

ORDINANCE NO.: 2006-09

AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO WATERING RESTRICTIONS; AMENDING CODE SECTION 28-162 TO CLARIFY APPLICABLE RULES OF THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT; AMENDING CODE SECTION 28-164 TO AUTHORIZE ENFORCEMENT OF CERTAIN WATER MANAGEMENT DISTRICT RULES; AMENDING CODE SECTION 28-165 TO PROVIDE FOR ENFORCEMENT; AMENDING SECTION 28-166 TO PROVIDE FOR PENALTIES; PROVIDING FOR SEVERABILITY AND INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION 1. AMENDING CODE SECTION 28-162 TO CLARIFY APPLICABLE RULES OF THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT WITH ADDED MATTER UNDERLINED.

Sec. 28-162. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

District is the Southwest Florida Water Management District.

Person is any person, firm, partnership, association, corporation, company or organization of any kind.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

Water shortage condition is when sufficient water is not available to meet present

or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage plan means Chapter 40D-21, Florida Administrative Code, the codification of the water shortage plan adopted and published by the Southwest Florida Water Management District July 1983, as such rules may be amended or renumbered from time to time.

SECTION 2. AMENDING CODE SECTION 28-164 TO AUTHORIZE ENFORCEMENT OF CERTAIN WATER MANAGEMENT DISTRICT RULES WITH ADDED MATTER UNDERLINED.

Sec. 28-164. Declaration of water shortage; water shortage emergency; other applicable rules.

(1) The declaration of a water shortage or water shortage emergency within all or any part of Hernando County by the governing board or the executive director of the district shall invoke the provisions of this article. Upon such declaration, all water use restrictions or other measures adopted by the district pursuant to Chapter 40D-21, Florida Administrative Code, applicable to Hernando County, or any portion there, shall be subject to enforcement action pursuant to Section 28-165 of this article. Any violation of the provisions of Chapter 40D-21, Florida Administrative Code, or any order issued pursuant thereto shall be a violation of this article.

(2) If no declaration of a water shortage or water shortage emergency is in effect pursuant to subsection (1), Chapter 40D-22, Florida Administrative Code, as amended or renumbered from time to time, shall be enforced as a criminal offense pursuant to specific District request or as a civil infraction punishable as other violations of the Hernando County Code of Ordinances pursuant to Chapter 2, Article III of the Code.

SECTION 3. AMENDING CODE SECTION 28-165 TO PROVIDE FOR ENFORCEMENT CONSISTENT WITH OTHER CODE VIOLATIONS, WITH ADDED MATTER UNDERLINED.

Sec. 28-165. Enforcement.

Every police officer or sheriff of the county or cities in the service areas governed by this article shall, in connection with all other duties imposed by law, diligently enforce the provisions of this article. In addition, the county administrator may also delegate enforcement responsibility for this article to agencies and departments of local government in the service areas governed by this article, in accordance with state and local law. Violations of any provision of Chapter 40D-22, Florida Administrative Code, as amended or renumbered from time to time, may be enforced as a civil infraction by any Code Enforcement Officer.

SECTION 4. AMENDING CODE SECTION 28-166 TO PROVIDE FOR PENALTIES CONSISTENT WITH OTHER CODE VIOLATIONS, WITH ADDED MATTER UNDERLINED AND DELETED MATTER STRUCK-THROUGH.

Sec. 28-166. Penalties.

~~(a) Violation of any provision of this article shall be subject to the following penalties:~~

~~(1) First violation--Twenty-five dollars (\$25.00):~~

~~(2) Second and subsequent violations--Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the county jail not to exceed sixty (60) days.~~

(a) Violation of provisions of this article shall be punishable according to the terms of the applicable administrative rule or pursuant to Chapter 2, Article III of this Code.

(b) Each day in violation of this article shall constitute a separate offense. In the initial stages of a water shortage, law enforcement officials may attempt to provide violators with no more than one written warning.

SECTION 5. Severability.

It is declared to be the intent of the board of county commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Inclusion in the Code.

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate designation.

SECTION 7. Effective date.

This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 20th day of June 2006.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**



Karen Nicolai
KAREN NICOLAI
Clerk

By: *Diane B. Rowden*
DIANE B. ROWDEN
Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: *[Signature]* *KW* 6/24/06
County Attorney's Office