

# ATTACHMENT 8A

## Applicant's Proposed Conditions of Approval:

1. The facility will receive, sort, and recycle construction and demolition debris as defined in 15A NCAC 138.0532.0532 DEFINITIONS FOR C&DLF FACILITIES:  
"C&D solid waste" means solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures. C&C waste does not include municipal and industrial waste that may be generated by the on-going operations at buildings or structures. *(Staff commentary: This condition is new to the M99-1 Conditions of Approval. It would effectively replace M99-1 Condition of Approval #7, as shown on the approved site plan.)*
2. The hours of operation will be from 6:30am to 7:30pm Monday through Friday with sorting, tipping, and bailing occurring only between the hours of 8:00am and 6:30pm. Saturday hours shall be 8:00am to 4:00pm. *(Staff commentary: This condition is the same as M99-1 Condition of Approval #1, as shown on the approved site plan.)*
3. That any future changes to chapter eleven of the Durham City Code regarding noise levels or any changes to the zoning code regarding noise levels of non-residential uses adjacent to residential uses be applicable to this site. *(Staff commentary: This condition is the same as M99-1 Condition of Approval #5, as shown on the approved site plan. Note that M99-1 Conditions of Approval #'s 2, 3, and 4 have been omitted. Some or all of these conditions may need to be reinstated, specifically #'s 2 and 3)*
4. The site is to be served by no more than 75 truck trips per day. *(Staff commentary: This condition is the same as M99-1 Condition of Approval # 8.)*
5. That no hazardous material or waste be recycled or handled on-site, with the exception of materials or waste that may be generated by the servicing of trucks and other vehicles in this recycling business. *(Staff commentary: This condition is the same as M99-1 Condition of Approval #9. Note that M99-1 Condition of Approval #6 has been omitted. It appears that the applicant considers M99-1 Condition #6 redundant to #10, which has been retained in their proposal, as follows.)*
6. That the applicant will comply with the noise ordinance of the city, "Part II – Code of Ordinances, Chapter 26, Environment, Litter, Vandalism and Pollution, Article II – Noise, Section 26-23. – Generally", which may be amended from time to time. *(Staff commentary: See Staff Report Attachment #9– the referenced noise ordinance. This condition is similar to M99-1 Condition of Approval #10, which itself appears to be sub-sections of the noise ordinance referenced above.)*

BE USED ARE EXISTING. NO ADDITIONAL  
O BE ADDED TO SITE.

NG 1 AND A PORTION OF BUILDING 5 ARE  
R THIS USE PERMIT. ALL OTHER BUILDINGS  
ILL NOT BE USED.

TO MEET CITY OF DURHAM STANDARDS

*A beefed up landscape  
plan to be submitted in accordance  
with #3*

*file copy*

SPECIAL CONDITIONS OF APPROVAL

1. The hours of operation will be from 6:30 AM to 7:30 PM Monday through Friday with sorting and tipping and bailing occurring only between the hours of 8:00 AM and 6:30 PM. Saturday hours shall be 8:00 AM to 4:00 PM.
2. The main access off of Hoover Road and the secondary Ashe Street access shall be maintained with a driving surface capable of holding a 75,000 lb. Load in accordance with ordinance section 4.E.5.9.4.
3. A four foot (minimum) green coated wire fence shall be placed adjacent to the Railroad ROW , running the length of the northern property line along the Hoover Road portion of the site, and screened on the outside with appropriate landscaping approved by the planning department.
4. That portion of the building housing the bailer shall be sound baffled or further enclosed so as to reduce noise levels.
5. Any future changes to chapter eleven of the Durham City Code regarding noise levels or any changes to the zoning code regarding noise levels of non-residential uses adjacent to residential uses shall be applicable to this site.
6. The applicant shall maintain a noise decibel level reading on the Hoover Road boundary of the site that complies with the noise ordinance as it currently exists or as it may change in the future.
7. The recycling permitted under this permit at the recycling facility shall be limited to the following; paper, including but not limited to newspapers, magazines, and business paper; glass bottles and jars; steel and aluminum cans; foil and foil containers; plastic materials, poly-coated milk and juice containers; and cardboard and other recyclable materials accepted by the City of Durham recycling program.
8. The site shall be served by no greater than 75 truck trips per day.
9. No hazardous materials or wastes shall be recycled or handled on-site with the exception of materials or wastes that may be generated by the servicing of trucks and other vehicles used in this recycling business.
10. The applicant shall comply with the noise ordinance of the City, including but not limited to; Section 11-1-(b)4 and (10) and Section 11-1(d)(2) and (3), as the same may be amended from time to time.

TIDEWATER  
FIBRE CORP

SITE PLAN

DATE: 12/21/98

SCALE: 1"=100'

JOB NO.

DRAWN BY: DKS

CHECK BY: DKS

SHEET

1

OF

## ATTACHMENT 9

### ARTICLE II. - NOISE <sup>[13]</sup>

<sup>(13)</sup> **State Law reference**— Authority to abate health nuisances, G.S. 160A-193; abatement by local health director, G.S. 130-20.

Sec. 26-23. - Generally.

Sec. 26-24. - Radios and mechanical musical instruments.

Sec. 26-25. - Chimes on religious facilities, etc.

Secs. 26-26—26-53. - Reserved.

#### **Sec. 26-23. - Generally.**

(a) *Unreasonably loud and disturbing noises prohibited.* Subject to the provisions of this section, it shall be unlawful for any person to make, permit, continue, or cause to be made or to create any unreasonably loud and disturbing noise in the city. For purposes of this section, the following definitions shall apply:

(1) *Unreasonably loud.* Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.

(2) *Disturbing.* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area. In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: Time of day; proximity to residential structures; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning (if applicable) of the area; whether the noise is related to the normal operation of a business or other labor activity and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(b) *Particular noises prohibited.* The following acts, among others, are declared to be unreasonably loud and disturbing noises in violation of this section but the enumeration shall not be deemed to be exclusive, namely.

(1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound, and the sounding of such device for an unnecessary and unreasonable period of time.

(2) The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.

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ARTICLE II. - NOISE

(3) The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.

(4) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(5) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

(6) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(8) The erection (including excavation), demolition, alteration or repair, or cleaning the outside of, any building in a residential or business district other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, except in cases of urgent necessity in the interest of public safety or convenience; provided, however, in cases in which the work is required by an emergency, or by the nature of the particular project or specified portion thereof it is necessary to have a continuous operation without break, or where the specified work cannot be performed while the plant or enterprise is in operation, the city manager may issue a permit for such work to be carried on between hours and on days in addition to the hours and days herein mentioned. The term "weekdays," when used in this subsection, means any day except Sunday.

(9) The creation of any excessive noise on any street adjacent to any school, institution of learning, library, sanitarium or court while the same is in session, or adjacent to any hospital, or any religious facility during services, which unreasonably interferes with the working of such place.

(10) The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(11) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.

(12) The shouting and crying of peddlers, hawkers and vendors which disturb the quiet and peace of the neighborhood.

(13) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise.

(c) *Small motors.* The running of a motor not exceeding one horsepower on a refrigeration truck for the purpose of keeping perishable fruits, vegetables and all other perishable meats and foods contained in such a truck from spoiling, shall not constitute an unnecessary noise or disturbance within the meaning of this section.

(d) *Particular standards established:*

(1) In addition to the violations established by subsections (a) and (b) of this section, no person shall cause, produce, or allow any mechanically or electronically produced or amplified sound that:

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(i) exceeds the levels set out in subsection (d) of this section as such sound is measured at any point beyond the boundary of the property from which the sound emanates, and (ii) is not authorized by a permit issued pursuant to the City Code or state or federal authority; or otherwise exempted from regulation by the exceptions established by subsection (e) of this section;

(2) No nighttime (11:00 p.m.—8:00 a.m.) sound level shall exceed 50 dB(A);

(3) No daytime or evening (after 8:00 a.m.—before 11:00 p.m.) sound level shall exceed 60 dB(A); and

(4) "Decibel" (dB) as used in this subsection shall mean a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter. The sound level shall be measured by the use of a sound level meter and frequency weighting network "A" as specified in the American National Standards Institute specifications for sound level meters.

(e) *Exceptions.* The following sounds shall be exempt from the provisions of this section:

(1) Sounds of safety signals, warning devices, and emergency pressure relief valves;

(2) Sounds resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency;

(3) Any sound resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the city or a state or federal agency when such sounds do not exceed the conditions and limits stated in the license or permit;

(4) Sounds emanating from the normal operations of properly equipped aircraft (not including model aircraft);

(5) Sounds emanating from a motor vehicle, or lawnmower or agricultural equipment operated between the hours of 7:00 a.m. and 9:00 p.m. when the vehicle or equipment is properly equipped with the manufacturer's or other authorized standard mufflers and sound reduction equipment and in use under proper operating conditions; and

(6) Musical chimes emanating from a public or religious institution or facility, provided that the sound is less than 15 minutes in duration and occurs not more than three times per day.

(Code 1964, § 13-17; Code 1982; Ord. No. 6445, §§ 1, 2, 7-23-1984; Ord. No. 6884, § 1, 2-17-1986; Ord. No. 11687, § 1, 5-17-1999)

**State law reference—** Authority to regulate noise, G.S. 160A-184.

**Sec. 26-24. - Radios and mechanical musical instruments.**

It shall be unlawful for any person to maintain and operate in any building or on any premises in the city or on any public street or on any motor vehicle using the streets or any airplane flying over the city, any radio device or mechanical musical instrument or amplifier or device of any kind whereby the sound therefrom is cast directly upon the public streets and places or for the purpose of attracting the attention of the public, or which is so placed and operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place, or of persons in neighboring premises; provided, however, this section shall not apply to the actual conduct of auction sales of real

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estate on or adjacent to the premises to be sold where the auctioneer or auction company is properly licensed; provided, further, nothing herein shall be construed to affect official warning sounds promulgated by the emergency management agency.

(Code 1964, § 13-18; Code 1982)

**Sec. 26-25. - Chimes on religious facilities, etc.**

Nothing contained in section 26-23 or 26-24 shall be construed as prohibiting the playing of chimes by mechanical musical instrument or device, electronics or other method on religious facilities, business buildings, and any other place within the city.

(Code 1964, § 13-19; Code 1982)

**Secs. 26-26—26-53. - Reserved.**