

AGENDA
ESCAMBIA COUNTY PLANNING BOARD
January 13, 2015–8:30 a.m.
Escambia County Central Office Complex
3363 West Park Place, Room 104

1. Call to Order.
2. Invocation/Pledge of Allegiance to the Flag.
3. Proof of Publication.
4. Public Hearings.
 - A. Borrow pits and reclamation activities
5. Public Forum.
6. Director's Review.
7. County Attorney's Report.
8. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, February 3, 2015 at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

9. Announcements/Communications.
10. Adjournment.



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

4. A.

Meeting Date: 01/13/2015

Issue: Borrow pits and reclamation activities

From: Horace Jones, Interim Department Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending Article(s) 3, 6, 7 and 12

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Article 3, Definitions; Article 6.05.00 District Regulations, Article 7, Performance Standards and Article 12, Part II, Conservation.

BACKGROUND:

On August 21, 2014, the Escambia County Board of County Commissioners adopted a temporary moratorium on permitting or re-permitting borrow pits, borrow pit reclamation facilities, construction and demolition debris, land clearing debris facilities and other landfill operations; in adopting the temporary moratorium, the Board sought to provide its staff with the opportunity to study the issue of regulating these facilities and to propose standards relating to the location and performance of these facilities; staff has accordingly developed definitions, locational criteria, and performance standards to protect the public health, safety, and welfare and to promote the efficient and safe operation of these facilities.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Alison Rogers, County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board’s goal “to increase citizen involvement in, access to, and approval of, County government activities.”

IMPLEMENTATION/COORDINATION:

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared in cooperation with the Development Services Department, the County Attorney’s Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

DRAFT Ordinance

DRAFT Article 6

DRAFT Article 7

DRAFT Article 12

DRAFT Chapter 42

DRAFT Chapter 82

ORDINANCE NO. 2014-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES (1999), THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED; AMENDING ARTICLE 6, SECTION 6.05.00, DISTRICT REGULATIONS, BY AUTHORIZING BORROW PITS AND RECLAMATION ACTIVITIES AS CONDITIONAL USES IN THE C-1, C-2, ID-CP, ID-1 AND ID-2 ZONING DISTRICTS AND AS PERMITTED USES IN THE AG, VAG, VR AND P ZONING DISTRICTS; AMENDING ARTICLE 6, SECTION 6.08.02.M CREATING SPECIFIC STANDARDS REGULATING CONDITIONAL USES FOR BORROW PITS AND RECLAMATION ACTIVITIES; AMENDING ARTICLE 7, SECTION 7.07.00, TO ESTABLISH PERFORMANCE STANDARDS RELATED TO REGULATION OF ADVERSE OFF-SITE IMPACTS; AMENDING ARTICLE 12, PART II, CONSERVATION, REMOVING IN ITS ENTIRETY SECTION 12.09.00, MINING AND/OR EXTRACTION OF NATURAL RESOURCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 21, 2014, the Escambia County Board of County Commissioners adopted a temporary moratorium on permitting or re-permitting borrow pits, borrow pit reclamation facilities, construction and demolition debris, land clearing debris facilities and other landfill operations; and

WHEREAS, in adopting the temporary moratorium, the Board sought to provide its staff with the opportunity to study the issue of regulating these facilities and to propose standards relating to the location and performance of these facilities; and

WHEREAS, Escambia County staff has accordingly developed definitions, locational criteria, and performance standards to protect the public health, safety, and welfare and to promote the efficient and safe operation of these facilities.

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

SECTION 1. DEFINITIONS.

Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Article 3, Definitions, Section 3.02.00 is hereby amended as follows:

Processing. Any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for

transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.

Recovered materials. Metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

Recovered materials processing facility (RMPF). A facility engaged solely in the storage, processing, resale, or reuse of recovered materials.

Recycling. Any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Resource recovery. The process of recovering materials or energy from solid waste, excluding those materials or solid waste under the control of the Nuclear Regulatory Commission.

Volume reduction plant. Incinerators, pulverizers, compactors, shredding and baling plants, composting plants, and other plants that accept and process solid waste for recycling or disposal.

SECTION 2. ZONING AND USES.

Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Article 6, Zoning Districts, Section 6.05.00, District Regulations, is hereby amended as follows:

6.05.16. C-2 General commercial and light manufacturing district (cumulative).

C. Conditional uses.

6- 7. Recovered materials processing facilities, recycling facilities and operations, resource recovery facilities and operations, and volume reduction plants.

6.05.17. ID-CP commerce park, district (cumulative).

C. Conditional uses.

3. Recovered materials processing facilities, recycling facilities and operations, resource recovery facilities and operations, and volume reduction plants.

6.05.18. ID-1 light industrial district (cumulative) (no residential uses allowed).

C. Conditional uses.

4. Recovered materials processing facilities, recycling facilities and operations, resource recovery facilities and operations, and volume reduction plants.

6.05.19. ID-2 general industrial district (noncumulative).

B. Permitted uses.

14. Recovered materials processing facilities, recycling facilities and operations, resource recovery facilities and operations, and volume reduction plants.

~~14.~~ 15. Other uses similar to those listed herein. Recommendations on other permitted uses shall be made by the planning board (LPA) and based on an application for such other use. Final determination shall be made by the BCC upon receipt of the planning board's (LPA's) recommendation.

~~15.~~ 16. Cemeteries.

~~16.~~ 17. Family cemeteries.

~~17.~~ 18. Funeral establishments.

~~18.~~ 19. Cinerators, cremation services, direct disposal establishments.

6.05.32. P—Public district.

A. Intent and purpose of district. Publicly owned parcels for educational and correctional facilities and purposes, other public institutional uses, borrow pits and associated reclamation activities, materials recovery facilities, collection and/or processing of solid waste, ~~and sanitary landfills,~~ recovered materials processing facilities, recycling facilities and operations, resource recovery facilities and operations, and volume reduction plants. Conversion of suitable public lands for business or industrial park development is allowed. Refer to article 11 for uses, heights and densities allowed in P, public districts located in the Airport/Airfield Environs.

SECTION 3. PERFORMANCE STANDARDS.

Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Article 7, Performance Standards, Section 7.22.00, is hereby established as follows:

7.223.00. – Recycling and waste diversion facilities.

Recovered materials processing facilities, recycling facilities and operations, resource recovery facilities and operations, and volume reduction plants shall conform to all performance standards governing the containment, collection, and treatment of leachate pursuant to Chapter 403, Florida Statutes, and any other applicable regulations promulgated by the Florida Department of Environmental Protection. The violation of any such statute or rule governing leachate under Chapter 403, Florida Statutes, shall also constitute a violation of this land development code enforceable by the Escambia County Office of Environmental Code Enforcement.

SECTION 4. SEVERABILITY.

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

SECTION 5. INCLUSION IN CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be codified as required by F.S. § 125.68 (2011); and that the sections, subsections and other provisions of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. EFFECTIVE DATE.

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

DONE AND ENACTED this _____ day of _____, 2014.

**BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA**

By: _____

Steven Barry, Chairman

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

By: _____

Deputy Clerk

(SEAL)

ENACTED:

FILED WITH THE DEPARTMENT OF STATE:

EFFECTIVE DATE:

1 **6.05.00. District regulations.**

2 *6.05.01. AG agricultural district, low density.*

3 B. *Permitted uses.*

4 21. Borrow pit and reclamation activities (20 acres minimum), thereof (subject to local permit and
5 development review requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article
6 VIII, and performance standards in Part III, the Land Development Code, article 7).

7
8 *6.05.02. RR rural residential district (cumulative), low density.*

9 B. *Permitted uses.*

10 ~~1. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit
11 and development review requirements per Escambia County Code of Ordinances, Part I, Chapter
12 42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~ C.

13 C. *Conditional uses.*

14 ~~9. Borrow pits and reclamation activities thereof (subject to local permit and development review
15 requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and
16 performance standards in Part III, the Land Development Code, article 7).~~

17 ~~10. 9. Solid waste transfer stations, collection points, and/or processing facilities.~~

18
19 D. *Prohibited uses.*

- 20 1. Any use prohibited in the AG district.
21 2. Commercial communication towers.
22 3. Junkyards, salvage yards, and waste tire processing facilities.
23 4. Borrow pit and reclamation activities.

24
25 *6.05.03. AMU-1 airfield mixed use-1 district (noncumulative).*

26 B. *Permitted uses.*

27 ~~11. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit
28 and development review requirements per Escambia County Code of Ordinances, Part I, Chapter
29 42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

30
31 *6.05.05. R-1 single-family district, low density.*

32 B. *Permitted uses.*

33 ~~7. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit
34 and development review requirements per Escambia County Code of Ordinances, Part I, Chapter
35 42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

36
37 *6.05.16. C-2 General commercial and light manufacturing district (cumulative).*

38 B. *Permitted uses.*

39 ~~21. Borrow pits and reclamation activities thereof (subject to local permit and development
40 review requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and
41 performance standards in Part III, the Land Development Code, article 7).~~

42 ~~22-1. Temporary structures. (See section 6.04.16)~~

43 ~~23-2. Arcade amusement centers and bingo facilities.~~

44 ~~24-3. Outdoor sales.~~

45 ~~25-4. Other uses similar to those permitted herein. Determination on other permitted uses shall
46 be made by the planning board (LPA).~~

1 C. *Conditional uses.*

2 ~~8. Borrow pits and reclamation activities thereof (subject to local permit and development review~~
3 ~~requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and~~
4 ~~performance standards in Part III, the Land Development Code, article 7).~~

5
6 6.05.17. *ID-CP commerce park, district (cumulative).*

7 D. *Prohibited uses.*

8 ~~8. Borrow pits and reclamation activities thereof (subject to local permit and development review~~
9 ~~requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and~~
10 ~~performance standards in Part III, the Land Development Code, article 7).~~

11 ~~9~~ 8. Landfills.

12
13 6.05.18. *ID-1 light industrial district (cumulative) (no residential uses allowed).*

14 B. *Permitted uses.*

15 ~~6. Borrow pits and reclamation activities thereof (subject to local permit and development review~~
16 ~~requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and~~
17 ~~performance standards in Part III, the Land Development Code, article 7).~~

18
19 6.05.19. *ID-2 general industrial district (noncumulative).*

20 B. *Permitted uses.*

21 ~~6. Borrow pits and reclamation activities thereof (subject to local permit and development review~~
22 ~~requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and~~
23 ~~performance standards in Part III, the Land Development Code, article 7).~~

24 ~~7.6.~~ Paper mills.

25 ~~8.7.~~ Refineries.

26 9. 8. Rendering plants and slaughter houses.

27 ~~10.~~ 9. Steel mills.

28 ~~11.~~ 10. Solid waste transfer stations, Material Recovery Facilities, collection points, and/or
29 processing facilities.

30 ~~12.~~ 11. Public utility and service structures.

31 ~~13.~~ 12. Junkyards, salvage yards, and waste tire processing facilities.

32 14. 13. Other uses similar to those listed herein. Recommendations on other permitted uses shall
33 be made by the planning board (LPA) and based on an application for such other use. Final
34 determination shall be made by the BCC upon receipt of the planning board's (LPA's)
35 recommendation.

36 ~~15.~~ 14. Cemeteries.

37 ~~16.~~ 15. Family cemeteries.

38 ~~17.~~ 16. Funeral establishments.

39 ~~18.~~ 17. Cinerators, cremation services, direct disposal establishments.

40
41 C. *Conditional uses.*

42 1. Recovered materials processing facilities, recycling facilities and operations, resource recovery
43 facilities and operations and volume reduction plants. The conditional use determination shall be
44 made by the Board of County Commissioners at a reasonably noticed quasi-judicial hearing in lieu
45 of any hearing before the Board of Adjustment (BOA). In addition to the general conditional use
46 criteria established in §6.08.01 of this Code, the additional conditional use criteria established in
47 §6.08.02 must also be met.

1 2. Borrow pits and reclamation activities thereof (subject to local permit and development review
2 requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and
3 performance standards in Part III, the Land Development Code, article 7).
4

5 6.05.20. *S-1 and S-1PK outdoor recreational district (noncumulative).*

6 B. *Permitted uses.*

7 ~~5. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
8 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
9 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

10
11 6.05.21. *SDD special development district, (noncumulative) low density.*

12 B. *Permitted uses.*

13 ~~12. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
14 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
15 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

16 ~~13.~~ 12. Other uses which are similar or compatible to the uses permitted herein that would
17 promote the intent and purposes of this district. Determination on other permitted uses shall be
18 made by the planning board (LPA).

19 ~~14.~~ 13. Family cemeteries.

20
21 6.05.22. *VAG villages agriculture districts.*

22 B. *Permitted uses.*

23 ~~22. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
24 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
25 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

26 Borrow pit and reclamation activities (20 acres minimum), thereof (subject to local permit and
27 development review requirements per Escambia County Code of Ordinances, Part I, Chapter 42,
28 article VIII, and performance standards in Part III, the Land Development Code, article 7).

29
30 6.05.23. *VR villages rural residential districts.*

31 B. *Permitted uses.*

32 ~~23. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
33 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
34 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

35 Borrow pit and reclamation activities (20 acres minimum), thereof (subject to local permit and
36 development review requirements per Escambia County Code of Ordinances, Part I, Chapter 42,
37 article VIII, and performance standards in Part III, the Land Development Code, article 7).

38
39 6.05.24. *V villages single-family residential district.*

40 B. *Permitted uses.*

41 ~~7. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
42 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
43 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

44 ~~8.~~ 7. Family cemeteries.

45
46 6.05.27. *VM-1 villages mixed residential/commercial district.*

47 B. *Permitted uses.*

1 ~~11. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
2 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
3 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

4 ~~12.11. Cemeteries – two acres.~~

5 ~~13.12. Family cemeteries.~~

6 ~~14.13. Funeral establishments~~

7 ~~15.14. Other uses which are similar or compatible to the uses permitted herein that would~~
8 ~~promote the intent and purposes of this district. Determination on other permitted uses shall be~~
9 ~~made by the planning board (LPA).~~

10
11 6.05.29. *GBD--Gateway business district.*

12 B. *Permitted uses.*

13 ~~3. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit~~
14 ~~and development review requirements per Escambia County Code of Ordinances, Part I, Chapter~~
15 ~~42, article VIII, and performance standards in Part III, the Land Development Code, article 7).~~

16 ~~4.3. Family cemeteries.~~

17
18 6.05.30. *GID--Gateway industrial district.*

19 B. *Permitted uses.*

20 ~~3. Borrow pits and reclamation activities thereof (subject to local permit and development review~~
21 ~~requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and~~
22 ~~performance standards in Part III, the Land Development Code, article 7).~~

23 ~~4. 3. Funeral establishments.~~

24 ~~5. 4. Family cemeteries.~~

25 ~~6. 5. Cemeteries-Two acres.~~

26 ~~7. 6. Cinerators, cremation services, direct disposal establishments.~~

27
28 6.08.02. *Standards regulating conditional uses.* In addition to the general provisions cited above, a
29 conditional use may be permitted by the (BOA) provided the proposed conditional use complies with
30 the standards of this Code and the following requirements:

31
32 M. Borrow pits (including mining and resource extraction) and reclamation activities thereof,
33 including construction and demolition debris and land clearing debris disposal sites.

34
35 1. Sites shall require access from adequately wide paved roads where trucks hauling excavated
36 materials or debris to/from the site do not require access on local residential roads.

37
38 2. The scale, intensity and operation of use shall not generate unreasonable noise, traffic, odors,
39 dust, or other potential nuisances or hazards to contiguous residential properties.

40
41 3. Sites Any parcel used pursuant to this subsection shall not be located within proximity 1000
42 feet of the property line of any place of worship, school, cemetery, public park, residential
43 subdivision, ~~or~~ land platted as a residential subdivision, residential parcel, or residential zoning
44 district existing at the time of application for the development order.

1 4. The applicant shall submit a boundary survey and description of anticipated excavation phases
2 for a borrow pit as well as a reclamation plan for affected lands. The same requirements shall
3 apply to a development plan explaining:
4

- 5 a. Proposed practices to protect adjacent land and water resources, minimize erosion, and
6 treat stormwater runoff.
- 7 b. Safety features of the development plan.
- 8 c. Landscaped areas, particularly treatment of property lines in the proximity of residential
9 uses.
- 10 d. The applicant's reclamation plan.
- 11 e. Time schedule that meets the requirements of the permitting agency.
- 12 f. Method, manner, and type of revegetation of affected areas.

13
14 5. Minimum parcel size is 20 acres.

15
16 6. Conditional use approval pursuant to this subsection does not waive an applicant's duty to
17 follow any other county, state, or federal permitting requirements or performance standards.

18
19 7. Notwithstanding the uses listed for any zoning district, the conditional use approval process
20 shall be waived for any borrow pit or reclamation activity that is located 1000 feet on all sides
21 from any residential use or zoning district and is serviced by an adjacent arterial or collector road.

1 7.07.00. - Standards regulating adverse off-site impacts.

2 7.07.01. Noise.

3
4 A. *Prohibitions.* It shall be unlawful, except as expressly permitted herein, to make, cause, or allow the making of
5 any noise or sound which exceeds the limits set forth in this article or ~~the in any county noise ordinance~~
6 ~~contained in chapter 1-20.3 of the Code of Ordinances regulating noise.~~ Chapter 1-20.3 The Escambia County
7 Code of Ordinances contains the principal noise regulations; the following provisions deal with development
8 issues only.

9
10 B. *Measurement of sound.* The measurement of sound or noise shall be made with a calibrated sound or noise
11 level meter. A calibration check shall be made at the time of any noise measurement. Measurements recorded
12 shall be taken so as to provide a proper representation of the noise source. A windscreen for the sound level
13 meter microphone shall be used when required. Traffic, aircraft and other transportation noise sources and
14 other background noises shall not be considered in taking measurements except where such background noise
15 interferes with the primary noise being measured. All measurements shall be made at the property line of the
16 subject property and such measurements shall be taken at least five feet above grade and for a period of not
17 less than two minutes.

18
19 C. *Maximum permissible sound levels.* No manufacturing or commercial use shall operate or cause to be
20 operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth
21 below at the time of land use certificate/site plan review, the applicant may be asked to certify the intent to
22 meet the specified standard:

23
24 Table 7.07.01.C
25 Sound Level Limits
26

Use Occupancy	Time	Sound Level Limit dB
Commercial/ tourist	7:00 a.m.—10:00 p.m.	75
	10:00 p.m.— 7:00 a.m.	<u>70</u>
Manufacturing ID-P	At all times	60
ID-1 or ID-2	6:00 a.m.—10:00 p.m.	95
	10:00 p.m.— 6:00 a.m.	85

27
28 D. *Hours of operation.*

29
30 1. Mining, borrow pit, resource extraction, and reclamation activities (including construction and demolition
31 debris and land clearing debris disposal) that require trucks and heavy equipment to traverse through
32 residential areas as their only access path to pit operations are limited to the hours between ~~6~~7:00 a.m. and
33 ~~6~~5:00 p.m. Monday through Friday and between 8:00 a.m. and 2:00 p.m. on Saturday. ~~(See section 7.11.09.)~~
34 Operations that occur entirely on-site and do not require traffic or access to roadways are permitted on Sunday
35 during daylight hours. Notwithstanding the above, cover may be applied after the operational hours but in no
36 case after sundown. Operations are not permitted on Thanksgiving, Christmas, New Year’s Day, and July 4th.

37
38 2. Mining, borrow pit, resource extraction, and reclamation activities (including construction and demolition
39 debris and land clearing debris disposal) that access their operations without traversing through residential
40 areas (~~i.e., via principal and minor arterial roadways~~) are limited to the hours between ~~6~~7:00 a.m. and ~~6~~5:00
41 p.m. Monday through Saturday. ~~(See section 7.11.09.)~~ Operations that occur entirely on-site and do not
42 require traffic or access to roadways are permitted on Sunday during daylight hours. Notwithstanding the
43 above, cover may be applied after the operational hours but in no case after sundown. Operations are not
44 permitted on Thanksgiving, Christmas, New Year’s Day, and July 4th.
45

46 3. Notwithstanding any other restriction, mining, borrow pit, resource extraction, and reclamation activities
47 (including construction and demolition debris and land clearing debris disposal) may occur during daylight
48 hours on any day of the week if the activities occur on a parcel located a minimum of 1000 feet from any
49 adjacent parcel and that is served by an arterial or collector road.

50
51 3.4. Exceptions. Exceptions to the above noted operating hours may be authorized by federal, state, and/or
52 county authorities in cases of emergency or when determined by such authorities to best serve the public
53 interest. Any exceptions require written approval by the county administrator, or his/her appointed designee,
54 specifying the reason and allowed timeframe(s) for the exception.

55
56 E. *Exemptions.* The following uses or activities are exempt from the noise level regulations noted in sections
57 7.07.01.A. through C., above, and chapter 1-20.3:

58
59 1. Construction operations for which building permits have been issued, provided that such operations are
60 limited to the hours between 5:00 a.m. and one hour after sunset, except that on Pensacola Beach:

- 61 a. No outside construction may begin before 6:30 a.m., if within 200 feet of an occupied residence; and
62
63 b. Owner-occupied single-family detached houses are exempt from the above restriction.

64
65 2. Safety signals, warning devices, bells and chimes of churches;

66
67 3. Noise from emergency vehicles, or noises resulting from emergency works;

68
69 4. All noises coming from the normal operation of trains, aircraft (not including scale model aircraft), motor
70 vehicles governed by F.S. § 316.293, or vessels operated upon the waters within or adjacent to Escambia
71 County;

72
73 5. Activities at Five Flags Speedway and/or other legally constructed and operated tracks or courses for
74 competitive motor vehicles.

75
76
77 **7.07.07. Borrow pits (includes mining and resource extraction) and reclamation activities thereof.**

78
79 A. *Setbacks for excavation.* Borrow pit slope commencement (i.e., the outermost edge of excavation)
80 shall be located a minimum of ~~25~~ 100 feet from the adjoining owner's property boundary and/or
81 adjacent right-of-way (ROW). Setback provisions established herein include the required width for
82 landscape screening and buffers subsequently noted herein. The following exceptions may apply:

83
84 1. *Back to back pits.* The setback for slope commencement excludes property boundary lines
85 between active pits using the same excavation area.

86
87 ~~2. *Slope angles.* Pits with a shallow excavation slope of 6:1 (i.e., six feet horizontal for each one~~
88 ~~foot vertical) may exceed the 50-foot setback up to the 20-100 foot minimum required width for~~
89 ~~landscape screening and buffer requirements. Steep pits allowed to exceed the required 2:1 slope~~
90 ~~ratio as provided in subsection C., below, shall require a 100-foot setback.~~

91
92 ~~3. *Site specific requirements.* Increased setbacks may be required per the terms of the~~
93 ~~mandatory county development order to protect wellheads, environmental areas, and/or adjacent~~
94 ~~properties from adverse impacts (reference comprehensive plan policies OBJ CON 1.5, among~~
95 ~~others).~~

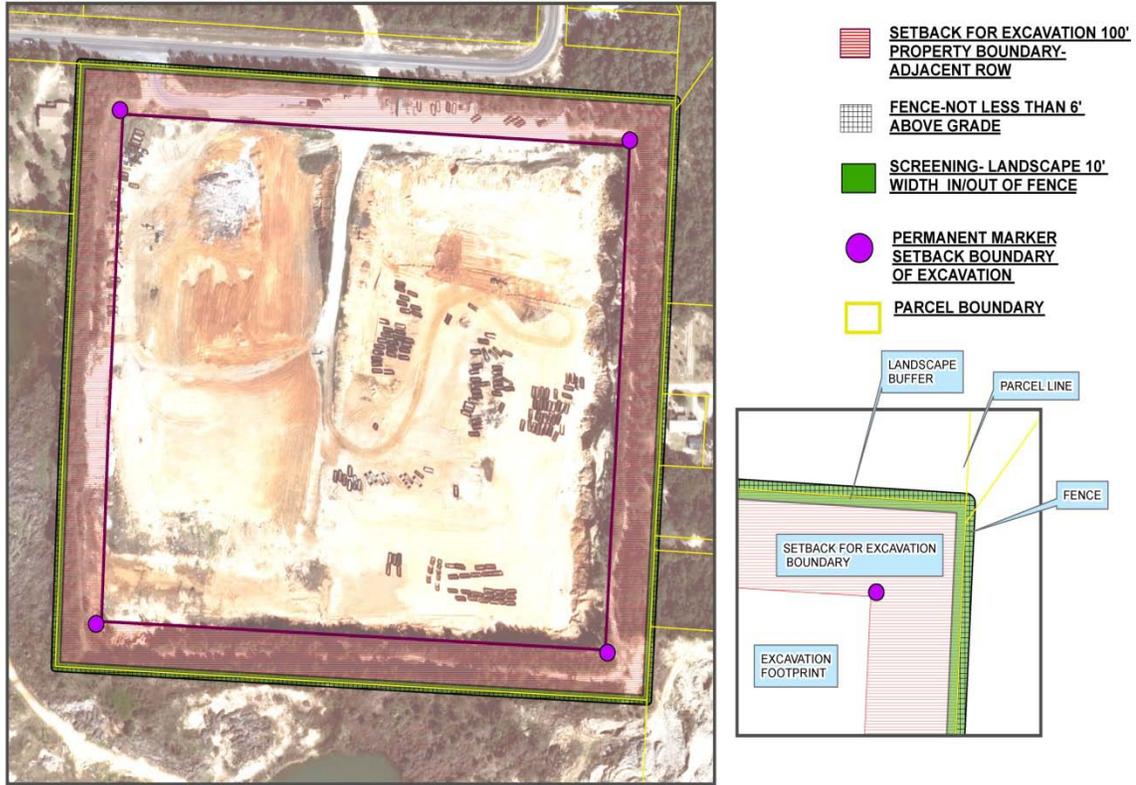


Figure 1.

B. *Reserved.*

C. *Excavation slope requirements.* The angle of repose for borrow pit/mining slopes shall be no greater than 2:1 (i.e., two feet horizontal for each one foot vertical) unless a professional engineer (P.E.) or professional geologist (P.G.) certifies that an angle of repose exceeding this ratio will prohibit any potential erosion or slumping, factoring into account the type of soil (i.e., clay, sand, etc.) and pertinent environmental conditions of the area.

D. *Traffic requirements.* See section 7.11.09. Pit access shall be limited to routes having the least impact on residential areas, and the use shall be subject to all traffic concurrency requirements.

E. *Permits.* See Escambia County Code of Ordinances, part I, [chapter 42](#), Article VIII, [section 42-323](#). A county resource extraction permit is required for extraction, removal and transportation of material excavated from the site. Permits for filling and/or reclamation of pits after removal of usable materials are subject to additional federal, state and/or local regulations as governed by the applicable regulatory authority.

F. *Hours of operation.* Limited for pits and reclamation activities as indicated in section 7.07.01.D above.

G. *Fences and gates.* A substantially built, esthetically pleasing security fence with appropriate gates for access, not less than six feet above grade, is required along the outer perimeter of the excavated

123 area, with exception of the pit access point(s). Additional security features, such as barbed wire
124 above the fence top, are ~~encouraged~~ permitted. Gates for access shall be locked at all times during
125 non-operating hours. Fences and gates shall be maintained in a reasonable condition to remain an
126 effective barrier.

127
128 H. *Screening*. Portions of the pit visible from the public right-of-way or nearest residential use shall
129 be screened with dense landscaping to achieve at least 75 percent opacity ~~within two years~~. The
130 landscape buffer shall be no less than ten feet in width at any given point and may be placed either
131 inside or outside the required fence perimeter to achieve maximum dust and noise reduction and
132 visible shielding. Earthen berms with a minimum height of three feet can be placed within this buffer
133 area.

134
135 I. *Buffers*. In addition to the landscape screening noted above, a minimum ten-foot wide buffer is
136 required parallel to, and inside, the required fence. Excavation, pit operations, parking, storage and
137 disposal of debris are not permitted within the screening or buffer areas. The setback area may not
138 be used for truck or equipment traffic, except as necessary to maintain the setback area and
139 perimeter fence. Pit access point(s) shall be designed perpendicular to the buffer/screening width
140 with the least disturbance to the buffer/screening zone that allows safe vehicle and equipment
141 access to the operating site.

142
143 J. *Signs*. "No Trespassing" signs are required at each pit access point(s), every 250 linear feet on the
144 boundary fence, and at each corner, in letters not less than two inches in height. "No Trespassing"
145 signs shall be maintained in legible condition.

146
147 K. *Reclamation activities*. Active reclamation activities shall be governed by ~~the above~~ any
148 performance standards ~~until such time as complete~~ applicable to the reclamation ~~has occurred~~
149 occurring on site, in accordance with all federal, state, and local regulations and as approved by the
150 division manager, development services in accordance with pursuant to the Escambia County Code of
151 Ordinances, Part I, Chapter 42, Article VIII. Reclamation involving land clearing debris disposal shall
152 only be permitted to the minimum height above ground level that allows for environmental safety
153 and stormwater runoff consistent with the surrounding environment and intended post-mining land
154 use not to exceed six feet. Groundwater monitoring wells may be required for specific types of debris
155 disposal per the applicable federal and state regulations and the terms of the required county-
156 approved reclamation plan.

157
158 ~~L. *Exceptions for existing pits and/or reclamation activities thereof.*~~

159
160 ~~1. *Setbacks/slopes*. Existing pit owners and/or operators with pits that do not meet the setback~~
161 ~~and/or slope requirements established above shall have 180 days from the date of adoption of~~
162 ~~this ordinance (Ordinance 2005-23) to apply for a development order that establishes the criteria~~
163 ~~for required setbacks and/or slopes.~~

164
165 ~~2. *Traffic requirements*. Traffic requirements are waived for existing pits when strict application~~
166 ~~would deny access to pit operations.~~

167
168 ~~3. *Permits*. Permit requirements are established in the Escambia County Code of Ordinances, Part~~
169 ~~I, Chapter 42, Article VIII.~~

170

171 ~~4. Hours of operation. Limited as noted above.~~

172

173 ~~5. Fences, gates, screening, and buffers. Existing pit owners and/or operators with pits that do not~~
174 ~~comply with the fence, gate, screening and buffering provisions above shall have 180 days from~~
175 ~~the date of the mandatory approved county development order to comply with the established~~
176 ~~provisions herein. Extensions for extenuating circumstances (e.g. large pits) may be approved per~~
177 ~~the terms of the mandatory development order on a case-by-case basis (reference Escambia~~
178 ~~County Code of Ordinances, Part I, [Chapter 42](#), Article VIII).~~

179

180 ~~M. Reclamation of existing pits involving land clearing debris disposal. If reclamation activities~~
181 ~~involving land clearing debris disposal at existing pits already exceeds ground level as of the date of~~
182 ~~adoption of this ordinance (Ordinance 2005-23), no further increase in vertical height shall be~~
183 ~~permitted unless the height increase is certified by a professional engineer (P.E.), using best~~
184 ~~management practices, to be necessary for stormwater considerations and/or environmental safety~~
185 ~~not to exceed the permitted height as of September 16, 2004. Any such certification for height~~
186 ~~increases above ground level shall be consistent with the surrounding environment and intended~~
187 ~~post-mining land use.~~

188

189 ~~(Ord. No. 97-8, § 1, 2-27-1997; Ord. No. 97-18, § 2, 6-5-1997; Ord. No. 97-51, § 1, 10-2-1997; Ord. No.~~
190 ~~2005-23, § 5, 7-7-2005; Ord. No. 2007-60,~~

1 **PART II. CONSERVATION**

2
3 **12.09.00. Mining and/or extraction of natural resources**

4 *12.09.01. Permit required.* No commercial extraction of natural resources for sale shall be allowed unless
5 and until the applicant for such extraction has first obtained a county resource extraction permit from
6 the engineering department pursuant to the terms of the development order. Prior to issuance of a
7 permit, the department shall receive authorization from the county engineer.

8
9 *12.09.02. Permit requirements.* Prior to issuing a resource extraction permit for a proposed resource
10 extraction activity, the county engineer shall be assured that the following conditions have been met:

11
12 A. Existing and future resource extraction activities and lands used for such activities and any
13 reclamation of any such lands shall be subject to all relevant rules and regulations including those
14 established by F.A.C. chs. 16, 17, 18, and 39, the U.S. Clean Water Act, F.S. § 372.072, F.S. ch. 373,
15 pt. IV, F.S. ch. 378, pt. IV, and F.S. ch. 403, local permit and development review requirements per
16 the Escambia County Code of Ordinances, part I, [chapter 42](#), article VIII, and the Land Development
17 Code, [article 7](#)), among others. Before any existing resource extraction activity is permitted to
18 expand and prior to approving any new resource extraction activities located within or adversely
19 impacting environmentally sensitive areas, the application for expansion or establishment of a new
20 extraction activity must be accompanied by a reclamation plan which meets all state environmental
21 resource permit (ERP) requirements and reclamation standards required by F.A.C. ch. 62C-39, as
22 well as comprehensive plan policies OBJ COA 2.1 and OBJ CON 1.5 for the area once the extraction
23 activity has been completed.

24
25 B. The resource extraction activity will not degrade or impact adjacent natural, cultural or historic
26 resources including environmentally sensitive lands, wetlands, white sands as protected pursuant to
27 [section 12.05.00](#) et seq. of this article, and others.

28
29 C. That the resource extraction activity is to be conducted more than 500 feet from any potable
30 public water well or well field. The applicant for resource extraction must present information
31 satisfactory to the CE wherein the locations of potable water wells or well fields are identified.

32
33 D. That the proposed resource extraction activity is compatible with adjacent land uses.

34
35 *12.09.03. Regulated extraction activities.* The following types of commercial resource extraction
36 activities are regulated by this section. The listing is an example of the types of activities only, and is not
37 to be construed as an all-inclusive list.

38
39 A. Mining activities.

40
41 B. Petroleum extraction.

42
43 C. Borrow pits.

44
45 D. Removal of white sand from beaches or other areas containing such white sand.

46
47 E. Mineral extraction (not including water).

1 F. Quarries.

2
3 ~~12.09.04. Activities exempt.~~ The following activities are exempt from the regulations of this section:

4
5 A. ~~Routine agriculture.~~

6
7 B. ~~Routine silviculture.~~

8
9 C. ~~Incidental excavation conducted pursuant to valid permits issued by Escambia County for~~
10 ~~construction or development activities.~~

11
12 D. ~~Emergency activities necessary to protect lives and property.~~

13
14 However, for any development permit application filed with the county after July 1, 2012, the
15 county may not require as a condition of processing or issuing a development permit that an
16 applicant obtain a permit or approval from any state or federal agency unless the agency has issued
17 a final agency action that denies the federal or state permit before the county action on the local
18 development permit. Issuance of a development permit by the county does not in any way create
19 any rights in the part of the applicant to obtain a permit from a state or federal agency and does not
20 create any liability on the part of the county for issuance of the permit if the applicant fails to obtain
21 requisite approvals or fulfill the obligations imposed by the state or federal agency or undertakes
22 actions that result in a violation of state or federal law.

23 ~~(Ord. No. 97-51, § 1, 10-2-1997; Ord. No. 2005-23, § 7, 7-7-2005; Ord. No. 2912-36, § 2(Exh. A), 9-6-~~
24 ~~2012; Ord. No. 2013-54, § 1(Exh. A), 12-5-2013)~~

ORDINANCE 2014-_____

1
2
3 **AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING**
4 **CHAPTER 42, ARTICLE VIII, BORROW PITS AND RECLAMATION;**
5 **SECTIONS 42-322 THROUGH 42-325; AMENDING DEFINITIONS,**
6 **REGULATIONS AND PERMITTING REQUIREMENTS FOR BORROW**
7 **PITS, MINING, RESOURCE EXTRACTION AND RECLAMATION USES;**
8 **AMENDING LOCAL PERMIT REQUIREMENTS; ESTABLISHING**
9 **REGULATIONS FOR ABANDONED OR CLOSED BORROW PITS;**
10 **CLARIFYING ENFORCEMENT OPTIONS; PROVIDING FOR**
11 **SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE;**
12 **PROVIDING FOR AN EFFECTIVE DATE.**

13
14 **WHEREAS**, this ordinance sets forth the requirements for borrow pits and
15 reclamation of mined-out lands in Escambia County, Florida, for the safety and
16 protection of the public; and

17 **WHEREAS**, Florida law provides that in addition to Florida Department of
18 Environmental Protection (FDEP) oversight and regulation, local governments may
19 regulate borrow pit, mining or excavation and reclamation facilities; and

20 **WHEREAS**, since 2006, Escambia County has provided for a permitting scheme
21 and regulations for borrow pits, mining, excavation and reclamation activities; and

22 **WHEREAS**, concerns have been raised regarding adverse off-site impacts and
23 improving planning and stormwater policies relative to these uses; and

24 **WHEREAS**, amending the regulatory scheme for borrow pits, mining and
25 excavation and reclamation activities will better protect the public's health, safety and
26 welfare.

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

29 **Section 1.** Chapter 42, Article VIII, Sections 42-322 through 42-325 of the Code of

30 Ordinances of Escambia County, Florida is hereby amended to read as follows:

31 **ARTICLE VIII. - BORROW PITS AND RECLAMATION**

32

33 **Sec. 42-322. - Definitions.**

34 For purposes of this article, the following terms, phrases, words and their derivations
35 have the meanings given:

36

37 Abandoned. Cessation of use and maintenance of a borrow pit, mining or excavation
38 unit or reclamation unit for a period of twelve (12) consecutive months or longer and in
39 a manner that does not include closure, long-term monitoring, maintenance and
40 financial responsibility when required by a state or county rule or law.

41

42 Borrow pit. A site or parcel of property where soils, clays, gravel or similar materials are
43 removed, or have been removed for use elsewhere by either the property owner or
44 another individual or entity. May also be referred to as a mining, mineral, resource
45 excavation, and/or resource extraction site.

46

47 Closed. A borrow pit, mining or excavation unit or reclamation unit that has undergone
48 closure.

49

50 Closure. The cessation of operation of a borrow pit, mining or excavation unit or
51 reclamation unit and the planned act of securing such facility so that it will pose no
52 significant threat to human health or to the environment and includes closing, long-term
53 monitoring, maintenance and financial responsibility of a facility when required by any
54 state or county rule or law.

55

56 Excavation/mining unit. A specific area of land to be disturbed by mine or borrow pit
57 operations within a period of time as specified in the by an Escambia County
58 development order.

59

60 Reclamation. The restoration of land made barren through processes such as erosion,
61 mining, or land clearing to useful purposes, including, but not limited to, restoration to
62 natural vegetative states, construction of artificial bodies of water, and disposal of
63 construction and demolition or land clearance debris, while protecting the natural
64 resources of the surrounding area. In some instances, reclamation may include land
65 clearing debris as part of the ultimate reclamation process. While the type and degree of
66 such restoration may vary in any specific instance, the objective is to establish
67 vegetative cover, soil stability, water protections, and public safety conditions
68 appropriate to the area.

69

70 Reclamation plan. The A written proposal as required and approved by Escambia
71 County for the reclamation of mined-out land a borrow pit that has been approved by
72 Escambia County pursuant to this article. Approval or acceptance of a reclamation plan

73 does not equate to a permit for that use nor does it provide any grandfathering or vested
74 right for that use.

75
76 *Reclamation unit.* A specific area of land upon which reclamation will be accomplished
77 within a period of time as specified ~~in the development order~~ by a reclamation plan
78 approved by Escambia County pursuant to this article.

79

80 **Sec. 42-323. - Requirements and permits.**

81

82 It shall be unlawful to conduct mining, borrow pit, and/or reclamation activities thereof in
83 Escambia County without ~~first obtaining all applicable required~~ an Escambia County
84 resource extraction permits, including those from state regulatory agencies and
85 Escambia County. The operation must also be in compliance with the regulations set
86 forth in this chapter and in the Escambia County Land Development Code, to included
87 but not be limited to regulations regarding areas, setbacks, hours of operation and
88 prevention of adverse off-site impacts. ~~The applicable state regulatory agency depends~~
89 ~~on the size, type, and extent of the planned activity. State regulatory agencies include~~
90 ~~(but may not be limited to) the Florida Department of Environmental Protection (FDEP),~~
91 ~~the Florida Bureau of Mine Reclamation (BMR) and, in cases of wetlands and surface~~
92 ~~waters that connect to waters of the state or wetlands jurisdictional to Escambia County,~~
93 ~~the Northwest Florida Water Management District (NFWMD).~~

94

95 (1) *Public hearings.* Public hearings by the board of county commissioners, the
96 local planning agency (planning board), ~~the rezoning hearing examiner,~~ and/or the
97 board of adjustment may be required depending on the location of a proposed mine,
98 borrow pit, excavation site, or expansion/reclamation thereof. Public hearings are
99 required in all cases where the proposed use conflicts with the future land use
100 designation, zoning, permitted uses, and/or performance standards of this Code for the
101 site location. In applicable cases, the Escambia County ~~Planning and Zoning~~
102 Development Services Department will process completed applications and schedule
103 public hearings for future land use changes, rezonings, conditional use and/or variance
104 requests in accordance with article 2 (Administration) of the Land Development Code
105 (LDC) upon receipt of required fees.

106

107 (2) *Local permit.* A county resource extraction permit is required for all
108 excavation/mining activities ~~not permitted by the county,~~ including borrow pits. Any
109 person desiring to obtain such permit shall file an application for site plan review with
110 the Escambia County ~~Planning and Zoning~~ Development Services Department on an
111 application form provided by the department. The application shall include ~~proof~~ copies
112 of any ~~required~~ federal or state permits, a plan for excavating the land in
113 excavation/mining units, and a reclamation plan for the site that meets all state and local
114 requirements ~~(reference state requirements for reclamation standards in F.A.C. ch.~~
115 ~~62C-39, and F.S. chs. 378 and 403).~~

116

117 a. *Term of permit.* ~~When state permits are required, the county permit~~
118 ~~shall have an expiration date that coincides with that of the state permit~~
119 ~~(generally five years, when applicable).~~ The county resource extraction permit
120 shall be valid for five years following approval and may be renewed upon
121 application by the permittee and approval by the Board of County Commissioners
122 is renewable. As a condition of obtaining and maintaining a county resource
123 extraction permit, a permittee shall submit an annual affidavit on a form prepared
124 by Escambia County that describes the scope of activities occurring on-site, the
125 percentage of materials planned to be excavated that have been removed from
126 the site, and the estimated lifespan for resource extraction activities occurring on
127 the site. The permittee shall also consent to random and periodic inspections of
128 the site by Escambia County representatives, with such inspections to occur at a
129 minimum of two (2) times per year.

130
131 b. *Surety.* The applicant shall submit general surety payable to Escambia
132 County in an amount itemized according to the respective development order
133 requirement, repair, or reclamation measure in the event of noncompliance with
134 the terms of the development order. Escambia County may enter into an
135 interlocal agreement with the Florida Department of Environmental Protection to
136 provide for a mutual surety program for any reclamation activities. An engineer
137 registered in the State of Florida shall certify the total surety amount. Proceeding
138 against the surety in case of violation shall be in accordance with subsection
139 (3)b., below.

140
141 (3) *Reclamation plan.* The reclamation plan for mined-out lands shall
142 be consistent with federal and state reclamation standards (particularly those
143 referenced in subsection (2) above), shall comply with ~~the any~~ performance
144 standards required by ~~the county listed in LDC, article 7~~ the Escambia
145 County Land Development Code, and shall be consistent with the intended
146 post-mining land use. The plan shall provide for reclamation activities to be
147 completed in a timely manner and sequence per the terms of the required
148 development order. A permittee shall submit reclamation plan updates to
149 Escambia County whenever it makes a material change to its reclamation
150 plan, but no less than annually when it submits the affidavit required by
151 subsection (2)a., above. The reclamation plan shall include a process for
152 reclaiming mined-out land in reclamation units so that no more than five
153 acres of mined-out land are exposed at any one excavation site, unless the
154 terms of the development order provide for an exception. Reclamation of
155 mined-out lands shall commence within one year of cessation of mining
156 operations, shall include revegetation as early as practical, and shall be
157 completed by the county-approved date established for the specific site. The
158 reclamation plan, and any updates thereto, are subject to audit by Escambia
159 County, and the permittee shall consent to provide any documentation or
160 records, or to otherwise authorize any inspection required, for the purpose of
161 such audit. The reclamation plan does not equate to a permit for the use set

162 forth in the plan, nor does it grandfather or provide a vested right for that
163 use.
164

165 a. *Financial assurance for closure and reclamation.* The applicant shall
166 provide proof of financial assurance ~~in accordance with F.A.C. ch. 62.701~~ for
167 reclamation involving debris disposal. The applicant shall also provide
168 reclamation surety payable to Escambia County for all land previously disturbed
169 by mining activities for which annual completion of reclamation has not been
170 approved by the county engineer. The required amount of reclamation surety
171 shall equal 110 percent of the reclamation cost, which shall be certified by a
172 professional retained by the applicant. The amount shall be subject to the
173 approval of the county administrator or his/her appointed designee.
174

175 b. *Proceeding against surety.* If at any time the applicant fails to
176 satisfactorily undertake corrective action in response to a notice of violation, the
177 ~~Board of County Commissioners~~ may initiate proceedings against the surety,
178 including any proceedings in a court of competent jurisdiction. Such proceedings
179 shall not commence until surety has been given 60 days to require
180 commencement of corrective action. In such proceeding, the recoverable
181 damages and costs shall not be limited to the reasonable value of the land prior
182 to the mining activities and shall include the award of costs and reasonable
183 attorneys' fees.
184

185 (4) *Site plan review.* An application for mining, borrow pit operations and/or
186 reclamation activities thereof in Escambia County will be processed as a major
187 development site plan review requiring an approved county development order. Upon
188 receipt of a completed application, the application will be reviewed for compliance with
189 all applicable provisions of this Escambia County Code of Ordinances, the Escambia
190 County Comprehensive Plan, and the Escambia County Land Development Code (~~see~~
191 ~~Comprehensive Plan, chapters 7 and 11, and LDC, articles 4, 6, 7, 9, and 12~~). If the
192 criteria or performance standards established for the district in which the mining
193 operations or reclamation activity thereof is located conflict with the performance
194 standards regulating off-site impacts provided for in LDC, article 7 the Escambia County
195 Land Development Code, the stricter criteria shall be applied.
196

197 ~~(5) Existing (active) borrow pits and/or reclamation.~~ All operators/owners of
198 existing active pits as of the date of adoption of Ordinance 2005-18 (June 2, 2005) shall
199 comply with the provisions of this article as set forth in this subsection and meet the
200 performance standards of LDC, article 7. However, such pits shall be considered legal,
201 nonconforming uses if the operators/owners hold one of the following permits from the
202 County:
203

204 a. ~~An interim local permit obtained no later than December 5, 2011. Such~~
205 ~~interim permit shall be available from the planning and zoning department and be~~
206 ~~valid for 12 months from date of issue. In order to obtain an interim local permit,~~

207 the owner/operator must provide the county the right to inspect the premises, as
208 described in subsection 42-325(2) of this article. Denial of an inspection shall
209 result in revocation of an interim local permit. Upon expiration of an interim local
210 permit, the owner/operator must obtain a local permit as described in part b.,
211 below, or the existing borrow pit will become an illegal use and in violation of this
212 section.

213
214 b. A local permit obtained no later than December 5, 2011, or expiration
215 of an interim permit, whichever is later. A local permit requires the
216 owner/operator to provide the county the right to inspect the premises, as
217 described in subsection 42-325(2) of this article, and show proof of active, valid
218 state, federal or other applicable jurisdiction permits. Proof of valid, active state,
219 federal or other applicable jurisdiction permits must be provided at any time upon
220 request. Failure to maintain or provide proof of valid, active state, federal or other
221 jurisdiction permits shall result in revocation of a local permit. Denial of an
222 inspection shall result in revocation of a local permit.

223
224 Interim local permits and local permits issued pursuant to this subsection are not
225 subject to DRC or BGC review. However, any expansion of borrow
226 pit/mining/reclamation uses to any parcel not subject to such uses on October 5,
227 2011, is considered an expansion of a nonconforming use. Existing borrow pits
228 properly permitted pursuant to this section shall be exempt from county surety
229 requirements regarding borrow pits. However, other applicable jurisdictions may
230 require a surety as a condition of obtaining those jurisdictional permits.

231
232 (5) Existing permitted pits. For a borrow pit, mining or excavation unit or
233 reclamation unit permitted by the County prior to August 21, 2014,

234 [insert the extent to which these borrow pits are grandfathered, especially with
235 attention to setbacks.]

236
237
238 (6) Abandoned or Closed pits. For those pits asserted to be closed or that have
239 been determined by the Director of Development Services to be abandoned,

240 [insert standards for closed or abandoned pits; including whether an affidavit is
241 required, any financial assurance, etc.]

242
243
244 (7) Processing, staging or storing. [Do we want to address this?]

245
246 (68) Performance standards. Setbacks, fencing, stormwater management and
247 other related requirements for mining, excavation and reclamation sites shall be subject
248 to specific performance standards and zoning district regulations established in the
249 Escambia County Land Development Code in addition to those required of the
250 applicable zoning district (see LDC, articles 7 and 12).

252 (79) *Issuance.* Upon determining that the use for which the permit is sought will
253 comply with the terms of this chapter and with all county regulations and ordinances, the
254 county shall grant a resource extraction permit as part of the development order
255 concurrent with development review committee (DRC) approval allowing the requested
256 use for mining and/or resource extraction. ~~In some cases, t~~The issuance of the permit
257 may include conditions as part of the permit approval and compliance process. For
258 expired borrow pits and mined-out lands that do not require a resource extraction permit
259 per the provisions of this article, the DRC shall issue a general permit as part of the
260 development order concurrent with DRC approval for the requested reclamation activity
261 that includes a required date for complete reclamation of the site, in addition to any
262 requirements of Ch. 82 of the Escambia County Code of Ordinances or any other state
263 or county rule or law. Notwithstanding any other provision for appeal of DRC decisions,
264 the Board of County Commissioners shall review and approve, approve with conditions,
265 or deny any resource extraction permit issued pursuant to this chapter.

266
267 A resource extraction permit issued pursuant to this article does not relieve a permittee
268 of any obligation or requirement to obtain or possess any state or federal permit.

269
270 (810) *Appeals.* Upon site plan approval, any affected party may file an appeal with
271 the ~~b~~Board of ~~a~~Adjustment (BOA) pursuant to LDC, article 2.

272

273 **Sec. 42-324. - Scope and compliance.**

274

275 This article applies to property located in unincorporated areas of Escambia County,
276 Florida. ~~All property subject to this article must be brought into compliance within 90~~
277 ~~days of the date of adoption of this article, except for existing pits authorized a more~~
278 ~~extended timeframe per the provisions of section 42-323(5)a., above. All property~~
279 subject to this article must be brought into compliance by meeting the standards
280 required by this article and by obtaining a permit from the County at a public hearing to
281 be set before the Board of County Commissioners no later than ninety (90) days after
282 the enactment of this ordinance.

283

284 **Sec. 42-325. - Enforcement.**

285

286 (1) *Liability.* As a condition of the issuance of a local permit, the owner and/or
287 operator shall be subject to liability to any injured party for damages resulting from any
288 discharge, emission, spill, or release of any substance, from any vibrations, noise, or
289 groundwater contamination, or from failure of the owner/operator to complete any
290 reclamation of lands as required. This provision does not affect or alter sovereign
291 immunity protections afforded governmental entities.

292

293 (2) *Inspections.* Pit operators shall allow county inspectors or contracted
294 representatives to access mine/pit property at any reasonable time for the purpose of
295 inspection to insure compliance with the terms and conditions of the permit, the

296 development order, this article, and all applicable laws. Pit operators shall be subject to
297 random ~~quarterly~~ inspections of their pits and shall assume all costs of the inspections
298 thereof. A copy of the inspection report shall be provided to the operator. Inspectors will
299 coordinate with the Florida Department of Environmental Protection and ~~the cognizant~~
300 county departments regarding site visits and inspection criteria.

301
302 (3) *Violations.* Violations of any portion of this article ~~will~~ may be enforced by the
303 environmental code enforcement division pursuant to chapter 30 of the Escambia
304 County Code of Ordinances, ~~the county code enforcement system.~~ Failure to comply
305 with this article and/or any site specific permit requirements will result in fines and liens
306 being levied against the owner or operator, or both, pursuant to chapter 30 of the
307 Escambia County Code of Ordinances and F.S. § 162.069, as amended.

308
309 (4) *Civil action.* The county attorney is authorized to institute a civil action in a
310 federal or state court of competent jurisdiction to seek injunctive relief to enforce
311 compliance with this article in order to protect the health, safety and welfare of the
312 public. In the event the county determines a borrow pit operation is violating the terms of
313 its permit, is allowing unlawful disposal, refuses to obtain a permit or otherwise poses a
314 risk to the public health, safety and welfare, the county administrator may request that
315 the county attorney's office immediately file a request for an emergency injunction or
316 other appropriate relief in a court of competent jurisdiction, with such filing to be
317 subsequently ratified by the board of county commissioners.

318 (5) *Criminal penalty.*

319
320 (a) Any person violating any of the provisions of this article, upon
321 conviction thereof, may be punished by a fine not to exceed \$500.00 or by
322 imprisonment in the county jail not to exceed 60 days or by both such fine and
323 imprisonment.

324
325 (b) In lieu of making an arrest or issuing a notice to appear, a law
326 enforcement officer or a code enforcement officer may issue a citation pursuant
327 to section 30-63 of the Escambia County Code of Ordinances. Each violation of
328 any provision of this article shall constitute a separate offense.

329
330 Any person who willfully refuses to sign and accept a citation issued by a law
331 enforcement officer or a code enforcement officer shall be guilty of a misdemeanor of
332 the second degree, punishable as provided in F.S. § 775.082 or 775.083. A written
333 warning to this effect shall be provided at the time any citation is issued hereunder.

334
335 **Section 2. Severability.**

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

339 **Section 3. Inclusion in the Code.**

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

345 **Section 4. Effective Date.**

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

347 **DONE AND ENACTED THIS ____ DAY OF _____, 2014.**

348
349 BOARD OF COUNTY COMMISSIONERS
350 ESCAMBIA COUNTY, FLORIDA
351
352

353
354 _____
355 Steven Barry, Chairman
356

357 ATTEST: PAM CHILDERS
358 Clerk to the Circuit Court
359

360
361 BY: _____
362 Deputy Clerk
363

364 (Seal)

365 Enacted:

366
367
368 Filed with Department of State:
369

370 Effective:

DRAFT

ORDINANCE 2014-_____

1
2
3 AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING
4 CHAPTER 82, ARTICLE V, LANDFILLS AND OTHER DISPOSAL
5 FACILITIES, DIVISION 3; SECTIONS 82-225 THROUGH 82-240;
6 AMENDING DEFINITIONS, REGULATIONS AND PERMITTING
7 REQUIREMENTS FOR CONSTRUCTION AND DEMOLITION DEBRIS
8 (C&DD) FACILITIES, LAND CLEARING DEBRIS (LCD) AND OTHER
9 DISPOSAL FACILITIES; ESTABLISHING ADDITIONAL REGULATIONS
10 TO ADDRESS ADVERSE OFF-SITE IMPACTS OF SUCH FACILITIES;
11 AMENDING LOCAL PERMIT REQUIREMENTS; ADDRESSING
12 PREVIOUSLY PERMITTED FACILITIES; ESTABLISHING
13 REGULATIONS FOR ABANDONED AND CLOSED FACILITIES;
14 AMENDING INSURANCE REQUIREMENTS; CLARIFYING
15 ENFORCEMENT OPTIONS; PROVIDING FOR SEVERABILITY;
16 PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN
17 EFFECTIVE DATE.

18
19 **WHEREAS**, this ordinance sets forth the requirements for construction and
20 demolition disposal and recycling facilities in Escambia County, Florida, for the safety
21 and protection of the public; and

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

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

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

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

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

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

6 Sec. 82-225. - Definitions.

7
8 As used in this division unless the context clearly indicates otherwise, the term:

9
10 (a) *Abandoned* means cessation of use and maintenance of a construction and
11 demolition debris facility, land clearing debris facility or other disposal facility for a
12 period of twelve (12) consecutive months or longer and in a manner that does not
13 include closure, long-term monitoring, maintenance or financial responsibility when
14 required by a state or county rule or law.

15
16 (a b) *Applicant* means any person who has applied for a construction and demolition
17 debris facility permit in Escambia County.

18
19 (b c) *Board* means the ~~b~~Board of ~~e~~County ~~e~~Commissioners of Escambia County,
20 Florida.

21
22 (e d) *Board of ~~h~~Health* means Escambia County Environmental Health Department
23 has the authority to intervene on health issues.

24
25 (d e) *Class III waste* means yard trash, construction and demolition debris,
26 processed tires, asbestos, carpet, cardboard, paper, glass, plastic, furniture other
27 than appliances, or other materials approved by the Florida Department of
28 Environmental Protection that are not expected to produce leachate ~~which~~ that poses
29 a threat to public health or the environment.

30
31 (e f) *Clean debris* means any solid waste, ~~which~~ that is virtually inert, is not a
32 pollution threat to ground water or surface waters, is not a fire hazard, and is likely to
33 retain its physical and chemical structure under expected conditions of disposal or
34 use. The term includes brick, glass, ceramics, and uncontaminated concrete including
35 embedded pipe or steel.

36
37 (f g) *Clerk* means the Clerk of the Circuit Court, Ex Officio Clerk of the Board of
38 County Commissioners, Escambia County, Florida.

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

2
3 ~~(g i) Closure means the cessation of operation of a construction and demolition~~
4 ~~debris facility and the planned act of securing such facility so that it will pose no~~
5 ~~significant threat to human health or the environment and includes closing, long-term~~
6 ~~monitoring, maintenance and financial responsibility of a facility when required by a~~
7 ~~state or county rule or law.~~

8
9 (h j) Code means the Code of Ordinances of Escambia County, Florida.

10
11 ~~(k) Construction and demolition debris means discarded materials generally~~
12 ~~considered to be not water soluble and nonhazardous in nature, including but not~~
13 ~~limited to, steel, glass, brick, ceramics, concrete, asphalt roofing material, pipe,~~
14 ~~gypsum wallboard, and lumber, from the construction, or destruction, alteration or~~
15 ~~renovation of a manmade structure, including without limitations, houses, buildings,~~
16 ~~industrial or commercial facilities or roadways, rocks, soils, tree remains, trees and~~
17 ~~other vegetative matter that normally results from land clearing or land development~~
18 ~~operations, including such debris from construction of structures at a site remote from~~
19 ~~the construction or demolition project site. For the purpose of this definition, "materials~~
20 ~~resulting from the alteration, construction, destruction, rehabilitation, or repair of any~~
21 ~~manmade physical structure", are those structural and functional materials comprising~~
22 ~~the structure and surrounding site improvements, such as brick, concrete and other~~
23 ~~masonry materials, stone, glass, wall coverings, plaster, drywall, framing and finishing~~
24 ~~lumber, roofing materials, plumbing fixtures, heating equipment, electrical wiring and~~
25 ~~components containing no hazardous fluids or refrigerants, insulation, wall-to-wall~~
26 ~~carpeting, asphaltic substances, metals incidental to any of the above, and weathered~~
27 ~~railroad ties and utility poles. Materials resulting from the alteration, construction,~~
28 ~~destruction, rehabilitation, or repair do not include materials whose removal has been~~
29 ~~required prior to demolition, and materials, which are otherwise contained within or~~
30 ~~exist outside the structure such as solid wastes, yard wastes, furniture, and~~
31 ~~appliances. Also excluded in all cases are liquids including containerized or bulk~~
32 ~~liquids, fuel tanks, drums and other closed or filled containers, tires, and batteries.~~
33 ~~Mixing of construction and demolition debris with other types of solid waste will cause~~
34 ~~it to be classified as other than construction and demolition debris. The term also~~
35 ~~includes:~~

36
37 ~~(1) Clean cardboard, paper, plastic, wood, and metal scraps from a~~
38 ~~construction project.~~

39
40 ~~(2) Unpainted, non-treated wood scraps from facilities manufacturing~~
41 ~~materials used for construction of structures or their components and~~
42 ~~unpainted, non-treated wood pallets provided the wood scraps and pallets are~~
43 ~~separated from solid waste where generated and the generator of such wood~~
44 ~~scraps or pallets implements reasonable practices of the generating industry to~~
45 ~~minimize the co-mingling of wood scraps or pallets with other solid waste; and~~

1
2 ~~(3) — De minimus amounts of other nonhazardous wastes that are generated~~
3 ~~at construction or destruction projects, provided such amounts are consistent~~
4 ~~with the best management practices of the industry.~~

5
6 ~~(4) — "Construction and demolition debris" does not include materials~~
7 ~~identified or listed as solid wastes, infectious wastes, or hazardous waste,~~
8 ~~materials from mining operations, nontoxic fly ash, spent nontoxic foundry~~
9 ~~sand, and slag, reinforced or nonreinforced concrete, asphalt, building or~~
10 ~~paving brick, building or paving stone that is stored for a period of less than~~
11 ~~two years for recycling into a usable construction material.~~

12
13 discarded materials generally considered to be not water soluble and non-
14 hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt
15 material, pipe, gypsum wallboard, and lumber, from the construction or destruction of
16 a structure as part of a construction or demolition project or from the renovation of a
17 structure, including such debris from construction of structures at a site remote from
18 the construction or demolition project site. The term includes rocks, soils, tree
19 remains, trees, and other vegetative matter that normally results from land clearing or
20 land development operations for a construction project; clean cardboard, paper,
21 plastic, wood, and metal scraps from a construction project; except as provided in
22 Section 403.707(9)(j), Fla. Stat., yard trash and unpainted, non-treated wood scraps
23 from sources other than construction or demolition projects; scrap from manufacturing
24 facilities that is the type of material generally used in construction projects and that
25 would meet the definition of construction and demolition debris if it were generated as
26 part of a construction and demolition debris project, including debris from the
27 construction of manufactured homes and scrap shingles, wallboard, siding concrete,
28 and similar materials from industrial or commercial projects, provided such amounts
29 are consistent with best management practices of the construction and demolition
30 industries. Mixing of construction and demolition debris with other types of solid
31 waste will cause it to be classified as other than construction and demolition debris.
32

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

36
37 (k m) *Construction and demolition debris facility permit* means a permit/license
38 issued by the licensing authority in accordance with Escambia County Regulations
39 and Ordinances.

40
41 (l n) *Construction demolition debris facility operator/person* means any person,
42 including the owner, who is principally engaged in, and is in charge of, the actual
43 operation, supervision and maintenance of the facility's daily operations.

44
45 (m o) *County* means Escambia County, a political subdivision of the State of Florida.

1
2 (n p) *County administrator* means the county administrator of Escambia County or
3 the designee of such person.

4
5 (o q) *Department* means the Escambia County Solid Waste Management
6 Development Services Department.

7
8 (q r) *Department director* means the director of Escambia County Department of
9 Solid Waste Management Development Services.

10
11 (r s) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking,
12 ~~emitting,~~ or placing of any construction and demolition debris into or upon any land or
13 ground or surface water or into the air, ~~except if the disposition or placement~~
14 ~~constitutes storage, reuse, or recycling in a beneficial manner so that construction~~
15 ~~and demolition debris or any constituent thereof may enter other lands or be emitted~~
16 into the air or discharged into any waters, including groundwaters, or otherwise enter
17 the environment.

18
19 (s t) *Existing facility* means a ~~construction and demolition debris disposal facility~~
20 ~~that was in operation or under construction on March 16, 2006 prior to August 21,~~
21 2014.

22
23 (t u) *Financial assurance* means an escrow account or secured bonds shall be set
24 up to ensure the interest of the facility, cost estimates for closure and long-term care.

25
26 (u v) *Fiscal year* means that period beginning October 1 of each year and ending on
27 September 30 of the subsequent year.

28
29 (v w) *Hazardous wastes* means ~~waste that is listed specifically as hazardous waste~~
30 ~~and/or exhibits one or more characteristics of hazardous waste as defined in 40 CFR~~
31 ~~(Code of Federal Regulations) a solid waste regulated by the Florida Department of~~
32 Environmental Protection as a hazardous waste pursuant to Chapter 62-730, F.A.C.
33

34 (w x) *Illegal disposal* means the disposal of construction and demolition debris at
35 any place other than a permitted construction and demolition debris disposal facility.

36
37 (x y) *Infill facility* means a C&DD facility on a real property site not larger than 75
38 acres whose characteristics allow it to operate within or adjacent to the urbanized
39 area and that was permitted by Escambia County prior to August 21, 2014.

40
41 (z) *Intermediate cover* means a layer of compacted earth at least one foot in depth
42 plus six inches of soil suitable to sustain vegetation to prevent erosion applied to a
43 solid waste disposal unit. The term also includes other material or thickness,
44 approved by the County, that minimizes disease vectors, odors, and fire and is
45 consistent with the leachate control design of the landfill.

1
2 (aa) Land clearing debris means rocks, soils, tree remains, trees and other
3 vegetative matter that normally results from land clearing or land development
4 operations for a construction project. Land clearing debris does not include
5 vegetative matter from lawn maintenance, commercial or residential landscape
6 maintenance, right-of-way or easement maintenance, farming operations, nursery
7 operations, or any other sources not related directly to a construction project.

8
9 (ybb) Land clearanceing disposal facility means a facility on a real property site no
10 larger than 20 25 acres whose primary purpose is to hold vegetative and other natural
11 land clearing debris whose characteristics allow it to operate in both urban and rural
12 areas if certain conditions are met.

13
14 (zcc) Landfill as used in this division is synonymous with the term "facility". means a
15 solid waste disposal facility, which is an area of land or an excavation where wastes
16 are or have been placed for disposal, for which a permit, other than a general permit,
17 is required by Section 403.707, Fla. Stat. This term shall not include a land spreading
18 site; a surface impoundment; an injection well defined under and subject to the
19 provisions of Chapter 62-528, F.A.C.; or a construction and demolition debris disposal
20 site regulated by Rule 62-701.730, F.A.C.

21
22 (aadd) Limits of construction and demolition debris placement means the aerial
23 horizontal and vertical limits of debris placement within the construction and
24 demolition debris facility and includes the volume of debris placement. The limits of
25 construction debris placement include the following:

26
27 (1) "Construction and demolition debris facility active areas" or "active
28 licensed permitted disposal areas" means all areas within the limits of
29 construction demolition debris placement designated by the owner or operator
30 in a DEP license permit or registration application for debris placement during
31 the DEP licensure permit period. All areas within the limits of construction and
32 demolition debris placement in which debris has been placed since March 16,
33 2006, and which have not been capped and dense vegetative cover
34 established.

35
36 (2) "Construction and demolition debris facility inactive areas" or "inactive
37 licensed disposal areas" means all remaining areas with the limits of
38 construction and demolition debris placement which are not designated for
39 debris placement during the DEP licensure permit period, and include but are
40 not limited to the following:

41
42 a. Areas in which no construction and demolition debris has yet
43 been placed.

44
45 b. Areas within the limits of construction and demolition debris

1 placement in which debris has been placed since March 16, 2006, and
2 which have been capped, dense vegetative cover established, and
3 certification of the completion of these activities submitted to the
4 ~~licensing~~ permitting authority in accordance with the administrative
5 code.

6
7 c. Areas within the limits of construction and demolition debris
8 placement in which debris has been placed prior to March 16, 2006, and
9 where no debris placement has occurred after that date.

10
11 (ee) Liner means a continuous layer of low-permeability natural or synthetic
12 materials, under the bottom and sides of a landfill, solid waste disposal unit,
13 construction and demolition debris facility, or leachate surface impoundment, which
14 controls the downward or lateral escape of waste constituents, or leachate.

15
16 (ff) Liner system means a system of leachate collection and liner layers comprised
17 of natural or synthetic materials installed between the subgrade and the waste for the
18 purpose of containing the waste and collecting and removing leachate.

19
20 ~~(bbgg)~~ Municipality means any of the municipalities within the county.

21
22 (hh) Natural land surface means the land surface in its original stat before grading,
23 stripping, excavation, or filling.

24
25 (ee ii) Nuisance generally means anything which annoys or disturbs one in the free
26 use, possession or enjoyment of his or her property, or which renders its ordinary use
27 or occupation uncomfortable, or anything which is detrimental to health or threatens
28 danger to persons or property within the county. Nuisance specifically shall include
29 the use of any property, facilities, equipment, processes, products or compounds, or
30 the commission of any acts that cause or materially contribute to:

31
32 (1) The emission into the outdoor air of dust, fume, gas, mist, odor, smoke
33 or vapor, or any combination thereof, of a character and in a quantity as to be
34 detectable by a considerable number of persons or the public, at any point
35 beyond the property limits of the premises occupied or used by the person
36 responsible for the source thereof, so as to interfere with their health, repose or
37 safety, or cause severe annoyance or discomfort, or tends to lessen normal
38 food and water intake, or produces irritation of the upper respiratory tract, or
39 produces symptoms of nausea, or is offensive or objectionable to normal
40 persons because of inherent chemical or physical properties, or causes injury
41 or damage to real property, personal property or human, animal or plant life of
42 any kind or which interferes with normal conduct of business, or is detrimental
43 or harmful to the health, comfort, living conditions, welfare and safety of the
44 inhabitants of this county.

1 (2) Any violation of provisions of this division which becomes detrimental to
2 health or threatens danger to the safety of persons or property, or gives
3 offense to, is injurious to, or endangers the public health and welfare, or
4 prevents the reasonable and comfortable use and enjoyment of property by
5 any considerable number of the public.
6

7 (~~dd~~ jj) *Operation* means the deposit, storage or processing of construction and
8 demolition debris at the facility.
9

10 (~~ee~~ kk) *Permit holder* means a person, firm, corporation, or other entity
11 authorized by the ~~h~~Board to operate a C&DD in the incorporated and unincorporated
12 areas of the county.
13

14 (~~ff~~ ll) *Permitting authority* means the Department of Environmental Protection and
15 Escambia County, Florida.
16

17 (~~gg~~ mm) *Person* means any and all persons, natural or artificial, including any
18 individual, firm or association, any municipal or private corporation organized or
19 existing under the laws of this state or any other state; the county and any
20 governmental agency or other political subdivision of this state or the federal
21 government.
22

23 (~~hh~~ nn) *Processing* means any technique designed to change the physical,
24 chemical or biological character or composition of construction and demolition debris
25 so as to render it amenable to recovery, storage or recycling; or reduced in volume or
26 concentration.
27

28 (~~ii~~ oo) *Property owner* or *owner* means the person who holds title to the property on
29 which the construction and demolition debris disposal facility is located.
30

31 (~~jj~~ pp) *Public water supply well* means any well connected to a public water system.
32

33 (~~kk~~ qq) *Public wellfield* means any system of wells, which are connected to a
34 public water system.
35

36 (rr) *Recycling* means any process by which solid waste, materials which would
37 otherwise become solid waste, are collected, separated, or processed and reused or
38 returned to use in the form of raw materials or products.
39

40 (~~ss~~ ss) *Regional facility* means a real property site of at least 100 acres operating as a
41 C&DD facility as defined herein and permitted by Escambia County prior to August
42 21, 2014.
43

44 (~~tt~~ tt) *Regulatory floodplain* means a watercourse and the areas adjoining a
45 watercourse, which have been, or may be, covered by a 100-year flood as depicted

1 on a federal insurance administration flood map.

2
3 (~~nn uu~~) *River, stream or creek* means a natural watercourse ~~that is depicted as~~
4 ~~a solid blue line on the USGS 7½ Minute Series Quadrangle Map that includes the~~
5 ~~facility location.~~ in which water usually flows in a defined bed or channel. It is not
6 essential that the flowing be uniform or uninterrupted. The fact that some part of the
7 bed or channel has been dredged or improved does not prevent the watercourse from
8 being a river, stream or creek.

9
10 (~~oo vv~~) *Rural facility* means a real property site of 75 acres, operating as a
11 C&DD facility as defined herein and permitted by Escambia County prior to August
12 21, 2014.

13
14 (~~pp ww~~) *Solid wastes* means ~~such unwanted residual solid or semisolid materials~~
15 ~~as results from industrial, commercial, agricultural, and community operations~~ sludge
16 that is not regulated under the federal Clean Water Act or Clean Air Act, as well as
17 sludge from a waste treatment works, water supply treatment plant, or air pollution
18 control facility; or garbage, rubbish, refuse, special waste, or other discarded material,
19 including solid, liquid, semi-solid or contained gaseous material resulting from
20 domestic, industrial, commercial, mining, agricultural, or governmental operations.
21 Materials not regulated as solid waste include recovered materials; nuclear source or
22 byproduct materials regulated under Chapter 404, Fla. Stat., or under the Federal
23 Atomic Energy Act of 1954 as amended; suspended or dissolved materials in
24 domestic sewage effluent or irrigation return flows, or other regulated point source
25 discharges; regulated air emissions; and fluids or wastes associated with natural gas
26 or crude oil exploration or production.

27
28 (~~xx~~) *Staging* means the same as *Storage*.

29
30 (~~qq yy~~) *Storage* means the containment or holding of construction and
31 demolition debris including land clearing debris or other debris either on a temporary
32 basis or for a period of years, in such a manner as not to constitute disposal and in a
33 specified area with a County permit for that use.

34
35 (~~rr zz~~) *Surface water* means any water on the surface of the earth, whether contained
36 in bounds created naturally, artificially or diffused.

37
38 (~~ss aaa~~) *Transfer facility* means a site ~~the primary purpose of which is to store or~~
39 ~~hold construction and demolition debris for transport to a processing or disposal~~
40 ~~facility. This term does not include sites which hold recyclable material for recycling or~~
41 ~~reuse facility the primary purpose of which is to store or hold construction and~~
42 demolition debris, including land clearing debris, for transport to a processing or
43 disposal facility. Operations at such facilities may include separation of incidental
44 amounts of recyclable materials or unauthorized waste.

1 (bbb) Unauthorized waste means any type of waste that is not allowed to be
2 accepted or managed at a solid waste management facility in accordance with rule or
3 statutory requirements or permit conditions.

4
5 (~~##~~ ccc) Volume reduction plant includes incinerates, pulverizers, compactors,
6 shredding and baling plants, and other facilities which accept and process
7 construction and demolition debris, including land clearing debris, for recycling and
8 disposal.

9
10 (~~##~~ ddd) Working face means that portion of a construction and demolition debris
11 disposal facility ~~where construction and demolition debris is placed for final~~
12 ~~deposition~~ or land clearing debris facility where debris is deposited, spread and
13 compacted before placement of initial cover.

14
15 **Sec. 82-226. - Classification of facilities and siting requirements.**

16
17 C&DD ~~f~~Facilities shall be classified into one of the following ~~five~~ categories:

18
19 (1) Regional facility. A regional facility Construction and Demolition Debris (C&DD)
20 facility. A C&DD facility permitted by the County must comply with the following:

21
22 a. Minimum size of the real property site shall be 100 acres.

23
24 b. The required setback for construction and demolition debris facility
25 "active areas" or "active ~~licensed~~ permitted disposal areas" shall be a minimum
26 of 500 feet from the property boundaries.

27
28 c. Aerial Horizontal and vertical operational height shall be limited to the
29 natural land surface before commencement of operations with allowance for
30 closure and capping to prevent stormwater intrusion into the debris pile.
31 ~~governed by ability to view from adjacent properties. At no time shall the~~
32 ~~working or operational height exceed the permitted height or be visible from~~
33 ~~beyond the property line including materials stored for future disposal or~~
34 ~~recycling.~~

35
36 d. Construction and demolition debris facility "active areas" or "active
37 ~~licensed~~ permitted disposal areas" may not be within 1,000 feet of a public
38 water well or within 500 feet of a private potable well, or within a seven (7)-year
39 time of travel line. Nor may these facilities be located within an area
40 designated as "environmentally sensitive" by state or local ordinance, law or
41 regulation. Any facility located within 500 feet of a river, stream or creek must
42 have a stormwater control plan which addresses the protection of the adjacent
43 waters.

44
45 e. ~~Volume reduction is encouraged and may be accomplished by means of~~

1 ~~chipping, shredding, or otherwise processing the debris.~~

2
3 f e. ~~All regional sites must be approved by the bBoard of eCounty~~
4 ~~eCommissioners at a duly advertised public hearing following DRC review. At~~
5 ~~least ten days prior to the public hearing on an application to construct,~~
6 ~~operate, modify or close a facility under this section, the county shall post the~~
7 ~~subject site at a minimum of two locations easily viewed from the public right-~~
8 ~~of-way. The notice shall state the date, time and place of the hearing.~~

9
10 g f. ~~May not be located in a regulatory floodplain or in areas not on the flood~~
11 ~~maps but known identified by the County Engineer to be subject to flooding.~~

12
13 h g. ~~Shall consent to imposition of summary abatement all enforcement~~
14 ~~procedures as herein set forth in section 82-240 as well as any legal remedy~~
15 ~~available to the County as a condition of permitting.~~

16
17 h. ~~Three-strand barbed wire fencing is required wherever any boundary~~
18 ~~abuts a public road to limit access.~~

19
20 (2) ~~*Rural facility.* A rural facility must comply with the following:~~

21
22 a. ~~Maximum size of real property site shall be 75 acres.~~

23
24 b. ~~The required setback for construction and demolition debris facility~~
25 ~~active areas or "licensed disposal areas" shall be a minimum of 100 feet from~~
26 ~~property boundary. In order to accomplish this setback, clean fill or vegetative~~
27 ~~debris may be used to fill from existing excavation limits.~~

28
29 c. ~~Aerial and vertical height during operations shall be limited to average~~
30 ~~grade before commencement of operations with allowance for closure and~~
31 ~~capping to prevent stormwater intrusion into the debris pile. At no time shall the~~
32 ~~operational height exceed the permitted height. Provided however that existing~~
33 ~~rural facilities, legally operating as of the effective date of this division shall be~~
34 ~~allowed to achieve the aerial and vertical operational height resulting from their~~
35 ~~Department of Environmental Protection permits but only as to C&DD facility~~
36 ~~"active areas" or "active licensed disposal areas" in use or licensed as of the~~
37 ~~effective date of this division.~~

38
39 d. ~~All new rural sites must be approved by the board of county~~
40 ~~commissioners at a duly advertised public hearing following DRC review. At~~
41 ~~least ten days prior to the public hearing on an application to construct,~~
42 ~~operate, modify or close a facility under this section, the county shall post the~~
43 ~~subject site at a minimum of two locations easily viewed from the public right-~~
44 ~~of-way. The notice shall state the date, time and place of the hearing.~~

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

3
4 f. ~~May not be within 1,000 feet of a public water well or within 500 feet of a~~
5 ~~preexisting private potable well. Nor may these facilities be located within an~~
6 ~~area designated as "environmentally sensitive" by state or local ordinance, law~~
7 ~~or regulation. Any facility located within 500 feet of a river, stream or creek~~
8 ~~must have a stormwater plan which addresses the protection of adjacent~~
9 ~~waters.~~

10
11 g. ~~Shall consent to the imposition of summary abatement procedures as~~
12 ~~herein set forth in section 82-240, as a condition of permitting.~~

13
14 (3) ~~Infill facility. An infill facility must comply with the following:~~

15
16 a. ~~New infill facilities shall be limited to existing borrow pit reclamation sites~~
17 ~~where county DRC standards are, or can be met.~~

18
19 b. ~~Maximum size of real property site for new infill facilities shall be 50~~
20 ~~acres.~~

21
22 c. ~~Footprint setback shall be a minimum of 100 feet from property~~
23 ~~boundary. In order to accomplish this setback, clean fill or vegetative debris~~
24 ~~may be used to fill from existing excavation limits.~~

25
26 d. ~~Aerial and vertical height shall be limited to average grade before~~
27 ~~commencement of operations with allowance for closure and capping to~~
28 ~~prevent stormwater intrusion into the debris pile. Provided however that~~
29 ~~existing infill facilities, legally operating as of the effective date of this division~~
30 ~~shall be allowed to achieve the operational height resulting from their~~
31 ~~Department of Environmental Protection permits but only as to C&DD facility~~
32 ~~"active areas" or "active licensed disposal areas" in use or licensed as of the~~
33 ~~effective date of this division.~~

34
35 e. ~~All new infill sites must be approved by the board of county~~
36 ~~commissioners after a duly advertised public hearing following DRC review. At~~
37 ~~least ten days prior to the public hearing on an application to construct,~~
38 ~~operate, modify or close a facility under this section, the county shall post the~~
39 ~~subject site at a minimum of two locations easily viewed from the public right-~~
40 ~~of-way. The notice shall state the date, time and place of the hearing.~~

41
42 f. ~~May not be located in a regulatory floodplain.~~

43
44 g. ~~Shall consent to imposition of summary abatement procedures as~~
45 ~~hereinafter set forth in section 82-240 as a condition of permitting.~~

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

8
9 (2) C&DD facilities permitted by the County prior to August 21, 2014.

10
11 Any C&DD facility that was permitted by Escambia County as a regional facility, a
12 rural facility or an infill facility prior to August 21, 2014 and that facility's permit was
13 active on August 21, 2014 or was considered tolled by Escambia County on August 21,
14 2014, shall be subject to limited vesting as set forth below and is subject to the following
15 regulations regarding acreage of the facility, setbacks for active areas, horizontal and
16 vertical operational height of debris liners and siting relative to water wells. In all other
17 respects, the facility shall be required to comply with the requirements of this division
18 and the County's permit conditions unless a specific exception is granted by the Board
19 of County Commissioners during the permitting process. An existing facility that did not
20 obtain a County permit prior to August 21, 2014 shall not be entitled to vesting pursuant
21 to this section.

22
23 A. A facility permitted as a regional facility on August 21, 2014 shall comply
24 with the following:

25
26 1. Minimum size of the real property site shall be 100 acres.

27
28 2. The setback for the active permitted disposal area shall be a
29 minimum of 500 feet from the property boundaries.

30
31 3. The horizontal and vertical operational height shall be governed by
32 the ability to view the debris from adjacent properties. At no time shall the
33 working or operational height exceed the permitted height or be visible
34 from beyond the property line including materials stored for future disposal
35 or recycling.

36
37 4. Facility "active areas" or "active permitted disposal areas" may not
38 be within 1,000 feet of a public water well or within 500 feet of a private
39 potable well. Nor may these facilities be located within an area
40 designated as "environmentally sensitive" by state or local ordinance, law
41 or regulation. Any facility located within 500 feet of a river, stream or
42 creek must have a stormwater control plan which addresses the protection
43 of the adjacent waters.

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

3
4 B. A facility permitted as a rural facility on August 21, 2014 shall comply with
5 the following:

6
7 1. Maximum size of real property site shall be 75 acres.

8
9 2. The required setback for construction and demolition debris facility
10 active areas or "licensed disposal areas" shall be a minimum of 100 feet
11 from property boundary. In order to accomplish this setback, clean fill or
12 vegetative debris may be used to fill from existing excavation limits.

13
14 3. Horizontal and vertical height during operations shall be as required
15 for new facilities according to section 82-226 of this division. However, in
16 the event a previously issued County permit provided that a Department of
17 Environmental Protection permit established a different horizontal or
18 vertical operational height then that standard may apply, but only as to the
19 "active areas" or "active permitted disposal areas" as of August 21, 2014.

20
21 4. Facility "active areas" or "active permitted disposal areas" may not
22 be within 1,000 feet of a public water well or within 500 feet of a private
23 potable well. Nor may these facilities be located within an area
24 designated as "environmentally sensitive" by state or local ordinance, law
25 or regulation. Any facility located within 500 feet of a river, stream or
26 creek must have a stormwater control plan which addresses the protection
27 of the adjacent waters.

28
29 5. Liners and leachate collection systems not required for any active
30 areas if properly permitted by FDEP on or prior to 2010.

31
32 C. A facility permitted as an infill facility on August 21, 2014 shall comply with
33 the following:

34
35 1. Maximum size of real property site shall be 50 acres.

36
37 2. The footprint setback shall be a minimum of 100 feet from property
38 boundary. In order to accomplish this setback, clean fill or vegetative
39 debris may be used to fill from existing excavation limits.

40
41 3. Horizontal and vertical height during operations shall be as required
42 for new facilities according to section 82-226 of this division. However, in
43 the event a previously issued County permit provided that a Department of
44 Environmental Protection permit established a different horizontal or

1 vertical operational height then that standard may apply, but only as to the
2 "active areas" or "active permitted disposal areas" as of August 21, 2014.

3
4 4. Facility "active areas" or "active permitted disposal areas" may not
5 be within 1,000 feet of a public water well or within 500 feet of a private
6 potable well. Nor may these facilities be located within an area
7 designated as "environmentally sensitive" by state or local ordinance, law
8 or regulation. Any facility located within 500 feet of a river, stream or
9 creek must have a stormwater control plan which addresses the protection
10 of the adjacent waters.

11
12 5. Liners and leachate collection systems not required for any active
13 areas if properly permitted by FDEP on or prior to 2010.

14
15 (3) Transfer facility. A transfer facility, including an LCD transfer facility, must
16 comply with the following:

17 [is there a need to include additional restrictions, like acreage?]

18
19 a. May not be located in a regulatory floodplain.

20
21 ~~b. Except for enclosed operations, aerial or vertical height during~~
22 ~~operations shall be limited to average grade before commencement of~~
23 ~~operations with allowance for closure and capping to prevent stormwater~~
24 ~~intrusion into the debris pile. Provided, however, that existing transfer facilities,~~
25 ~~legally operating as of the effective date of this division shall be allowed to~~
26 ~~achieve the operational height resulting from their DEP permits but only as to~~
27 ~~facility active areas or active licensed disposal areas in use or licensed as of~~
28 ~~the effective date of this division.~~

29
30 b. Appropriate buffering from adjacent properties is provided,
31 appropriateness will be determined by the DRC process.

32
33 c. No person shall cause, suffer, allow or permit the discharge into the air
34 of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so
35 as to constitute a nuisance as defined herein.

36
37 d. All operations must be fenced with county approved materials to the
38 extent necessary to eliminate visibility of the facility and to limit access.

39
40 ~~e e.~~ All new transfer facility sites must be approved by the Board of
41 County Commissioners at a duly advertised public hearing following DRC
42 review. At least ten days prior to the public hearing on an application to
43 construct, operate, modify or close a facility under this section, the county shall
44 post the subject site at a minimum of two locations easily viewed from the
45 public right-of-way. The notice shall state the date, time and place of the

1 hearing.

2
3 d f. May not be within 1,000 feet of a public water well or within 500 feet of a
4 pre-existing private potable well or within a seven (7)-year time of travel line.
5 Nor may these facilities be located within an area designated as
6 "environmentally sensitive" by state or local ordinance, law or regulation. Any
7 facility located within 500 feet of a river, stream or creek must have a
8 stormwater control plan which addresses the protection of the adjacent waters.

9
10 e g. Shall consent to ~~imposition of summary abatement~~ all enforcement
11 procedures as hereinafter set forth in section 82-240, as well as all legal
12 remedies available to the County, as a condition of permitting.

13
14 ~~(5 4)~~ Land clearing disposal facility (LCD). An LCD, including an LCD transfer or
15 processing facility must comply with the following:

16
17 a. Maximum size of real property site shall be 25 acres.

18
19 b. Operational footprint setback shall be a minimum of 100 feet from the
20 property boundary limit. However, this setback shall be a minimum of 300 feet
21 from any property boundary that abuts any existing residential use or
22 residential zoning category. In order to accomplish this setback, clean fill ~~or~~
23 ~~vegetative debris~~ may be used to fill from existing excavation limits.

24
25 c. ~~Aerial~~ Horizontal and vertical height during operations shall be limited to
26 ~~average grade~~ the natural land surface before commencement of operations
27 with allowance for closure and capping to prevent stormwater intrusion into the
28 debris pile. Provided, however, that existing LCD facilities also known as
29 vegetative debris facilities, legally operating as of the effective date of this
30 division shall be allowed to achieve the operational height resulting from their
31 DEP permits only as to LCD or vegetative debris facility active areas or active
32 licensed permitted disposal areas in use or licensed as of the effective date of
33 this division.

34
35 d. Volume reduction, including incinerating, pulverizing, compacting,
36 shredding, baling or similar activities shall only be allowed if specifically
37 authorized by the County during the permitting process.

38
39 d e. All ~~new~~ LCD sites must be approved by the ~~b~~Board of ~~e~~County
40 ~~e~~Commissioners at a duly advertised public hearing following DRC review. At
41 least ten days prior to the public hearing on an application to construct,
42 operate, modify or close a facility under this section, the county shall post the
43 subject site at a minimum of two locations easily viewed from the public right-
44 of-way. The notice shall state the date, time and place of the hearing.

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

4
5 g. LCD facilities permitted by the County prior to August 21, 2014 or
6 existing LCD facilities.
7 [insert herein the extent to which an LCD permitted by the County is
8 grandfathered, particularly in regards to setbacks]

9
10 h. Staging or storage of LCD shall require a permit pursuant to this
11 section, subject to variances granted by the Board of County Commissioners.
12 The staging or storage of solely clean fill shall be exempt from this permitting
13 requirement.

14
15 i. Fencing is required on all sides of the facility a minimum of six feet in
16 height with county-approved materials to eliminate visibility of a facility and to
17 limit access. This provision applies to any boundary which fronts a public road
18 or a residential structure. Areas which front undeveloped, uncleared properties
19 may use an approved three-strand barbed wire fence. Vegetative buffering
20 may be substituted for nontransparent fencing as long as visibility is
21 eliminated.

22
23 (5) *Abandoned or Closed C&DD, C&DD Transfer or LCD facilities.*

24
25 Any owner or operator of a C&DD, C&DD transfer or an LCD facility that the owner or
26 operator asserts to be closed or abandoned shall meet the following requirements:

27
28 WHAT STANDARDS DO WE WANT HERE?

29
30 **Sec. 82-227. - General operating requirements for regional, rural, infill and C&DD**
31 **facilities, transfer C&DD facilities, and for land clearing debris facilities.**

32
33 The following minimum requirements must be met at all times by the operator or
34 owner, as appropriate, of the facility:

35
36 (1) *Regional Design requirements for Construction and Demolition Debris (C&DD)*
37 *facilities.*

38
39 a. ~~Three-strand barbed wire fencing is required wherever any boundary~~
40 ~~abuts a public road to limit access.~~

41
42 b. ~~No person shall cause, suffer, allow or permit the discharge into the air~~
43 ~~or dust, fume, gas, mist, odor, smoke or vapors, or any combination thereof, so~~
44 ~~as to constitute a nuisance as defined herein.~~

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

4
5 d. ~~— An effective dust suppression system must be provided.~~

6
7 a. A hydrogen sulfide odor and gas monitoring system must be installed
8 and maintained, subject to approval by Escambia County. An Odor and Gas
9 Monitoring System Plan shall be developed and submitted to the County for
10 approval. The plan shall include the type of monitoring equipment to be used
11 the lower detection threshold limit for the equipment, location of the monitoring
12 system, sampling frequency, and maintenance and calibration schedule. The
13 facility owner or operator shall provide copies of any monitoring system results
14 to Escambia County upon request and shall allow Escambia County to inspect
15 and test the monitoring system. At no time shall hydrogen sulfide levels
16 exceed the 0.01 parts per million (ppm) threshold for odor.

17
18 b. A stormwater management system must be installed and maintained,
19 subject to approval by Escambia County. The stormwater management
20 system components shall be designed and maintained to accommodate
21 upland surface water runoff flowing through the C&DD facility and shall treat
22 and attenuate the onsite surface water runoff and manage the upland acreage
23 surface water runoff without negative impacts to the adjoining properties and
24 rights-of-way.

25
26 c. A groundwater monitoring program must be installed and maintained
27 utilizing Florida Department of Environmental Protection guidelines.

28
29 d. The facility must adhere to Florida Department of Environmental
30 Protection liner and leachate collection specifications.

31
32 e. The facility must adhere to Florida Department of Environmental
33 Protection capping system requirements.

34
35 f. The facility must have a gas management system with design
36 requirements in accordance with FDEP Chapter 62-701.530, F.A.C. and
37 subject to approval by Escambia County.

38
39 g. Boundary probes for gas migration shall be installed and maintained,
40 subject to approval by Escambia County.

41
42 (2) Operating requirements for Construction and Demolition Debris (C&DD)
43 facilities.

44
45 a. An operation plan adhering to the Florida Department of Environmental

1 Protection requirements.
2

3 b. Lift depth shall not exceed ten (10) feet unless authorized in the
4 operation plan.
5

6 c. Construction and demolition debris shall be compacted and sloped
7 during the life of the facility.
8

9 d. The external slopes of all disposal units shall be no greater than three
10 (3) feet horizontal to one (1) foot vertical rise.
11

12 e. The working face and internal slopes of all disposal units shall be no
13 greater than three (3) feet horizontal to one foot vertical rise.
14

15 f. No person shall cause, suffer, allow or permit the discharge into the air
16 or dust, fume, gas, mist, odor, smoke or vapors, or any combination thereof, so
17 as to constitute a nuisance as defined herein.
18

19 g. All working faces and/or internal slopes must be no steeper than 3:1
20 slope, compacted and covered two (2) times per every seven (7) days by cover
21 soil sufficient in quantity to deprive debris of oxygen, minimize the risk of fire
22 and prevent emission of objectionable odors. Depth of lift shall be no greater
23 than ten (10) feet vertical height. Intermediate cover shall be installed within
24 thirty (30) days after active area is no longer receiving waste.
25

26 h. An effective dust suppression system must be provided.
27

28 i. The facility owner or operator shall provide copies of any groundwater,
29 air, soil or sediment test results to Escambia County and shall allow Escambia
30 County to enter the premises and inspect and test groundwater, air, soil and
31 sediments.
32

33 k. Operational hours as established by the Escambia County Land
34 Development Code.
35

36 l. The facility owner or operator shall provide Escambia County a property
37 boundary survey and designate the property boundaries with permanent
38 markers allowing for identification with the naked eye.
39

40 m. The facility owner or operator shall provide Escambia County an
41 appropriate surety as determined by Escambia County.
42

43 n. Gypsum wallboard (sheetrock) [do we want to require segregation of
44 gypsum wallboard/sheetrock and require placement in Class I landfill only or
45 only in a designated area of the County, far from residential uses? Shall this

1 be considered unauthorized waste? Same with out of county waste; do we
2 want to prohibit the importing of out of county waste??? Chips suggestion here
3 would be to copy Broward County's ordinance that requires a gas collection
4 system if they accept sheetrock.

5
6 o. The owner or operator shall conduct, at a minimum, five (5) random
7 waste load inspections a week in accordance with Ch. 62-701.500(6)(b)(1),
8 F.A.C.

9
10 p. The facility shall have maintain sufficient reserve equipment or be able
11 to acquire sufficient reserve equipment within 24 hours in accordance with
12 permit requirements as well as Ch. 62-701.500(11)(b), F.A.C.

13
14 q. The facility shall have an equipment maintenance structure adequately
15 sized for responsible operation of the facility. Maintenance and repairs of
16 equipment shall take place under the roof of the structure and on an
17 impervious surface. In the event of an emergency that prevents maintenance
18 or repairs from taking place in such structure, steps shall be taken to prevent
19 leaching of fluids into the groundwater.

20
21 r. Facility owner or operator shall maintain all grades to ensure positive
22 drainage with no ponding of water.

23
24 s. Facility owner or operator shall not accept waste generated from outside
25 of Escambia County, Florida.

26
27 t. Facility owner or operator shall submit a fill sequence plan with the
28 County as a condition of their County permit.

29
30 u. Facility owner or operator shall keep the working face no wider than
31 necessary to accommodate vehicles disposing of waste at the facility .

32
33 v. The facility must have trained spotters and trained operators at active
34 areas at all times when waste is being received at the facility. Training
35 requirements shall be as required by Florida Department of Environmental
36 Protection regulations regarding training and use of spotters and operators.

37
38 ~~(2) Rural facilities.~~

39
40 ~~a. Fencing is required on all boundaries. Any boundary that abuts~~
41 ~~developed property or a public road shall require a barrier which is a fence or~~
42 ~~vegetative buffer, a minimum of six feet in height and made of wood or other~~
43 ~~type approved material that prevents visibility and limits access. Vegetative~~
44 ~~buffering may be required as deemed necessary by the county.~~
45

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

4
5 c. ~~— No person shall cause, suffer, allow or permit the discharge into the air~~
6 ~~of dust, fume, gas, mist, odor, smoke, or vapor or any combination thereof so~~
7 ~~as to constitute a nuisance as defined herein.~~

8
9 d. ~~— Volume reduction may not be accomplished by means of chipping,~~
10 ~~shredding, or otherwise processing the debris. Volume reduction may only~~
11 ~~occur by picking or removing recyclables from the waste stream prior to~~
12 ~~disposal.~~

13
14 e. ~~— Operational hours for receiving materials are limited to Monday through~~
15 ~~Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00~~
16 ~~a.m. until 5:00 p.m. Notwithstanding the above, cover may be applied after the~~
17 ~~operational hours but in no case after sundown. Operations are not permitted~~
18 ~~on Thanksgiving, Christmas, New Year's Day and July 4th.~~

19
20 f. ~~— Effective dust suppression system is required.~~

21
22 (3) ~~—~~ *Infill facilities.*

23
24 a. ~~— Fencing is required on all boundaries. Any boundary that abuts~~
25 ~~developed property or a public road shall be a minimum of six feet of wood or~~
26 ~~other county approved material prevents visibility and limits access. Vegetative~~
27 ~~buffering in sufficient quantity may be deemed a substitute for solid fencing.~~
28 ~~Natural barriers may be used for access control in lieu of fencing where~~
29 ~~deemed appropriate by county.~~

30
31 b. ~~— Cover shall be used at least biweekly on working faces in sufficient in~~
32 ~~quantity and type to deprive debris of oxygen, to minimize the risk of fire and~~
33 ~~prevent the emission of objectionable odors.~~

34
35 c. ~~— No person shall cause, suffer, allow or permit the discharge into the air~~
36 ~~of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so~~
37 ~~as to constitute a nuisance as defined herein.~~

38
39 d. ~~— Volume reduction may not be accomplished by means of chipping,~~
40 ~~shredding, or otherwise processing the debris. Volume reduction may only~~
41 ~~occur by picking or removing recyclables from the waste stream prior to~~
42 ~~disposal.~~

43
44 e. ~~— Operational hours for receiving materials are limited to Monday through~~
45 ~~Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00~~

1 a.m. until 3:00 p.m. Notwithstanding the above, cover may be applied after the
2 operational hours but in no case after sundown. Operations are not permitted
3 on Thanksgiving, Christmas, New Year's Day and July 4th.

4
5 f. Effective dust suppression systems are required.

6
7 g. Paved queuing and ingress and egress areas are provided by
8 operator/owner.

9
10 (4 ~~3~~) Design requirements for T transfer facility No transfer facility may be located in
11 the urbanized area unless the following requirements are met:

12
13 a. Appropriate buffering from adjacent properties is provided,
14 appropriateness will be determined by the DRC process.

15
16 b. No person shall cause, suffer, allow or permit the discharge into the air
17 of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so
18 as to constitute a nuisance as defined herein.

19
20 c. All operations must be fenced with county approved materials to the
21 extent necessary to eliminate visibility of the facility and to limit access.

22
23 d a. An effective dust suppression system must be provided by the
24 operator/owner.

25
26 b. Shall be covered and still contain a leachate collection system.

27
28 e c. Paved queuing and ingress and egress areas are provided by
29 operator/owner.

30
31 f. Volume reduction, may not be accomplished by means of chipping,
32 shredding, or otherwise processing the debris.

33
34 (4) Operating Requirements for Transfer Facilities.

35
36 a. Volume reduction, including incinerating, pulverizing, compacting,
37 shredding, baling or similar activities shall only be allowed if specifically
38 authorized by the County during the permitting process.

39
40 b. The facility owner or operator shall provide Escambia County an
41 appropriate surety as determined by Escambia County.

42
43 c. Gypsum wallboard (sheetrock) [do we want to address this?]

44
45 d. Facility owner or operator shall inform the County of the volume of

1 material received per day as well as the length of time such waste is expected
2 to be stored at the facility, subject to approval by the County.

3
4 e. Facility owner or operator shall have trained spotters at active areas
5 when waste is being received at the facility.

6
7 f. Facility owner or operator will be required to submit semi-annual
8 affidavits that indicate the tonnage received, average number of disposal
9 vehicles entering the facility per month and the available capacity at the facility.

10
11 g. Facility owner or operator shall maintain all grades to ensure positive
12 drainage with no ponding.

13
14 h. Facility owner or operator shall not accept waste generated outside of
15 Escambia County, Florida.

16
17 i. Facility owner or operator shall keep sufficient back-up equipment, or be
18 able to obtain sufficient back-up equipment within twenty-four (24) hours, to
19 properly work waste in accordance with the facility's permit.

20
21 (j) Staging or storage of C&DD shall require a permit pursuant to this
22 section, subject to variances granted by the Board of County Commissioners.
23 The staging or storage of solely clean fill shall be exempt from this permitting
24 requirement.

25
26 (5) Design requirements for ~~Land~~ clearing disposal facilities.

27
28 a. Fencing is required on all sides of the facility a minimum of six feet in
29 height with county-approved materials to eliminate visibility of a facility and to
30 limit access. This provision applies to any boundary which fronts a public road
31 or a residential structure. Areas which front undeveloped, uncleared properties
32 may use an approved three-strand barbed wire fence. Vegetative buffering
33 may be substituted for nontransparent fencing as long as visibility is
34 eliminated.

35
36 b. No person shall cause, suffer, allow or permit the discharge into the air
37 of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so
38 as to constitute a nuisance as defined herein.

39
40 c. Operator/owner must provide an effective dust suppression system.

41
42 d. Apply covers at all appropriate times and not less than biweekly in
43 sufficient quantity and type to deprive debris of oxygen, minimize the risk of fire
44 and prevent emission of offensive odors to all active working faces.
45

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

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

9
10 a. A stormwater management system must be installed and maintained,
11 subject to approval by Escambia County. The stormwater management system
12 components shall be designed and maintained to accommodate upland
13 surface water runoff flowing through the C&DD facility and shall treat and
14 attenuate the onsite surface water runoff and manage the upland acreage
15 surface water runoff without negative impacts to the adjoining properties and
16 rights-of-way.

17
18 b. One downgrade groundwater well must be installed and maintained,
19 subject to approval by Escambia County as well as any groundwater
20 monitoring required by the Florida Department of Environmental Protection.
21 [need to note any numerical counts; need for a monitoring plan; specifically
22 where well to be located]

23
24 c. The facility must adhere to Florida Department of Environmental
25 Protection capping system requirements.

26
27 d. Operator/owner must provide an effective dust suppression system.

28
29 (6) Operating requirements for land clearing disposal facilities.

30
31 a. No person shall cause, suffer, allow or permit the discharge into the air
32 of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so
33 as to constitute a nuisance as defined herein.

34
35 b. All working faces and or internal slopes must be no steeper than 3:1,
36 compacted and covered with soil at a minimum of at least six (6) inches and at
37 a minimum of one (1) time for every seven (7) days to deprive debris of
38 oxygen, minimize the risk of fire and prevent emission of offensive odors to all
39 active working faces. Depth of lift shall be no greater than ten (10) feet of
40 vertical height. Intermediate cover shall be installed within thirty (30) days after
41 active area is no longer receiving waste.

42
43 c. Volume reduction including incinerating, pulverizing, compacting,
44 shredding, baling or similar activities shall only be allowed if specifically
45 authorized by the County during the permitting process.

1
2 Here, gas and odor monitoring was removed due to lack of need at an LCD;
3 agreed?
4

5 d. Operational hours shall be as established by the Escambia County Land
6 Development Code.
7

8 e. The facility owner or operator shall provide copies of any groundwater,
9 air, soil or sediment test results to Escambia County and shall allow Escambia
10 County to enter the premises and inspect and test groundwater, air, soil and
11 sediments.[numerical counts??]
12

13 f. The facility owner or operator shall provide Escambia County a property
14 boundary survey and designate the property boundaries in a reasonably
15 identifiable manner.
16

17 g. The facility owner or operator shall provide Escambia County an
18 appropriate surety as determined by Escambia County.
19

20 h. Facility owner or operator shall maintain an on-site stockpile of
21 approximately six hundred (600) cubic yards of cover for fire suppression
22 purposes. The stockpile should be stored as close to the working face as
23 possible to allow easy access for heavy equipment.
24

25 i. Facility owner or operator shall have a trained spotter at all active areas
26 any time waste is being received at the facility.
27

28 j. Facility owner or operator shall conduct a minimum of three (3) random
29 waste load inspections per week for purposes of detecting unauthorized waste.
30 The inspections shall be memorialized on forms provided by the County and
31 shall be kept on site for inspection. Additionally, facility owner or operator shall
32 submit an unauthorized waste management plan, subject to approval by the
33 County. At a minimum, facility owner or operator shall inspect each individual
34 truck or trailer for unauthorized waste.
35

36 t. The facility shall have an equipment maintenance structure adequately
37 sized for responsible operation of the facility. Maintenance and repairs of
38 equipment shall take place under the roof of the structure and on an
39 impervious surface. In the event of an emergency that prevents maintenance
40 or repairs from taking place in such structure, steps shall be taken to prevent
41 leaching of fluids into the groundwater.
42

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

1
2 v. Facility owner or operator will be required to submit semi-annual
3 affidavits that indicate the tonnage received, average number of disposal
4 vehicles entering the facility per month and the available capacity at the facility.

5
6 w. Facility owner or operator shall maintain all grades to ensure positive
7 drainage with no ponding.

8
9 x. Facility owner or operator shall not accept waste generated outside of
10 Escambia County, Florida.

11
12 y. Facility owner or operator shall keep the working face to an area no
13 larger than necessary to accommodate disposal activity.

14
15 **Sec. 82-228. - Permit required; fees and renewal.**

16
17 **1. General Requirements:**

18
19 (a) No person shall operate a regional, rural, infill or C&DD, transfer C&DD
20 or LCD facility until first obtaining an interim without a permit from the
21 department of solid waste management- Escambia County Development
22 Services Department.

23
24 (b) The Board shall establish by resolution, an interim permit application
25 fee for the permitting of regional, rural, infill and C&DD, transfer C&DD and
26 LCD facilities. The application fee will be based upon the classification of the
27 facility and may include reasonable inspection and testing costs as determined
28 by the Board. The interim permit shall expire when:

29
30 (1) The department of environmental protection approves the plan
31 set forth in Ordinance No. 2006-_____; or

32
33 (2) One year after issuance, whichever occurs first.

34
35 (c) The Board shall consider all permit applications pursuant to the
36 procedures established by Section 82-226.

37
38 (d) All C&DD and transfer C&DD permits issued pursuant to this chapter
39 shall be one (1) year in duration. All LCD permits issued pursuant to this
40 chapter shall be five (5) years in duration. As a condition of obtaining and
41 maintaining a C&DD, C&DD transfer or LCD permit, a permittee shall submit
42 an annual affidavit on a form prepared by Escambia County that describes the
43 scope of activities occurring on-site, the percentage of the usable site filled
44 with debris and the estimated lifespan for permitted activities occurring on the
45 site. The permittee shall consent to periodic and random inspections of the

1 site by Escambia County representatives, with such inspections to occur at a
2 minimum of two (2) times per year.

3
4 (e) Abandoned or closed facilities shall [insert requirements for permitting
5 an asserted abandoned or closed C&DD]

6
7 (e f) Repeated failure to comply with the provisions of this division and
8 adopted rules and regulations may result in denial of an application for renewal
9 and/or suspension of ~~license~~ permit.

10
11 2. Specific permit application requirements for C&DD facilities and LCD facilities:

12
13 (a) A permit application for an construction and demolition debris disposal
14 facility shall be submitted on a "Application for a permit to construction,
15 operate, modify or close a construction and demolition debris or land clearing
16 disposal management facility" issued by the Escambia County Development
17 Services Department.

18
19 (b) Boundary survey signed and sealed by a registered Florida Surveyor.

20
21 (c) Site Plan. Provide a site plan, at a scale not greater than 200 feet to the
22 inch, which shows the facility location and identifies the proposed waste and
23 final residue storage areas, total acreage of the site, and any other features
24 which are relevant to the prohibitions or location restrictions such as water
25 bodies or wetlands on or within 500 feet of the site, and potable water wells on
26 or within 1000 feet of the site.

27
28 (d) Operational Plan. Provide an operation plan for the facility which
29 includes:

30
31 1. A description of general facility operations, the number of
32 personnel responsible for the operations including their respective job
33 descriptions, and the types of equipment that will be used at the facility.

34
35 2. Procedures to ensure any unauthorized wastes received at the
36 site will be properly managed.

37
38 3. A contingency plan to cover operation interruptions and
39 emergencies such as fires, explosions, or natural disasters.

40
41 4. Procedures to ensure operational records needed for the facility
42 will be adequately prepared and maintained.

43
44 5. Procedures to ensure that the wastes and final residue will be
45 managed to not be expected to cause pollution.

1
2 **(e) Design Drawings.**
3

4 **Secs. 82-229—82-232. - Reserved.**
5

6 **Sec. 82-233. - Insurance.**
7

8 As a condition of obtaining and maintaining a permit pursuant to this article, a
9 permittee shall hold Commercial general liability insurance coverage, form CG1,
10 occurrence form required. Commercial general liability insurance with \$1,000,000.00
11 per occurrence and \$2,000,000.00 aggregate limits, including coverage parts of
12 bodily injury, property damage, personal injury, product and completed operations,
13 and contractual liability. Excess or umbrella insurance may be purchased to make up
14 the difference, if any, between the policy limits of the underlying policies (including
15 employers liability required in the workers' compensation coverage section) and the
16 total amount of coverage required. In addition, the permittee shall carry pollution
17 liability coverage in the amount of \$5,000,000.00; both third-party liability and on-site
18 pollution liability coverages are required. Upon closure, the pollution coverage must
19 be maintained for a three-year period. A three-year supplemental extended reporting
20 period (SERP) may be utilized to meet this requirement. The policy retroactive date
21 should not be advanced during the period of the permit or during the three years
22 following closure. Business automobile policy with symbol 1 (any auto) coverage in
23 the amount of \$1,000,000.00 per occurrence and workers' compensation coverage as
24 required by Florida law are required. These insurance requirements shall not limit the
25 liability of the permittee. The County does not represent these types or amounts of
26 insurance to be sufficient or adequate to protect the permittee's interests or liabilities.
27 Required insurance shall be documented in Certificates of Insurance which reflects
28 Escambia County as certificate holder. The certificate insurance policies shall also be
29 endorsed to provide the county at least 30 days advance notice of cancellation,
30 nonrenewal or adverse change. Such notices shall be mailed to Escambia County,
31 Department of Development Services, 3363 West Park Place, Pensacola, FL 32505.
32 P.O. Box 1591, Attn: Sandra Jennings, Director, Solid Waste Management
33 Department, Pensacola, Florida 32591.
34

35 **Sec. 82-234. - Litter, sediment and traffic control; road maintenance.**
36

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

1 functions. The following requirements will apply as part of the permitting process:

2
3 (1) The permittee shall designate those roadways that will be used as truck
4 access to and from the nearest arterial/arterial intersection and the site.

5
6 (2) Minimum road width for such truck use is 22.5 feet and insufficient road
7 width can result in denial of a permit.

8
9 (3) Where the Escambia County Engineering Department determines that
10 the road surfacing, either in condition or thickness, is insufficient to
11 accommodate the permittee's estimated truck traffic generated by the site,
12 such surfacing may be required as fair share mitigation at permittee's expense
13 as a condition of approval.

14
15 In determining the length of roadway required to be surfaced, the Escambia
16 County Engineering Department may measure to the nearest arterial/arterial or
17 arterial/collector intersection depending on which is closer and also any road
18 where the site will create more than five percent of the volume of usage. The
19 permittee may either pay the entire cost prior to approval or may pay the cost in
20 installments over the life of the five-year permit period.

21
22 Additionally, in the event the Escambia County Engineering Department
23 determines, using accepted engineering standards, that the truck traffic
24 generated by the site has caused premature destruction to the surfacing of a site-
25 access roadway between the nearest arterial/arterial or arterial/collector
26 intersection depending on which is closer and also on any road where the site
27 has generated more than a five percent increase in the volume of usage and the
28 site, then the county may attach the surety for the amount of such surfacing
29 repairs.

30
31 During annual road inspections, the county may determine, using accepted
32 engineering standards, that the permittee's truck volume estimates need to be
33 adjusted.

34
35 (4) Where the Escambia County Engineering Department determines that
36 geometric improvements, such as turn lanes and acceleration lanes or traffic
37 signal devices are made necessary for traffic safety by the site, the permittee
38 shall be responsible for such improvements as a condition of approval.

39
40 (b) The permittee will provide sufficient turn lanes and internal site queuing space
41 for in-bound and out-bound vehicles as to not block or obstruct traffic on public roads.
42 As part of the county's permitting process, a traffic study will be performed to
43 demonstrate that sufficient space is provided.

44
45 (c) This work will be performed by an independent engineer registered in the State

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

14
15 **Sec. 82-235. - Adjacent and compatible land use.**

16
17 Permit applicants shall participate in a preapplication conference with the county's
18 ~~planning and zoning~~ Development Services ~~d~~Department in order to determine the
19 compatibility of the proposed C&DD to the adjacent land use(s) prior to institution of the
20 development review committee (DRC) process for new facilities.

21
22 **Sec.82-236. - Applicability; variances and time for compliance.**

23
24 (a) ~~Upon the effective date of this division, all C&DD facilities, including LCD~~
25 ~~facilities, both new and existing, shall apply for and complete applications for C&DD~~
26 ~~permits and will meet all of the requirements of this division. The time allowed for~~
27 ~~existing C&DD facilities to comply with this division and all rules and regulations~~
28 ~~adopted pursuant to this division shall be set forth on the permit. Failure to achieve~~
29 ~~compliance within such period shall result in revocation of the permit. An extension for~~
30 ~~good cause may be granted by the director of solid waste department subject to~~
31 ~~board of county commissioners' approval. All property subject to this article must be~~
32 ~~brought into compliance by meeting the standards required by this article and by~~
33 ~~obtaining a permit from the County at a public hearing to be set before the Board of~~
34 ~~County Commissioners no later than ninety (90) days after enactment of this~~
35 ~~ordinance.~~

36
37 (b) ~~Variances to the requirements of this division may be granted by the b~~Board of
38 ~~adjustment (BOA) in accordance with Article III, Section 2, of the Land Development~~
39 ~~Code if the BOA, County Commissioners at a noticed public hearing, if the Board,~~
40 ~~based upon competent, substantial evidence determines that granting such~~
41 ~~variance(s) will not result in the maintenance or creation of a nuisance condition or~~
42 ~~give rise to the creation of a condition incompatible with existing or allowable adjacent~~
43 ~~uses.~~

44
45 **Secs. 82-237—82-239. - Reserved.**

1
2 **Sec.82-240. - Summary abatement; appeal.**
3

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

11
12 (b) ~~Any owner/operator or permittee who disagrees with the decision of the code~~
13 ~~enforcement officer shall apply for a hearing before the board of adjustment in~~
14 ~~accordance with Article 2 of the Land Development Code. The facility shall remain~~
15 ~~closed until the condition is abated or the notice of violation is overturned by the~~
16 ~~board of adjustment and thereafter by the board of county commissioners if an appeal~~
17 ~~is filed.~~

18
19 **Sec. 82-240 Enforcement.**
20

21 Escambia County may pursue any and all legal remedies in order to ensure
22 enforcement of this article. These remedies may include, but are not limited to:
23

24 1. Liability. The owner and operator may be subject to liability for any injured
25 party for damages resulting from any discharge, emission, spill, or release of any
26 substance, from any vibrations, noise, or any groundwater contamination, or from
27 failure to protect the surrounding properties from off-site impacts. Any permit or
28 approval issued by Escambia County in no way assumes any such liability and
29 Escambia County does not waive or alter any sovereign immunity protections
30 afforded governmental entities.
31

32 2. Inspections. Owners and operators shall allow County inspectors or
33 representatives to access the facility at any reasonable time for the purpose of
34 inspection to ensure compliance with the terms and conditions of the permit, the
35 development order, this article, and all applicable laws and rules. Owners and
36 operators shall be subject to inspections on at least an annual basis and shall
37 assume all costs of the inspections. A copy of the inspection report shall be provided
38 to the operator. Inspectors will coordinate with the Florida Department of
39 Environmental Protection and County departments regarding site visits and
40 inspections criteria.
41

42 3. Violations. Violations of any portion of this article may be enforced by the
43 environmental code enforcement division pursuant to chapter 30 of the Escambia
44 County Code of Ordinances. Failure to comply with this article and/or any site
45 specific permit requirements may result in fines and liens being levied against the

1 owner, operator or both, pursuant to §162.069, Fla. Stat., as amended and chapter 30
2 of the Escambia County Code of Ordinances as well as any other legal penalty.
3 When circumstances warrant, the County may pursue an expedited special
4 magistrate hearing for violations of this article.

5
6 4. *Civil action.* The County Attorney is authorized to institute a civil action in a
7 federal or state court of competent jurisdiction to seek injunctive relief to enforce
8 compliance with this article in order to protect the health, safety and welfare of the
9 public. In the event the County determines C&DD operation is violating the terms of
10 its permit, is allowing unlawful disposal, refuses to obtain a permit or otherwise poses
11 a risk to the health, safety and welfare of the public, the County Administrator may
12 request that the County Attorney's office immediately file a request for an emergency
13 injunction or other appropriate relief in a court of competent jurisdiction, with such
14 filing to be subsequently ratified by the Board of County Commissioners.

15
16 5. *Criminal penalty.*

17
18 (a) Any person violating any of the provisions of this article, upon
19 conviction thereof, may be punished by a fine not to exceed \$500 or by
20 imprisonment in the county jail not to exceed 60 day or by both such fine and
21 imprisonment.

22
23 (b) In lieu of making an arrest or issuing a notice to appear, a law
24 enforcement officer or a code enforcement officer may issue a citation
25 pursuant to section 30-63 of the Escambia County Code of Ordinances. Each
26 violation of any provision of this article shall constitute a separate offense.

27
28 Any person who willfully refuses to sign and accept a citation issued by a law
29 enforcement officer or a code enforcement officer shall be guilty of a
30 misdemeanor of the second degree, punishable as provided in §775.082 or
31 §775.083, Fla. Stat. A written warning to this effect shall be provided at the
32 time any citation is issued hereunder.

33
34 6. *Proceeding against surety.*

35
36 If at any time the applicant fails to satisfactorily undertake corrective action in
37 response to a notice of violation, the Board of County Commissioners may initiate
38 proceedings against the surety, including any proceedings in a court of competent
39 jurisdiction. Such proceedings shall not commence until the surety has been given
40 sixty (60) days to require commencement of corrective action. In such a proceeding,
41 the recoverable damages and costs shall not be limited to the reasonable value of the
42 land prior to the disposal activities and shall include the award of costs and
43 reasonable attorneys' fees.

44
45 **Section 2. Severability.**

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

4 **Section 3. Inclusion in the Code.**

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

10 **Section 4. Effective Date.**

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

12 **DONE AND ENACTED THIS ____ DAY OF _____, 2014.**

13
14
15 BOARD OF COUNTY COMMISSIONERS
16 ESCAMBIA COUNTY, FLORIDA
17

18
19
20 _____
21 Steven Barry, Chairman

22 ATTEST: PAM CHILDERS
23 Clerk to the Circuit Court
24

25
26 BY: _____
27 Deputy Clerk

28
29 (Seal)

30
31 Enacted:

32
33 Filed with Department of State:
34

1 Effective:

DRAFT