

New proposed fee schedule for the Division of Health & Engineering
ARTICLE II. ENVIRONMENTAL CONTROL ORDINANCE*

DRAFT 5.17.07

***State law references:** Home rule powers of chartered counties, Fla. Const., Art. VIII, § 1(g).

Sec. 11-16. Definitions.

The definitions set out in the Palm Beach County Environmental Control Act, Laws of Florida, Chapter 77-616 [App. G, § 11-23], are adopted by reference and apply to this article. In this article "clerk" means the clerk of the county environmental control hearing board.
(Ord. No. 78-5, § 3, 5-9-78)

Sec. 11-17. Article supplemental.

The provisions of this article are not intended to and shall not be construed as changing, modifying, amending, repealing, superseding or conflicting with any provisions or sections of the Florida Statutes or laws defining or penalizing misdemeanors, or setting out procedures or remedies in aid of environmental control, but shall be construed as supplemental and additional thereto and not as a substitute therefore. This article shall not be construed as impairing the jurisdiction of any court within the county. This article shall be deemed to be an alternative or additional method for the county, its officers and agents, to effect the purposes of each of the general and special state acts of the state and each of the environmental control rules adopted by reference in section 11-19.
(Ord. No. 78-5, § 8, 5-9-78)

Sec. 11-18. Application of Environmental Control Act.

All provisions of the Palm Beach County Environmental Control Act, Laws of Florida, Chapter 77-616 [App. G, § 11-21 et seq.], shall apply in the administration of this article, and the provisions of such act are adopted by reference.
(Ord. No. 78-5, § 1, 5-9-78)

Cross references: Environmental Control Act, App. G, § 11-21 et seq.

Sec. 11-19. Statutes, laws, rules, etc. incorporated by reference.

(a) To the extent not inconsistent with this section the following portions of the Florida Statutes, in their current form and as subsequently amended, are hereby adopted and incorporated by reference and shall be part of this chapter as if they were set out in full:

- Chapter 381, Public Health;
- Chapter 386, Particular Conditions Affecting Public Health;
- Chapter 403, Environmental Control;
- Chapter 500, Food Products;
- Chapter 513, Mobile Home & Recreational Vehicle Parks;_and
- Chapter 514, Public Swimming and Bathing Facilities.

(b) To the extent not inconsistent with this section the following Special Acts, as currently and subsequently amended or replaced, are hereby adopted and incorporated by reference and shall be part of this chapter as if the provisions of each were set out in full:

- Chapter 59-1698, Laws of Florida;
- Chapter 75-473, Laws of Florida; and
- Chapter 77-616, Laws of Florida.

(c) To the extent not inconsistent with this section, the following rules, in their current form and as subsequently amended or replaced, are hereby adopted and incorporated by reference and shall be part of this chapter as if they were set out in full:

All rules of the Department of Environmental Protection;

All rules of the Department of Health;

All rules of the Environmental Control Board (see Chapter 77-616, Laws of Florida, as amended);

All rules of the Child Care Facilities Board (see Chapter 59-1698, Laws of Florida, as amended);

All rules, resolutions, and orders of the Solid Waste Authority (see Chapter 75-473, Laws of Florida, as amended);

Environmental Control Rule I;

Environmental Control Rule II;

Solid Waste Management Permits Rule I;

Palm Beach County Biohazardous Waste Incineration Facility Ordinance.

(d) It shall be a violation of this section and Chapter 77-616, Laws of Florida as amended, the Environmental Control Act ("act"), to violate any of the provisions incorporated herein. Violations shall be subject to the penalties and enforcement powers provided in the act.

(Ord. No. 97-58, § 1, 11-18-97)

Editor's note: Ord. No. 97-58, § 1, adopted November 18, 1997, amended the Code by repealing former § 11-19, and adding a new § 11-19. Former § 11-19 pertained to similar subject matter, and derived from Ord. No. 78-5, adopted May 9, 1978; Environ. Cont. Rule II, adopted June 5, 1979; Ord. No. 79-15, adopted August 14, 1979; and Ord. No. 94-26, adopted October 18, 1994.

Sec. 11-20. County Health Department and Solid Waste Authority permits, licenses and approvals.

(a) Before any of the following activities may be commenced, written approval must be obtained from the health department in accordance with subsection (d):

For the purpose of this section the word "construction" shall include reconstruction and renovation.

(1) Open burning for land clearing purposes.

(2) Construction of solid and hazardous waste facilities.

(3) Analysis for utilization of on-site sewage treatment & disposal systems in subdivisions.

(b) Before any of the following activities may be commenced, permits must be obtained from the health department:

(1) Construction of on-site sewage treatment and disposal systems.

(2) Construction of community, noncommunity, and nontransient noncommunity water supply systems.

(3) Construction of water distribution systems.

(4) Construction of limited use community and limited use commercial water supply systems.

(5) Construction of limited use, private and nonpotable wells.

(6) Construction of sewage collection systems.

(7) Construction of sewage treatment facilities with capacity of under 0.5 million gallons per day.

(8) Construction of biohazardous waste incinerator facilities.

(9) Construction of other air pollution facilities as delegated by the Florida Department of Environmental Protection.

(c) Operational activities pertaining to the following shall require payment of license or inspection fees payable to the health department.

(1) Family day care facilities.

- (2) Child care facilities and substantial compliance programs. Religiously affiliated child care programs may obtain an annual certificate of compliance in lieu of a license. A fee shall be paid in the same amount as a child care license fee. Preschool programs for three- and four-year old children in nonpublic schools may elect to be in substantial compliance in lieu of obtaining a license. An inspection fee shall be paid in the same account as a license fee and on an annual basis.
- (3) Air pollution sources.
 - (4) Water supply systems.
 - (5) Sewage treatment facilities.
 - (6) Industrial wastewater treatment systems.
 - (7) Solid waste facilities, sludge disposal sites, septage handling facilities, transfer stations, and waste management facilities.
 - (8) Hazardous waste generators.
 - (9) Septic tank manufacturers.
- (d) No permit, license or approval shall be issued until the county health department determines that:
- (1) The activity will not adversely affect human health and welfare, plant or animal life, and the reasonable enjoyment of life, property or the conduct of business; and
 - (2) The activity complies with the requirements contained in the applicable statutes, special acts and rules adopted in section 11-19. Compliance may be determined by the last recorded inspection.
- (e) Unless otherwise provided by ordinance or rule or specified by the license, every license shall expire on December 31 of each year or on change of ownership and shall be renewable annually. Construction permits and written approvals shall be valid for the duration of the activity for which they are issued unless otherwise specified by the permit or approval.
- (f) No permit, license or written approval shall be issued until all fees have been paid.
- (g) The fee for an annual license issued to a new activity after June of a particular year shall be prorated on a quarterly basis.
- (h) Unless otherwise provided by ordinance or rule or specified by the permit, license or approval, said permits, licenses and approvals are not transferable.
- (i) Solid waste authority of Palm Beach County permits, resolutions, and orders:
- (1) Prohibitions:
 - a. No person shall operate, maintain, construct, expand, or modify any resource recovery and/or waste management facility without first having applied for and received a valid operating permit from the solid waste authority of the county.
 - b. No person shall operate, maintain, construct, expand, or modify any resource recovery and/or waste management facility in violation of any resolutions, rules, or orders adopted by the solid waste authority of the county.
 - c. No person shall collect solid waste in violation of any resolution including resolutions creating exclusive franchises.
 - (2) Enforcement procedure:
 - a. The executive director of the solid waste authority of the county shall determine compliance with the provisions of subsection 10-20(i)(1) of this article. Upon determination that a violation of subsection 10-20(i)(1) has occurred, the executive director of the solid waste authority of

the county shall give the violator a reasonable time, by formal written notice, within which to correct such violation. Should the violation continue beyond the time specified for correction, the executive director of the solid waste authority shall notify the environmental control officer in writing of such failure to correct the violation.

- b. Upon notification by the executive director of the solid waste authority of the county that there is a violation of subsection 10-20(i)(1) of this article, which has not been corrected within the time specified by the executive director of the solid waste authority, the environmental control officer shall follow the procedures provided by Chapter 77-616, Special Acts, Laws of Florida, as amended, and Ordinance No. 78-5 [this article], as amended, to bring the case for hearing before the environmental control hearing board.

(3) Public health threat violations:

- a. Pursuant to Section 13 of Chapter 75-473, Special Acts, Laws of Florida, as amended, the county health director shall continue to determine compliance with the provisions of Chapter 75-473, Special Acts, Laws of Florida, as amended, which relate to sanitary collection, storage, processing, and disposal of solid waste. If the county health director determines that a health violation or public health threat exists, the health director shall follow the procedures provided for in Section 13, Chapter 75-473, Special Acts, Laws of Florida, as amended, to obtain compliance by the violator, or, if compliance is not obtained, to notify the environmental control officer so the environmental control officer can cause the case to be heard by the environmental control hearing board.

(Ord. No. 78-5, § 4, 5-9-78; Ord. No. 87-22, Pt. I, 9-29-87; Ord. No. 89-14, Pt. I, 7-18-89; Ord. No. 94-26, §§ 2, 3, 10-18-94; Ord. No. 97-58, § 2, 11-18-97)

Sec. 11-21. Hearing procedures.

(a) *Time for notice of hearing.* Within ten (10) days after filing with the clerk of a notice of noncompliance, notice of environmental damage done or public health threat created or notice of activity conducted without permit, the hearing board shall notice a hearing scheduled to be held within forty-five (45) days of the filing date. Service of notice on all parties shall be completed ten (10) days before the hearing. Hearings may be continued from day to day until completed.

(b) *Service of notice.* Service of initial notice of hearing shall be made in the same way as the Florida Rules of Civil Procedure provide for service of process of initial pleadings. Subsequent notices of hearings may be mailed.

(c) *Content of notice.* Notice of hearing will specify date, time and exact place of hearing. Attached to the notice shall be a copy of the notice of noncompliance, notice of environmental damage done or public health threat created or notice of activity conducted without permit.

(d) *Interrogatories and requests for admissions.* Either party may serve written interrogatories and requests for admissions upon the other party. The petitioner may serve interrogatories or requests for admissions on the respondent at any time after service of the initial notice of hearing. The respondent may serve interrogatories or requests for admissions on the petitioner any time after receiving a notice to correct violation. Answers and objections to interrogatories or requests for admissions shall be served within twenty (20) days after service of the interrogatories or requests for admissions. The chairman of the hearing board may grant a shorter or longer time. Admissions shall have the effect set out in Florida Rules of Civil Procedure, rule 1.370(b). A matter is admitted unless the party to whom a request for admission is directed serves upon the party requesting the admission a timely answer or objection. In the event a party fails to make discovery, the opposing party may motion the hearing board for an order compelling discovery.

(e) *Depositions.* The testimony of any witness may be taken by deposition in the manner and for the purposes provided by the Florida Rules of Civil Procedure.

(f) *Preliminary matters; continuances.* Upon approval of a majority of the hearing board, a continuance may be granted in any hearing for good cause shown.

(g) *Conduct of hearings before hearing board.* The following shall govern conduct of hearings before the hearing board:

- (1) All hearings of the hearing board shall be open to the public;
- (2) Oral evidence shall be taken only on oath or affirmation;
- (3) The hearing board shall give probative effect to evidence which would be admissible in civil proceedings in the courts of this state, but in receiving evidence, due regard shall be given to the technical and highly complicated subject matter the control officer must handle and the exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial probative effect. Otherwise, effect shall be given to the rules of evidence recognized in the state.

(h) *Rules of order.* Hearings shall begin with the presentation of petitioner's case by the environmental control officer with the right of the respondent to cross-examine witnesses followed by presentation of the respondent's case, with the environmental control officer's right to cross-examine witnesses. Opening and closing arguments shall be allowed unless waived.

(i) *Record of hearing.* All proceedings of the hearing board shall be recorded by a court reporter. Proceedings will not be transcribed unless a request for transcription is made to the clerk by a party to the proceedings or a member of the hearing board. In the event a copy of a transcript is desired by a party to the proceedings, other than the control officer, county attorney or a member of the hearing board, the cost of transcription shall be paid by such party. The hearing board shall not permit withdrawal of evidence entered into the record so long as any issue concerned in the hearing is still pending a final decision either before the hearing board or the courts of this state, unless the parties stipulate otherwise. After a final decision has been rendered, exhibits may be withdrawn at the request of the party which submitted them, or his counsel, after due notice to all parties, and upon order of the hearing board.

(j) *Judicial notice.* In reaching a decision, judicial notice may be taken, either before or after submission of the case for decisions of any fact which may be judicially noticed by the courts of this state.

(k) *Decision.* The decision of the hearing board shall be in writing and shall contain a brief statement of facts found to be true, the determination of the issues presented and the order of the hearing board. A copy of the decision shall be mailed or delivered to the control officer, petitioner, respondent, and to every person who filed an answer or who appeared as a party at the hearing. (Ord. No. 78-5, § 5, 5-9-78)

Sec. 11-22. Judicial review.

Any person aggrieved by any action or decision of the hearing board may seek appropriate judicial review.

(Ord. No. 78-5, § 6, 5-9-78)

Sec. 11-23. Violations.

Every person who commits, attempts to commit, conspires to commit, or aids and abets in the commission of any act declared herein to be in violation of this article, whether individually or in connection with one (1) or more persons, or as a principal, agent or accessory, shall be guilty of

such offense; and every person who falsely, fraudulently, forcibly or willfully entices, causes, coerces, requires, permits or directs another to violate any provision of this article is likewise guilty of such offense.

(Ord. No. 78-5, § 9, 5-9-78)

Cross references: Penalty for ordinance violations, § 1-11.

Sec. 11-24. Fee schedule.

The following fees are hereby adopted to supplement the costs of issuing permits, licenses and approvals; performing inspections; reviewing plans and sites; and performing other services in the administration of this article and the Environmental Control Act [appendix G, § 11-21 et seq.]. These nonrefundable fees shall be paid to the county health department. Fees for plan review, construction permits, site evaluation, appeals and local written approval shall be paid at the time of application. Fees for annual licenses shall be paid prior to the expiration of the existing license.

(1) Annual license fees -- *Operational activities relating to the following shall require payment to the county health department of annual license fees:*

a. Reserved.

Editor's note: The provisions of this section dealing with child care / family day care licenses have been superseded by the following:

Child Care: As required in Article IV.D., Palm Beach County Rules & Regulations Governing Child Care Facilities.

Family Day Care: As required in Article IV.F., Palm Beach County Rules & Regulations Governing Family Day Care Facilities.

b. Air pollution activities (excluding Title V sources as defined by the Florida Department of Environmental Protection and facilities licensed as multimedia):

1. Fuel-burning equipment (excluding incinerators):

- (a) Less than 100 million BTU per hour . . . 130.00
- (b) 100 million BTU per hour or greater . . . 460.00

2. Incinerators . . . 225.00

3. Asphaltic concrete batch plants . . . 340.00

4. Concrete batch and block plants . . . 200.00

5. Gasoline dispensing facility with stage II vapor recovery:

- (a). Facilities dispensing less than one million gallons per calendar year . . . 50.00
- (b). Facilities dispensing one million gallons or more per calendar year . . . 75.00

6. Minor permitted sources . . . 125.00

7. Other minor non-permitted sources . . . 75.00

c. Water supply systems (excluding Limited Use Systems):

1. Up to and including 0.1 million gallons per day . . . 390.00

2. Over 0.1 million gallons per day up to and including 0.3 million gallons per day . . . 1200.00

3. Over 0.3 million gallons per day up to and including 1.0 million gallons per day . . . 1625.00
4. Over 1.0 million gallons per day up to and including 5.0 million gallons per day . . . 2275.00
5. Over 5.0 million gallons per day . . . 3250.00

d. Wastewater:

1. Private lift stations (facilities not owned or operated by a public utility; and, excluding systems utilized by one or two residential dwelling units) . . . 200.00
2. Public Sewage Collection Systems and Treatment Systems with Capacities as follows:
 - (a). Up to and including 0.05 million gallons per day . . . 1225.00
 - (b). Over 0.05 million gallons per day up to and including 0.3 million gallons per day . . . 1550.00
 - (c). Over 0.3 million gallons per day up to and including 1.0 million gallons per day . . . 1,600.00
 - (d). Over 1.0 million gallons per day up to and including 3.0 million gallons per day . . . 1,800.00
 - (e). Over 3.0 million gallons per day . . . 2800.00
3. Industrial wastewater treatment facilities . . . 325.00
4. Septage, portable restroom, or portable or stationary holding tank waste handling:
 - (a) Septage stabilization facility . . . 400.00
 - (b) Service vehicle, per vehicle . . . 350.00

e. Solid waste related facilities (excluding facilities licensed as multimedia):

1. Solid waste disposal sites (landfills):
 - (a). Class I . . . 3000.00
 - (b). Class II . . . 1625.00
 - (c). Class III . . . 750.00
2. Solid waste transfer station . . . 1050.00
3. Sludge disposal sites:
 - (a). Less than 50 acres . . . 4875.00
 - (b). 50 acres or greater . . . 4875.00
 - (c). Plus for each acre over 50 acres . . . 2.50
 - (d). Compost site . . . 2275.00

f. Hazardous waste generators (excluding facilities licensed as multimedia):

1. Greater than zero kilograms (zero pounds) per month but less than 25 kilograms (55 pounds) per month . . . 65.00
2. 25 kilograms (55 pounds) to less than 1,000 kilograms (2200 pounds) per month . . . 200.00
3. 1,000 kilograms (2200 pounds) per month or greater . . . 650.00

h. Multimedia

1. Air & Hazardous Waste:

- (a) Dry cleaning facilities producing less than 25 kilograms (55 pounds) per month of hazardous waste . . . 125.00
- (b) Dry cleaning facilities producing 25 kilograms (55 pounds) per month but less than 1,000 kilograms (2200 pounds) per month of hazardous waste . . . 275.00

2. Solid Waste & Air:

- (a) Construction and demolition debris recycling facilities ... 350.00

(2) **Plan review fees** -- *Plan reviews performed by the county health department shall require payment of the fees provided below:*

- a. Child care facilities: - New, remodeled, or change of ownership . . . 250.00
- b. Family day care facilities . . . 25.00
- c. Private schools: - New/Remodeled . . . 100.00-
- d. Migrant labor camps and residential migrant housing . . . 100.00
- e. Mobile home and recreational vehicle parks . . . 100.00
- f. Approval of building plans not specified in subparagraphs a--e above . . . 50.00

(3) **Permit fees** -- *The activities and facilities below shall require payment to the county health department of the fees indicated:*

a. Permits for construction and repair of on-site sewage treatment and disposal systems:

- 1. Application fee for new, repaired, modified, or existing septic tank system . . . 50.00 (additional to state fee)
- 2. Automatic dosing system construction:
 - (a). Residential . . . 75.00
 - (b). Commercial . . . 125.00

b. Permits for construction of wells and water supply systems:

- 1. All potable water wells . . . 100.00
- 2. Nonpotable water well . . . 75.00
- 3. Sanitary survey for each new community, non-transient non-community, and transient non-community water well . . . 125.00
- 4. Construction permit for water distribution lines requiring PBCHD approval only (refers to lines requiring approval under Environmental Control Rule II, Sect. 11B.5 and exempted from DEP permits) . . . 250.00
- 5. Application fee for well abandonment . . . 75.00

(4) Fees for local written approval -- *Written approval of the activities below shall require payment to the county health department of the fees indicated:*

- a. Approval for use of permitted water system or distribution lines . . . 50.00
- b. Open burning site evaluation (land clearing debris generated on-site):
 - 1. 2 acres or less . . . 25.00
 - 2. Greater than 2 acres but less than 50 acres . . . 75.00
 - 3. 50 to 100 acres . . . 150.00
 - 4. Greater than 100 acres . . . 200.00

Note: Open burning activities conducted off-site shall likewise be so assessed for each parcel of land that is cleared.

- c. Solid waste facility construction:
 - 1. Resource recovery plant . . . 325.00
 - 2. Class I landfill . . . 200.00
 - 3. Class II landfill . . . 200.00
 - 4. Class III landfill . . . 130.00
 - 5. Transfer station . . . 130.00
- d. Analysis for utilization of on-site sewage treatment and disposal systems in subdivisions:
 - 1. 3 -- 25 lots . . . 260.00
 - 2. 26 -- 50 lots . . . 325.00
- e. Construction inspection and approval of permitted private wastewater lift station . . . 100.00

(5) Fees for miscellaneous services -- *The following services performed by the county health department shall require payment of the fees indicated:*

- a. Approval of temporary events i.e., carnivals, circus, festivals, cook-outs, revivals, etc. . . . 50.00
- b. Appeals from Environmental Control Rule I [app. C, art. II, div. 2]:
 - 1. Single-family residence . . . 100.00
 - 2. All others, including, but not limited to multiple-family, commercial, or subdivisions . . . 125.00
- c. Appeals from Environmental Control Rule II [app. C, art. III, div. 3]. . . 100.00
- d. Facility reinspection fee for any reinspections after the first reinspection 50.00
- e. Reissuance of transferable licenses pursuant to change of ownership . . . 25.00

f. Inspection of private schools:

1. 1 to 49 children . . . 150.00
2. 50 children and more . . . 300.00

g. Late fee for payments received 30 days or more after the due date . . . 35.00

(Ord. No. 78-5, § 7, 5-9-78; Ord. No. 79-15, § 1, 8-14-79; Ord. No. 85-25, § 1, 8-20-85; Ord. No. 85-43, § 1, 12-17-85; Ord. No. 87-22, Pt. II, 9-29-87; Ord. No. 89-14, Pt. II, 7-18-89; Ord. No. 92-23, 7-21-92; Ord. No. 97-58, § 3, 11-18-97)

Editor's note: Regarding subsection (6) e--g, app. C has been deleted as superseded by the county's Land Development Code, Ord. No. 92-20, § 1