AGENDA ITEM C (3)
Proposed Rule Changes for Discussion – Direct Disposal Establishments

FLORIDA ADMINISTRATIVE CODE

69K-23.004 Direct Disposal Establishments.

(1) At least thirty (30) days before the beginning of operation, a direct disposal establishment owner shall apply to the Department on a form provided by the Department for approval. Information to be provided shall include the correct street address, all telephone numbers and any Post Office box numbers. The owner shall also provide the name of the establishment.

(2) Prior to the issuance and renewal of its license a direct disposal establishment shall be approved by the Department if upon inspection by the Department it is shown that:

(a) There is available to the establishment adequate refrigerated storage space at a temperature of 40 degrees F or below for the average daily number of bodies stored;

(b) There are suitable containers available, including both cardboard boxes and airtight containers; and

(c) At least one licensed direct disposer is available at all times.

(d) The establishment shall be at a fixed, non-residential location in a building owned or leased by the direct disposer.

(e) The establishment shall be at least 625 square feet in size.

(f) If the establishment does not itself provide removal services, refrigeration facilities or cinerator facilities at or from its physical location address (profile location), upon application for registration, the establishment shall provide copies of its contracts with a removal service, refrigeration facility, retort or any appropriate combination thereof, located within 75 miles of the establishment's profile location.

(3) A direct disposal establishment shall be inspected by the Department under the following circumstances, and the Department shall be notified by the owner of the establishment at least 10 days before paragraph (a) or (b) occur:

(a) When a direct disposal establishment moves to a new location;

(b) When ownership of a direct disposal establishment is changed or otherwise transferred; and

(c) When a consumer complaint is made regarding a specific direct disposal establishment.

(4) There shall be one full-time registered direct disposer in charge at each establishment.

(5) In the event that the registered direct disposer in charge of establishment leaves the employ of that business, the owner shall notify the Department within twenty (20) days of the separation and shall identify the registered direct disposer who will be responsible for the establishment. Such notification shall consist of a statement signed by the new direct disposer in charge and the owner, and shall contain the name of the former direct disposer in charge, their registration numbers, the registration number of the direct disposal facility, and the date the change became effective.

(6) The biennial renewal fee for direct disposal establishments shall be $400.

(7) There shall be an annual inspection fee of ~~$225~~ $300 for each direct disposal establishment.

(8) A late renewal penalty fee of fifty dollars ($50.00) shall be paid. This fee is owed when due, and failure to make payment will be a violation of this rule which will be cause to deny any subsequent applications for licensure pursuant to Chapter 497, F.S.

(9) 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 legal 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, 497.604 FS. Law Implemented 497.140, 497.604 FS. History–New 2-13-80, Amended 11-8-82, 8-16-83, Formerly 21J-23.04, Amended 6-5-90, Formerly 21J-23.004, Amended 4-10-94, 9-17-97, 1-4-98, 2-16-98, 5-17-98, 2-17-00, 6-14-00, 11-20-00, Formerly 61G8-23.004, Amended 5-19-09.

FLORIDA STATUTES

497.604 Direct disposal establishments, license required; licensing procedures and criteria; license renewal; regulation; display of license.—

(1) LICENSE REQUIRED.—A direct disposer shall practice at a direct disposal establishment which has been licensed under this section and which may be a cinerator facility licensed under s. 497.606. No person may open or maintain an establishment at which to engage in or hold herself or himself out as engaging in the practice of direct disposition unless such establishment is licensed pursuant to this section.

(2) APPLICATION PROCEDURES.—

(a) A person seeking licensure as a direct disposal establishment 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 direct disposer or licensed funeral director acting as the direct disposer in charge of the direct disposal establishment.

(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 by rule increase the fee 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) The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company.

(b) 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. The applicant shall have passed an inspection prior to issuance of a license under this section, in accordance with rules of the licensing authority.

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

(5) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the direct disposal establishment 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. However, 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.

(6) RENEWAL OF LICENSE.—A direct disposal establishment license shall be renewed biennially pursuant to schedule, forms, and procedures and upon payment of a fee of $200. The licensing authority may from time to time increase the fee by rule but not to exceed $400.

(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 at the new location, pursuant to rules of the licensing authority, has been conducted and passed.

(8) SUPERVISION OF FACILITIES.—

(a) Each direct disposal establishment shall have a funeral director in charge, subject to s. 497.380(7). However, a licensed direct disposer may continue acting as the direct disposer in charge if, as of September 30, 2010:

1. The direct disposal establishment and the licensed direct disposer both have active, valid licenses.

2. The licensed direct disposer is currently acting as the direct disposer in charge of the direct disposal establishment.

3. The name of the licensed direct disposer was included, as required in paragraph (2)(c), in the direct disposal establishment's most recent application for issuance or renewal of its license or was included in the establishment's notice of change provided under subsection (7).

(b) The funeral director in charge or direct disposer in charge of a direct disposal establishment must be reasonably available to the public during normal business hours for the establishment. The funeral director in charge or direct disposer in charge of the establishment is 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 DIRECT DISPOSAL ESTABLISHMENTS.—

(a) There shall be established by rule standards for direct disposal establishments, including, but not limited to, requirements for refrigeration and storage of dead human bodies.

(b) The practice of direct disposition must be engaged in at a fixed location of at least 625 interior contiguous square feet and must maintain or make arrangements for suitable capacity for the refrigeration and storage of dead human bodies handled and stored by the establishment.

(c) Each direct disposal establishment shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department, the Department of Health, and local government inspectors and by their agents. There shall be adopted rules which establish such inspection requirements. There shall be adopted by rule of the licensing authority an annual inspection fee not to exceed $300, payable upon issuance of license and upon each renewal of such license.

(d) Each direct disposal establishment must display at the public entrance the name of the establishment and the name of the licensed direct disposer or licensed funeral director acting as the direct

disposer in charge of the establishment. A direct disposal establishment must transact its business under the name by which it is licensed.

(e) A direct disposal establishment may not be operated at the same location as any other direct disposal establishment or funeral establishment unless such establishments were licensed as colocated establishments on July 1, 2000.

(f) A direct disposal establishment shall retain all signed contracts for a period of at least 2 years.

(10) DISPLAY OF LICENSE.—

(a) A direct disposer establishment and each direct disposer, or funeral director acting as a direct disposer, employed at the establishment must display their current licenses in a conspicuous place within the establishment in such a manner as to make the licenses visible to the public and to facilitate inspection by the licensing authority. If a licensee is simultaneously employed at more than one location, the licensee may display a copy of the license in lieu of the original.

(b) Each licensee shall permanently affix a photograph taken of the licensee within the previous 6 years to each displayed license issued to that licensee as a direct disposer or funeral director acting as a direct disposer.

History.—ss. 1, 5, ch. 79-231; ss. 2, 3, ch. 81-318; ss. 13, 43, ch. 82-179; s. 1, ch. 89-8; s. 45, ch. 89-162; s. 23, ch. 89-374; ss. 20, 122, ch. 93-399; s. 71, ch. 94-119; s. 319, ch. 97-103; s. 229, ch. 99-8; s. 28, ch. 2000-356; s. 129, ch. 2004-301; s. 103, ch. 2005-2; s. 48, ch. 2005-155; s. 28, ch. 2010-125; s. 13, ch. 2019-140.

Note.—Former s. 470.021.