the City of Dahlonega; and

Whereas, the Georgia General Assembly recently passed Senate Bill 157, which amended Chapter 8 of Title 12 of the Official Code of Georgia Annotated, and specifically amends O.C.G.A. § 12-8-31.1, relating to waste management and relating to solid waste management plans, providing for new procedures to adopt and amend such plans, which have affected and altered the process by which the County would amend its Solid Waste Management Plan, which bill will become effective on July 1, 2011; and

Whereas, landfills and other waste-related facilities, including transfer stations, recovered materials processing facilities, thermal treatment centers, and all similar uses, have a serious impact on the County and on neighboring properties, and

Whereas, the County recognizes that such uses should be properly regulated so as to be located in suitable locations considering environmental concerns, geological features, adjacent land use, nearby hydrological and hydro-geological conditions, and other factors, and

Whereas, the County currently does not have sufficient regulation in place to effect the goals of the County towards proper solid waste management; and

Whereas, improper or insufficient regulation of landfills and other waste-related uses would have highly detrimental impacts on the public health, safety and welfare, by potentially allowing such uses in unsafe or inappropriate locations; and

Whereas, the County is of the belief that requests for landfills or other waste-related uses may be made in the very near future, including requests for determinations of plan consistency under the current joint Solid Waste Management Plan; and

Whereas, the County desires to preserve the status quo while it updates and readopts its Solid Waste Management Plan in accordance with the new procedures enacted in Senate Bill 157; and

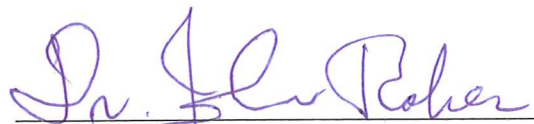
Whereas, adopting this moratorium as an emergency provision is necessary due to the necessity of not advertising potential ordinance changes and thereby inviting applications under

the prior regulations, and is further in accord with established Georgia Supreme Court decisions such as City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001); and

Whereas, the proposed moratorium duration is one-hundred twenty (120) days, which duration is determined to be the minimum adequate time to review and revise the existing Solid Waste Management Plan, and adopt any desired changes in accordance with the new procedures of Senate Bill 157, which takes effect July 1, 2011;

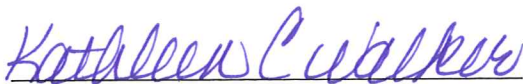
Now therefore, it is hereby resolved, by virtue of the authority vested in the Board of Commissioners by law, that a moratorium is temporarily established as set out in the attached Exhibit "A," which is by reference incorporated here as fully as if set out herein:

Resolved, adopted and effective this 19th day of April, 2011.



John Raber, Chairman
Lumpkin County Board of Commissioners

Attest:



Kathleen C. Walker
Kathleen C. Walker
Clerk, Lumpkin County

LUMPKIN COUNTY
EMERGENCY MORATORIUM ON LANDFILLS AND
WASTE-RELATED APPROVALS
April 19, 2011 - August 17, 2011

1. For the reasons set forth in the adopting Lumpkin County Resolution 2011-27, this moratorium is enacted for temporary and emergency purposes only, to preserve the status quo and prevent vesting of rights, and shall be in effect for one hundred twenty (120) days from the date of adoption, or until it is repealed by vote of the Lumpkin County Board of Commissioners, whichever occurs first.

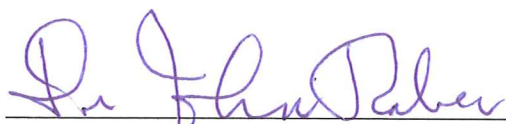
2. It is the intent of Lumpkin County that no approval for any landfill or other waste-related use (as defined below) be issued under the County's existing solid waste management plan during the pendency of the moratorium, nor that any applications or requests under said existing solid waste management plan be accepted, processed or considered, during the pendency of this moratorium. It is the intent of the County that no determinations of plan consistency, meaning specifically that written verification required by O.C.G.A. § 12-8-24(g) (that is, verification stating "that the proposed facility is consistent with the local, multijurisdictional, or regional solid waste management plan developed in accordance with standards promulgated pursuant to this part subject to the provisions of Code Section 12-8-31.1"), be issued during the pendency of this moratorium. It is further the intent of Lumpkin County that no requests for such determinations be accepted, processed or considered. There are no such requests currently pending with the County at this time and none shall be accepted during this moratorium.

3. "Landfills or other waste-related uses," as used in this moratorium, means: any solid waste handling facility, as defined by the Georgia Environmental Protection Division (EPD); any use relating to the collection, transport, processing, sorting, or disposal of waste, solid waste, recovered materials, or any other material, with such uses including, but not being limited to: municipal solid waste landfills; construction and demolition waste landfills; inert waste landfills; any other sort of landfill or dump; transfer stations; recycling centers; recovered materials processing facilities; waste collection centers or operations; waste processing facilities or operations; shredding, bailing or materials recovery facilities; thermal treatment facilities or operations; on-site processing facilities; sludge disposal operations; and similar uses. "Landfills or other waste-related uses," as used in this moratorium, includes all uses and operations that would require an EPD permit, including all uses and operations that operate under an EPD "permit by rule," pursuant to the Rules for Solid Waste Management, Chap 391-3-4.

4. During the pendency of this moratorium, no requests for a determination of plan consistency under the County's existing solid waste management plan shall be accepted, processed, or considered. Furthermore, no determinations of plan consistency under the existing solid waste management plan shall be issued during the pendency of this moratorium.

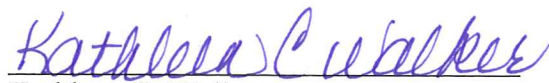
5. It is the intent of this moratorium that any future determinations of plan consistency under the County's solid waste management plan that have not as of this date been issued shall be considered only under the regulations and provisions set forth in the newly adopted Lumpkin County solid waste management plan, which the County will adopt under the amended provisions of O.C.G.A. § 12-8-31.1 prior to the expiration of this moratorium.
6. No action taken by any person or entity during this temporary moratorium shall serve to vest any rights to a landfill or other waste-related use.

SO ADOPTED this 19th day of April, 2011, to be effective immediately, the public health, safety, and welfare demanding.



John Raber, Chairman
Lumpkin County Board of Commissioners

Attest:



Kathleen C. Walker
Clerk, Lumpkin County