AGENDA ITEM C (2)
Proposed Rule Changes for Discussion – Cinerator Facilities

FLORIDA ADMINISTRATIVE CODE

69K-22.003 Fees.

(1) The application fee for a cinerator facility shall be $450.00 and will include licensure for the remainder of the biennium during which license application is granted.

(2) The biennial renewal fee for cinerator facilities shall be $450.00.

(3) Each cinerator facility shall be charged ~~$225.00~~ $300.00 for each annual inspection. These shall be paid biennially, at the same time as the renewal fee.

(4) The fee for each duplicate license shall be $25.00. To obtain a duplicate license, a licensee must inform the Department that the licensee needs a duplicate license and pay the duplicate license fee to the Department.

(5) In the event that a licensed establishment changes its licensed business name, the Board office shall be notified within 30 days. Such notification shall include documentation of the name change as well as a $25.00 duplicate license fee and the original license. A duplicate license, reflecting the new business name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

Rulemaking Authority 497.103, 497.140, 497.606 FS. Law Implemented 497.140, 497.606 FS. History–New 2-13-80, Formerly 21J-22.03, Amended 4-1-90, 12-18-90, Formerly 21J-22.003, Amended 2-21-95, 7-4-95, 9-17-97, 2-16-98, 11-17-99, Formerly 61G8-22.003, Amended 7-3-06, 5-19-09.

FLORIDA STATUTES

497.606 Cinerator facility, licensure required; licensing procedures and criteria; license renewal; regulation.—

(1) LICENSE REQUIRED.—No person may conduct, maintain, manage, or operate a cinerator facility unless a license for such facility has been issued and is in good standing under this section.

(2) APPLICATION PROCEDURES.—

(a) A person seeking licensure as a cinerator facility shall apply for such licensure using forms prescribed by rule.

(b) The application shall require the name, business address, residence address, date and place of birth or incorporation, and business phone number, of the applicant and all principals of the applicant. The application shall require the applicant's social security number or, if the applicant is an entity, its federal tax identification number.

(c) The application shall name the licensed funeral director or licensed direct disposer who will be in charge of the cinerator facility.

(d) The application may require information as to the applicant's financial resources.

(e) The application may require information as to the educational and employment history of an individual applicant, and as to applicants that are not natural persons, the business and employment history of the applicant and principals of the applicant.

(f) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142.

(g) The application shall require the applicant to disclose whether the applicant or any of the applicant's principals including its proposed supervising licensee has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(h) The applicant shall submit fingerprints in accordance with s. 497.142.

(i) The application shall require the applicant to demonstrate that the applicant does, or will before commencing operations under the license, comply with all requirements of this chapter relating to the licensure applied for.

(j) The application shall be signed in accordance with s. 497.141(12).

(k) The application shall be accompanied by a nonrefundable fee of $300. The licensing authority may from time to time increase the fee by rule but not to exceed $500.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fee, shall be approved if the licensing authority determines that the following conditions are met:

(a) No license may be issued unless the cinerator facility has been inspected and approved as meeting all requirements as set forth by the department, the Department of Health, the Department of Environmental Protection, or any local ordinance regulating the facility.

(b) The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company.

(c) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for.

(d) The applicant and the applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

(4) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the cinerator facility business by, among other means, the entry of new licensees into that business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for

up to the first 24 months of licensure, to ensure the licensee's responsibleness, competency, financial stability, and compliance with this chapter. Provided, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure.

(5) ISSUANCE OF LICENSE.—Upon approval of the application by the licensing authority, the license shall be issued.

(6) RENEWAL OF LICENSE.—Licenses under this section shall be renewed biennially in accordance with a schedule, forms, and procedures established by rule. The nonrefundable and nonproratable biennial renewal fee shall be as determined by licensing authority rule but not to exceed $500.

(7) CHANGES SUBSEQUENT TO LICENSURE.—Each licensee under this section shall provide notice as required by rule prior to any change in location or control of the licensee or licensed person in charge of the licensee's operations. A change in control is subject to approval by the licensing authority and to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

(8) SUPERVISION OF FACILITIES.—Each cinerator facility shall have a direct disposer in charge or a funeral director in charge for that facility. Such funeral director in charge or direct disposer in charge shall be responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules. A funeral director in charge, with appropriate, active licenses, may serve as a funeral director in charge for not more than a total of two of the following: funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the two locations are not more than 75 miles apart as measured in a straight line.

(9) REGULATION OF CINERATOR FACILITIES.—

(a) There shall be established by rule standards for cinerator facilities, including, but not limited to, requirements for refrigeration and storage of dead human bodies, use of forms and contracts, and record retention.

(b) No more than one dead human body may be placed in a retort at one time, unless written permission has been received from a legally authorized person for each body. The operator of a cinerator facility shall be entitled to rely on the permission of a legally authorized person to cremate more than one human body at a time.

(c) Each cinerator facility shall at all times be subject to the inspection of all its buildings, grounds, records, equipment, and vehicles used in the conduct of its business, by the department, the Department

of Environmental Protection, the Department of Health, and local government inspectors and by their agents. Rules shall be adopted which establish such inspection requirements. There shall by rule of the licensing authority be adopted an annual inspection fee not to exceed $300, payable prior to issuance of license and upon each renewal of such license.

(d) A cinerator facility licensed under this section shall only receive dead human bodies for cremation. A cinerator facility may not receive other materials, or medical, hazardous, and biohazardous waste, for the purpose of disposal in a retort.

(e) Each cinerator facility must display at its public entrance the name of the facility and the name of the funeral director or direct disposer responsible for that facility. A cinerator facility must transact its business under the name by which it is licensed.

(f) A cinerator facility located at the same address as a funeral establishment may not have a direct disposer as its individual in charge.

(g) A cinerator facility shall not place human remains or body parts in a retort or cremation chamber unless the human remains are in an alternative container, cremation container, or casket. Human remains may be transported in a cremation container or stored if they are completely covered, and at all times treated with dignity and respect. Cremation may include the processing and pulverization of bone fragments. Cremated remains may be placed in a temporary container following cremation. None of the provisions contained in this subsection require the purchase of a casket for cremation. This subsection applies to at-need contracts and preneed contracts entered into pursuant to this chapter after June 1, 1996.

(h) Each cinerator facility shall ensure that all alternative containers, cremation containers, or caskets used for cremation contain no amount of chlorinated plastics not authorized by the Department of Environmental Protection, that they also are composed of readily combustible or consumable materials suitable for cremation, able to be closed to provide a complete covering for the human remains, resistant to leakage or spillage, rigid enough for handling with ease, and able to provide for the health, safety, and personal integrity of the public and crematory personnel.

(i) There shall be rules adopted requiring each facility to submit periodic reports to the department that include the names of persons cremated, the date and county of death, the name of each person supervising each cremation, the name and license number of the establishment requesting cremation, and the types of containers used to hold the body during cremation.

(j) Each cinerator facility shall be inspected prior to the initial issuance of its license and annually thereafter and shall:

1. Maintain one or more retorts for the reduction of dead human bodies.

2. Maintain refrigeration that satisfies the standards set by the Department of Health and contains sufficient refrigerated space for the average daily number of bodies stored, if unembalmed bodies are kept at the site.

3. Maintain sufficient pollution control equipment to comply with requirements of the Department of Environmental Protection in order to secure annual approved certification.

4. Either have on site or immediately available sufficient gasketed containers of a type required for the transportation of bodies as specified in applicable state rules.

5. Maintain the premises in a clean and sanitary condition.

6. Have appropriate Department of Environmental Protection permits.

History.—ss. 1, 5, ch. 79-231; ss. 2, 3, ch. 81-318; s. 1, ch. 89-8; s. 47, ch. 89-162; s. 25, ch. 89-374; s. 22, ch. 91-137; s. 140, ch. 92-149; ss. 24, 122, ch. 93-399; s. 73, ch. 94-119; s. 456, ch. 94-356; s. 5, ch. 96-355; s. 230, ch. 99-8; s. 131, ch. 2004-301; s. 49, ch. 2005-155; s. 3, ch. 2009-219; s. 14, ch. 2019-140.

Note.—Former s. 470.025.