

November 2, 2009 Draft

PROPOSED AMENDMENT TO COUNTY CODE CHAPTER 27 ARTICLE VIII

Broward Solid Waste Disposal District Flow Control

Sec. 27-450 Declaration of Intent

Pursuant to Section 403.706(1), Broward County has the responsibility and power to provide disposal facilities for all of Broward County, both incorporated and unincorporated.

The preceding was accomplished by formation of the Broward Solid Waste Disposal District and the implementation of an integrated solid waste system in Broward County.

The main elements of the solid waste system in Broward County are the two waste to energy plants constructed with the aid of Broward County and managed by private enterprise as contemplated by Section 403.706 of the Florida Statutes.

The Broward County Commission finds that the solid waste system in Broward County, the Broward Solid Waste Disposal District and the integration of the waste to energy plants existing in Broward County as a resource belonging to the general public and the preservation of same, is a public purpose benefitting all the residents of Broward County.

The Broward County Commission finds that flow control as contemplated in Section 403.713 of the Florida Statutes is necessary in order to provide for the adequate quantity of solid waste from solid waste generated within the incorporated and unincorporated areas within Broward County which are a part of the Broward Solid Waste Disposal District to ensure the continuance of the Resource Recovery System in Broward County.

The Broward County Commission further finds that the regulation of solid waste facilities and solid waste haulers are the regulation of a closely regulated industry as evidenced by other sections of this Chapter, state and federal regulations, and franchises and permits issued by each municipality in conformity with Chapters 166, 180 and 403 of the Florida Statutes.

Sec. 27-451 Definitions

Definitions pursuant to this article shall be those provided in Section 27-214 of this Code, except that the following definitions shall apply herein:

Contract Community or Contract Communities shall mean the municipal corporation or corporations existing under the laws of the State of Florida located within Broward County that have entered into the Interlocal Agreement forming the Broward Solid Waste Disposal District.

Haul shall mean the collection or transportation of solid waste within the geographic boundaries of Broward County and the transportation and delivery of such solid waste to a facility which recovers, disposes, recycles, processes, or stores solid waste.

Hauler shall mean any person, firm or corporation or governmental agency responsible (under either oral or written contract, or otherwise) for the collection or transportation of solid waste within the geographic boundaries of Broward County and the transportation and delivery of such solid waste to a facility which recovers, disposes, recycles, processes, or stores solid waste.

Sec. 27-452 Applicability

This article applies to all persons operating or maintaining facilities or conducting activities within the geographic boundaries of Broward County, which recover, dispose, recycle, process, store or haul solid waste.

Sec. 27-453 Right to Inspect and Access to Property

(a) When the owner, operator, or person in charge of any vehicle, real property, facility, premises or place consents, any authorized representative of Broward County may, at any reasonable time enter and inspect for the purpose of ascertaining the following:

- (1). Any material or activity that is or may be located, operated, stored, transported, disposed, produced, discharged or conducted which may be in violation of this article.
- (2). A violation of this article may be occurring,; or
- (3). Access may be necessary to conduct a complete investigation of a possible violation of this article.

(b) Any person who is a hauler, landfill, materials recovery facility, transfer station, construction and demolition debris disposal facility shall allow immediate entry or access to any authorized agent of Broward County who requests entry for the purpose of inspection or investigation and who presents appropriate credentials, and such person shall not obstruct, hamper or interfere with any such investigations. Such investigations shall only be conducted during hours of operation of the hauler, landfill, materials recovery facility, transfer station, construction and demolition or debris disposal facility or such times that said facilities actually are performing functions related to the operation of said facilities, when there is reasonable cause to believe that a violation of this article may exist.

(c) Activities authorized during inspections provided herein, shall include, but are not limited to: obtaining copies of pertinent documents, taking samples and recording any illegal violations of this article.

(d) Refusal to grant immediate entry or access as provided in (b) shall be a violation of this article.

(e) An inspection warrant may be obtained as provided by Florida Statute.

Sec. 27-454 Prohibitions

No person who is a hauler, landfill, materials recovery facility, transfer station, construction and demolition or debris facility or other licensed solid waste facility shall collect, accept, store, process or dispose or contract to dispose, solid waste generated within the boundaries of the Contract Communities of the Broward Solid Waste Disposal District, contrary to the Plan of Operations approved by the Broward Resource Recovery Board.

Sec. 27-455 Enforcement

(a) Intent. It is the intent of this section to provide for the establishment of code enforcement Special Magistrate(s) in compliance with Chapter 162, Florida Statutes, as amended, for the purpose of providing an equitable, expeditious, effective, and inexpensive means of enforcing this article and solid waste flow control ordinances for municipalities within the Broward Solid Waste Disposal District which are provided by the Interlocal Agreement establishing said District.

(b) Creation.

- (1) There is hereby created, for the purpose of conducting code enforcement hearings provided in subsection (a), the position of Special Magistrate. The Special Magistrate(s) shall be selected by the Broward Resource Recovery Board and confirmed by the Board of County Commissioners.
- (2) The Special Magistrate(s) shall be a member in good standing with The Florida Bar.
- (3) The County shall provide clerical and administrative personnel as may be necessary for each Special Magistrate(s). All prosecuting attorneys in front of the Special Magistrate(s) shall be selected by the Broward Resource Recovery Board and confirmed by the Board of County Commissioners.

(c) Incorporation of statutory provisions. Chapter 162, Part 1, Florida Statutes (Section 162.02, Florida Statutes, et seq.), as amended from time to time, the Local Government Code Enforcement Boards Act, is hereby incorporated by references so that the provisions of that Chapter, as amended from time to time, shall be controlling with regard to the organization, jurisdiction, procedures, and powers of the Special Magistrate(s). The Special Magistrate(s) shall also have the power to impose additional fines to cover applicable administrative costs. In determining the amount of fines, the Special Magistrate(s) shall consider the gravity of the violation, actions taken by the violator to correct the violation, and any

previous violations committed by the violator. Any powers conferred upon local governments, however, to execute satisfactions and releases or otherwise mitigate code enforcement liens, shall be delegated to the Special Magistrate(s). All costs incurred by the County shall be borne by the Broward Solid Waste Disposal District, and all District costs and fines received by the County pursuant to this section shall be credited to said District.

Broward County does hereby adopt the enhanced fines provided in F.S. 162.09(2)(d) by a majority plus one of the Broward Board of County Commissioners.

Administrative costs for this section shall mean those costs incurred by the County in enforcing its code. This shall include, but not be limited to postage, photocopies, newspaper publications, prosecutorial attorney's fees, hearing officer expense and code enforcement staff payroll expenses.