

CODE OF ORDINANCES, PART III (Land Development Code)
ARTICLE 7, Sections 7.07 & 7.11 – *Borrow Pits and Reclamation Activities*

and

CODE OF ORDINANCES, PART I (Code of Ordinances)
CHAPTER 42, Article VIII, *Borrow Pits and Reclamation*
CHAPTER 82, Division 3, *Construction and Demolition Debris Facilities*

08-10-07

Disclaimer: This is an unofficial reproduction of information pertaining to borrow pits found in the Code of Ordinances of Escambia County, Parts I and III. This information is intended to be for general information only.

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7.07.00. Standards regulating adverse off-site impacts.

7.07.01. Noise.

A. *Prohibitions.* It shall be unlawful, except as expressly permitted herein, to make, cause, or allow the making of any noise or sound which exceeds the limits set forth in this article or the county noise ordinance contained in chapter 1-2 0.3 of the Code of Ordinances. Chapter 1-2 0.3 contains the principal noise regulations; the following provisions deal with development issues only.

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

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

Table 7.07.01.C
Sound Level Limits

TABLE INSET:

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.	70
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

D. Hours of operation.

1. Mining, borrow pit, resource extraction, and reclamation activities (including land clearing debris disposal) that require trucks and heavy equipment to traverse through residential areas as their only access path to pit operations are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Friday and between 8:00 a.m. and 2:00 p.m. on Saturday. (See section 7.11.09.)

2. Mining, borrow pit, resource extraction, and reclamation activities (including land clearing debris disposal) that access their operations without traversing through residential areas (i.e., via principal and minor arterial roadways) are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Saturday.

(See section 7.11.09.)

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

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

1. Construction operations for which building permits have been issued, provided that such operations are limited to the hours between 5:00 a.m. and one hour after sunset, except that on Pensacola Beach:
 - a. No outside construction may begin before 6:30 a.m., if within 200 feet of an occupied residence; and
 - b. Owner-occupied single-family detached houses are exempt from the above restriction.
2. Safety signals, warning devices, bells and chimes of churches;
3. Noise from emergency vehicles, or noises resulting from emergency works;
4. All noises coming from the normal operation of trains, aircraft (not including scale model aircraft), motor vehicles governed by F.S. § 316.293, or vessels operated upon the waters within or adjacent to Escambia County;
5. Activities at Five Flags Speedway and/or other legally constructed and operated tracks or courses for competitive motor sports.

7.07.07. Borrow pits (includes mining and resource extraction) and reclamation activities thereof.

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

1. *Back to back pits.* The setback for slope commencement excludes property boundary lines between active pits using the same excavation area.
2. *Slope angles.* Pits with a shallow excavation slope of 6:1 (i.e., six feet horizontal for each one foot vertical) may exceed the 50-foot setback up to the 20-foot minimum required width for landscape screening and buffer requirements. Steep pits allowed to exceed the required 2:1 slope ratio as provided in subsection C., below, shall require a 100-foot setback.
3. *Site specific requirements.* Increased setbacks may be required per the terms of the mandatory county development order to protect wellheads, environmental areas, and/or adjacent properties from adverse impacts (reference Comprehensive Plan Policies 7.A.5.2, 11.A.1.6, 11.B.2.9 and 11.B.3.1-9, among others).

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

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

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

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

K. *Reclamation activities.* Active reclamation activities shall be governed by the above performance standards until such time as complete reclamation has occurred in accordance with all federal, state, and local regulations and approved by the County Engineer in accordance with the Escambia County Code of Ordinances, part I, chapter 42, article VIII. Reclamation involving land clearing and debris disposal shall only be permitted to the minimum height above ground level that allows for environmental safety and stormwater runoff consistent with the surrounding environment and intended post-mining land use not to exceed six feet. Ground water monitoring wells may be required for specific types of debris disposal per the applicable federal and state regulations and the terms of the required county-approved reclamation plan.

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

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

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

3. *Permits.* Permit requirements are established in the Escambia County Code of Ordinances, part I, chapter 42, article VIII.

4. *Hours of operation.* Limited as noted above.

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

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

(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.

2005-23, § 5, 7-7-2005)

7.11.09. Commercial traffic in residential areas. No permit, development order, or other approval shall be issued for any proposed commercial use which requests primary, secondary, or limited access onto a local street if that local street is fronted by more than 50 percent residential zoning in the following districts: R-1, R-1PK, R-2, R-2PK, R-3, V-1, V-2, V-3, V-4, V-5, measured in linear feet along the center line of the local street impacted by the proposed development. This provision will not apply when its strict application would deny all access to a parcel that is zoned for any commercial use.

ARTICLE VIII. BORROW PITS AND RECLAMATION**Sec. 42-321. Purpose.**

This article sets forth the requirements for borrow pits and reclamation of mined-out lands in Escambia County, Florida, for the safety and protection of the public.

(Ord. No. 2001-65, § 1, 12-6-2001; Ord. No. 2005-18, § 1, 6-2-2005)

Sec. 42-322. Definitions.

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

Borrow pit. A site or parcel of property where soils, clays, gravel or similar materials are removed, or have been removed for use elsewhere. May also be referred to as a mining, mineral, resource excavation and/or extraction site.

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

Reclamation. The restoration of land made barren through processes such as erosion, mining, or land clearing to useful purposes while protecting the natural resources of the surrounding area. In some instances, reclamation may include land clearing debris as part of the ultimate reclamation process. While the type and degree of such restoration may vary in any specific instance, the objective is to establish vegetative cover, soil stability, water protections, and public safety conditions appropriate to the area.

Reclamation plan. The written proposal as required and approved by Escambia County for reclamation of mined-out land.

Reclamation unit. A specific area of land upon which reclamation will be accomplished within a period of time as specified in the development order.

(Ord. No. 2001-65, § 2, 12-6-2001; Ord. No. 2005-18, § 1, 6-2-2005)

Sec. 42-323. Requirements and permits.

It shall be unlawful to conduct mining, borrow pit, and/or reclamation activities thereof in Escambia County without first obtaining all applicable required permits, including those from state regulatory agencies and Escambia County. The operation must also be in compliance with the regulations set forth in this chapter. The applicable state regulatory agency depends on the size, type, and extent of the planned activity. State regulatory agencies include (but may not be limited to) the Florida Department of Environmental Protection (FDEP), the Florida Bureau of Mine Reclamation (BMR) and, in cases of wetlands and surface waters that connect to waters of the state or wetlands jurisdictional to Escambia County, the Northwest Florida Water Management District (NFWMD).

(1) *Public hearings.* Public hearings by the board of county commissioners, the local planning agency (planning board), the rezoning hearing examiner, and/or the board of adjustment may be required depending on the location of a proposed mine, borrow pit, excavation site, or expansion/reclamation thereof. Public hearings are required in all cases where the proposed use conflicts with the future land use designation, zoning, permitted uses, and/or performance standards of this Code for the site location. In

applicable cases, the Escambia County Planning and Zoning Department will process completed applications and schedule public hearings for future land use changes, rezonings, conditional use and/or variance requests in accordance with article 2 (Administration) of the Land Development Code (LDC) upon receipt of required fees.

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

a. *Term of permit.* When state permits are required, the county permit shall have an expiration date that coincides with that of the state permit (generally five years, when applicable). The county permit is renewable.

b. *Surety.* The applicant shall submit general surety payable to Escambia County in an amount itemized according to the respective development order requirement, repair, or reclamation measure in the event of noncompliance with the terms of the development order. An engineer registered in the State of Florida shall certify the total surety amount. Proceeding against the surety in case of violation shall be in accordance with subsection (3)b., below.

(3) *Reclamation plan.* The reclamation plan for mined-out lands shall be consistent with federal and state reclamation standards (particularly those referenced in subsection (2) above), shall comply with the performance standards required by the county listed in LDC, article 7, and shall be consistent with the intended post-mining land use. The plan shall provide for reclamation activities to be completed in a timely manner and sequence per the terms of the required development order. The reclamation plan shall include a process for reclaiming mined-out land in reclamation units so that no more than five acres of mined-out land are exposed at any one excavation site, unless the terms of the development order provide for an exception. Reclamation of mined-out lands shall commence within one year of cessation of mining operations, shall include revegetation as early as practical, and shall be completed by the county-approved date established for the specific site.

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

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

(4) *Site plan review.* An application for mining, borrow pit operations and/or

reclamation activities thereof in Escambia County will be processed as a major development site plan review requiring an approved county development order. Upon receipt of a completed application, the application will be reviewed for compliance with all applicable provisions of this Code (see Comprehensive Plan, chapters 7 and 11, and LDC, articles 4, 6, 7, 9, and 12). If the criteria or performance standards established for the district in which the mining operations or reclamation activity thereof is located conflict with the performance standards regulating off-site impacts provided for in LDC, article 7, the stricter criteria shall be applied.

(5) *Existing (active) borrow pits and/or reclamation.* All operators of existing active pits as of the date of adoption of Ordinance 2005-18 shall comply with the provisions of this article and meet the performance standards of LDC, article 7. The following provisions also apply to existing, active borrow pits and/or any reclamation activity:

a. *Development review.* Pit operators/owners of existing (active) pits not permitted by the county are subject to county development review committee (DRC) review and required fees within 180 days of the date of adoption of Ordinance 2005-18. Application for DRC review shall include a reclamation plan that provides for restoration of affected lands. The county shall issue a development order within 60 days of submittal, with compliance required within 180 days from the date of the approved development order. Failure to comply with the terms of the development order shall subject it to revocation. Future land use and/or zoning changes, if required for reclamation activities, shall be obtained prior to the issuance of a development order. Inability to comply with the terms of the development order shall be processed either as an appeal or a variance to the board of adjustment.

b. *Nonconforming uses.* Operators/owners of legal nonconforming existing borrow pits or disposal facilities as of the date of adoption of Ordinance 2005-18 not permitted within their applicable future land use category and/or zoning district may continue borrow pit operations without application for a future land use and/or zoning change. However, any expansion beyond the terms of the development order constitutes an expansion of a nonconforming use.

(6) *Performance standards.* Setbacks, fencing, and other related requirements for mining, excavation and reclamation sites shall be subject to specific performance standards in addition to those required of the applicable zoning district (see LDC, articles 7 and 12).

(7) *Issuance.* Upon determining that the use for which the permit is sought will comply with the terms of this chapter and with all county regulations and ordinances, the county shall grant a resource extraction permit as part of the development order concurrent with development review committee (DRC) approval allowing the requested use for mining and/or resource extraction. In some cases, the issuance of the permit may include conditions as part of the permit approval and compliance process. For expired borrow pits and mined-out lands that do not require a resource extraction permit per the provisions of this article, the DRC shall issue a general permit as part of the development order concurrent with DRC approval for the requested reclamation activity that includes a required date for complete reclamation of the site.

(8) *Appeals.* Upon site plan approval, any affected party may file an appeal with the board of adjustment pursuant to LDC, article 2.

(Ord. No. 2001-65, § 3, 12-6-2001; Ord. No. 2005-18, § 1, 6-2-2005)

Sec. 42-324. Scope and compliance.

This article applies to property located in unincorporated areas of Escambia County, Florida. All property subject to this article must be brought into compliance within 90 days of the date of adoption of this article, except for existing pits authorized a more extended timeframe per the provisions of section 42-323(5)a., above.

(Ord. No. 2001-65, § 4, 12-6-2001; Ord. No. 2005-18, § 1, 6-2-2005)

Sec. 42-325. Enforcement.

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

(2) *Inspections.* Pit operators shall allow county inspectors or contracted representatives to access mine/pit property at any reasonable time for the purpose of inspection to insure compliance with the terms and conditions of the permit, the development order, this article, and all applicable laws. Pit operators shall be subject to random quarterly inspections of their pits and shall assume all costs of the inspections thereof. A copy of the inspection report shall be provided to the operator. Inspectors will coordinate with the Florida Department of Environmental Protection and the cognizant county department regarding site visits and inspection criteria.

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

(4) *Civil action.* The county attorney is authorized to institute a civil action in a federal or state court of competent jurisdiction to seek injunctive relief to enforce compliance with this article, in order to protect the health, safety and welfare of the public.

(Ord. No. 2001-65, § 5, 12-6-2001; Ord. No. 2005-18, § 1, 6-2-2005)

DIVISION 3. CONSTRUCTION AND DEMOLITION DEBRIS (C&DD) FACILITIES**Sec. 82-224. Legislative findings; public purpose, intent, and county-wide application.**

(1) In order to prevent the contamination or pollution of our environment, prevent the creation of nuisances; protect the public health, safety and welfare; the board of county commissioners finds that:

(a) The catastrophic impacts of hurricanes Ivan and Dennis on Escambia County have resulted in an ever mounting increase in the volume of construction and demolition debris material.

(b) Problems created by construction and demolition debris facilities have become countywide in scope and necessitate local action to protect county citizens from the possible adverse effects of operating such disposal facilities.

(c) Pursuant to Article VIII, Section 1(f) of the Florida Constitution, and F.S. § 125.01, the board has all powers of local self-government to perform county functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of county ordinances. Furthermore, Article VIII, Section 1(f) of the Florida Constitution, provides that a county ordinance shall operate within a municipality when not in conflict with a municipal ordinance on the same subject.

(2) Supplemental regulation of the operation and disposal of construction and demolition disposal and recycling facilities (C&DD) within both the incorporated and unincorporated areas of the county serves a public purpose and promotes the health, safety and welfare of the citizens of the county.

(3) It is the intent of the county to provide specific buffering, locational and compatibility requirements regarding the operation of all C&DD facilities within the county. Operation of a C&DD located anywhere within the county whether existing or new, will require a county permit and must, at all times meet the requirements of this division.

(4) This division shall apply countywide in both the incorporated and unincorporated areas of Escambia County.

(Ord. No. 2006-24, § 2, 3-16-2006)

Sec. 82-225. Definitions.

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

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

(b) *Board* means the board of county commissioners of Escambia County, Florida.

(c) *Board of health* means Escambia County Environmental Health Department has the authority to intervene on health issues.

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

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

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

(g) *Closure* means the cessation of operation of a construction and demolition debris facility and the act of securing such facility so that it will pose no significant threat to human health or the

environment.

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

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

- (1) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project.
- (2) Unpainted, non treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non treated wood pallets provided the wood scraps and pallets are separated from solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the co-mingling of wood scraps or pallets with other solid waste; and
- (3) De minimus amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with the best management practices of the industry.
- (4) "Construction and demolition debris" does not include materials identified or listed as solid wastes, infectious wastes, or hazardous waste, materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag, reinforced or nonreinforced concrete, asphalt, building or paving brick, building or paving stone that is stored for a period of less than two years for recycling into a usable construction material.

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

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

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

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

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

(o) *Department* means the Escambia County Solid Waste Management Department.

[(p) *Reserved.*]

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

(r) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any construction and demolition debris into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner.

(s) *Existing facility* means a construction and demolition debris facility that was in operation or under construction on March 16, 2006.

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

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

(v) *Hazardous wastes* means waste that is listed specifically as hazardous waste and/or exhibits one or more characteristics of hazardous waste as defined in 40 CFR (Code of Federal Regulations).

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

(x) *Infill facility* means a C&DD facility on a real property site not larger than 75 acres whose characteristics allow it to operate within or adjacent to the urbanized area.

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

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

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

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

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

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

b. Areas within the limits of construction and demolition debris placement in which debris has been placed since March 16, 2006, and which have been capped, dense vegetative cover established, and certification of the completion of these activities submitted to the licensing authority in accordance with the administrative code.

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

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

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

(1) The emission into the outdoor air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, of a character and in a quantity as to be detectable by a considerable number of persons or the public, at any point beyond the property limits of the premises

occupied or used by the person responsible for the source thereof, so as to interfere with their health, repose or safety, or cause severe annoyance or discomfort, or tends to lessen normal food and water intake, or produces irritation of the upper respiratory tract, or produces symptoms of nausea, or is offensive or objectionable to normal persons because of inherent chemical or physical properties, or causes injury or damage to real property, personal property or human, animal or plant life of any kind or which interferes with normal conduct of business, or is detrimental or harmful to the health, comfort, living conditions, welfare and safety of the inhabitants of this county.

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

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

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

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

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

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

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

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

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

(ll) *Regional facility* means a real property site of at least 100 acres operating as a C&DD facility as defined herein.

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

(nn) *River, stream* or *creek* means a natural watercourse that is depicted as a solid blue line on the USGS 7 1/2 Minute Series Quadrangle Map that includes the facility location.

(oo) *Rural facility* means a real property site of 75 acres, operating as a C&DD facility as defined herein.

(pp) *Solid wastes* means such unwanted residual solid or semisolid materials as results from industrial, commercial, agricultural, and community operations.

(qq) *Storage* means the containment or holding of construction and demolition debris either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

(rr) *Surface water* means any water on the surface of the earth.

(ss) *Transfer facility* means a site the primary purpose of which is to store or hold construction and demolition debris for transport to a processing or disposal facility. This term does not include sites which hold recyclable material for recycling or reuse.

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

(uu) *Working face* means that portion of a construction and demolition debris disposal facility

where construction and demolition debris is placed for final deposition.

(Ord. No. 2006-24, § 2, 3-16-2006)

Sec. 82-226. Classification of C&DD facilities.

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

(1) *Regional facility.* A regional facility must comply with the following:

- a. Minimum size of the real property site shall be 100 acres.
- b. The required setback for construction and demolition debris facility "active areas" or "active licensed disposal areas" shall be a minimum of 500 feet from the property boundaries.
- c. Aerial and vertical operational height shall be governed by ability to view from adjacent properties. At no time shall the working or operational height exceed the permitted height or be visible from beyond the property line including materials stored for future disposal or recycling.
- d. Construction and demolition debris facility "active areas" or "active licensed disposal areas" may not be within 1,000 feet of a public water well or within 500 feet of a private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located within 500 feet of a river, stream or creek must have a stormwater control plan which addresses the protection of the adjacent waters.
- e. Volume reduction is encouraged and may be accomplished by means of chipping, shredding, or otherwise processing the debris.
- f. All regional sites must be approved by the board of county commissioners at a duly advertised public hearing following DRC review.
- g. May not be located in a regulatory flood plain or in areas not on the flood maps but known to be subject to flooding.
- h. Shall consent to imposition of summary abatement procedures as herein set forth in section 82-240 as a condition of permitting.

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

- a. Maximum size of real property site shall be 75 acres.
- b. The required setback for construction and demolition debris facility active areas or "licensed disposal areas" shall be a minimum of 100 feet from property boundary. In order to accomplish this setback, clean fill or vegetative debris may be used to fill from existing excavation limits.
- c. Aerial and vertical height during operations shall be limited to average grade before commencement of operations with allowance for closure and capping to prevent stormwater intrusion into the debris pile. At no time shall the operational height exceed the permitted height. Provided however that existing rural facilities, legally operating as of the effective date of this division shall be allowed to achieve the aerial and vertical operational height resulting from their Department of Environmental Protection permits but only as to C&DD facility "active areas" or "active licensed disposal areas" in use or licensed as of the effective date of this division.
- d. All new rural sites must be approved by the board of county commissioners at a duly advertised public hearing following DRC review.
- e. May not be located in a regulatory flood plain or in areas not on the flood maps but known to be subject to flooding.
- f. May not be within 1,000 feet of a public water well or within 500 feet of a preexisting private potable well. Nor may these facilities be located within an area designated as "environmentally sensitive" by state or local ordinance, law or regulation. Any facility located

within 500 feet of a river, stream or creek must have a stormwater plan which addresses the protection of adjacent waters.

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

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

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

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

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

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

e. All new infill sites must be approved by the board of county commissioners after a duly advertised public hearing following DRC review.

f. May not be located in a regulatory floodplain.

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

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

(4) *Transfer facility.* A transfer facility must comply with the following:

a. May not be located in a regulatory floodplain.

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

c. All new transfer facility sites must be approved by the board of county commissioners at a duly advertised public hearing following DRC review.

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

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

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

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

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

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

d. All new LCD sites must be approved by the board of county commissioners at a duly advertised public hearing following DRC review.

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

(Ord. No. 2006-24, § 2, 3-16-2006)

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

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

(1) *Regional facilities.*

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

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

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

d. An effective dust suppression system must be provided.

(2) *Rural facilities.*

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

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

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

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

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

f. Effective dust suppression system is required.

(3) *Infill facilities.*

a. Fencing is required on all boundaries. Any boundary that abuts developed property or a public road shall be a minimum of six feet of wood or other county approved material

- prevents visibility and limits access. Vegetative buffering in sufficient quantity may be deemed a substitute for solid fencing. Natural barriers may be used for access control in lieu of fencing where deemed appropriate by county.
- b. Cover shall be used at least biweekly on working faces in sufficient in quantity and type to deprive debris of oxygen, to minimize the risk of fire and prevent the emission of objectionable odors.
 - c. No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.
 - d. Volume reduction may not be accomplished by means of chipping, shredding, or otherwise processing the debris. Volume reduction may only occur by picking or removing recyclables from the waste stream prior to disposal.
 - e. Operational hours for receiving materials are limited to Monday through Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00 a.m. until 3:00 p.m. Notwithstanding the above, cover may be applied after the operational hours but in no case after sundown. Operations are not permitted on Thanksgiving, Christmas, New Year's Day and July 4th.
 - f. Effective dust suppression systems are required.
 - g. Paved queuing and ingress and egress areas are provided by operator/owner.

(4) *Transfer facility.* No transfer facility may be located in the urbanized area unless the following requirements are met:

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

(5) *Land clearing disposal facilities.*

- a. Fencing is required on all sides of the facility a minimum of six feet in height with county-approved materials to eliminate visibility of a facility and to limit access. This provision applies to any boundary which fronts a public road or a residential structure. Areas which front undeveloped, uncleared properties may use an approved three-strand barbed wire fence. Vegetative buffering may be substituted for nontransparent fencing as long as visibility is eliminated.
- b. No person shall cause, suffer, allow or permit the discharge into the air of dust, fume, gas, mist, odor, smoke or vapor, or any combination thereof, so as to constitute a nuisance as defined herein.
- c. Operator/owner must provide an effective dust suppression system.
- d. Apply covers at all appropriate times and not less than biweekly in sufficient quantity and type to deprive debris of oxygen, minimize the risk of fire and prevent emission of offensive odors to all active working faces.
- e. Volume reduction may not be accomplished by means of chipping, shredding or burning the debris.
- f. Operational hours for receiving materials are limited to Monday through Friday between 7:00 a.m. and 5:00 p.m. Saturday hours will be limited to 7:00 a.m. until 3:00 p.m.

Notwithstanding the above, cover may be applied after the operational hours but in no case after sundown. Operations are not permitted on Thanksgiving, Christmas, New Year's Day and July 4th.

(Ord. No. 2006-24, § 2, 3-16-2006)

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

- (a) No person shall operate a regional, rural, infill or transfer C&DD or LCD facility until first obtaining an interim permit from the department of solid waste management.
- (b) The board shall establish by resolution, an interim permit application fee for the permitting of regional, rural, infill and transfer C&DD and LCD facilities. The application fee will be based upon the classification of the facility. The interim permit shall expire when:
- (1) The department of environmental protection approves the plan set forth in Ordinance No. 2006-_____; or
 - (2) One year after issuance, whichever occurs first.
- (c) Repeated failure to comply with the provisions of this division and adopted rules and regulations may result in denial of an application for renewal and/or suspension of license.

(Ord. No. 2006-24, § 2, 3-16-2006)

Secs. 82-229--82-232. Reserved.

Sec. 82-233. Insurance.

Commercial general liability coverage, occurrence form required. Commercial general liability insurance with \$1,000,000.00 per occurrence and aggregate limits, including coverage parts of bodily injury, property damage, personal injury, product and completed operations, and contractual liability. Excess or umbrella insurance may be purchased to make up the difference, if any, between the policy limits of the underlying policies (including employers liability required in the workers' compensation coverage section) and the total amount of coverage required. Required insurance shall be documented in Certificates of Insurance which reflects Escambia County as certificate holder. The certificate shall also provide the county at least 30 days advance notice of cancellation, nonrenewal or adverse change. Such notices shall be mailed to Escambia County, P.O. Box 1591, Attn: Sandra Jennings, Director, Solid Waste Management Department, Pensacola, Florida 32591.

(Ord. No. 2006-24, § 2, 3-16-2006)

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

- (a) The permittee shall be responsible for maintaining the full length of road frontage and additional length of adjacent roadway free from all litter and sediment generated as a result of transporting materials into or out of the facility. Litter will be removed on a daily basis and be completed prior to sunset. The condition of roadways and rights of way in the areas surrounding and accessing the proposed site are to be considered as part of the permitting process. The permittee may be responsible for improvements as a condition of approval. The following requirements will apply as part of the permitting process:
- (1) The permittee shall designate those roadways that will be used as truck access to and from the nearest arterial/arterial intersection and the site.
 - (2) Minimum road width for such truck use is 22.5 feet and insufficient road width can result in denial of a permit.
 - (3) Where the Escambia County Engineering Department determines that the road surfacing, either in condition or thickness, is insufficient to accommodate the permittee's estimated truck traffic generated by the site, such surfacing may be required as fair share mitigation at permittee's expense as a condition of approval.

In determining the length of roadway required to be surfaced, the Escambia County Engineering

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

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

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

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

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

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

(Ord. No. 2006-24, § 2, 3-16-2006)

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

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

(Ord. No. 2006-24, § 2, 3-16-2006)

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

(a) Upon the effective date of this division, all C&DD facilities, including LCD facilities, both new and existing, shall apply for and complete applications for C&DD permits and will meet all of the requirements of this division. The time allowed for existing C&DD facilities to comply with this division and all rules and regulations adopted pursuant to this division shall be set forth on the permit. Failure to achieve compliance within such period shall result in revocation of the permit. An extension for good cause may be granted by the director of solid waste department subject to board of county commissioners' approval.

(b) Variances to the requirements of this division may be granted by the board of adjustment (BOA) in accordance with Article III, Section 2, of the Land Development Code if the BOA, based upon competent, substantial evidence determines that granting such variance(s) will not result in the maintenance or creation of a nuisance condition or give rise to the creation of a condition incompatible with existing or allowable adjacent uses.

(Ord. No. 2006-24, § 2, 3-16-2006)

Secs. 82-237--82-239. Reserved.

Sec. 82-240. Summary abatement; appeal.

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

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

(Ord. No. 2006-24, § 2, 3-16-2006)

Secs. 82-241--82-245. Reserved.

Future Land Use Categories and Zoning Districts Which Allow C&DD Facilities as Permitted or Conditional Uses

C&DD Facilities as Reclamation Activities for New Borrow Pits are Allowed in the following Zoning Districts:*				C&DD Facilities as Reclamation Activity (for borrow pits in existence on 9/16/2004) are Allowed in the following Zoning Districts:*			
Facility	Use	In Zoning District	Located in FLU Category**	Facility	Use	In Zoning District	Located in FLU Category**
Regional Rural LCD Infill	Permitted	AG C-2 ID-1,2 GID; P	AG MU-1, 2, 6 C; I; P AA #13, 15, 18	Regional	Permitted	AG; C-2; ID-1, 2; VAG-1,2	AG; MU-1, 2, 6; C; I; P; AA #13, 15, 18
	Conditional	VAG-1, 2 VR-1, 2, 3 V-4; RR C-1 AIPD-1,2			Conditional	C-1; RR; R-1 to R-6; GID; GBD; S-1; VR-1,2,3; V-1,2,2A,3,4; SDD; VM-1,2; AIPD-1,2; AMU-1,2	Any FLU category
Transfer	Permitted	ID-2 AG; P GID	AG MU-1, 2, 6 I; P AA #13, 15, 18	Rural	Permitted	AG; C-2; ID-1, 2; VAG-1,2	AG; MU-1, 2, 6; C; I; P AA #13, 15, 18
	Conditional	C-2; ID-1 AIPD-1,2			Conditional	C-1; P; RR; R-1 to R-6; GID; GBD; S-1; VR-1,2,3; V-1,2,2A,3,4; SDD; VM-1,2; AIPD-1,2; AMU-1,2	Any FLU category
C&DD Facilities (Not as Reclamation Activity) are Allowed in the following Zoning Districts:*				Transfer	Permitted	ID-1,2; VAG-1,2; VM-1,2; GBD; GID	AG; MU-1, 2, 6; C; I; P AA #13, 15, 18
					Conditional	C-2; RR; AG; R-1,2; S-1; AMU-1; VR-1,2,3; V-1,2,2A,3,4; AIPD-1,2; P; SDD	Any FLU category
Facility	Use	In Zoning District	Located in FLU Category**	LCD	Permitted	AG; ID-1,2; C-1,2; VAG-1,2; GBD; GID	AG; MU-1, 2, 6; C; I; P AA #13, 15, 18
Regional	Permitted	ID-2 P	I P		Conditional	S-1; P; VM-1,2; SDD; AMU-1, 2	Any FLU category
	Conditional	ID-2 P	MU-1 MU-6	Infill	Permitted	AG; ID-1,2; VAG-1,2 C-2; GBD; GID	AG; MU-1, 2, 6; C; I; P; AA #13, 15, 18
* Subject to the provisions of Policy 7.A.2.2., 7.A.3.8, 11.B.3.3., 11.B.3.9					Conditional	C-1; S-1; VR-1,2,3; AMU-1, 2; VM-1,2; SDD; RR; R-1 to R-6; P; AIPD-1,2	Any FLU category
** Subject to the provisions of Policy 7.A.2.3							
*** Subject to Chapter 82, Article V, Division 3							