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BK: 2513 PG: 362

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LT1-2-2007075580-1

ORDINANCE NO.: 2007-20



LT2-2513-362-6

AN ORDINANCE AMENDING SECTIONS 28-239 AND 28-246, HERNANDO COUNTY CODE OF ORDINANCES, REMOVING THE REQUIREMENT FOR FORCED ACCOUNTS ON UNOCCUPIED PROPERTY; PROVIDING FOR HERNANDO COUNTY UTILITIES DEPARTMENT POLICY TO ESTABLISH STANDARDS FOR ACCOUNTS; AUTHORIZING IMPOSITION OF A MINIMUM MONTHLY WATER OR SEWER CHARGE AGAINST ACTIVE UTILITY ACCOUNTS; REPEALING CONFLICTING ORDINANCE PROVISIONS; PROVIDING FOR SEVERABILITY; DIRECTING CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

FILED

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

11/28/2007 10:27AM # Pages 6
Filed & Recorded in Official Records of
HERNANDO COUNTY CLERK OF COURT
KAREN NICOLAI

SECTION 1. Amending Section 28-239, Hernando County Code of Ordinances, removing the requirement for forced accounts on unoccupied property and providing for Hernando County Utilities Department policy to establish standards for accounts, as follows, with underlined material added and struck-through material deleted:

Sec. 28-239. Water and/or sewer service application and contract.

(a) *Application for service.*

(1) All ~~owners~~ occupants of improved property connected to the district's water or sanitary sewer system or to both systems shall request service from the department. The ~~property owner, until such time as the property is sold, shall be liable as an account holder for minimum monthly charges with respect to either the district's water or sanitary sewer system, or with respect to both systems, if both are available, regardless of whether or not a particular vacant or improved parcel is connected thereto or is making use thereof, unless and until a renter or tenant makes application for service at that location, or as otherwise provided by this division or other code provisions.~~

(2) Billing for the property owner's utility account shall be suspended upon the effective date for service to an account in the name of a renter or tenant. Upon the termination of a tenant's utility account, whether through proper notification to the department or through the tenant's vacation of the premises either voluntarily or involuntarily without notice to the department, the property owner shall again be liable for charges accrued at the service location. Upon termination of the renter or tenant's

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utility account, the department may reactivate the owner's utility account. The property owner shall not be liable for any charges accrued to the tenant's utility account prior to the effective date of termination. The department shall be under no obligation to make adjustments to the owner's account should a renter or tenant fail to request water and/or sanitary sewer service from the department in their name. Termination of a tenant's utility account shall be effective on the earlier of the date of notice to the department or the date of abandonment of the premises by the tenant without regard to notice to the department or to the property owner.

(3) All applications for connection of any premises to the district's water and/or sanitary sewer systems or for transfer of the utilities account for a service location to another party shall be made to the department in writing on forms provided for that purpose, and shall state fully all the purposes for which such water connection or sanitary sewer service is required and the correct location of the premises to be supplied, and shall be signed by the owner, tenants, or an authorized agent. The department may authorize service to residential units upon verbal or electronic request therefore, and the department's acceptance of such request and applicant's receipt of services from the department pursuant thereto, whether or not subsequently formalized by a written application or written contract, shall constitute a contract for service under the same terms as if a fully signed and completed application was received and approved by the department.

(3) The department may propose and the district may adopt policies defining where and how accounts may be established for unoccupied improved property for the purpose of collecting minimum monthly charges when such charges have been adopted by rate resolution, but nothing herein shall require forcing accounts on property owners not occupying such property.

(4) The department shall establish a utility account in the applicant's name at the time the request for service is accepted. Such request when accepted by the department and upon its performance of the service applied for shall constitute a contract between the applicant and the district which shall bind such applicant to pay to the department for the services rendered at the district's prescribed rates and to comply with all rules and regulations as prescribed and fixed hereby in the provisions of this division, or as hereafter adopted by the board.

(5) Any agents, trustees, receivers, administrators, executors, or anyone handling properties for owners or tenants signing an application for water and/or sanitary sewer service on behalf of principals, shall be held jointly and severally liable with their principals under the terms of the contract of application, which contract shall remain in effect until notice from the original applicant has been received by the department for discontinuance of service.

(6) Anyone signing an application for water and/or sanitary sewer service and requesting that the account bill be sent to a different address for payment by another party does so at his own risk, as the department does not act as a collection agency for

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owner or agent, and takes no responsibility for collection of the account. Should the account become delinquent, the contracting party shall be liable and collection shall be handled as any ordinary account.

(b) *Water and/or sewer service contract.* The contract for water and/or sanitary sewer service shall be substantially in the following form:

"The applicant for water and/or sanitary sewer service agrees to be responsible for providing the correct service location to the utilities department and to reimburse the utilities department for any costs incurred as a result of the applicant providing incorrect information. The applicant further agrees to conform to all the rates, rules and regulations of the Hernando County Water and Sewer District for water and/or sanitary sewer service as are now or hereafter in force, and which are made part of this contract, including the agreement to pay the prescribed charge for any restoration of service. The applicant also agrees to pay water and sanitary sewer hook-up and connection fees where applicable, and to pay all charges for water and/or sanitary sewer service, as they may become due and at the scheduled rate in effect, until and unless notice in writing is given by the applicant to the utilities department that service is to be discontinued, for whatever period of time. Applicant further certifies that any and all information provided to the department in the course of applying for service is true and correct and understands that willfully supplying false or incorrect information may constitute a violation of the district's operating ordinance". It shall be a violation of this division if any applicant for service willfully provides false or incorrect information upon which the department relies to its operational or financial detriment.

(c) *Termination of water and/or sewer service.*

(1) Any owner of property connected to the district's water and/or sanitary sewer system may terminate their contract and utility account for water and/or sanitary sewer service with the department by giving notice to the department that they have sold the service location and by paying all amounts due for services up to the date of receipt of such notice by the department or the effective closing date of sale, whichever comes last.

(2) Renters or tenants may terminate their contract and utility account with the department at any time by giving notice to the department and by paying all amounts due for services up to the date of receipt of such notice by the department or upon the effective date requested by the account holder.

(3) The department will not accept any notice as binding unless made in writing. Persons giving notice either verbally or by telephone do so at their own risk.

(4) In case notice of termination is not given by an account holder or the bills due for service are not paid, the account holder shall continue to be liable for water consumed and/or sanitary sewer services rendered and, in case no water is consumed and/or sanitary sewer service rendered, for the minimum monthly charge even though the account holder may vacate or the premises may be occupied by another party who fails to apply for service and sign a contract with the department. However, in the case where the property has been sold, the previous owner shall not be held liable for water and/or

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sanitary sewer charges accrued after the closing date of property sale; rather, the new owner shall be liable for water and/or sanitary sewer charges upon the effective closing date of sale.

(5) Acceptance by the department of an application for service at an existing service location shall automatically transfer the utilities account for that location into the name of the new applicant and automatically suspend or terminate the previous account upon the effective date of service for the new account, whether or not notification of account suspension or termination from the previous account holder has been received by the department.

(6) Should the owner or occupant of any improved property connected to the district's water and/or sanitary sewer system, fail to make application for service, the department shall have the right to disconnect the water and/or sanitary sewer service to the property immediately upon discovery, and to require payment by the owner of all applicable fees and charges accrued prior to reconnection of service and the cost of reconnection to the system(s).

(7) In the event of notification to the department of bankruptcy of the owner, the account shall be administratively divided between pre-petition date and post-petition date liabilities, unless otherwise directed by the owner or the bankruptcy court, and a claim may be filed with the court for payment of any pre-petition delinquencies. Unless the account is terminated, the owner will be separately liable for charges for service accruing after the petition date. In chapter 11 or 13 cases, failure to remain current on post-petition charges will be called to the attention of the court for appropriate action.

(8) In the event the owner dies, the name on the account shall be changed or the account terminated as soon as possible upon presentation of evidence of death. If a notice of claim is filed in probate proceedings, such notice shall be without prejudice to the assertion of liability against the estate, the personal representative, or any occupants of the premises obtaining the benefits of continued service, jointly or severally, if the name of the deceased remains on the account for any periods after the date of death. In any such case, the department shall have the authority to disconnect service for non-payment.

SECTION 2. Amending section 28-246, Hernando County Code of Ordinances, removing the requirement for a minimum monthly billing charge or service availability charge for water or sewer service regardless of property improvement or occupancy and providing in lieu thereof for such minimum charges, if any, as may be set by rate resolution, as follows, with underlined material added and struck-through material deleted:

Sec. 28-246. Water and/or sewer service rates.

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(a) *No free service.* No water or sanitary sewer service shall be furnished or rendered free of charge to any person, firm, or corporation whatsoever, including city, county, state, and/or federal departments or agencies, and each and every person, firm, corporation, agency, department or instrumentality which uses either or both such services shall pay therefore at the rates fixed by the board.

(b) *Minimum charges.* There shall be a minimum monthly billing charge per account ~~and~~ or a minimum monthly service availability charge for all improved properties connected to the district's water and/or sanitary sewer systems ~~whether or not the water and/or sanitary sewer services are actively being used by an occupant of the premises ,~~ or both such charges, as may be set by rate resolution. The district may adopt such policies as may facilitate collection of such charges, if established.

(c) *Conservation rates.* Recognizing a need to preserve and protect the county's water resources, monthly base rates and/or usage charges shall be established to promote water conservation by all users of the district's water systems.

(d) *Establishing water and/or sewer service rates.* Service rates for water and sanitary sewer services shall be established by, and may be amended by, resolution of the board, as adopted at an advertised public hearing. Notice of such public hearing setting forth the schedule or schedules of rates, fees and charges shall be given by one publication in a newspaper published in the county at least ten (10) days, including weekends and holidays, before the date fixed in said notice for the hearing. In advertising such rate schedule or schedules, the department shall comply with any applicable statutory notice requirements.

(e) *Consumer price index.* The board shall hold an advertised public hearing annually on application and adoption of the Consumer Price Index (CPI) adjustment approved by the Florida Public Service Commission with respect to all then-effective rates for water and sewer service. The department shall recommend to the board whether or not to adopt such CPI adjustment in whole or in part in a rate resolution.

SECTION 3. Repeal of conflicting ordinance provisions.

Any provisions of Ordinance No. 2005-19 or other enacted ordinances of Hernando County which conflict with the provisions of this ordinance amending the Code of Ordinances are hereby repealed only to the extent of such conflict.

SECTION 4. 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

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remaining portions of this ordinance.

SECTION 5. Codification.

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, the sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that the work "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION 6. 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.

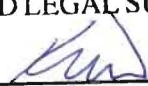
BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 6th day of November 2007.

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

Attest: 
KAREN NICOLAI
Clerk



By: 
JEFF STABINS
Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY  KW 10/30/07
County Attorney's Office