

6A-1

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
SITTING AS THE ENVIRONMENTAL CONTROL BOARD**

BOARD APPOINTMENT SUMMARY

Meeting Date: April 1, 2014
Department: Florida Department of Health, Palm Beach County
Submitted by: Office of County Attorney
Advisory Board Name: Environmental Appeals Board

I. EXECUTIVE BRIEF

Motion/Title: Staff recommends motion to approve: Appointment of the following individual to the Palm Beach County Environmental Appeals Board for a term beginning on April 1, 2014 and ending on March 31, 2017.

<u>Nominee</u>	<u>Seat No.</u>	<u>Seat Requirement</u>	<u>Nominated by:</u>
Bradley Akers	4	Drinking Water Engineer Employed by DEP	Florida Department of Environmental Protection

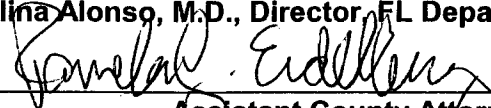
Summary: The Board is composed of (5) five members. Membership must consist of one (1) attorney recommended by the Palm Beach County Bar Association; one (1) person recommended by the Gold Coast Builders Association (now known as Florida Atlantic Builders Association); one (1) professional engineer recommended by the Palm Beach Branch of the American Society of Civil Engineers; one (1) water resource professional employed by the South Florida Water Management District; and **one (1) drinking water engineer employed by the Department of Environmental Protection.**
Countywide (PGE)

Background and Justification: Environmental Control Rules I and II provide for the organization of the Environmental Appeals Board. These rules state that composition and representative members of the Appeals Board shall consist of an attorney, a professional engineer recommended by the Palm Beach Branch of the American Society of Civil Engineers, a drinking water engineer employed by the FDEP, and a member of the Gold Coast Builders Association (now known as Florida Atlantic Builders Association), and a water resource professional employed by the South Florida Water Management District. *Mr. Bechtold has expressed a desire not to continue on the Board, therefore, a recommendation to fill his expired seat was received from the Florida Department of Environmental Protection, recommending Mr. Akers.* This Board consists of five (5) members: five (5) white males.

Attachments:

1. Boards/Committees Application
2. Resume of Bradley Akers
3. Recommendation Letter from FDEP
4. Current List of Board Members
5. Article 2, Chapter G, Section 2D, Unified Land Development Code
6. Article 15, Chapter A, ECR-1, Section 12, Unified Land Development Code
7. Article 15, Chapter B, ECR-II, Section 16, Unified Land Development Code

Recommended by:  3/13/14
 Alina Alonso, M.D., Director, FL Department of Health, PBC Date

Legal Sufficiency: 
 Assistant County Attorney Date

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION**

*The information provided on this form will be used by County Commissioners and/or the entire Board in considering your nomination. This form **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. **Further, please attach a biography or résumé to this form.***

Section I (Department): (Please Print)

Board Name: Environmental Appeal Board Advisory Not Advisory

At Large Appointment or District Appointment /District #: _____

Term of Appointment: 3 Years. From: _____ To: _____

Seat Requirement: Drinking Water Engineer employed by DEP Seat #: 4

*Reappointment or New Appointment

or to complete the term of _____ Due to: resignation other

Completion of term to expire on: _____

***When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: _____**

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: AKERS BRADLEY M
Last First Middle

Occupation/Affiliation: Environmental Administrator – Wastewater Permitting / FDEP

Owner Employee Officer

Business Name: Florida Dept. of Environmental Protection

Business Address: 400 N. Congress Avenue, 3rd Floor

City & State West Palm Beach Zip Code: 33401

Residence Address: 3725 NW 5th Avenue

City & State Boca Raton, FL Zip Code: 33431

Home Phone: (561) 212-8928 Business Phone: () Ext. _____

Cell Phone: (561) 212-8928 Fax: ()

Email Address: Bradley.Akers@dep.state.fl.us

Mailing Address Preference: Business Residence

Have you ever been convicted of a felony: Yes _____ No X

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
 Native-American Hispanic-American Asian-American African-American Caucasian

Section II Continued:

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business. This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
Ex: (R#XX-XXXX/PO XXX)	Parks & Recreation	General Maintenance	10/01/11-09/30/12
_____	_____	_____	_____
_____	_____	_____	_____

(Attach Additional Sheet(s), if necessary)

OR NONE


All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the Guide to the Sunshine Amendment prior to appointment/reappointment. Article XIII, and the training requirement can be found on the web at: <http://www.palmbeachcountyethics.com/training.htm>. Keep in mind this requirement is on-going.

By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

- By watching the training program on the Web, DVD or VHS
- By attending a live presentation given on _____, 20__

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature:  Printed Name: Bradley Akers Date: 2/25/14

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 233-0724.

Return this FORM to:
Barbara Sullivan, Legal Office, Florida Department of Health, Palm Beach County
P.O. Box 29, 800 Clematis St., Rm 546, West Palm Beach, FL 33402

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: _____ Date: _____

Pursuant to Florida's Public Records Law, this document may be reviewed and photocopied by members of the public.

Revised 08/01/2011

Bradley M. Akers, P.E.

Work Experience

AUG 2008 – PRESENT Florida Department of Environmental Protection
Professional Engineer I: Domestic and Industrial Wastewater Permitting – Evaluate and process Domestic and Industrial wastewater facility permit applications for the construction and operation of the treatment, disposal, or reuse facilities. Professional duties include the engineering review of the applications and supporting documentation, consultation with the applicants and their engineers, providing technical guidance to the public and municipal officials, and writing the facility permits. Recent permitting projects have included the Concentrated Animal Feeding Operations (CAFO), both dairy and equestrian farms, in our area.

JAN 2001 – AUG 2008 Florida Department of Environmental Protection
Engineering Specialist II through IV: Domestic Wastewater Permitting – Increasing responsibilities starting from the review, evaluation, and issuing of domestic wastewater collection/transmission system permit applications to the review, evaluation, and issuing of domestic wastewater facility permit applications.

1999 – 2000 SRI Consultants, INC. Boca Raton, Florida
Engineer, E.I.T.: Site Planning – Coordinated with city, county, and state permitting agencies for preliminary site plan approval of a 4500 sq ft. Office Building. Balcony Evaluation/Restoration – Surveyed the condition of the balconies by using standard techniques and Ground Penetrating Radar. Coordinated the installation of corrosion protection systems as they were being restored.

1998 - 1999 Quantum Resources West Palm Beach, Florida
Junior Inspector: Performed GIS Survey on the existing Storm Water and Sanitary Sewer System for the City of West Palm Beach, FL. Worked with RCT Engineering, Inc. to collect data on structure type, pipe size and type, pipe direction, and efficiency of system.

Education

1998 - 1999 Nova Southeastern University Dania, Florida
Continuing Studies in Marine Environmental Science and Aquaculture.

1997 - 1998 University of Miami Miami, Florida
Continuing Studies in Marine Science and Marine Biology.

1992 – 1996 Florida Atlantic University Boca Raton, Florida
B. S. in Ocean Engineering

Accreditations and Licenses

- Professional Engineer, July 2008
- Engineer-In-Training, October 1996



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

SOUTHEAST DISTRICT OFFICE
400 NORTH CONGRESS AVENUE, 3RD FLOOR
WEST PALM BEACH, FL 33401
561-681-6600

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTERA
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

February 3, 2014

Barbara Sullivan, Legal Office
Florida Department of Health Palm Beach County
800 Clematis Street, Room 546
West Palm Beach, FL 33401

RE: Recommendation to PBC Environmental Appeal Board

Dear Ms. Sullivan:

In response to your letter, the Florida Department of Environmental Protection recommends Bradley Akers to the PBC Environmental Appeal Board, Seat #4. This will fulfill the requirement of one Board member be an Engineer employed by the FDEP in the Water Program Division. We will coordinate the recommendation for Bradley Akers, who will serve as the Drinking Water Engineer member of the Board for Seat #4.

If you have any questions, please contact me at 561 681-6696.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda A. Brien".

Linda A. Brien, P.G.
Water Facilities Program Administrator
SED Department of Environmental Protection

c: Bradley Akers, FDEP - Bradley.Akers@dep.state.fl.us
Jill Creech, FDEP SED Director - Jill.Creech@dep.state.fl.us

ENVIRONMENTAL APPEAL BOARD DIRECTORY

Authority: Environmental Control Rules I and II **Terms Per Ord 96-28** *Appointments are for three (3) years*

Updated: March 22, 2012

Seat ID	Name/address	Telephone	Requirement	BCC Appt'd.	Term	Initial Appt.	Re-Appt.
1	Simon Coleman, P.E. Alan Gerwig & Associates, Inc. 12798 W. Forest Hill Blvd. #204 Wellington, FL 33414	Ofc: (561) 792-9000 (X 215) Fax: (561) 792-9901 Cell: (561) 543-4846 scoleman@aga-engineering.com	Professional Engineer registered by State of Florida and nominated by Am. Society of Civil Engineers -PB Branch	5/3/11	10/19/10 to 7-27-11 Complete term, plus 3 years to expire 7-26-14	X	
2	David J. Colangelo South Florida Water Management District, M.S.C. 7230 3301 Gun Club Road West Palm Beach FL 33406	Ofc: 682-2843 Fax: Cell: 352-5103 dcolang@sfwmd.gov	Water resource professional employed by SFWMD	4/1/08	4-1-11 to 3-31-14		X
3	Raymond J. Puzzitiello (Vice Chair) 2143 Union Street West Palm Beach, FL 33411	Home/Ofc: 697-8732 Fax: 697-8733 Cell: 718-4176 ray@puzzitiello.com	Member of Gold Coast Builders Assoc. (formerly HCBA)(now known as Florida Atlantic Builders Assoc.)	4/7/09	4/6/12 to 4-05-15		X
4	Michael Bechtold, P.E. Department of Environ. Protection Southeast District 400 North Congress Avenue, #200 West Palm Beach FL 33401	Ofc: 681-6682 Fax 681-6760 Cell 281-4898 mike.bechtold@dep.state.fl.us	Drinking Water Engineer employed by the DEP	3/15/05	3-17-11 to 3-16-14		X
5	Brian Joslyn, Esq. (Chair) Casey Ciklin Lubitz, et al 515 N. Flagler Dr., 19 th Floor West Palm Beach FL 33401	Ofc 820-0351 Fax 820-0389 Email bjoslyn@caseyciklin.com Home 747-6131 Cell -	Attorney nominated by PBC Bar Association	7/22/08	7-28-11 to 7-27-14		X

Article 2, Chapter G, Section 2D

shall appoint a Special Master from the pool of candidates previously selected by the BCC to fill the vacancy within 30 days.

8. Conflicts of Interest

Special Master shall not be considered outside or special counsel and shall not be subject to PPM# CW-O-52 relating to outside counsel conflicts of interest.

9. Meetings

a. Scheduling

The Code Enforcement Division shall be responsible for scheduling meetings of Special Master. In the case of an alleged violation as set forth in Article 10.B.1, Procedure, a hearing may be called as soon as practical.

b. Operating Procedures

All cases brought before Special Master shall be presented by either the Code Enforcement Division or an attorney representing the Division.

C. Development Review Appeals Board

1. Establishment

There is hereby established a Development Review Appeals Board (DRAB).

2. Powers and Duties

The DRAB shall have the following powers and duties under the provisions of this Code:

- a. to hear, consider, and decide appeals, decisions of the Zoning Director on applications for Certificates of Concurrency Reservation and Concurrency Exemption Extension;
- b. to hear, consider and decide appeals from decisions of the Planning Director on applications for Entitlement Density, and WHP; and [Ord. 2007-013]
- c. to hear and decide appeals from, decisions of, and conditions imposed by the DRO with regard to action taken on an application for a final development permit.

3. Board Membership

The DRAB shall consist of the Executive Director of PZB, County Engineer, and County Attorney or Deputy County Attorney.

4. Officers; Staff

a. Chair and Vice-Chair

The Executive Director of PZB shall be the Chair of the DRAB.

b. Staff

PZB staff shall be the professional staff for the DRAB.

5. Meetings

a. General

General meetings of the DRAB shall be held as needed to dispose of matters properly before the DRAB. Special meetings may be called by the Chair or in writing by two members of the DRAB. Staff shall provide 24-hour written notice to all DRAB members.

* D. Environmental Appeals Board

1. Establishment

There is hereby established an Environmental Appeals Board (EAB).

2. Powers and Duties

The EAB has the following powers and duties:

- a. to hear appeals from certain requirements, interpretations, or determinations of Article 15, HEALTH REGULATIONS, made by the PBCHD or the Environmental Control Officer.

3. Board Membership

a. Qualifications

The EAB shall be composed of five members appointed by the Environmental Control Board (ECB). The membership of the EAB shall consist of one professional engineer registered by the State of Florida and nominated by the Palm Beach branch of the American Society of Civil Engineers, one water resource professional employed by SFWMD, one drinking water engineer employed by the FDEP, one member of the Gold Coast Builders Association, and one attorney nominated by the PBC Bar Association. [Ord. 2011-016]

b. Terms of Office

All EAB members shall serve a term of three years. Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2014-001]

4. Officers

a. Secretary

PBC Environmental Control Officer shall provide a staff person to the EAB and that staff member shall be designated as Secretary of the EAB.

b. Staff

The PBCHD shall be the professional staff of the EAB.

5. Meetings

a. General or Special Meetings

General meetings of the EAB shall be held no less frequently than once every 60 days. Special meetings may be called by the Chair of the EAB, or in writing by a majority of the members of the Board. Staff shall provide 24-hour written notice to each EAB member for a special meeting.

E. Environmental Control Hearing Board

1. Establishment

There is hereby established an Environmental Control Hearing Board (ECHB).

2. Powers and Duties

The ECHB has the following powers and duties:

- a. to conduct hearings into the merits of alleged violations to Sections promulgated under Chapter 77-616, Special Act, Laws of Florida, and PBC Ord. 78-5, as amended; and
- b. after due public hearing, to reach a decision setting forth such findings of fact and conclusions of law as are required in view of the issues presented. The decision shall contain an order which may be framed in the manner of a writ of injunction requiring the violator to conform to either or both of the following requirements:
 - 1) to refrain from committing, creating, maintaining, or permitting the violations;
 - 2) to take such affirmative action as the ECHB deems necessary and reasonable under the circumstances to correct such violation;
 - 3) to issue orders imposing civil penalties of up to \$500 dollars for each day of violation;
 - 4) to issue subpoenas to command the appearance of any person before a hearing at a specified time and place to be examined as a witness. Such subpoenas may require such person to produce all books, papers and documents in that person's possession or under that person's control, material to such hearings; and
 - 5) to administer oaths to any or all persons who are to testify before the ECHB.

3. Qualifications

The ECHB shall be composed of five members. The membership of the ECHB shall consist of one attorney recommended by the PBC Bar Association; one medical doctor recommended by the PBC Medical Society; one engineer recommended by the PBC chapter of the Florida Engineering Society; and two citizens at large.

4. Officers

a. Secretary

The Environmental Control Officer shall serve as Secretary of the ECHB.

b. Staff

The PBCHD shall be the professional staff of the ECHB.

5. General or Special Meetings

General meetings of the ECHB shall be held no less frequently than every 45 days. The ECHB may set the date of future meetings during any meeting. Special meetings may be called by the Chair of the ECHB, or in writing by a majority of the members of the Board. Staff shall provide 24-hour written notice to each ECHB member for a special meeting.

6. Term Limits

Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2014-001]

F. Groundwater and Natural Resources Protection Board

1. Establishment

There is hereby established a Groundwater and Natural Resource Protection Board (GNRPB).

2. Powers and Duties

The GNRPB shall have the following powers and duties:

- a. to hold hearings as necessary to enforce Article 14, ENVIRONMENTAL STANDARDS. ERM may refer alleged violations of Art. 14 Environmental Standards, and Art. 4.D, Excavation, Ord. 2003-020, Petroleum Storage Systems, Ord. 2003-021, Petroleum Contamination Clean-up criteria, Ord. 2004-050, Stormwater Pollution and Prevention, Natural Areas, Ord. 1994-014 and Ord. 1993-003, Water and Irrigation Conservation as amended to the GNRPB, if there has been a failure to correct a violation within the time specified by the Code Inspector, if the violation has

- a. For estimated sewage flows of 600 or fewer gallons per day, if a sewer line exists in a public easement or R-O-W which abuts the property or is within 100 feet of the property and if gravity flow can be maintained from the building drain to the sewer line.
 - b. For estimated sewage flows exceeding 600 gallons per day to 1,200 gallons per day, if a sewer line, gravity or force main exists in a public easement or R-O-W which is within 100 feet of the property.
 - c. For estimated sewage flows greater than 1,200 gallons per day to 2,500 gallons per day, if a sewer line, gravity or force main exists in a public easement or R-O-W which is within 500 feet of the property.
 - d. For estimated sewage flows greater than 2,500 gallons per day to 10,000 gallons per day, if a sewer line (gravity or force main) exists in a public easement or R-O-W which is within 1,000 feet of the property. [Ord. 2013-002]
- B. Where the property is located in an area that is subject to frequent flooding.
 - C. For lots in a subdivision where the approved drainage has not been constructed in accordance with the requirements of the SFWMD and/or the PBC Engineering Department.
 - D. For treatment and disposal of industrial hazardous or toxic wastes.

Section 9 Handling of Septage

Collection, treatment and disposal of septage shall be in accordance with Rule 64E-6, F.A.C. No person(s) or corporation shall engage in the business of servicing septic tanks, grease traps, portable toilets or other treatment receptacles without first obtaining an annual license from the Department. The issuance of the license would be based upon compliance with the provisions of Rule 64E-6, F.A.C.

Section 10 Prohibitions

- A. It is prohibited for any person to construct, keep, use or maintain a privy from which human waste is deposited on the surface of the ground or over waters of the State of Florida.
- B. No person shall manufacture, sell or install an OSTDS unless in compliance with the requirements of his Article.
- C. It is prohibited to drain sewage wastes or septic tank effluent into cesspools or drywells as means of disposal.
- D. Organic chemical solvents shall not be advertised, sold or used in PBC for the purpose of degreasing or declogging onsite sewage disposal systems.

Section 11 Incorporation by Reference of Rule 64E-6, F.A.C.

Rule 64E-6, F.A.C. as may be amended from time to time and all amendments hereto, is hereby incorporated by reference including, but not limited to, application and permitting procedures, systems design and construction standards, system sizing, system setback requirements, septage disposal, system maintenance and fee schedule unless higher in the PBC fee ordinance. In the event of a conflict between the provision of Rule 64E-6, F.A.C. and this Article, the more restrictive provision shall apply.

Section 12 Environmental Appeal Board (EAB)

The EAB was established by the ECB on May 26, 1987 to hear appeals from certain requirements, interpretations or determinations of this Article made by the Department or the ECO. Its membership is described in Art. 2.G, DECISION MAKING BODIES.

Section 13 Appeals

- A. Persons aggrieved by a requirement, interpretation or determination of this Article made by the Department or the ECO may appeal to the EAB by filing a written notice of appeal, with the ECO within 30 days from the determination to be appealed. However, no appeal shall be filed which requests relief from the construction standards required under Rule 64E-6, F.A.C. The notice shall be accompanied by a certified check or money order, made payable to the Department to defray the cost of processing and administering the appeal. The fee for filing the appeal shall be in accordance with the fee schedule [PBC Code Chapter 11, Art. II Sect. 11-24]. [Ord. 2013-002]
- B. Each notice of appeal shall state the factual basis for the appeal and the relief requested. There shall be attached to each notice supportive materials and documents, including the information listed in Appendix

- C, ECR I - Information Required for an Appeal for an Individual Lot, or Appendix D, ECR II- Information for an Appeal for a Subdivision, if applicable to the appeal. The EAB may require such additional information, as it deems necessary. A separate notice of appeal must be filed for each site or system considered for an appeal. Required supporting documentation for the appeal must be filed with the Department of Environmental Control Office with the notice of appeal. The burden of presenting supportive facts in the notice of appeal shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving that he/she is entitled to relief. The Department shall defend all appeals before the EAB. [Ord. 2005 - 003]
- C. The person filing the appeal shall also submit to the ECO a list of the names and addresses of every property owner who may be affected by the granting of the appeal in the following cases:
1. The proposed OSTDS fails to meet the minimum distance required between the system and a well, as provided by this Article; or
 2. The proposed OSTDS is within five feet of a neighboring lot; or
 3. The proposed OSTDS is within 50 feet of a water body on a neighboring lot.
- D. A hearing on the appeal shall be set within 60 days of receipt of the notice of appeal by the ECO. This provision does not mean that the applicant is entitled to a hearing on the first available agenda following receipt of the notice of appeal.
- E. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded; but all other evidence of a type commonly relied upon by reasonably prudent persons shall be admissible, whether or not such evidence would be admissible in the trial courts of the State of Florida. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- F. The parties shall have the following rights: to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any relevant matter, even though the matter was not covered in direct examination; and to rebut evidence.
- G. The EAB shall hear and consider all facts material to the appeal and shall issue findings of fact based upon the greater weight of the evidence and shall issue an order affording the proper relief consistent with the powers granted herein. The findings and order shall be by motion approved by a majority of those members present and voting.
- H. In order to grant an appeal authorizing an OSTDS on a single lot, the EAB must find that:
1. Because of special factors, which may include economic factors, the applicant is unable to comply with this Article; and
 2. The OSTDS complies with current construction standards; and
 3. The granting of the appeal is the minimum alternative that will make possible the reasonable use of the land, structure or building; and
 4. The granting of the appeal is consistent with the general intent, purpose and requirements of PBC laws and ordinances; and
 5. The grant of the appeal will not be injurious to the area involved or to the public health and general welfare.

(This space intentionally left blank)

- I. In order to grant an appeal authorizing OSTDS in subdivisions containing lots smaller than those required under this Article, the EAB must additionally find:
 1. That for a proposed subdivision to be served by individual private wells, each lot has at least one-half acre, with a minimum dimension of 100 feet and that said subdivision contains no more than 50 lots; or that for the proposed subdivision to be served by a public water system, each lot has at least one-third acre with a minimum dimension of 75 feet and that said subdivision contains no more than 100 lots; and
 2. That satisfactory ground water can be obtained if an individual private well is to be used; and
 3. That all distance and setbacks, soil conditions, water table elevations and other related requirements of this Article and Rule 64E-6, F.A.C., are met; and
 4. That the proposed subdivision does not represent sequential development of contiguous subdivisions, the purpose of which is to avoid the requirements of Article 15.A.13.I.1; and
 5. That a municipal, county or investor-owned public sewage system is not available contiguous to the proposed subdivision or within one-half mile thereof with public R-O-W accessibility; and
 6. That a municipal, county or investor-owned public sewage system is not available contiguous to the proposed subdivision or within one-half mile thereof with public R-O-W accessibility; and
 7. That the proposed density of the subdivision is consistent with the density recommended in the Land Use Plan of PBC or in the Land Use Plan of the appropriate municipality; and
 8. That the developer has made every reasonable effort to obtain public water and sewer; and
 9. That dry water and/or sewer lines are to be installed by the developer and that the developer will establish an escrow account to pay for the cost of connection when water and/or sewer becomes available, or that the installation of the same is not feasible from a technical or economic standpoint; and
 10. That onsite, water and/or sewage treatment facilities are not feasible from a technical or economic standpoint; and
 11. That the proposed development will consist of no more than one single family residence per lot; and
 12. That land uses surrounding and adjacent to the proposed subdivision and soil qualities of the area do not indicate that the area's health is endangered by an inordinate proliferation of septic tanks.
- J. Provided that the factual findings specified in Article 15.A.13.H and Article 15.A.13.I, the EAB may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the Department or the ECO. In granting an appeal, the EAB may prescribe appropriate conditions and safeguards consistent with this Article. Violation of such conditions and safeguards, when made a part of the terms under which the appeal is granted, shall be deemed a violation of this Article. The EAB may also prescribe a reasonable time within which the action for which the appeal is granted shall be started or completed or both. Any decision of the EAB shall be in the form of written order.
- K. If there is a change in facts or circumstances supporting a request for relief after an order granting relief has been issued, then the applicant shall notify the Department. The Department may request the EAB to revoke or amend the order.
- L. Except where the relief granted is to exempt an applicant from the requirement to connect to a sanitary sewer under Article 15.A.8.A, any relief granted shall automatically terminate upon the availability of sewer service to the lot or parcel. Unless otherwise provided in an order issued pursuant to Article 15.A.13.J, relief granted under this Article shall automatically lapse if action for which the appeal was granted has not been initiated within 24 months from the date of granting such appeal by the EAB or, if judicial proceedings to review the EABs decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals. **[Ord. 2013-002]**
- M. The decision of the EAB shall be final administrative action. Any party or interested person may appeal a decision of the EAB to the Circuit Court of PBC. Such appeal shall be filed within 30 days of the execution of the EABs order.

Section 14 Violations, Enforcement Penalties, Inspections

A. Violations, Enforcement and Penalties

It is unlawful for any person to violate any provisions of this Article or any duly constituted order of the ECHB enforcing this Article. Such violations shall be punished according to the provisions of Chapter 77-616, Special Acts, Laws of Florida, as amended from time to time and PBC Environmental Control Ordinance No. 94-26, 32 as amended.

B. Inspections

It shall be the duty of the Health Director to conduct such inspections as are reasonable and necessary to determine compliance with the provisions of this Article.

- A. Where two community water supply systems have distribution or transmission lines within 1,000 feet of each other, they shall provide an emergency interconnection between the two systems when the Department determines that such a connection would be of benefit to the citizens of PBC. Such determination shall be based on the possibility of destruction of the water source or treatment system in the event of a disaster and the possible benefits in moving water between the systems. Such interconnecting lines shall be no smaller than the smallest of the two lines being inter-connected and shall be provided with at least one valve and any necessary flush points. If the two water suppliers are unable to reach an agreement on the payment for installation of such an inter-connection, each supplier shall pay the cost of construction from the supplier's line to the point of connection and shall pay 50 percent of the cost of a meter and meter box if either party desires a meter and meter box. The point of connection shall be at the following:
1. Municipal limits or franchise boundaries if the supplier's limits or boundaries are adjacent and contiguous.
 2. The midpoint of the municipal limits or franchise boundaries if the limits or boundaries are not adjacent and contiguous. The interconnection shall be completed within one year after the Department notifies the systems involved.
- B. Any consecutive or community water system may be required to provide a flush or fire hydrant, water tap or other provision for securing an emergency water service from an existing main at a location that the Department determines would be of benefit to the citizens of the area. Such determination shall be based in part on the possibility of a prolonged power outage or other disaster which would render individual wells in the area unusable. Other considerations will include the density of individual wells in the area and the distance of the nearest possible potable water supply during an emergency. Such water taps shall be constructed within 120 days of notification by the Department. It shall be the responsibility of PBC to secure an agreement with the community water system for use of that emergency water service.

Section 15 Adoption of Chapters of F.A.C.

Chapters 62, 532, 550, 551, 555, 560, 602, 699, 64E-6 and 64E-8, F.A.C., and all amendments thereto, are hereby incorporated into this Article. In the event of a conflict between the provisions of these Chapters and this Article, the more restrictive provision shall apply.

★ Section 16 Environmental Appeal Board (EAB)

The EAB was established by the ECB on May 26, 1987, to hear appeals from certain requirements, interpretations or determinations of this Article made by the Department or the ECO. Its membership is described in Art. 2, DECISION MAKING BODIES.

Section 17 Appeals

- A. Persons aggrieved by a requirement, interpretation or determination of Art. 15.B.8, Construction and Design Requirements, and Art. 15.B.9, Connection Required, made by the Department or the ECO may appeal to the EAB by filing a written notice of appeal, with the ECO within 30 days from the determination to be appealed. The notice shall be accompanied by a certified check or money order, in the amount of \$100.00 made payable to the Department which shall be non-refundable, to defray the cost of processing and administering the appeal. Only those appeals requesting relief from setbacks under Art. 15.B.8, Construction and Design Requirements, or requesting an exception from connection to a public or investor-owned community water supply under Art. 15.B.9, Connection Required, shall be filed. [Ord. 2005 - 003]
- B. Each notice of appeal shall state the factual basis for the appeal and the relief requested. There shall be attached to each notice supportive materials and documents, including a site plan indicating proposed and existing individual sewage disposal systems and water wells on the property that is the subject of the appeal and all other systems and conditions on neighboring properties which could affect the requirements of Art. 15.B.8, Construction and Design Requirements, or Art. 15.B.9, Connection Required, if the appeals were granted. The EAB may require such additional information as it deems necessary. A separate notice of appeal must be filed for each site or system considered for an appeal. Required supporting documentation for the appeal must be filed with the Department or ECO with the notice of appeal. The burden of presenting supporting facts in the notice of appeal shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving that he/she is entitled to relief. The Department and/or ECO shall defend all appeals before the EAB. [Ord. 2005 - 003]

- C. The person filing the appeal shall also submit to the ECO a list of the names and addresses of every property owner who may be affected by the granting of the appeal.
- D. A hearing on the appeal shall be set within 60 days of receipt of the notice of appeal by the ECO. This provision does not mean that the applicant is entitled to a hearing on the first available agenda following receipt of the notice of appeal.
- E. Formal rules of evidence shall not apply to the hearing but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded; but all other evidence of a type commonly relied upon by reasonably prudent persons shall be admissible, whether or not such evidence would be admissible in the trial courts of the State of Florida. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- F. The parties shall have the following rights: to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any relevant matter, even though the matter was not covered in direct examination; and to rebut evidence.
- G. The EAB shall hear and consider all facts material to the appeal and shall issue findings of fact based upon the greater weight of the evidence and shall issue an order affording the proper relief consistent with the powers granted herein. The findings and order shall be by motion approved by a majority of those members present and voting.
- H. In order to grant an appeal authorizing a new or existing well for use in lieu of connecting to a public or investor-owned community water supply, the EAB must find that: **[Ord. 2005 – 003]**
 - 1. Satisfactory ground water is available or can be obtained; and
 - 2. The well complies with all setbacks, construction standards and other requirements of this Article; and Chapters 62-550, 62-555, 62-532, 64E-6, and 64E-8, F.A.C., and **[Ord. 2005 – 003]**
 - 3. Every reasonable effort has been made to obtain a water supply from a public or investor-owned community water supplier.
- I. In order to grant relief from Art. 15.B.8, Construction and Design Requirements, and/or Art. 15.B.9, Connection Required, the EAB must find that: **[Ord. 2005 – 003]**
 - 1. Satisfactory ground water can be obtained; and
 - 2. Every reasonable effort has been made to comply with the requirements of this Article in the location of the water well; and
 - 3. The proposed water well complies with all construction standards and other requirements of this Article; and
 - 4. Advanced notice shall be given to future purchasers of the water system that the system shall be connected to a community water supply when such supply becomes available. The purchaser has certain operational requirements until such connection is completed.
- J. Provided that the factual findings specified in Article 15.B.17.H, Article 15.B.17.I, above, are made, the EAB may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the Department or the ECO. In granting an appeal, the EAB may prescribe appropriate conditions and safeguards consistent with this Article. Violation of such conditions and safeguards, when made a part of the terms under which the appeal is granted, shall be deemed a violation of this Article. The EAB may also prescribe a reasonable time within which the action for which the appeal is granted shall be started or completed or both. Any decision of the EAB shall be in the form of written order.
- K. If there is a change in the facts or circumstances supporting a request for relief after an order granting relief has been issued, then the applicant shall notify the Department. The Department may request the EAB to revoke or amend the order.
- L. Except where the relief granted is to exempt an applicant from the requirement to connect to a community water supply under Art. 15.B.9, Connection Required, any relief granted shall automatically terminate upon the availability of community water supply to the lot or parcel. Upon the request of the Department or the ECO, the EAB may modify or rescind an order granting relief from the requirements to connect to a public or investor-owned community water supply under Art. 15.B.17.H if conditions under which the appeal was granted no longer exist. Unless otherwise provided in an order issued pursuant to Art. 15.B.17.H, relief granted under this Article shall automatically lapse if action for which the appeal was granted has not been initiated within one year from the date of granting such appeal by the EAB or, if judicial proceedings to review the EABs decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals. **[Ord. 2005 – 003]**
- M. The decision of the EAB shall be final administrative action. Any party or interested person may appeal a decision of the EAB to the Circuit Court of PBC. Such appeal shall be filed within 30 days of the execution of the EAB Order.