

ORDINANCE 2015-_____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING CHAPTER 82, ARTICLE V, LANDFILLS AND OTHER DISPOSAL FACILITIES, DIVISION 3; SECTIONS 82-225 THROUGH 82-240; AMENDING DEFINITIONS, REGULATIONS AND PERMITTING REQUIREMENTS FOR CONSTRUCTION AND DEMOLITION DEBRIS (C&DD) FACILITIES, LAND CLEARING DEBRIS (LCD) AND OTHER DISPOSAL FACILITIES; ESTABLISHING ADDITIONAL REGULATIONS TO ADDRESS ADVERSE OFF-SITE IMPACTS OF SUCH FACILITIES; AMENDING LOCAL PERMIT REQUIREMENTS; ADDRESSING PREVIOUSLY PERMITTED FACILITIES; ESTABLISHING REGULATIONS FOR ABANDONED AND CLOSED FACILITIES; AMENDING INSURANCE REQUIREMENTS; CLARIFYING ENFORCEMENT OPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, this ordinance sets forth the requirements for construction and demolition disposal and recycling facilities in Escambia County, Florida, for the safety and protection of the public; and

WHEREAS, Florida law provides that in addition to Florida Department of Environmental Protection (FDEP) oversight and regulation, local governments may regulate disposal facilities, to include but not limited to C&DD and LCD facilities; and

WHEREAS, since 2006, Escambia County has provided for a permitting scheme and regulation of disposal facilities; and

WHEREAS, significant observations and concerns regarding adverse off-site impacts of disposal facilities have been conveyed by neighbors, concerned citizens and state and County staff; and

WHEREAS, amending the County's regulatory scheme for disposal facilities will better protect the public's health, safety and welfare.

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

Section 1. Chapter 82, Article V, Construction and Demolition Debris (C&DD) Facilities, Sections 82-225 through 82-240 of the Code of Ordinances of Escambia County, Florida is hereby amended to read as follows:

Sec. 82-225. - Definitions.

As used in this division unless the context clearly indicates otherwise, the term:

(a) Abandoned means cessation of use and maintenance of a construction and demolition debris facility, land clearing debris facility or other disposal facility for a period of twelve (12) consecutive months or longer and in a manner that does not include closure, long-term monitoring, maintenance or financial responsibility when required by a state or county rule or law. For a grandfathered or vested use, there shall also be an intent to abandon the use.

(a b) Applicant means any person who has applied for a construction and demolition debris facility permit in Escambia County.

(b c) Board means the bBoard of eCounty eCommissioners of Escambia County, Florida.

(e d) Board of hHealth means Escambia County ~~Environmental~~ Health Department has the authority to intervene on health issues.

(d) ~~Class III waste~~ means yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass plastic furniture other than appliances, or other materials approved by the Florida Department of Environmental Protection that are not expected to produce leachate which poses a threat to public health or the environment.

(e) Clean debris means any solid waste, which that is virtually inert, is not a pollution threat to ground water or surface waters, is not a fire hazard, and is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes brick, glass, ceramics, and uncontaminated concrete including embedded pipe or steel.

(f) Clerk means the Clerk of the Circuit Court, Ex Officio Clerk of the Board of County Commissioners, Escambia County, Florida.

(g) ~~Closure~~ means the cessation of operation of a ~~construction and demolition debris~~ facility and the planned act of securing such facility so that it will pose no significant threat to human health or the environment and includes closing, long-term monitoring, maintenance and financial responsibility of a facility when required by a state or county rule or law.

(h) Closed means a disposal facility that has undergone closure.

~~(h i)~~ Code means the Code of Ordinances of Escambia County, Florida.

~~(i j) Construction and demolition debris means discarded materials generally considered to be not water soluble and nonhazardous in nature, including but not limited to, steel, glass, brick, ceramics, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction, or destruction, alteration or renovation of a manmade structure, including without limitations, houses, buildings, industrial or commercial facilities or roadways, rocks, soils, tree remains, trees and other vegetative matter that normally results from land clearing or land development operations, including such debris from construction of structures at a site remote from the construction or demolition project site. For the purpose of this definition, "materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure", are those structural and functional materials comprising the structure and surrounding site improvements, such as brick, concrete and other masonry materials, stone, glass, wall coverings, plaster, drywall, framing and finishing lumber, roofing materials, plumbing fixtures, heating equipment, electrical wiring and components containing no hazardous fluids or refrigerants, insulation, wall-to-wall carpeting, asphaltic substances, metals incidental to any of the above, and weathered railroad ties and utility poles. Materials resulting from the alteration, construction, destruction, rehabilitation, or repair do not include materials whose removal has been required prior to demolition, and materials, which are otherwise contained within or exist outside the structure such as solid wastes, yard wastes, furniture, and appliances. Also excluded in all cases are liquids including containerized or bulk liquids, fuel tanks, drums and other closed or filled containers, tires, and batteries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris. The term also includes:~~

~~(1) — Clean cardboard, paper, plastic, wood, and metal scraps from a construction project.~~

~~(2) — Unpainted, non treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non treated wood pallets provided the wood scraps and pallets are separated from solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the co-mingling of wood scraps or pallets with other solid waste; and~~

~~(3) — De minimus amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with the best management practices of the industry.~~

~~(4) — "Construction and demolition debris" does not include materials identified or listed as solid wastes, infectious wastes, or hazardous waste, materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag, reinforced or nonreinforced concrete, asphalt, building or paving brick, building or paving stone that is stored for a period of less than two years for recycling into a usable construction material.~~

discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; except as provided in Section 403.707(9)(j), Fla. Stat., yard trash and unpainted, non-treated wood scraps from sources other than construction or demolition projects; scrap from manufacturing facilities that is the type of material generally used in construction projects and that would meet the definition of construction and demolition debris if it were generated as part of a construction and demolition debris project, including debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities and de minimus amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

~~(j k) *Construction and demolition debris (C&DD) facility* means any site, location, tract of land, installation, or building used for the disposal, transfer or processing of construction and demolition debris, including Class III waste.~~

~~(k l) *Construction and demolition debris facility permit* means a permit/license issued by the licensing authority in accordance with Escambia County Regulations and Ordinances.~~

~~(l m) *Construction demolition debris facility operator/person* means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision and maintenance of the facility's daily operations.~~

~~(m n) *County* means Escambia County, a political subdivision of the State of Florida.~~

(n o) *County administrator* means the county administrator of Escambia County or the designee of such person.

(e p) *Department* means the Escambia County ~~Solid Waste Management Development Services~~ Department.

(q) *Department director* means the director of Escambia County Department of ~~Solid Waste Management Development Services~~.

(r) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, ~~emitting,~~ or placing of any construction and demolition debris or land clearing debris into or upon any land or ~~ground or surface water or into the air,~~ except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner so that construction and demolition debris or land clearing debris or any constituent thereof may not enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment.

(s) *Existing facility* means a ~~construction and demolition debris disposal~~ facility that was in operation or under construction ~~on March 16, 2006~~ prior to August 21, 2014.

(t) *Financial assurance* means an escrow account or secured bonds shall be set up to ensure the interest of the facility, cost estimates for closure and long-term care.

(u) *Fiscal year* means that period beginning October 1 of each year and ending on September 30 of the subsequent year.

(v) *Hazardous wastes* means ~~waste that is listed specifically as hazardous waste and/or exhibits one or more characteristics of hazardous waste as defined in 40 CFR (Code of Federal Regulations)~~ a solid waste regulated by the Florida Department of Environmental Protection as a hazardous waste pursuant to Chapter 62-730, F.A.C.

(w) *Illegal disposal* means the disposal of construction and demolition debris or land clearing debris at any place other than a ~~construction and demolition debris disposal~~ facility permitted for that purpose.

(x) *Infill facility* means a C&DD facility on a real property site not larger than 75 acres whose characteristics allow it to operate within or adjacent to the urbanized area and that was permitted by Escambia County prior to August 21, 2014.

(y) *Intermediate cover* means a layer of compacted earth at least one foot in depth plus six inches of soil suitable to sustain vegetation to prevent erosion applied to a solid waste disposal unit. The term also includes other material or thickness, approved by the County, that minimizes disease vectors, odors, and fire and is consistent with the leachate control design of the landfill.

(z) Land clearing debris means rocks, soils, tree remains, trees and other vegetative matter that normally results from land clearing or land development operations for a construction project. Land clearing debris also includes vegetative matter from lawn maintenance, commercial or residential landscape maintenance, right-of-way or easement maintenance, farming operations, nursery operations, or any other sources not related directly to a construction project.

(y ~~aa~~) Land clearing disposal facility means a facility on a real property site no larger than 20 25 acres whose primary purpose is to hold vegetative and other natural land clearing debris whose characteristics allow it to operate in both urban and rural areas if certain conditions are met.

~~(z) Landfill as used in this division is synonymous with the term "facility".~~

~~(aa~~ bb) Limits of construction and demolition debris placement means the ~~aerial~~ horizontal and vertical limits of debris placement within the construction and demolition debris facility and includes the volume of debris placement. The limits of construction debris placement include the following:

(1) "Construction and demolition debris facility active areas" or "active licensed permitted disposal areas" means all areas within the limits of construction and demolition debris placement designated by the owner or operator in a DEP ~~license~~ permit or registration application for debris placement during the DEP ~~licensure~~ permit period. All areas within the limits of construction and demolition debris placement in which debris has been placed since March 16, 2006, and which have not been capped and dense vegetative cover established.

(2) "Construction and demolition debris facility inactive areas" or "inactive licensed disposal areas" means all remaining areas within the limits of construction and demolition debris placement which are not designated for debris placement during the DEP ~~licensure~~ permit period, and include but are not limited to the following:

- a. Areas in which no construction and demolition debris has yet been placed.
- b. Areas within the limits of construction and demolition debris placement in which debris has been placed since March 16, 2006, and which have been capped, dense vegetative cover established, and certification of the completion of these activities submitted to the ~~licensing~~ permitting authority in accordance with the administrative code.
- c. Areas within the limits of construction and demolition debris

placement in which debris has been placed prior to March 16, 2006, and where no debris placement has occurred after that date.

(cc) Liner means a continuous layer of low-permeability natural or synthetic materials, under the bottom and sides of a landfill, solid waste disposal unit, construction and demolition debris facility, or leachate surface impoundment, which controls the downward or lateral escape of waste constituents, or leachate.

(dd) Liner system means a system of leachate collection and liner layers comprised of natural or synthetic materials installed between the subgrade and the waste for the purpose of containing the waste and collecting and removing leachate.

~~(bb)~~ ee) Municipality means any of the municipalities within the county.

(ff) Natural land surface means the land surface in its original state before grading, stripping, excavation, or filling.

~~(ee)~~ gg) Nuisance generally means anything which annoys or disturbs one in the free use, possession or enjoyment of his or her property, or which renders its ordinary use or occupation uncomfortable, or anything which is detrimental to health or threatens danger to persons or property within the county. Nuisance specifically shall include the use of any property, facilities, equipment, processes, products or compounds, or the commission of any acts that cause or materially contribute to:

(1) The emission into the outdoor air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, of a character and in a quantity as to be detectable by ~~a considerable number of persons or~~ the public, at any point beyond the property limits of the premises occupied or used by the person responsible for the source thereof, so as to interfere with their health, repose or safety, or cause severe annoyance or discomfort, or tends to lessen normal food and water intake, or produces irritation of the upper respiratory tract, or produces symptoms of nausea, or is offensive or objectionable to normal persons because of inherent chemical or physical properties, or causes injury or damage to real property, personal property or human, animal or plant life of any kind or which interferes with normal conduct of business, or is detrimental or harmful to the health, comfort, living conditions, welfare and safety of the inhabitants of this county.

(2) Any violation of provisions of this division which becomes detrimental to health or threatens danger to the safety of persons or property, or gives offense to, is injurious to, or endangers the public health and welfare, or prevents the reasonable and comfortable use and enjoyment of property by ~~any considerable number of~~ the public.

~~(dd)~~ hh) Operation means the deposit, storage or processing of construction and demolition debris or land clearing debris at the facility.

(ee ii) *Permit holder* means a person, firm, corporation, or other entity authorized by the Board to operate a C&DD or LCD facility in the incorporated and unincorporated areas of the county.

(ff jj) *Permitting authority* means the Florida Department of Environmental Protection and Escambia County, Florida.

(gg kk) *Person* means any and all persons, natural or artificial, including any individual, firm or association, any municipal or private corporation organized or existing under the laws of this state or any other state; the county and any governmental agency or other political subdivision of this state or the federal government.

(hh ll) *Processing* means any technique designed to change the physical, chemical or biological character or composition of construction and demolition debris, land clearing debris, yard trash or other solid waste so as to render it amenable to recovery, storage or recycling; or reduced in volume or concentration.

(ii mm) *Property owner or owner* means the person who holds title to the property on which the construction and demolition debris disposal facility or land clearing debris facility is located.

(jj nn) *Public water supply well* means any well connected to a public water system.

(kk oo) *Public wellfield* means any system of wells, which are connected to a public water system.

(pp) Recycling means any process by which solid waste, 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.

(H qq) *Regional facility* means a real property site of at least 100 acres operating as a C&DD facility as defined herein and permitted by Escambia County prior to August 21, 2014.

(mm rr) *Regulatory floodplain* means a watercourse and the areas adjoining a watercourse, which have been, or may be, covered by a 100-year flood as depicted on a federal insurance administration flood map.

(nn ss) *River, stream or creek* means a natural watercourse ~~that is depicted as a solid blue line on the USGS 7½ Minute Series Quadrangle Map that includes the facility location.~~ in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel has been dredged or improved does not prevent the watercourse from being a river, stream or creek.

(~~ee~~ tt) *Rural facility* means a real property site of 75 acres, operating as a C&DD facility as defined herein and permitted by Escambia County prior to August 21, 2014.

(~~pp~~ uu) *Solid wastes* means ~~such unwanted residual solid or semisolid materials as results from industrial, commercial, agricultural, and community operations~~ sludge that is not regulated under the federal Clean Water Act or Clean Air Act, as well as sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Materials not regulated as solid waste include recovered materials; nuclear source or byproduct materials regulated under Chapter 404, Fla. Stat., or under the Federal Atomic Energy Act of 1954 as amended; suspended or dissolved materials in domestic sewage effluent or irrigation return flows, or other regulated point source discharges; regulated air emissions; and fluids or wastes associated with natural gas or crude oil exploration or production. Solid waste includes land clearing debris and yard trash.

(~~vv~~) *Staging* means the same as *Storage*.

(~~qq~~ ww) *Storage* means the containment or holding of construction and demolition debris including land clearing debris or other debris either on a temporary basis 6 months or less or for a period of years, in such a manner as not to constitute disposal and in a specified area with a County permit for that use.

(~~ff~~ xx) *Surface water* means any water on the surface of the earth, whether contained in bounds created naturally, artificially or diffused. Water from natural springs is classified as surface water when it exits from the spring onto the earth's surface.

(~~ss~~ yy) *Transfer facility* means a ~~site the primary purpose of which is to store or hold construction and demolition debris for transport to a processing or disposal facility. This term does not include sites which hold recyclable material for recycling or reuse~~ facility the primary purpose of which is to store or hold construction and demolition debris, including land clearing debris, for transport to a processing or disposal facility. Operations at such facilities may include separation of incidental amounts of recyclable materials or unauthorized waste.

(~~zz~~) *Unauthorized waste* means any type of waste that is not allowed to be accepted or managed at a facility in accordance with rule or statutory requirements or permit conditions.

(~~tt~~ aaa) *Volume reduction plant* includes ~~incinerates~~ incinerators, pulverizers, compactors, shredding and baling plants, and other facilities which accept and process construction and demolition debris, including land clearing debris, for recycling and disposal.

~~(uu bbb)~~ Working face means that portion of a construction and demolition debris disposal facility ~~where construction and demolition debris is placed for final deposition or land clearing debris facility where debris is deposited, spread and compacted~~ before placement of initial cover.

(ccc) Yard trash means vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings palm fronds, trees and tree stumps.

Sec. 82-226. - Classification of facilities and site requirements.

~~C&DD~~ fFacilities shall be classified into one of the following ~~five~~ categories:

(1) Regional facility. ~~A regional facility~~ Construction and Demolition Debris (C&DD) facility. A C&DD facility permitted by the County must comply with the following:

a. Minimum size of the real property site shall be 100 acres.

b. The required setback for construction and demolition debris facility "active areas" or "active ~~licensed~~ permitted disposal areas" shall be a minimum of 500 feet from the property boundaries.

c. ~~Aerial~~ Horizontal and vertical operational height shall be limited to the natural land surface before commencement of operations with allowance for closure and capping to prevent stormwater intrusion into the debris pile. ~~governed by ability to view from adjacent properties. At no time shall the working or operational height exceed the permitted height or be visible from beyond the property line including materials stored for future disposal or recycling.~~

d. Construction and demolition debris facility "active areas" or "active ~~licensed~~ permitted disposal areas" may not be within 1,000 feet of a public water well or within 500 feet of a private potable well, or within a seven (7)-year time of travel line for groundwater. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of the adjacent waters.

~~e. Volume reduction is encouraged and may be accomplished by means of chipping, shredding, or otherwise processing the debris.~~

~~f e.~~ All ~~regional~~ sites must be approved by the ~~b~~Board of ~~e~~County ~~e~~Commissioners at a duly advertised public hearing following DRC review. At least ten days prior to the public hearing on an application to construct, operate, modify or close a facility under this section, the county shall post the subject site at a minimum of two locations easily

viewed from the public right-of-way. The notice shall state the date, time and place of the hearing.

~~g f.~~ May not be located in a regulatory floodplain or in areas ~~not on the flood maps but known~~ identified by the County Engineer to be subject to flooding.

~~h g.~~ Shall consent to ~~imposition of summary abatement~~ all enforcement procedures as herein set forth in section 82-240 as well as any legal remedy available to the County as a condition of permitting.

h. Three-strand barbed wire fencing is required wherever any boundary abuts a public road to limit access.

~~(2) Rural facility. A rural facility must comply with the following:~~

~~a. Maximum size of real property site shall be 75 acres.~~

~~b. The required setback for construction and demolition debris facility active areas or "licensed disposal areas" shall be a minimum of 100 feet from property boundary. In order to accomplish this setback, clean fill or vegetative debris may be used to fill from existing excavation limits.~~

~~c. Aerial and vertical height during operations shall be limited to average grade before commencement of operations with allowance for closure and capping to prevent stormwater intrusion into the debris pile. At no time shall the operational height exceed the permitted height. Provided however that existing rural facilities, legally operating as of the effective date of this division shall be allowed to achieve the aerial and vertical operational height resulting from their Department of Environmental Protection permits but only as to C&DD facility "active areas" or "active licensed disposal areas" in use or licensed as of the effective date of this division.~~

~~d. All new rural sites must be approved by the board of county commissioners at a duly advertised public hearing following DRC review. At least ten days prior to the public hearing on an application to construct, operate, modify or close a facility under this section, the county shall post the subject site at a minimum of two locations easily viewed from the public right-of-way. The notice shall state the date, time and place of the hearing.~~

~~e. May not be located in a regulatory floodplain or in areas not on the flood maps but known to be subject to flooding.~~

~~f. May not be within 1,000 feet of a public water well or within 500 feet of a preexisting private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater plan which addresses the protection of adjacent waters.~~

~~g. Shall consent to the imposition of summary abatement procedures as herein set forth in section 82-240, as a condition of permitting.~~

~~(3) Infill facility. An infill facility must comply with the following:~~

~~a. New infill facilities shall be limited to existing borrow pit reclamation sites where county DRC standards are, or can be met.~~

~~b. Maximum size of real property site for new infill facilities shall be 50 acres.~~

~~c. Footprint setback shall be a minimum of 100 feet from property boundary. In order to accomplish this setback, clean fill or vegetative debris may be used to fill from existing excavation limits.~~

~~d. Aerial and vertical height shall be limited to average grade before commencement of operations with allowance for closure and capping to prevent stormwater intrusion into the debris pile. Provided however that existing infill facilities, legally operating as of the effective date of this division shall be allowed to achieve the operational height resulting from their Department of Environmental Protection permits but only as to C&DD facility "active areas" or "active licensed disposal areas" in use or licensed as of the effective date of this division.~~

~~e. All new infill sites must be approved by the board of county commissioners after a duly advertised public hearing following DRC review. At least ten days prior to the public hearing on an application to construct, operate, modify or close a facility under this section, the county shall post the subject site at a minimum of two locations easily viewed from the public right-of-way. The notice shall state the date, time and place of the hearing.~~

~~f. May not be located in a regulatory floodplain.~~

~~g. Shall consent to imposition of summary abatement procedures as hereinafter set forth in section 82-240 as a condition of permitting.~~

~~h. May not be within 1,000 feet of a public water well or within 500 feet of a pre-existing private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of adjacent waters.~~

~~(2) C&DD facilities permitted by the County prior to August 21, 2014.~~

Any C&DD facility that was permitted by Escambia County as a regional facility, a rural facility or an infill facility prior to August 21, 2014 and that facility's permit was active on August 21, 2014 or was considered tolled by Escambia County on August 21,

2014, shall be subject to limited vesting as set forth below and is subject to the following regulations regarding acreage of the facility, setbacks for active areas, horizontal and vertical operational height of debris, liners and siting relative to water wells. In all other respects, the facility shall be required to comply with the requirements of this division and the County's permit conditions unless a specific exception is granted by the Board of County Commissioners during the permitting process. An existing facility that did not obtain a County permit prior to August 21, 2014 shall not be entitled to vesting pursuant to this section.

A. A facility permitted as a regional facility on August 21, 2014 shall comply with the following:

1. Minimum size of the real property site shall be 100 acres.
2. The setback for the active permitted disposal area shall be a minimum of 500 feet from the property boundaries.
3. The horizontal and vertical operational height shall be governed by the ability to view the debris from adjacent properties. At no time shall the working or operational height exceed the permitted height or be visible from beyond the property line including materials stored for future disposal or recycling.
4. Facility "active areas" or "active permitted disposal areas" may not be within 1,000 feet of a public water well or within 500 feet of a private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of the adjacent waters.
5. Liners and leachate collection systems not required for any active areas if properly permitted by FDEP on or prior to July 1, 2010.

B. A facility permitted as a rural facility on August 21, 2014 shall comply with the following:

1. Maximum size of real property site shall be 75 acres.
2. The required setback for construction and demolition debris facility active areas or "licensed disposal areas" shall be a minimum of 100 feet from property boundary. In order to accomplish this setback, clean fill or vegetative debris may be used to fill from existing excavation limits.
3. Horizontal and vertical height during operations shall be as required for new facilities according to section 82-226 of this division. However, in

the event a previously issued County permit provided that a Department of Environmental Protection permit established a different horizontal or vertical operational height then that standard may apply, but only as to the "active areas" or "active permitted disposal areas" as of August 21, 2014.

4. Facility "active areas" or "active permitted disposal areas" may not be within 1,000 feet of a public water well or within 500 feet of a private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of the adjacent waters.

5. Liners and leachate collection systems not required for any active areas if properly permitted by FDEP on or prior to July 1, 2010.

C. A facility permitted as an infill facility on August 21, 2014 shall comply with the following:

1. Maximum size of real property site shall be 50 acres.

2. The footprint setback shall be a minimum of 100 feet from property boundary. In order to accomplish this setback, clean fill or vegetative debris may be used to fill from existing excavation limits.

3. Horizontal and vertical height during operations shall be as required for new facilities according to section 82-226 of this division. However, in the event a previously issued County permit provided that a Department of Environmental Protection permit established a different horizontal or vertical operational height then that standard may apply, but only as to the "active areas" or "active permitted disposal areas" as of August 21, 2014.

4. Facility "active areas" or "active permitted disposal areas" may not be within 1,000 feet of a public water well or within 500 feet of a private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of the adjacent waters.

5. Liners and leachate collection systems not required for any active areas if properly permitted by FDEP on or prior to July 1, 2010.

(3) Transfer facility. A transfer facility, including an LCD transfer facility, must comply with the following:

a. May not be located in a regulatory floodplain.

~~b. Except for enclosed operations, aerial or vertical height during operations shall be limited to average grade before commencement of operations with allowance for closure and capping to prevent stormwater intrusion into the debris pile. Provided, however, that existing transfer facilities, legally operating as of the effective date of this division shall be allowed to achieve the operational height resulting from their DEP permits but only as to facility active areas or active licensed disposal areas in use or licensed as of the effective date of this division.~~

b. Appropriate buffering from adjacent properties is provided; appropriateness will be determined by the DRC process.

c. No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.

d. All operations must be fenced with county approved materials to the extent necessary to eliminate visibility of the facility and to limit access.

~~e e.~~ All new transfer facility sites must be approved by the ~~b~~Board of ~~e~~County ~~e~~Commissioners at a duly advertised public hearing following DRC review. At least ten days prior to the public hearing on an application to construct, operate, modify or close a facility under this section, the county shall post the subject site at a minimum of two locations easily viewed from the public right-of-way. The notice shall state the date, time and place of the hearing.

~~d f.~~ May not be within 1,000 feet of a public water well or within 500 feet of a pre-existing private potable well or within a seven (7)-year time of travel line for groundwater. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of the adjacent waters.

~~e g.~~ Shall consent to ~~imposition of summary abatement~~ all enforcement procedures as hereinafter set forth in section 82-240, as well as all legal remedies available to the County, as a condition of permitting.

~~(5 4)~~ *Land clearing disposal facility (LCD).* An LCD must comply with the following:

a. Maximum size of real property site shall be 25 acres.

b. Operational footprint setback shall be a minimum of 100 feet from the property boundary limit. However, this setback shall be a minimum of 300 feet from any property boundary that abuts any existing residential use or residential zoning category. In order to accomplish this setback, clean fill ~~or vegetative debris~~ may be

used to fill from existing excavation limits.

c. ~~Aerial~~ Horizontal and vertical height during operations shall be limited to ~~average grade~~ the natural land surface before commencement of operations with allowance for closure and capping to prevent stormwater intrusion into the debris pile.

d. Volume reduction, including incinerating, pulverizing, compacting, shredding, baling or similar activities shall only be allowed if specifically authorized by the County during the permitting process.

~~d e.~~ All ~~new~~ LCD sites must be approved by the ~~b~~Board of eCounty eCommissioners at a duly advertised public hearing following DRC review. At least ten days prior to the public hearing on an application to construct, operate, modify or close a facility under this section, the county shall post the subject site at a minimum of two locations easily viewed from the public right-of-way. The notice shall state the date, time and place of the hearing.

~~e f.~~ Shall consent to ~~imposition of summary abatement procedures~~ all enforcement procedures as hereinafter set forth in section 82-240 as well as all legal remedies available to the County, as a condition of permitting.

g. Any LCD facility permitted by the County prior to August 21, 2014 and that had an active or tolled permit on August 21, 2014 shall be subject to limited vesting as set forth below and is subject to the following regulations regarding acreage of the facility, setbacks for active areas and horizontal and vertical height of operations. In all other respects, the facility shall be required to comply with the requirements of this division.

1. Maximum size of real property site shall be 25 acres.

2. Operational footprint setback shall be a minimum of 100 feet from the property boundary limit. In order to accomplish this setback, clean fill may be used to fill from existing excavation limits.

3. Horizontal and vertical height during operations shall be allowed to the operational height resulting from their DEP permit only as to LCD facility active areas as permitted on August 21, 2014.

h. Staging or storage of LCD shall require a permit pursuant to this section, subject to variances granted by the Board of County Commissioners. The staging or storage of solely clean fill shall be exempt from this permitting requirement.

i. Fencing is required on all sides of the facility a minimum of six feet in height with county-approved materials to eliminate visibility of a facility and to limit access. This provision applies to any boundary which fronts a public road or a residential structure. Areas which front undeveloped, uncleared properties may use an approved three-strand barbed wire fence. Vegetative buffering may be substituted for

nontransparent fencing as long as visibility is eliminated.

(5) Abandoned or Closed C&DD, C&DD Transfer or LCD facilities.

Any owner or operator of a C&DD, C&DD transfer or an LCD facility that the owner or operator asserts to be closed or abandoned shall meet the following requirements:

a. Closed C&DD, C&DD transfer or LCD facilities shall be those that have concluded a permitted closure plan, undergone a closure inspection and maintain a permit as a closed facility. A closed facility shall be subject to a minimum of one inspection per year and shall maintain the facility in a condition consistent with the closure plan. The fee resolution shall reflect a closed facility permit as a separate fee category. A closed facility shall not conduct any active operations and must obtain a permit from the Board of County Commissioners as an active facility prior to any operations at the site.

b. Abandoned C&DD, C&DD transfer or LCD facilities shall be those determined by the Director of Development Services to meet the definition of abandoned pursuant to this article. All abandoned facilities shall be permitted as closed facilities pursuant to this article. The County may pursue any legal remedy to require an abandoned facility to become permitted as a closed facility; to address any condition that poses a threat to the public's health, safety or welfare; or to force compliance with this article. An abandoned facility shall not have any grandfathered or vested rights to conduct operations, although the Board of County Commissioners can consider grandfathering or vesting of certain rights as part of the permitting process on a case-by-case basis.

Sec. 82-227. - General operating requirements for regional, rural, infill and C&DD facilities, transfer C&DD facilities, and for land clearing debris facilities.

The following minimum requirements must be met at all times by the operator or owner, as appropriate, of the facility:

(1) Regional Design requirements for Construction and Demolition Debris (C&DD) facilities.

a. ~~Three-strand barbed wire fencing is required wherever any boundary abuts a public road to limit access.~~

b. ~~No person shall cause, suffer, allow or permit the discharge into the air or dust, fume, gas, mist, odor, smoke or vapors, or any combination thereof, so as to constitute a nuisance as defined herein.~~

~~c. All working faces must be covered bi-weekly by cover sufficient in quantity to deprive debris of oxygen, minimize the risk of fire and prevent emission of objectionable odors.~~

~~d. An effective dust suppression system must be provided.~~

a. A hydrogen sulfide odor and gas monitoring system must be installed and maintained, subject to approval by Escambia County. An Odor and Gas Monitoring System Plan shall be developed and submitted to the County for approval. The plan shall include the type of monitoring equipment to be used the lower detection threshold limit for the equipment, location of the monitoring system, sampling frequency, and maintenance and calibration schedule. The facility owner or operator shall provide copies of any monitoring system results to Escambia County upon request and shall allow Escambia County to inspect and test the monitoring system. At no time shall hydrogen sulfide levels exceed 30 parts per billion (ppb), as measured at the facility's property line by a hydrogen sulfide gas monitoring instrument with a minimum detection level of 5 parts per billion (ppb).

b. A stormwater management system must be installed and maintained, subject to approval by Escambia County. The stormwater management system components shall be designed and maintained to accommodate upland surface water runoff flowing through the C&DD facility and shall treat and attenuate the onsite surface water runoff and manage the upland acreage surface water runoff without negative impacts to the adjoining properties and rights-of-way.

c. A groundwater monitoring program must be installed and maintained utilizing Florida Department of Environmental Protection guidelines.

d. The facility must adhere to Florida Department of Environmental Protection liner and leachate collection specifications.

e. The facility must adhere to Florida Department of Environmental Protection capping system requirements.

f. The facility must have a gas management system with design requirements in accordance with FDEP Chapter 62-701.530, F.A.C. and subject to approval by Escambia County.

g. Boundary probes for gas migration shall be installed and maintained, subject to approval by Escambia County.

(2) Operating requirements for Construction and Demolition Debris (C&DD) facilities.

- a. An operation plan adhering to the Florida Department of Environmental Protection requirements.
- b. Lift depth shall not exceed ten (10) feet unless authorized in the operation plan.
- c. Construction and demolition debris shall be compacted and sloped during the life of the facility.
- d. The external slopes of all disposal units shall be no greater than three (3) feet horizontal to one (1) foot vertical rise.
- e. The working face and internal slopes of all disposal units shall be no greater than three (3) feet horizontal to one foot vertical rise.
- f. No person shall cause, suffer, allow or permit the discharge into the air or dust, fume, gas, mist, odor, smoke or vapors, or any combination thereof, so as to constitute a nuisance as defined herein.
- g. All working faces and/or internal slopes must be no steeper than 3:1 slope, compacted and covered two (2) times per every seven (7) days by cover soil sufficient in quantity to deprive debris of oxygen, minimize the risk of fire and prevent emission of objectionable odors. Depth of lift shall be no greater than ten (10) feet vertical height unless otherwise authorized in the operation plan. Intermediate cover shall be installed within thirty (30) days after active area is no longer receiving waste.
- h. An effective dust suppression system must be provided.
- i. The facility owner or operator shall provide copies of any groundwater, air, soil or sediment test results to Escambia County and shall allow Escambia County to enter the premises and inspect and test groundwater, air, soil and sediments.
- j. Operational hours as established by the Escambia County Land Development Code.
- k. The facility owner or operator shall provide Escambia County a property boundary survey and designate the property boundaries with permanent markers allowing for identification with the naked eye.
- l. The facility owner or operator shall provide Escambia County an appropriate surety as determined by Escambia County.
- m. The owner or operator shall conduct, at a minimum, five (5) random

waste load inspections a week.

n. The facility shall maintain sufficient reserve equipment or be able to acquire sufficient reserve equipment within 24 hours in accordance with permit requirements.

o. The facility shall have an equipment maintenance structure adequately sized for responsible operation of the facility. Maintenance and repairs of equipment shall take place under the roof of the structure and on an impervious surface. In the event of an emergency that prevents maintenance or repairs from taking place in such structure, steps shall be taken to prevent leaching of fluids into the groundwater.

p. Facility owner or operator shall maintain all grades to ensure positive drainage with no ponding of water.

q. Facility owner or operator shall submit a fill sequence plan with the County as a condition of their County permit.

r. Facility owner or operator shall keep the working face no wider than necessary to accommodate vehicles disposing of waste at the facility.

s. The facility must have trained spotters and trained operators at active areas at all times when waste is being received at the facility. Training requirements shall be as required by Florida Department of Environmental Protection regulations regarding training and use of spotters and operators.

~~(2) — *Rural facilities.*~~

~~a. — Fencing is required on all boundaries. Any boundary that abuts developed property or a public road shall require a barrier which is a fence or vegetative buffer, a minimum of six feet in height and made of wood or other type approved material that prevents visibility and limits access. Vegetative buffering may be required as deemed necessary by the county.~~

~~b. — All working faces shall be covered biweekly with cover, sufficient in quantity and type to deprive debris of oxygen, to minimize the risk of fire and prevent the emission of objectionable odors.~~

~~c. — No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke, or vapor or any combination thereof so as to constitute a nuisance as defined herein.~~

~~d. — Volume reduction may not be accomplished by means of chipping, shredding, or otherwise processing the debris. Volume reduction may only~~

~~occur by picking or removing recyclables from the waste stream prior to disposal.~~

~~e. — Operational hours for receiving materials are limited to Monday through Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00 a.m. until 5:00 p.m. Notwithstanding the above, cover may be applied after the operational hours but in no case after sundown. Operations are not permitted on Thanksgiving, Christmas, New Year's Day and July 4th.~~

~~f. — Effective dust suppression system is required.~~

~~(3) — *Infill facilities.*~~

~~a. — Fencing is required on all boundaries. Any boundary that abuts developed property or a public road shall be a minimum of six feet of wood or other county approved material prevents visibility and limits access. Vegetative buffering in sufficient quantity may be deemed a substitute for solid fencing. Natural barriers may be used for access control in lieu of fencing where deemed appropriate by county.~~

~~b. — Cover shall be used at least biweekly on working faces in sufficient in quantity and type to deprive debris of oxygen, to minimize the risk of fire and prevent the emission of objectionable odors.~~

~~c. — No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.~~

~~d. — Volume reduction may not be accomplished by means of chipping, shredding, or otherwise processing the debris. Volume reduction may only occur by picking or removing recyclables from the waste stream prior to disposal.~~

~~e. — Operational hours for receiving materials are limited to Monday through Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00 a.m. until 3:00 p.m. Notwithstanding the above, cover may be applied after the operational hours but in no case after sundown. Operations are not permitted on Thanksgiving, Christmas, New Year's Day and July 4th.~~

~~f. — Effective dust suppression systems are required.~~

~~g. — Paved queuing and ingress and egress areas are provided by operator/owner.~~

~~(4 3) Design requirements for T transfer facility facilities No transfer facility may be located in the urbanized area unless the following requirements are met:~~

- ~~a. — Appropriate buffering from adjacent properties is provided, appropriateness will be determined by the DRC process.~~
- ~~b. — No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.~~
- ~~c. — All operations must be fenced with county approved materials to the extent necessary to eliminate visibility of the facility and to limit access.~~
- d a. An effective dust suppression system must be provided by the operator/owner.
- b. Shall be covered and still contain a leachate collection system.
- e c. Paved queuing and ingress and egress areas are provided by operator/owner.
- ~~f. — Volume reduction, may not be accomplished by means of chipping, shredding, or otherwise processing the debris.~~

(4) Operating Requirements for Transfer Facilities.

- a. Volume reduction, including incinerating, pulverizing, compacting, shredding, baling or similar activities shall only be allowed if specifically authorized by the County during the permitting process.
- b. The facility owner or operator shall provide Escambia County an appropriate surety as determined by Escambia County.
- c. Facility owner or operator shall inform the County of the volume of material received per day as well as the length of time such waste is expected to be stored at the facility, subject to approval by the County.
- d. Facility owner or operator shall have trained spotters at active areas when waste is being received at the facility.
- e. No person shall cause, suffer, allow or permit the discharge into the air or dust, fume, gas, mist, odor, smoke or vapors, or any combination thereof, so as to constitute a nuisance as defined herein.
- f. Facility owner or operator will be required to submit semi-annual affidavits that indicate the tonnage received, average number of disposal vehicles entering the facility per month and the available capacity at the facility.

g. Facility owner or operator shall maintain all grades to ensure positive drainage with no ponding.

h. Facility owner or operator shall keep sufficient back-up equipment, or be able to obtain sufficient back-up equipment within twenty-four (24) hours, to properly work waste in accordance with the facility's permit.

i. Staging or storage of C&DD shall require a permit pursuant to this section, subject to variances granted by the Board of County Commissioners. The staging or storage of solely clean fill shall be exempt from this permitting requirement.

(5) Design requirements for ~~Land~~ clearing disposal facilities.

~~a. Fencing is required on all sides of the facility a minimum of six feet in height with county-approved materials to eliminate visibility of a facility and to limit access. This provision applies to any boundary which fronts a public road or a residential structure. Areas which front undeveloped, uncleared properties may use an approved three-strand barbed wire fence. Vegetative buffering may be substituted for nontransparent fencing as long as visibility is eliminated.~~

~~b. No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.~~

~~c. Operator/owner must provide an effective dust suppression system.~~

~~d. Apply covers at all appropriate times and not less than biweekly in sufficient quantity and type to deprive debris of oxygen, minimize the risk of fire and prevent emission of offensive odors to all active working faces.~~

~~e. Volume reduction may not be accomplished by means of chipping, shredding or burning the debris.~~

~~f. Operational hours for receiving materials are limited to Monday through Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00 a.m. until 3:00 p.m. Notwithstanding the above, cover may be applied after the operational hours but in no case after sundown. Operations are not permitted on Thanksgiving, Christmas, New Year's Day and July 4th.~~

a. A stormwater management system must be installed and maintained, subject to approval by Escambia County. The stormwater management system components shall be designed and maintained to accommodate upland surface water runoff flowing through the C&DD facility and shall treat and attenuate the onsite surface water runoff and manage the upland acreage

surface water runoff without negative impacts to the adjoining properties and rights-of-way.

b. The facility must adhere to Florida Department of Environmental Protection capping system requirements.

c. Operator/owner must provide an effective dust suppression system.

(6) Operating requirements for land clearing disposal facilities.

a. No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.

b. All working faces and or internal slopes must be no steeper than 3:1, compacted and covered with soil at a minimum of at least six (6) inches and at a minimum of one (1) time for every seven (7) days to deprive debris of oxygen, minimize the risk of fire and prevent emission of offensive odors to all active working faces. Depth of lift shall be no greater than ten (10) feet of vertical height. Intermediate cover shall be installed within thirty (30) days after active area is no longer receiving waste.

c. Volume reduction including incinerating, pulverizing, compacting, shredding, baling or similar activities shall only be allowed if specifically authorized by the County during the permitting process.

d. Operational hours shall be as established by the Escambia County Land Development Code.

e. The facility owner or operator shall provide copies of any groundwater, air, soil or sediment test results to Escambia County and shall allow Escambia County to enter the premises and inspect and test groundwater, air, soil and sediments.

f. The facility owner or operator shall provide Escambia County a property boundary survey and designate the property boundaries in a reasonably identifiable manner.

g. The facility owner or operator shall provide Escambia County an appropriate surety as determined by Escambia County.

h. Facility owner or operator shall maintain an on-site stockpile of at least six hundred (600) cubic yards of cover for fire suppression purposes. The stockpile should be stored as close to the working face as possible to allow easy access for heavy equipment.

i. Facility owner or operator shall have a trained spotter at all active areas any time waste is being received at the facility.

j. Facility owner or operator shall conduct a minimum of three (3) random waste load inspections per week for purposes of detecting unauthorized waste. The inspections shall be memorialized on forms provided by the County and shall be kept on site for inspection. Additionally, facility owner or operator shall submit an unauthorized waste management plan, subject to approval by the County.

k. The facility shall have an equipment maintenance structure adequately sized for responsible operation of the facility. Maintenance and repairs of equipment shall take place under the roof of the structure and on an impervious surface. In the event of an emergency that prevents maintenance or repairs from taking place in such structure, steps shall be taken to prevent leaching of fluids into the groundwater.

l. Facility owner or operator shall keep sufficient back-up equipment, or be able to obtain sufficient back-up equipment within twenty-four (24) hours, to properly work waste in accordance with the facility's permit.

m. Facility owner or operator will be required to submit semi-annual affidavits that indicate the tonnage received, average number of disposal vehicles entering the facility per month and the available capacity at the facility.

n. Facility owner or operator shall maintain all grades to ensure positive drainage with no ponding.

o. Facility owner or operator shall keep the working face to an area no larger than necessary to accommodate disposal activity.

Sec. 82-228. - Permit required; fees and renewal.

1. General Requirements:

(a) No person shall operate a regional, rural, infill or C&DD, transfer C&DD or LCD facility until first obtaining an interim without a permit from the department of solid waste management Escambia County Board of County Commissioners.

(b) The Board shall establish by resolution, an interim a permit application fee for the permitting of regional, rural, infill and C&DD, transfer C&DD and LCD facilities. The application fee will be based upon the classification of the facility and may include reasonable inspection and testing costs as determined by the Board. The interim permit shall expire when:

~~(1) The department of environmental protection approves the plan set forth in Ordinance No. 2006-_____; or~~

~~(2) One year after issuance, whichever occurs first.~~

(c) The Board shall consider all permit applications at a public hearing. Properties subject to a permit application shall be posted by the County at least ten (10) days prior to the hearing where the Board will consider granting a permit pursuant to this article.

(d) All C&DD and transfer C&DD permits issued pursuant to this chapter shall be five (5) years in duration or upon expiration of the facility's FDEP permit for C&DD disposal, whichever term is shorter. All LCD permits issued pursuant to this chapter shall be five (5) years in duration. As a condition of obtaining and maintaining a C&DD, C&DD transfer or LCD permit, a permittee shall submit an annual affidavit on a form prepared by Escambia County that describes the scope of activities occurring on-site, the percentage of the usable site filled with debris and the estimated lifespan for permitted activities occurring on the site. The permittee shall consent to periodic and random inspections of the site by Escambia County representatives, with such inspections to occur at a minimum of two (2) times per year.

(e) Abandoned or closed facilities shall be permitted as closed facilities and shall comply with all other applicable provisions of the Article.

~~(e f) Repeated failure to comply with the provisions of this division and adopted rules and regulations may result in denial of an application for renewal and/or suspension of license permit.~~

(g) In each instance where an applicant is required to provide a surety as a condition of a permit, the County will allow the applicant to provide a single financial mechanism to cover financial assurances for both the County and FDEP if an Interagency Agreement providing for such a program exists and when otherwise possible under the circumstances.

(h) Any variance granted by the Board of County Commissioners shall be specified during the public hearing at which a permit application is considered.

2. Specific permit application requirements for C&DD facilities and LCD facilities:

(a) A permit application for an construction and demolition debris disposal facility shall be submitted on an "Application for a permit to construction, operate, modify or close a construction and demolition debris or land clearing disposal management facility" issued by the Escambia County Development Services Department.

(b) Boundary survey signed and sealed by a registered Florida Surveyor.

(c) Site Plan. Provide a site plan, at a scale not greater than 200 feet to the inch, which shows the facility location and identifies the proposed waste and final residue storage areas, total acreage of the site, and any other features which are relevant to the prohibitions or location restrictions such as water bodies or wetlands on or within 500 feet of the site, and potable water wells on or within 1000 feet of the site.

(d) Operational Plan. Provide an operation plan for the facility which includes:

1. A description of general facility operations, the number of personnel responsible for the operations including their respective job descriptions, and the types of equipment that will be used at the facility.

2. Procedures to ensure any unauthorized wastes received at the site will be properly managed.

3. A contingency plan to cover operation interruptions and emergencies such as fires, explosions, or natural disasters.

4. Procedures to ensure operational records needed for the facility will be adequately prepared and maintained.

5. Procedures to ensure that the wastes and final residue will be managed to not be expected to cause pollution.

(e) Design Drawings.

Secs. 82-229—82-232. - Reserved.

Sec. 82-233. - Insurance.

As a condition of obtaining and maintaining a permit pursuant to this article, a permittee shall hold Commercial general liability insurance coverage, form CG1, occurrence form required. Commercial general liability insurance with \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate limits, including coverage parts of bodily injury, property damage, personal injury, product and completed operations, and contractual liability. Excess or umbrella insurance may be purchased to make up the difference, if any, between the policy limits of the underlying policies (including employers liability required in the workers' compensation coverage section) and the total amount of coverage required. In addition, the permittee shall carry pollution liability coverage in the amount of \$5,000,000.00; both third-party liability and on-site pollution liability coverages are required. Upon closure, the pollution coverage must be maintained for a three-year period. A three-year supplemental extended reporting

period (SERP) may be utilized to meet this requirement. The policy retroactive date should not be advanced during the period of the permit or during the three years following closure. Business automobile policy with symbol 1 (any auto) coverage in the amount of \$1,000,000.00 per occurrence and workers' compensation coverage as required by Florida law are required. These insurance requirements shall not limit the liability of the permittee. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the permittee's interests or liabilities. Required insurance shall be documented in Certificates of Insurance which reflects Escambia County as certificate holder. The certificate insurance policies shall also be endorsed to provide the county at least 30 days advance notice of cancellation, nonrenewal or adverse change. Such notices shall be mailed to Escambia County, Department of Development Services, 3363 West Park Place, Pensacola, FL 32505. P.O. Box 1591, Attn: Sandra Jennings, Director, Solid Waste Management Department, Pensacola, Florida 32591.

Sec. 82-234. - Litter, sediment and traffic control; road maintenance.

(a) The permittee shall be responsible for maintaining the full length of road frontage and additional length up to one mile of adjacent roadway free from all litter and sediment generated as a result of transporting materials into or out of the facility. Litter will be removed on a daily basis and be completed prior to sunset. The condition of roadways and rights of way in the areas surrounding and accessing the proposed site are to be considered as part of the permitting process. The permittee may be responsible for improvements as a condition of approval. Sediment and debris build-up from truck fall out shall be removed from adjoining roadway surfaces, roadway shoulders and drainage systems as to ensure adequate drainage system functions. The following requirements will apply as part of the permitting process:

- (1) The permittee shall designate those roadways that will be used as truck access to and from the nearest arterial/arterial intersection and the site.
- (2) Minimum road width for such truck use is 22.5 feet and insufficient road width can result in denial of a permit.
- (3) Where the Escambia County Engineering Department determines that the road surfacing, either in condition or thickness, is insufficient to accommodate the permittee's estimated truck traffic generated by the site, such surfacing may be required as fair share mitigation at permittee's expense as a condition of approval.

In determining the length of roadway required to be surfaced, the Escambia County Engineering Department may measure to the nearest arterial/arterial or arterial/collector intersection depending on which is closer and also any road where the site will create more than five percent of the volume of usage. The permittee may either pay the entire cost prior to approval or may pay the cost in installments over the life of the five-year permit period.

Additionally, in the event the Escambia County Engineering Department determines, using accepted engineering standards, that the truck traffic generated by the site has caused premature destruction to the surfacing of a site-access roadway between the nearest arterial/arterial or arterial/collector intersection depending on which is closer and also on any road where the site has generated more than a five percent increase in the volume of usage and the site, then the county may attach the surety for the amount of such surfacing repairs.

During annual road inspections, the county may determine, using accepted engineering standards, that the permittee's truck volume estimates need to be adjusted.

(4) Where the Escambia County Engineering Department determines that geometric improvements, such as turn lanes and acceleration lanes or traffic signal devices are made necessary for traffic safety by the site, the permittee shall be responsible for such improvements as a condition of approval.

(b) The permittee will provide sufficient turn lanes and internal site queuing space for in-bound and out-bound vehicles as to not block or obstruct traffic on public roads. As part of the county's permitting process, a traffic study will be performed to demonstrate that sufficient space is provided.

(c) This work will be performed by an independent engineer registered in the State of Florida and submitted as a signed and sealed report containing drawings and calculations sufficient for the county to review and approve the work performed. This work will specifically identify the need for turn lanes and signalization as required by county and state transportation engineering standards. The report will also provide a detailed assessment of the existing public roadway condition within 100 feet in either direction of the entrance of the site. The condition of the roadway will be reassessed annually. In the event that the amount contributed by permittee under the "fair share mitigation" program is insufficient to cover costs, the permittee will be responsible for the cost to the county for maintaining the road to the standards required in the county permit at all times. any facility which has received a development order from Escambia County at the time of enactment of this division will be deemed to have complied with the traffic concurrency and road standards and other applicable development order criteria portions referred to above.

Sec. 82-235. - Adjacent and compatible land use.

Permit applicants shall participate in a preapplication conference with the county's ~~planning and zoning~~ Development Services Department in order to determine the compatibility of the proposed C&DD to the adjacent land use(s) prior to institution of the development review committee (DRC) process for new facilities.

Sec.82-236. - Applicability; variances and time for compliance.

(a) ~~Upon the effective date of this division, all C&DD facilities, including LCD facilities, both new and existing, shall apply for and complete applications for C&DD permits and will meet all of the requirements of this division. The time allowed for existing C&DD facilities to comply with this division and all rules and regulations adopted pursuant to this division shall be set forth on the permit. Failure to achieve compliance within such period shall result in revocation of the permit. An extension for good cause may be granted by the director of solid waste department subject to board of county commissioners' approval. All property subject to Chapter 82, Article V of the Code of Ordinances must be brought into compliance by meeting the standards required by Chapter 82, Article V and by obtaining a permit from the County at a public hearing to be set before the Board of County Commissioners no later than ninety (90) days after enactment of this ordinance.~~

(b) ~~Variances to the requirements of this division~~ Chapter 82, Article V of the Code of Ordinances may be granted ~~for any facility~~ by the ~~b~~Board of adjustment (BOA) in accordance with ~~Article III, Section 2, of the Land Development Code~~ if the ~~BOA, County Commissioners at a noticed public hearing, if the Board,~~ based upon competent, substantial evidence determines that granting such variance(s) will not result in the maintenance or creation of a nuisance condition or give rise to the creation of a condition incompatible with existing or allowable adjacent uses.

Secs. 82-237—82-239. - Reserved.

Sec.82-240. - Summary abatement; appeal.

(a) ~~After consultation with the director and, as appropriate, the DEP, the fire chief and the department of health, a county code enforcement officer shall order the temporary closure of any facility permitted under this division for allowing a nuisance, as defined herein, to exist on the site beyond a reasonable time set for abatement. Reasonableness is dependent upon the degree to which the violation interferes with the health, repose or safety, or the discomfort caused to affected persons. The facility shall remain closed until the condition is abated.~~

(b) ~~Any owner/operator or permittee who disagrees with the decision of the code enforcement officer shall apply for a hearing before the board of adjustment in accordance with Article 2 of the Land Development Code. The facility shall remain closed until the condition is abated or the notice of violation is overturned by the board of adjustment and thereafter by the board of county commissioners if an appeal is filed.~~

Sec. 82-240 Enforcement.

Escambia County may pursue any and all legal remedies in order to ensure enforcement of this article in unincorporated areas of Escambia County, Florida.

These remedies may include, but are not limited to:

1. *Liability.* The owner and operator may be subject to liability for any injured party for damages resulting from any discharge, emission, spill, or release of any substance, from any vibrations, noise, or any groundwater contamination, or from failure to protect the surrounding properties from off-site impacts. Any permit or approval issued by Escambia County in no way assumes any such liability and Escambia County does not waive or alter any sovereign immunity protections afforded governmental entities.

2. *Inspections.* Owners and operators shall allow County inspectors or representatives to access the facility at any reasonable time for the purpose of inspection to ensure compliance with the terms and conditions of the permit, the development order, this article, and all applicable laws and rules. Owners and operators shall be subject to inspections on at least an annual basis and shall assume all costs of the inspections. A copy of the inspection report shall be provided to the operator. Inspectors will coordinate with the Florida Department of Environmental Protection and County departments regarding site visits and inspections criteria.

3. *Violations.* Violations of any portion of this article may be enforced by the environmental code enforcement division pursuant to chapter 30 of the Escambia County Code of Ordinances. Failure to comply with this article and/or any site specific permit requirements may result in fines and liens being levied against the owner, operator or both, pursuant to §162.069, Fla. Stat., as amended and chapter 30 of the Escambia County Code of Ordinances as well as any other legal penalty. When circumstances warrant, the County may pursue an expedited special magistrate hearing for violations of this article. In the event the Code Enforcement Special Magistrate finds any violation of this chapter, then the facility permit shall be suspended by the County until the violation(s) is corrected or until the Special Magistrate's order is overturned on appeal, whichever occurs first. No debris shall be received during the time the permit is suspended.

4. *Civil action.* The County Attorney is authorized to institute a civil action in a federal or state court of competent jurisdiction to seek injunctive relief to enforce compliance with this article in order to protect the health, safety and welfare of the public. In the event the County determines C&DD operation is violating the terms of its permit, is allowing unlawful disposal, refuses to obtain a permit or otherwise poses a risk to the health, safety and welfare of the public, the County Administrator may request that the County Attorney's office immediately file a request for an emergency injunction or other appropriate relief in a court of competent jurisdiction, with such filing to be subsequently ratified by the Board of County Commissioners.

5. Criminal penalty.

(a) Any person violating any of the provisions of this article, upon conviction thereof, may be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 day or by both such fine and imprisonment.

(b) In lieu of making an arrest or issuing a notice to appear, a law enforcement officer or a code enforcement officer may issue a citation pursuant to section 30-63 of the Escambia County Code of Ordinances. Each violation of any provision of this article shall constitute a separate offense.

Any person who willfully refuses to sign and accept a citation issued by a law enforcement officer or a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083, Fla. Stat. A written warning to this effect shall be provided at the time any citation is issued hereunder.

6. Proceeding against surety.

If at any time the applicant fails to satisfactorily undertake corrective action in response to a notice of violation, the Board of County Commissioners may initiate proceedings against the surety, including any proceedings in a court of competent jurisdiction. Such proceedings shall not commence until the surety has been given sixty (60) days to require commencement of corrective action. In such a proceeding, the recoverable damages and costs shall not be limited to the reasonable value of the land prior to the disposal activities and shall include the award of costs and reasonable attorneys' fees.

7. Existing claims.

Any code enforcement, administrative, civil or criminal claim filed prior to February 19, 2015 and relating to sections 82-225 through 82-240 shall be subject to the provisions in effect on the date the claim was filed.

Section 2. Severability.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court or competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Inclusion in the Code.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate work or phrase in order to accomplish such intentions.

Section 4. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED THIS ____ DAY OF _____, 2015.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

Steven Barry, Chairman

ATTEST: PAM CHILDERS
Clerk to the Circuit Court

BY: _____
Deputy Clerk
(Seal)

Enacted:

Filed with Department of State:

Effective:

Approved as to form and legal
sufficiency.

By/Title: _____
Date: 7/18/15