

SOLID WASTE PROGRAM
FINANCIAL ASSURANCE AGREEMENT

BETWEEN THE

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

AND

PINELLAS COUNTY, FLORIDA

OBJECTIVE

The objective of this Solid Waste Financial Assurance Agreement ("FAA") is to formally establish the basis upon which the Department of Environmental Protection (DEP) and Pinellas County will work together to assure that adequate resources are available to properly close solid waste management facilities without imposing undue financial burdens upon permittees. To that end, DEP hereby delegates to Pinellas County the authority to receive, review, approve or disapprove, call, and otherwise manage the financial assurance mechanisms required for delegated facilities in accordance with this FAA and the provisions of Chapters 120 and 403, F.S., and Chapters 62-4, 62-701, and 62-711, Florida Administrative Code (F.A.C.), which are incorporated herein by reference. Copies are available at the above-mentioned offices. Citations of specific provisions of statutes and rules shall survive renumbering. Nothing herein is intended to limit DEP's or Pinellas County's independent authority established by law.

DEFINITIONS

For purposes of this FAA, "District" refers to DEP's Southwest District office located in Tampa, Florida.

For purposes of this FAA, "financial assurance" refers to the establishment of a financial mechanism to ensure the availability of financial resources for the proper closure of a solid waste management facility. When required by rule, closure also includes long-term care.

For purposes of this FAA, a "delegated facility" refers to a construction and demolition debris disposal or recycling facility, or a materials recovery facility, located within Pinellas County for which a DEP permit is required under Rules 62-701.730 or 62-701.700, F.A.C., and for which a County permit

is required under Article III, Section 106 of the Pinellas County Code (P.C.C.). The term does not apply to facilities located at Class I, II or III landfills if the closure costs are addressed in the landfill permit, and does not include facilities owned or operated by Pinellas County.

ADMINISTRATION OF THIS SOLID WASTE FINANCIAL ASSURANCE AGREEMENT

(1) Commencement. This FAA shall become effective on the date this document is signed by both DEP and Pinellas County. This FAA is entered into by the DEP Secretary and the Chairperson of the Pinellas County Board of County Commissioners, both of whom have the authority to execute this FAA and satisfy its terms and conditions.

(2) Expiration. - This FAA shall be valid for one year but shall be automatically renewed annually unless terminated as provided below.

(3) Modification. This FAA may be modified in writing at any time by mutual consent of DEP and Pinellas County.

(4) Severability. If any part of this FAA is found invalid or unenforceable by any Court, the remaining parts of this FAA will not be affected if DEP and Pinellas County agree that the rights and duties of both parties contained in this FAA are not materially prejudiced, and if the intentions of the parties can continue to be effective.

(5) County Rules. It is agreed that Pinellas County's existing ordinances pertaining to its solid waste financial assurance program, found in Article III, Section 106, P.C.C., are compatible with, or stricter or more extensive than and not in conflict with those imposed by Chapter 403, F.S., and rules issued thereunder. Such rules are attached as Appendix 1. The DEP has determined such stricter or more extensive rules shall be enforced by DEP if it elects to exercise its jurisdiction over solid waste financial assurance requirements for delegated facilities within the territory of Pinellas County. This determination is not applicable to any rules not specifically listed above.

(6) Future County Rules. To clarify the intent of DEP and Pinellas County regarding the effect of Section 403.182(7), F.S., it is agreed by DEP and Pinellas County that if Pinellas County amends any existing ordinances or rules pertaining to solid waste financial assurance, or adopts any new rules, DEP will not enforce such amended or new rules unless and until DEP has determined that such rules are compatible with, or stricter or more extensive than and not in conflict with those imposed by Chapter 403, F.S., and rules adopted thereunder. Any such

determination will be reflected in a written modification to this FAA, and any new or amended rules will be attached to this FAA. Prior to making such a determination, DEP is not obligated to enforce such rules if it asserts its jurisdiction.

(7) Revocation. In the event that the DEP determines that Pinellas County has failed to comply with the conditions of this delegation or any relevant part of this FAA, Pinellas County will have a reasonable period, not to exceed 90 days from receipt of notification referencing this section, to take corrective measures. If, in the judgment of the DEP, Pinellas County fails to take appropriate corrective measures within the time allowed, the DEP may revoke the delegation.

(8) Termination. Pinellas County or DEP may terminate this FAA without cause by providing written notice to the other party at least 90 days prior to the effective date of such termination.

AGENCY RESPONSIBILITIES

(9) Resources. Pinellas County will maintain adequate budget and administrative, technical and legal staff, training, financial, computer, and other resources to effectively and efficiently carry out the solid waste financial assurance program as provided herein.

(10) Performance Evaluations. DEP specifically retains authority to oversee Pinellas County's management of this delegated program. To that end, DEP may conduct periodic performance evaluations of Pinellas County's delegated solid waste financial assurance activities.

(11) Specific Condition of Delegation. In addition to the other provisions of this FAA, Pinellas County shall comply with the following specific requirements as a condition of maintaining this delegation:

(a) The review of the closure cost estimates shall be done by a professional engineer licensed by the State of Florida, or by a person acting under his or her supervision.

(b) Pinellas County shall follow any written procedures issued by DEP's Secretary, Office of General Counsel, or program directors relating to solid waste financial assurance that were in effect at the time this FAA became effective. DEP shall provide copies of any such written procedures to Pinellas County.

(c) Pinellas County is not authorized to issue a variance from DEP rules or to approve alternate procedures under Chapter 62-701, F.A.C.

(d) Pinellas County shall use financial assurance forms adopted by DEP in Rule 62-701.900, F.A.C. The only changes allowed to these forms are:

1. The County may affix its name and logo on the forms.
2. The forms shall specify that DEP and Pinellas County will be co-beneficiaries.
3. The County may require additional riders, paragraphs or provisions which are specifically required by local ordinance or policy. Any such additions shall be reviewed and approved by Pinellas County's legal counsel, and shall not affect the legality or effectiveness of the form adopted by DEP.

(e) Nothing herein shall be construed to require the County to accept all financial mechanisms which may be allowed under DEP rules, in those cases where fewer financial mechanisms are allowed by County Ordinance.

(12) Compensation. DEP and Pinellas County agree that Pinellas County should not receive specific financial compensation from DEP to cover the cost of implementing this FAA. Pinellas County may maintain its own permit application fee schedule pursuant to its own rules and enabling legislation to the extent allowed by law.

APPLICATION REVIEW PROCEDURES

(13) Permit Applications. When the District receives a permit application for a delegated facility, the District will forward a copy of the financial assurance portions of the application to Pinellas County. Pinellas County will review the closure cost estimates and the financial assurance mechanism for compliance with the requirements of Chapters 62-701, F.A.C., and Article III, Section 106, P.C.C., and shall provide the District with a determination of adequacy. The Department will hold the permit application incomplete until the County has provided its determination of adequacy.

(14) Revisions and Adjustments. Pinellas County shall be responsible for receiving and reviewing adjustments to the closure cost estimate and revisions to the financial assurance mechanisms, including annual updates. The County shall notify DEP upon receipt of any such adjustments or revisions, and shall provide DEP with the status of its determination of adequacy.

CLOSURE PROCEDURES

(15) Termination of Financial Assurance. If a facility has closed in accordance with the requirements of DEP and Pinellas County, the County shall be responsible for terminating the financial assurance mechanism and distributing any remaining funds in accordance with DEP and Pinellas County rules.

(16) Closure of the Facility. If a facility has not closed in accordance with the requirements of DEP and Pinellas County, but instead has been improperly closed, abandoned, or ordered to close by either DEP or Pinellas County, the County shall be responsible for assuring that funds covered by the financial assurance mechanisms are made available for proper closure of the facility. If Pinellas County fails to do this, DEP shall have the authority to make the funds available for proper closure of the facility.

MISCELLANEOUS PROVISIONS

(17) Effective Date and Modification Dates. Subsequent approvals of modifications to this FAA shall not change the effective date.

(18) Existing Facilities. Owners and operators of existing, permitted facilities who have provided separate financial assurance instruments to DEP and Pinellas County will be allowed to submit a new instrument to Pinellas County in accordance with this FAA. This new financial instrument must list Pinellas County and DEP as co-beneficiaries. Upon receipt and approval of this new instrument, the permittee will no longer be required to maintain the old financial instruments.

(19) Legal Challenge. To the extent that any actions taken by Pinellas County pursuant to this FAA may be considered final agency action, such actions shall be subject to the provisions of the Florida Administrative Procedure Act, Chapter 120, F.S., as if these actions had been taken by DEP. For all challenges to such actions by Pinellas County, or to the DEP's intended action on solid waste permits for delegated facilities, DEP shall be responsible for defending the actions of the County and DEP at hearing and on appeal. Pinellas County shall be responsible for appearance at the hearings, and for assisting DEP in preparing for the hearings and in drafting any proposed recommended orders, exceptions, and appellate briefs.

(20) Interpretation of Rules Regarding Financial Assurance. Legal interpretation of DEP rules shall be made by DEP. Legal interpretation of County rules shall be made by the County Attorney. If, in the course of processing solid waste permitting applications, the interpretation of a DEP rule becomes an issue, Pinellas County staff shall consult with DEP to determine the appropriate regulatory interpretation. If DEP is enforcing County rules, then DEP shall consult with Pinellas County (who will consult with County Attorney as needed) concerning the appropriate regulatory interpretation. In the event that there is litigation concerning the interpretation of DEP's rules, then

DEP shall provide testimony concerning the interpretation of those rules. To the extent that litigation involves interpretation of County rules, the County shall provide testimony concerning the interpretation of those rules.

PINELLAS COUNTY

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Barbara Sheew Todd
Name

Virginia B. Wedderell
Name

Chairman
Title

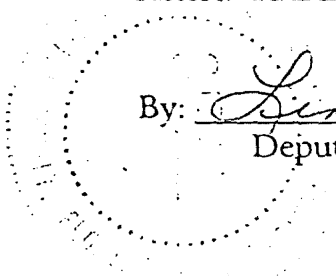
SECRETARY
Title

DATE: 2/18/98

DATE: 3/2/98

Attest: KARLEEN F. De BLAKER, CLERK

By: Linda R. Reed
Deputy Clerk



Approved As To Form:

James DeWitt Cole
Assistant County Attorney

LIST OF ATTACHMENTS

Appendix 1: Article III, Section 106, Pinellas County Code.

- (8) The provisions of Charter section 2.04(b) grant to the board of county commissioners the power to develop and operate solid waste disposal facilities and to furnish services of such facilities within municipalities located in the county. Section 2.04 of the Charter also provides that, when directly concerned with the furnishing of the services described in such section, county ordinances shall prevail over municipal ordinances when they are in conflict.
- (9) The provisions of F.S. § 403.713 authorize any local government that undertakes resource recovery of solid waste pursuant to general law or special act, to control the collection and disposal of solid waste which is generated within its boundaries and to institute a flow control ordinance for the purpose of ensuring that its resource recovery facility receives an adequate quantity of solid waste generated within its jurisdiction.
- (10) The county is currently capable of disposing of all solid waste generated and/or collected within the county.
- (11) This division is adopted pursuant to the authority and power granted to the board of county commissioners by division 2 of this article, by Charter section 2.04, by F.S. § 403.713, and by other applicable law.
(Ord. No. 88-26, § 1, 8-23-88)

Sec. 106-94. Purpose.

The purpose of this division is to assure that the system receives an adequate quantity of solid waste generated within the county by requiring all persons within the county to use exclusively the system or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit with the county for the disposal of all waste generated within the county and to provide for a surcharge for the use of the system's facilities and services to dispose of solid waste generated outside the county.
(Ord. No. 88-26, § 3, 8-23-88)

Sec. 106-95. Areas embraced.

This division shall apply countywide.
(Ord. No. 88-26, § 9, 8-23-88)

Charter reference—Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 106-96. Transport of solid waste.

Nothing in this division shall be construed to prohibit solid waste generated outside the county from being brought into and transported through the county.

(Ord. No. 88-26, § 8, 8-23-88)

Sec. 106-97. Use of system; operation of disposal facilities prohibited.

(a) All solid waste generated within the territorial boundaries of the county shall be disposed of exclusively in the system, or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit from the county. All persons located within the territorial boundaries of the county shall use exclusively the system for the disposal of solid waste generated within the territorial boundaries of the county, or a solid waste disposal system or facility operated or maintained by agreement with the county or by license or permit from the county. Any person delivering solid waste to the system for disposal shall, if any portion of the solid waste contained in the disposal vehicle was generated outside the county, pay to the county at that time the surcharge established for the disposal of solid waste contained in the disposal vehicle, which shall be in addition to any other fee, rate, or charge applicable for facilities or services provided by the system. Solid waste collected within or outside the territorial boundaries of the county shall be presumed to have been generated within or outside the county, respectively, in the absence of preponderance of evidence to the contrary. Evidence shall include information discernible from visual inspection of the solid waste obtained from any person having possession or control of the solid waste at any time.

(b) No person shall operate or maintain a solid waste disposal system or facility, other than the system, within the county, except pursuant to a written agreement with or license or permit from the county.
(Ord. No. 88-26, § 4, 8-23-88)

Sec. 106-98. Fees, rates and charges.

Fees, rates and charges for facilities and services of the system are determined by the board of county commissioners.

county commissioners after it receives recommendations from the technical management committee, in accordance with section 106-54. In order to extend the useful life of the incineration system, and in order to cover the cost of such extension to make up for the results of acceptance of solid waste generated outside of the county, a surcharge shall be collected for all solid waste generated outside the territorial boundaries of the county that is received and disposed of by the system. The amount of such surcharge shall be established in the same manner as fees, rates and charges for facilities and services of the system are established pursuant to section 106-54.
(Ord. No. 88-26, § 5, 8-23-88)

Sec. 106-99. Extraction of valuable material.

Nothing in this division shall be construed to prohibit or limit any person incidental to the process of collection, from extracting from any solid waste collected by such person, of any material having special or unique value for reuse, recycling or sale. For purposes of this section material does not have such special or unique value merely because it provides a recoverable energy resource when subjected to a process designed to recover energy for commercial or public use. No person, whether in connection with extracting from solid waste of any valuable material or for any other purpose, may establish any facilities:

- (1) For the accumulation of and sorting of substantial volumes of solid waste; or
 - (2) Contrary to the prohibition of section 106-97.
- (Ord. No. 88-26, § 7, 8-23-88)

Secs. 106-100–106-130. Reserved.

ARTICLE III. SOLID WASTE MANAGEMENT FACILITIES*

DIVISION 1. GENERALLY

Sec. 106-131. Definitions.

Unless the context otherwise requires, terms used in this article shall have the same meanings

*Cross reference—Businesses, ch. 26.

ascribed to them as in chapter 701, Florida Administrative Code, as amended, and as ascribed to them in this section.

Applicant means the person operating and maintaining, or desiring to operate and maintain, a solid waste management facility, and includes the owner of the property on which such facility is located.

Clean debris means any solid waste which is virtually inert, which is not a pollution threat to groundwater or surface water, is not a fire hazard, and is likely to retain its physical and chemical structure under expected conditions of disposal or use.

County administrator means the county administrator for the county or his designee.

County solid waste management facilities means those solid waste management facilities which are constructed, maintained, or operated by the county or pursuant to contract with the county. "County solid waste management facilities" shall not include facilities maintained or operated pursuant to a permit issued by the county.

Department means the state department of environmental protection, or any successor agency of the state performing the same or similar function as the department of environmental protection.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or upon any land or water so that such solid waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment.

Enclosed facility means a solid waste management facility with a roof and having the entire area under the roof totally enclosed by opaque walls with no more than 20 percent of the total wall surface area having openings and no more than 50 percent of any one side wall surface area having openings.

Landfill means a solid waste disposal facility, which is an area of land or an excavation where wastes are or have been placed for disposal, for which a permit, other than a general permit, is

required by state statute. This term shall not include:

- (1) A land spreading site;
- (2) A surface impoundment; or
- (3) An injection well as defined by rules of the department.

Permittee means a person holding a permit issued pursuant to the provisions of this article.

Person means any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the Laws of Florida or any other state or the federal government.

Processing means any technique designed to separate or change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to recovery, storage or recycling; safe for disposal; or reduced in volume or concentration.

Recovered materials means those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream for sale, use or reuse, by separation, collection or processing.

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

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

Solid waste means garbage, refuse, yard trash, construction and demolition debris, white goods, special waste, ashes, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous materials resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

Solid waste disposal facility means any solid waste management facility which is the final resting place for solid waste, including landfills

and incineration facilities that produce ash the process of incinerating municipal solid waste.

Solid waste management means the process by which solid waste is collected, transported, separated, processed, or disposed of in any program according to an orderly, purposeful, and planned program.

Solid waste management facility or *facility* means any solid waste disposal area, volume reduction plant, transfer station or other facility the purpose of which is the resource recovery, disposal, recycling, processing or storage of waste. Such term does not include facilities which use or ship recovered materials unless such facilities are generating solid waste as part of the recovery process.

Transfer station means a site the primary purpose of which is to store or hold solid waste prior to transport to a processing or disposal facility.

Unenclosed facility means a solid waste management facility not meeting the definition of "enclosed facility."

Volume reduction plant means a pulverizer, grinder, compactor, shredding and baling plant, composting plant, or other plant which receives and processes solid waste for recycling or disposal.

(Ord. No. 93-93, § 2, 10-19-93)

Cross reference—Definitions generally, § 1-2.

Sec. 106-132. Authority.

This article is adopted pursuant to article I, section 1, Florida Constitution; article II, section 2 of this chapter; F.S. § 403.713; and the Charter.

(Ord. No. 93-93, § 1, 10-19-93)

Sec. 106-133. Penalty for violation of :

Violations of this article are punishable as provided in section 1-8.

(Ord. No. 93-93, § 11, 10-19-93)

Sec. 106-134. Area embraced.

This article shall apply countywide.

(Ord. No. 93-93, § 14, 10-19-93)

Charter reference—Conflicts between county and municipal ordinances, §§ 2.01, 2.04.

Sec. 106-135. Exemptions from article.

The following are exempt from the provisions of this article:

- (1) The management, storage or disposal, at other than a county-permitted landfill, of clean debris; provided, however, that the management, storage or disposal of such materials are in compliance with applicable county zoning provisions or have received appropriate approval of the municipality in whose jurisdiction the site for disposal of such materials is located.
- (2) County solid waste management facilities.
- (3) Disposal by persons of solid waste resulting from their own activities, on their own property, provided such waste is from their residential property and is clean debris, rocks, soil, trees, tree remains, and other vegetative matter which normally results from land development operations.
- (4) Storage of solid waste in containers on property which is owned, rented, or leased by the persons who generated the waste from their own activities which occurred on their property, if the solid waste in such containers is collected on a regular basis.

(Ord. No. 93-93, § 4, 10-19-93)

Secs. 106-136–106-155. Reserved.

DIVISION 2. PERMIT

Sec. 106-156. Required.

It shall be unlawful for any person to construct, expand, modify, maintain or operate a solid waste management facility within the county without an appropriate and currently valid permit issued by or at the direction of the board of county commissioners or the county administrator, as provided in this article, and unless such facility is in conformance with such permit.

(Ord. No. 93-93, § 3, 10-19-93)

Sec. 106-157. Application.

(a) *Generally.* An application for a permit under this article shall be submitted in such form as the board of county commissioners may prescribe and shall be accompanied by an application fee.

(b) *Review and evaluation.* The county administrator is hereby delegated the authority and responsibility for the review and evaluation of all permit applications submitted pursuant to this article to determine whether or not such application meets the applicable criteria set forth in section 106-158. Review and evaluation of an application shall not commence until the application is deemed complete by the county. When the application has been deemed complete, the county shall so notify the applicant, in writing.

(c) *Solid waste disposal facilities.* After review and evaluation by the county administrator pursuant to subsection (b) of this section, applications for permits for solid waste disposal facilities shall be presented to the board for approval or denial. The county administrator shall make a recommendation to the board of county commissioners based on the criteria set forth in section 106-158. If approval of the application is recommended, the county administrator shall also recommend conditions, as appropriate for such approval pursuant to the provisions of section 106-159. In the event the county administrator recommends that the application should be denied, the reasons for such denial shall be clearly set forth in such recommendation.

(d) *Other solid waste management facilities.* Based on the criteria described in subsections (a) through (c) of this section, the county administrator may approve or deny a permit for solid waste management facilities other than solid waste disposal facilities. In the event of approval, the county administrator may impose such conditions as are appropriate pursuant to the provisions of section 106-160.

- (1) *Enclosed facilities.* The county administrator shall utilize and apply the criteria set forth in section 106-158 to determine whether or not applications for enclosed facilities should be approved or denied.

(2) *Unenclosed facilities within unincorporated areas and solid waste management facilities within incorporated areas.* In determining whether to approve or deny an application for a solid waste management facility located within an incorporated area or for an unenclosed facility in the unincorporated area of the county, the county administrator shall consider whether such facility has obtained all applicable federal, state or municipal permits for the operation of such facility. In the event the applicant has obtained such permits, the county administrator shall approve and issue a permit but may impose the following conditions:

- a. Periodic reports to the county's solid waste management department;
- b. Reporting of any failure to comply with state, federal or municipal permit conditions or any change in such conditions;
- c. Allowance of reasonable inspections by the county.

Any persons adversely affected by a decision of the county administrator under this subsection (d) may appeal such decision to the board of county commissioners. Such appeal shall be taken by filing written notice with the county administrator with a copy to the clerk of the board of county commissioners within 30 calendar days after the decision of the county administrator. Each such appeal shall be accompanied by a payment in sufficient amount to cover the cost of publishing and mailing notices of such hearing. Failure to file such appeal constitutes acceptance of the permits and conditions or denial.

(Ord. No. 93-93, § 5, 10-19-93)

Sec. 106-158. Grant or denial; criteria for determination.

(a) The board of county commissioners shall review the recommendations of the county administrator for approval or denial of a permit for a solid waste disposal facility and shall determine, based upon the criteria set forth in this article, whether the permit shall be approved or denied. The board may hold a public hearing to receive

testimony and evidence prior to determining whether the permit should be approved or denied. Notice of such public hearing shall be placed in a newspaper of general circulation in the county at least 15 days prior to such public hearing. Individual property owners within 500 feet of the proposed location referenced in the application shall be notified in writing of such public hearing at least 15 days before such hearing.

(b) The board of county commissioners shall consider each of the following minimum criteria in determining whether an application for a permit pursuant to this article shall be approved or denied:

- (1) Whether the facility under consideration is sufficient in terms of the physical size, location of the facility and area of the population of the county to be served.
- (2) Whether or not the design and operation plans and procedures are complete and efficient.
- (3) Whether the applicant has provided reasonable assurances, financial or otherwise, that applicable permit conditions will be met. In determining whether such reasonable assurances have been provided, the board of county commissioners may consider, in addition to other factors, consent orders or any other provisions of applicable statutes, rules, regulations, permit conditions by the applicant or other provisions of law relating to the operation of a solid waste management facility in the state for which the applicant is or was responsible.
- (4) Whether or not the applicant's facility is sufficiently and safely accessible by public transportation vehicles, automobiles, and, where applicable, transfer vehicles.
- (5) Whether or not the applicant has provided for sufficient safeguards against water pollution and land blight.
- (6) Whether or not the applicant has provided for sufficient odor, dust, litter, and noise control.
- (7) Whether or not the proposed location of the facility is compatible with existing

classifications and land use designations of property in the vicinity of the proposed location.

- (8) Whether or not the facility sufficiently conserves and protects the natural resources in the general vicinity of the proposed location of the facility.
- (9) Whether or not the proposed location and use of the property as a site for a solid waste management facility would unreasonably interfere with or jeopardize the public's right to undisturbed health, safety and welfare.
- (10) Whether or not the proposed use and location of the property as a solid waste management facility would otherwise create an adverse effect on the public interest.
- (11) Whether or not the applicant's proposed facility would negatively impact on the county resource recovery systems and facilities.

(Ord. No. 93-93, § 6, 10-19-93)

Sec. 106-159. Permit conditions.

In the event that the board of county commissioners or county administrator, as the case may be, approves a permit for a solid waste management facility, the board or county administrator, as the case may be, may impose such conditions as it may deem necessary or desirable to ensure proper construction and operation of the facility in conformance with the intent and purpose of this article. Such conditions may include term or length of permit; evidence of other applicable permits; provision of reasonable access by county representatives; compliance with all applicable laws; days and hours of operation; appropriate setbacks; cover requirements; odor, dust and litter control; ingress and egress; liability insurance; indemnification; notification of any permit violations; drainage; depth and slope requirements; fire control; grading requirements; closure requirements; types of solid wastes; salvage, separation and material storage requirements; restrictions on assignment of permit; financial guarantee in a form and in an amount satisfactory to the county; landscaping and buffers; control of air and water pollution and surface water runoff; signs; reporting

requirements; and such other conditions as are deemed necessary and desirable by the board of county commissioners or the county administrator, as the case may be, to ensure compliance with the purposes and intent of this article.

(Ord. No. 93-93, § 7, 10-19-93)

Sec. 106-160. Conditions to effectiveness of permit.

No permit issued by, or at the direction of, the board of county commissioners or county administrator, as the case may be, shall be deemed in effect, and no activity shall commence at an approved facility, unless and until the following conditions have been fulfilled:

- (1) The county must have received copies of any and all applicable state, federal and local valid permits for the same location and operation; and
- (2) Receipt and approval by the county of the appropriate documents regarding operations, liability insurance, indemnification, and financial guarantees as required by section 106-159.

(Ord. No. 93-93, § 8, 10-19-93)

Sec. 106-161. Renewal.

(a) Permits issued pursuant to this article shall not renew automatically. If a permittee desires a new permit issued under this article, the permittee must submit a new application for such new permit no later than 90 days before the expiration of the previously issued permit. An application for a new permit shall specify any material change in factual information from the information contained in the application for the previously submitted permit.

(b) Review and evaluation of the application for the new permit shall be conducted pursuant to section 106-157(b) of this article. Determination of whether to approve or deny the new permit shall be conducted pursuant to section 106-157(c) or (d), as the case may be. The board of county commissioners or the county administrator, as the case may be, shall consider, as an additional criterion in determining whether or not to approve an application for renewal, whether or not the

permittee has satisfactorily operated and maintained the solid waste management facility in accordance with the conditions imposed in the previously approved permit.

(c) If, prior to the expiration date of the previously approved permit under this article, the board of county commissioners or the county administrator, as the case may be, has not approved or denied the application for a new permit, and if the permittee has requested in writing for an extension, then the board or the county administrator, as the case may be, in its sole discretion, may allow the permittee to continue operations but only if the application for a new permit has been deemed complete, as described in section 106-157(b).

(Ord. No. 93-93, § 9, 10-19-93)

Sec. 106-162. Copy of permit to be kept on premises; revocation.

(a) A copy of the permit issued pursuant to this article shall be kept on the premises of the facility and shall be open to public inspection during normal business hours.

(b) Any permit issued under this article may be revoked in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit was based, for violation of conditions imposed pursuant to this article, or for other good cause.

- (1) In the event the county administrator recommends that a permit issued pursuant to this article be revoked, written notice of the intent of the board of county commissioners to revoke such permit shall be provided to the permittee. Such notice shall set forth the specific reasons for the revocation. The permittee shall have the right to appear before the board of county commissioners at a time and date specified in such notice to show cause why the permit issued to the applicant should not be revoked.
- (2) If the board of county commissioners determines to revoke a permit issued pursuant to this article, after notice and hearing as provided in subsection (b)(1) of this section, the permittee shall be advised of the procedures for closure which shall be required,

including the period of time in which the procedure for closure shall be accomplished (Ord. No. 93-93, § 10, 10-19-93)

Sec. 106-163. Cease and desist order.

The county administrator may issue a cease and desist order for any permit issued pursuant to this article for fraud, misrepresentation, violation of conditions imposed pursuant to this permit, or for other good cause or for any other reason where work has commenced and a permit has been obtained but is required pursuant to this article. Any person receiving such an order shall immediately cease operations in accordance with the requirements thereof. It shall be a violation of this article for any person to fail or refuse to comply with a cease and desist order issued and served under the provisions of this section (Ord. No. 93-93, § 13, 10-19-93)

ARTICLE IV. BIOMEDICAL WASTE DISPOSAL*

Sec. 106-186. Findings.

(a) The department of environmental protection (DEP) has adopted rules relating to the storage, transport and disposal of biomedical waste.

(b) Such rules, contained in Chapter 62, Florida Administrative Code, are aimed at preventing the release of biomedical waste from the municipal waste stream.

(c) The county finds and determines that it is in the interest of public health, safety and the environment that the disposal of biomedical waste at any location other than a permitted biomedical waste treatment, storage and disposal facility be prohibited and that penalties be imposed for the violation of such prohibition.

(Ord. No. 95-83, § 2, 12-5-95)

Sec. 106-187. Definitions.

Unless the context otherwise requires, the definitions used herein shall have the following meanings ascribed to them.

*Editor's note—Ord. No. 95-83, adopted Dec. 5, 1995, not specifically amend this Code; hence, inclusion of this section in ch. 106, art. IV, §§ 106-186—106-190, was at the discretion of the editor.

Biomedical waste means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid tissue and body parts from humans and other primates; laboratory and veterinary waste which may contain human disease-causing agents discarded sharps; and blood, blood products, and body fluids from humans and other primates. For purposes of this article, biomedical waste shall also mean biomedical waste which is not treated biomedical waste.

Biomedical waste generator means a facility or person who produces or generates biomedical waste. The term includes, but is not limited to, hospitals, skilled nursing facilities, clinics, dialysis clinics, blood banks, dental offices, surgical clinics, medical buildings, health maintenance organizations, home health agencies, physicians offices, laboratories, emergency medical services, veterinary clinics, and funeral homes.

Costs means includes, but shall not be limited to, the cost of operating and maintaining equipment associated with special handling of biomedical waste; the cost of materials used in such handling; the cost of contract labor and materials; and legal and professional costs.

Sharps means devices with physical characteristics capable of puncturing, lacerating, or otherwise penetrating the skin. These devices include but are not limited to needles and scalpels, intact or broken glass, and intact or broken hard plastic are considered sharps if they are contaminated with blood, body fluids, or blood contaminated excretions or secretions.

Treated biomedical waste means biomedical waste that meets the efficacy requirements in Chapter 10D-184 of the Florida Administrative Code.

(Ord. No. 95-83, § 3, 12-5-95)

Sec. 106-188. Violations; penalties.

(a) It shall be unlawful for any biomedical waste generator to dispose of, or attempt to dispose of, any biomedical waste at any place other than a permitted biomedical waste facility.

(b) Any person who violates subsection (a) of this section shall be subject to penalties as provided in section 1-8 of the county code.

(c) The county may institute suit in a court of competent jurisdiction to recover any direct or indirect costs incurred by the county as a result of specially handling biomedical waste or solid waste which has been in direct contact with biomedical waste.

(Ord. No. 95-83, § 4, 12-5-95)

Sec. 106-189. Area embraced.

This article shall be effective in the incorporated as well as unincorporated areas of the county.

(Ord. No. 95-83, § 5, 12-5-95)

Sec. 106-190. No conflict.

Nothing herein shall be construed to supersede or conflict with any state or federal regulations regarding biomedical waste.

(Ord. No. 95-83, § 6, 12-5-95)