

ORDINANCE NO. 81-7

AN ORDINANCE TO BE KNOWN AS THE HERNANDO COUNTY ENVIRONMENTAL HEALTH ORDINANCE; ADOPTING BY REFERENCE CHAPTERS 154, 381, 386, 500, 513, 514 FLORIDA STATUTES, CHAPTER 17-22 FLORIDA ADMINISTRATIVE CODE, AND ALL RULES TO DATE ADOPTED BY THE HEALTH PROGRAM OFFICE OF THE FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, PURSUANT TO SUCH GENERAL LAWS INCLUDING SAID LAWS AS THEY MAY IN THE FUTURE BE AMENDED; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN ENVIRONMENTAL HEALTH BOARD; PROVIDING FOR ISSUANCE OF PERMITS; PROVIDING FOR ENFORCEMENT PROCEDURES; PROVIDING FOR HEARINGS; PROVIDING FOR JUDICIAL REVIEW; PROVIDING FOR AN ENVIRONMENTAL HEALTH LABORATORY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE HERNANDO COUNTY BOARD OF COUNTY

COMMISSIONERS AS FOLLOWS:

SECTION 1. Hernando County Ordinance No. 80-10 is hereby amended in its entirety and replaced with the provisions herein contained.

SECTION 2. SHORT TITLE

This Ordinance shall be known and may be cited as the Hernando County Environmental Health Ordinance.

SECTION 3. DECLARATION OF LEGISLATIVE INTENT

The Board of County Commissioners of Hernando County finds and declares that the reasonable control of activities which are causing or may cause pollution or contamination of the environment is necessary for the protection and preservation of the public health, safety and general welfare.

Chapter 125.01 Florida Statutes authorizes the County to provide environmental health programs and to perform other acts not inconsistent with general or special laws and which are of common interest to the residents of Hernando County, Florida.

It is the intent and purpose of this Ordinance to authorize the Board of County Commissioners of Hernando County, sitting as the County Environmental Health Board, to provide and maintain for the citizens and visitors of said County standards which will insure sanitary practice and freedom of the environment from contaminants or synergistic agents injurious to human, plant or animal life, or which unreasonably interfere with the comfortable enjoyment of life or property, or the conduct of business.

SECTION 4. ADOPTION BY REFERENCE

Chapters 381 (Public Health), 386 (Nuisances Injurious to Health), 395 (Hospital Licensing and Regulation), 400 (Nursing Homes and Related Health Care Facilities), 500 (Foods, Drugs and Cosmetics), 513 (Tourist Camps) and 514 (Public Bath Houses and Swimming or Bathing Places), Florida Statutes, Chapter 17-22, Florida Administrative Code,

FILED
1981
SECRETARY OF STATE

and Special Acts, Chapter 74-115 (Child Care Centers), Laws of Florida insofar as they define and prohibit offenses against the State as defined by State laws as misdemeanors, and future amendments thereto and all rules to date adopted by the Health Program Office, Florida Department of Health and Rehabilitative Services, pursuant to such special and general State laws are hereby adopted and incorporated by reference as part of this ordinance to the same extent and to the same effect as if the provisions of each such statute or rule had been set out in full herein, defining and prohibiting each such offense against the state to be an act prohibited by or an offense in violation of this ordinance.

SECTION 5. DEFINITIONS

The following words as used in this Ordinance shall have the following meaning:

A. "Environment" shall include, but not be limited to man's surroundings which affects human health and welfare, plant or animal life, and the reasonable enjoyment of life or property, or the conduct of business.

B. "Pollution" is the presence in the environment of any one or more substances or contaminants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

C. "Contaminant" is any substance which is harmful to plant, animal or human life.

D. "Board" shall mean the Hernando County Environmental Health Board.

E. "Persons" shall be construed to include any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental, agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.

F. "County Health Director" means the Director of the Hernando County Health Department or his (her) duly authorized representative.

G. "Violation of this Ordinance" shall mean violation of the terms of this act or violation or any County Ordinance regarding environmental control or rule or ordinance of the Environmental Health Board promulgated hereunder or violation of any law of the State or rule of a State agency including the Department of Environmental Regulation and the Department of Health and Rehabilitative Services pertaining to environmental control.

H. "Rule" means the whole or part of the Board's statement of general or particular applicability and future effect designed to

SECTION 5. HERNANDO COUNTY ENVIRONMENTAL HEALTH BOARD

The Board is established pursuant to this Ordinance and shall consist of the five members of the Board of County Commissioners.

SECTION 6. ENVIRONMENTAL HEALTH BOARD; DUTIES AND POWER

The Board shall have the following duties, functions, powers and responsibilities:

A. The Board shall adopt, revise and amend from time to time appropriate ordinances and rules necessary for the implementation and effective enforcement, administration and interpretation of the provisions of this Ordinance, and shall provide for the effective and continuing control and regulation of the environment in the County within the framework of this act. When approved by the Board and filed with the Clerk of the County Commissioners, and adopted as provided by law, such ordinances and rules shall have the force and effect of law.

B. The Board shall perform such other duties, functions and responsibilities as may become necessary to contribute to improvement in the control of the environment in Hernando County.

SECTION 7. ENVIRONMENTAL HEALTH OFFICER

The Director of the Environmental Health Section of the Hernando County Health Department shall be the Environmental Health Officer.

SECTION 8. ENVIRONMENTAL HEALTH OFFICER; DUTIES AND POWERS

The duties, functions, powers and responsibilities of the Environmental Health Officer shall include in the following:

A. In cooperation with the County Health Director, enforcing the provisions of this act and County Ordinances adopting enforcement procedures provided herein, and rules promulgated, and all laws of the State and rules of State agencies, including the Department of Environmental Regulation and the Department of Health and Rehabilitative Services pertaining to environmental control.

B. Conducting investigations and instituting legal proceedings to abate violations of this act and all rules promulgated hereunder in accordance with the law of the State of Florida and the provisions of this act.

im^{nt}, interpret, or prescribe law or policy or describing the organization, procedure or practice requirements of the Board.

I. "Department" means the Hernando County Health Department.

SECTION 6. HERNANDO COUNTY ENVIRONMENTAL HEALTH BOARD

The Board is established pursuant to this Ordinance and shall consist of the five members of the Board of County Commissioners.

SECTION 7. ENVIRONMENTAL HEALTH BOARD; DUTIES AND POWER

The Board shall have the following duties, functions, powers and responsibilities:

A. The Board shall adopt, revise and amend from time to time appropriate ordinances and rules necessary for the implementation and effective enforcement, administration and interpretation of the provisions of this Ordinance, and shall provide for the effective and continuing control and regulation of the environment in the County within the framework of this act. When approved by the Board and filed with the Clerk of the County Commissioners, and adopted as provided by law, such ordinances and rules shall have the force and effect of law.

B. The Board shall perform such other duties, functions and responsibilities as may become necessary to contribute to improvement in the control of the environment in Hernando County.

SECTION 8. ENVIRONMENTAL HEALTH OFFICER

The Director of the Environmental Health Section of the Hernando County Health Department shall be the Environmental Health Officer.

SECTION 9. ENVIRONMENTAL HEALTH OFFICER; DUTIES AND POWERS

The duties, functions, powers and responsibilities of the Environmental Health Officer shall include the following:

A. In cooperation with the County Health Director, enforcing the provisions of this act and County Ordinances adopting enforcement procedures provided herein, and rules promulgated, and all laws of the State and rules of State agencies, including the Department of Environmental Regulation and the Department of Health and Rehabilitative Services pertaining to environmental control.

B. Conducting investigations and instituting legal proceedings to abate violations of this act and all rules promulgated hereunder in accordance with the law of the State of Florida and the provisions of this act.

C. Cooperating with industry, business, institutions, governmental agencies and other interested parties in accomplishing effective environmental control.

D. Publicizing and disseminating information to the public concerning the environment and recommending methods for its control.

E. Enlisting and encouraging public support, and the assistance of civic, technical, scientific and educational organizations, and the cooperation of industrial and business enterprises and organizations.

F. Making periodic reports concerning the status of the environment in Hernando County and the enforcement of the provisions of this Ordinance and recommendations concerning the improvement of environmental control. Such reports shall be filed with the Board and be made available to other governmental agencies which may be interested.

G. Performing such other administrative duties as may be assigned by the Board.

H. Exercising additional powers to be described hereunder.

SECTION 10. EXEMPTIONS

The provisions of this Ordinance do not apply to:

A. Agricultural operations in the growing, harvesting or processing of crops and the raising of fowls or animals.

B. Use of equipment in the performance of such agricultural operations.

C. Barbecue equipment or outdoor fireplaces used for non-commercial purposes.

D. Agricultural land clearing operations or agricultural land grading.

E. Incinerators and heating equipment in or used in connection with residences used exclusively as dwelling for not more than four (4) families.

F. Fires set or permitted by any public officer, board, council or commission when such fire is set or permission given in the performance of such duty of the officer for the purpose of weed abatement, the prevention or elimination of the fire hazard, or the instruction of employees in the methods of fire fighting which is, in the opinion of such officer, necessary; or from fires set

pursuant to permit for purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

G. The use of an orchard or citrus grove heater which does not produce unconsumed solid carbonaceous matter at a rate in excess of one (1) gram per minute.

H. Odors emanating from agricultural operations in the growing, harvesting or processing of crops or raising of fowls or animals.

SECTION 11. PERMITS

A. Ninety (90) days following the effective date of the Ordinance, it shall be unlawful for any person, firm or corporation to operate an establishment over which the Department exercises regulatory authority without having first obtained a valid operating permit. Such permits shall be conspicuously displayed and shall remain valid unless and until revoked or suspended as herein specified, or until the ownership of such establishment changes, or until rendered invalid for non-payment of the assessment fee as prescribed in Section 15 of this Ordinance.

B. Establishments to be permitted shall include but not be limited to:

1. Food Service Establishments
2. Food Outlets
3. Food Processing Plants
4. Bottled Water Plants
5. Abattoirs
6. Rendering Plants
7. Camps-migrant, educational, recreational, etc.
8. Trailer Parks
9. Private Schools and Kindergartens
10. Child Care Centers and Family Day Care
11. Emergency Medical Vehicles
12. Septic Tank Pump Trucks
13. Swimming Pools and Bathing Places
14. Incarceration Facilities
15. Non-Emergency Transport

C. No construction, extension or alterations of any regulated establishment shall take place until the owner or operator has prepared plans showing the existing and/or proposed layout, and has submitted said plans for review and received written approval from the Hernando County Health Department.

D. Any person who operates an establishment as specified in Section 9A of this Ordinance shall within thirty (30)

days of the effective date of this Ordinance make application for a permit to operate such establishment upon forms furnished by the Department.

E. Upon receipt of such application, the Health Officer shall:

1. Cause an inspection to be conducted for the purpose of determining whether the establishment is in substantial compliance with appropriate codes and regulations.

2. Upon receipt of written recommendation by an authorized representative of the Department, issue a permit to operate.

F. If an inspection shows an establishment not to be in substantial compliance with the appropriate codes, regulations or provisions of this Ordinance, issuance of the permit shall be denied. In such event, the owner or operator shall be notified in writing within fourteen (14) days of such denial by certified mail or personal delivery of a letter which shall enumerate the reason(s) for such denial. Upon request by the person denied a permit, the Department shall set up a prompt hearing before the Board. The decision of said Board shall be binding upon the Department.

SECTION 12. ENFORCEMENT PROCEDURES AGAINST PERMITTED ESTABLISHMENTS

A. The County Health Officer or his duly authorized representative shall have right of entry to and shall inspect all establishments and/or premises specified herein at reasonable times and frequencies to insure compliance with provisions of this Ordinance. Such inspections shall be in writing and notice of the results of such inspections shall be accomplished by presenting a copy of the official inspection report to the operator or owner of the establishment. Sufficient time for correction of the violation(s) shall be indicated on the inspection report. If warranted, a reinspection shall be scheduled to determine compliance.

B. If a reinspection discloses any violation(s) of this Ordinance to continue to exist, the Department may issue a formal notice to correct violation(s). Such notice shall be served upon the violator by personal service or by certified mail and shall

briefly set forth the general nature of the violation(s) and specify a reasonable time within which the violation shall be rectified or stopped, commensurate with the circumstances. Reasonable time herein means the shortest practical time to rectify or abate the violation(s).

C. When the Department determines that any establishment as set forth in Section 9 of this Ordinance is not maintaining minimum compliance with applicable codes, regulations or the terms of this Ordinance, the Department may request a hearing before the Board for revocation of said permit. Notice of hearing shall be furnished the holder of said permit fourteen (14) days prior to the hearing and shall include a statement of finding that warrant revocation. A decision of the Board shall be binding upon the Department.

D. Whenever a violator fails to comply with a formal notice to correct a violation, the Department shall forward to the Board a notice of non-compliance and the Board may summon the violator to appear before it to show cause why the violation has not been corrected.

E. Upon the recommendation of the Director and with the concurrence of the County Health Officer that an imminent threat to the public health, safety or welfare exists, and such threat cannot immediately remedied or the owner or operator refuses to immediately remedy such condition, the Health Officer is hereby empowered to immediately close such establishment and/or order the offending property vacated until such time as the threat has been removed. The establishment shall remain closed and/or the property remain vacated until written approval for re-occupancy has been issued by the Health Officer.

F. In the event a violator fails to comply with the provisions of Paragraph E above, the County Attorney shall file for a writ of injunction, requiring the violator to refrain from the particular act charged or institute other civil or criminal action as may be appropriate.

SECTION 13. HEARING

A. Time for notice of hearing: Within fourteen (14) days after filing with the Board of a notice of non-compliance, the Board shall notice a hearing to be held within forty-five (45) days

of the filing date. Service of notice on all parties shall be completed fourteen (14) days before the hearing. Hearings may be continued from day-to-day until completed.

B. Service of notice: Service of Notice of Hearing may be made in person to all parties, may be served by certified mail or by publication as provided by law.

C. Content of notice: Notice of hearing will specify date, time and exact place of hearing. Notice will specify the Rule(s) appealed from or alleged to have been violated and attached thereto shall be a copy of the notice of appeal, notice of non-compliance or petition.

D. Conduct of hearing before the Board:

1. All hearing of the Board shall be open to the public.

2. Evidence: A case may be presented by oral or documentary evidence. Oral evidence shall be taken only on oath or affirmation.

3. The Board shall give probative effect to evidence which would be admissible in civil proceedings in the Courts of this State, but in receiving evidence, due regard shall be given to the technical and highly complicated subject matter and the exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial probative effect.

SECTION 14. JUDICIAL REVIEW

Any person aggrieved by any action or decision of the Board may seek appropriate judicial review, through a writ of certiorari to the Circuit Court.

SECTION 15. ENVIRONMENTAL HEALTH LABORATORY

An environmental laboratory is hereby established and authorized to perform such bacteriological and chemical tests as may be authorized by any state regulatory agency. Appropriate fees may be charged for laboratory services in accordance with the provisions of Section 14 of this Ordinance. The Department is authorized to enter into contracts with large users of laboratory service.

SECTION 16. ASSESSMENT OF FEES

The Department is hereby authorized to assess fees for the services and/or permits specified herein.

A. Annual fees shall be assessed the establishments enumerated in this section, which are permitted in accordance with the terms of Section 6 of this Ordinance. The owner or operator of each such permitted facility shall be mailed a bill on or before June 15 of each year which bill shall be due and payable on July 1st of that year. Fees not remitted on or before July 31st of that year shall be re-assessed by a second mailing and shall contain a warning statement that failure to remit payment on or before August 31st will result in automatic invalidation of the operating permit in accordance with Paragraph B of this section.

B. Failure to remit the fee assessment by any permitted establishment on or before August 31st of each year will automatically invalidate said permit as of 12:01 A.M. the following day.

C. Fee assessment schedule for permitted establishments:

1. Bars, Taverns, Cocktail Lounges
2. Food Services Establishments
3. Food Outlets
4. Mobile Food Service Vehicles
5. Food Processing Plants
6. Bottled Water Plants
7. Abattoirs
8. Rendering Plants
9. Migrant Labor Camps
10. Recreational Camps
11. Trailer Parks
12. Private Schools and Kindergartens
13. Child Care Centers
14. Emergency Medical Vehicles
15. Barber Shops
16. Swimming Pools
17. Septic Tank Pumping Trucks

D. The Department is authorized to assess fees for the following services, which fees shall be due and payable at the time of application for the service(s).

1. Septic Tank Permits (new)
2. Septic Tank (existing)
3. Percolation Test and Soil Log
4. Private Water Samples Delivered to Lab
5. Private Water Samples Collected by Sanitarian
6. Public Water Samples Delivered to Lab
7. Public Water Samples Collected by Sanitarian
8. Repeat Tests of Unsatisfactory Samples
9. Public Well Clearance Survey
10. Main Clearance
11. Fecal Coliform Samples

E. Waiver of Fees. The fee schedule adopted in this section shall apply uniformly to all establishments enumerated, provided, that there shall be no fees assessed temporary food establishments or non-profit public service organizations. For establishments requiring more than one permit, only one (1) fee shall be assessed, that fee being the highest fee assigned to the individual permits involved. It is further provided that permitted establishments serviced by a private well shall not be assessed additional fees for laboratory services nor shall any resident of Hernando County be denied access to laboratory services because of inability to pay for same. Establishments granted permits issued with fewer than six (6) full months remaining in the fiscal year shall be assessed at one half (1/2) the annual assessment fee. All fees collected shall be deposited in the Hernando County Health Department Trust Fund.

SECTION 17. ADDITIONAL DUTIES AND POWERS OF THE ENVIRONMENTAL HEALTH BOARD

The Board shall have the following duties, functions, powers and responsibilities:

A. To hear appeals by persons aggrieved by actions or decisions of the Environmental Health Officer not already referred to the State Attorney for criminal prosecution. Consider the facts material to such appeals, and render a decision promptly. Such decision may affirm, reverse or modify the action or decision appealed from, provided that such decision shall not be in conflict with the provisions of this act.

B. To conduct due process hearings into the merits of alleged violations of this act.

C. To issue, after due process hearing, injunctive orders, including orders providing for affirmative relief, against persons found in violation of this act.

D. After due public hearing upholding a violation, 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 required the violator to conform with 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 Board deems necessary and reasonable under the circumstances to correct such violations.

E. To issue orders imposing civil penalties of up to \$500.00 for each day of violation against persons found to have violated this act.

F. 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 his possession or under his control, material to such hearings.

G. To administer oaths to any or all persons who are to testify before the Board.

H. To adopt rules for the conduct of its hearings not inconsistent with the provisions of this act.

SECTION 18. APPEALS FROM ACTIONS OR DECISIONS OF ENVIRONMENTAL HEALTH OFFICER; PROCEDURE

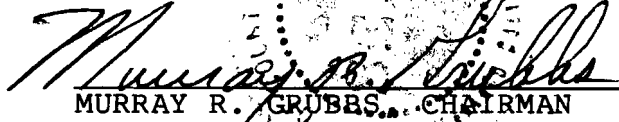
Any persons aggrieved by an action or decision of the Environmental Health Officer not already referred to the State Attorney for criminal prosecution may appeal to the Board by filing within ten (10) days after the date of the action or decision complained of, a written notice of appeal which shall set forth concisely the action or decision appealed from and the reasons of grounds for the appeal. The Board shall set such appeal for hearing at the earliest possible date, and cause notice thereof to be served upon the appellant and the Environmental Health Office.

SECTION 19. JUDICIAL REVIEW


The Environmental Health Office or any person aggrieved by any action or decision of the Board may seek judicial review as provided by s. 120.68, Florida Statutes.

PASSED at a Regular Meeting of the Board of County Commissioners, of Hernando County, Florida, this 29th day of September, 1981.

HERNANDO COUNTY
BOARD OF COUNTY COMMISSIONERS


MURRAY R. GRUBBS, CHAIRMAN

ATTEST:


HAROLD WILLIAM BROWN, County Clerk