

Marguerite Linke

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Thursday, August 11, 2016 2:52 PM
To: Marguerite Linke
Cc: County Ordinances
Attachments: Hernando20160811_Ordinance2016_15_Ack.pdf

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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 11, 2016

Honorable Don Barbee Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 3621
Brooksville, Florida 34601

Attention: Marguerite Linke, Administrative Services

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2016-15, which was filed in this office on August 11, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

1 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
2 COMMISSIONERS OF HERNANDO COUNTY:

3 **Section 1. Repeal and Replacement of Out-of-Date Provisions.** Hernando County Code
4 Chapter 28, Article III, Division 4 and Hernando County Code § 28-298 are deleted.

5 **Section 2. Amendment of Hernando County Code § 28-246 to Clarify that the Changes**
6 **Made by This Ordinance Will Not Limit the Board's Existing Authority to Receive**
7 **Compensation for the Use of the County's Rights-of-Way.** Hernando County Code § 28-246 is
8 amended to add a new subsection (f) to read as follows:

9 Payments In Lieu of Franchise Fees.

10 (1) Pursuant to Section 337.401(1), Florida Statutes, the occupation of the
11 rights-of-way owned by Hernando County and located in the unincorporated portion
12 of Hernando County, Florida, by a utility for the purpose of constructing or
13 maintaining or erecting or installing utility systems shall be subject to the payment
14 of rent. "Payment in Lieu of Franchise Fee" shall mean the rental charge to be paid
15 by County-owned utilities presently occupying or proposing to occupy rights-of-way
16 owned by Hernando County.

17 (2) The Board may adopt, by resolution, a water and wastewater payment
18 in lieu of franchise fee equal to an amount not to exceed four and one-half per cent
19 (4.5%) of the utility's current year's rate revenues as received from the sale or

1 provision of services in the unincorporated areas of Hernando County, Florida, to
2 residential, commercial, institutional, and industrial customers.

3 **Section 3. Amendment of Hernando County Code § 28-293(d) to Remove Inconsistent**
4 **Terminology and to Clarify the Subsection's Scope.** Hernando County Code § 28-293(d) is
5 deleted in its entirety and replaced with the following:

6 (d) Franchise Fees.

7 (1) Pursuant to Section 337.401(1), Florida Statutes, the occupation of the
8 rights-of-way owned by Hernando County and located in the unincorporated portion
9 of Hernando County, Florida, by a utility for the purpose of constructing or
10 maintaining or erecting or installing utility systems shall be subject to the payment
11 of rent. "Franchise fee" shall mean the rental charge to be paid by a utility be paid
12 by utilities presently occupying or proposing to occupy rights-of-way owned by
13 Hernando County and shall include the successors or assigns of any such utilities.

14 (2) Each franchise certificate shall contain a provision that the utility, as
15 consideration for the authority's grant of the franchise, is to pay as rent a franchise
16 fee equal to an amount not to exceed four and one-half per cent (4.5%) of the utility's
17 gross revenues collected from the sale or provision of services in the unincorporated
18 areas of Hernando County, Florida, to residential, commercial, institutional, and
19 industrial customers. The authority shall determine the amount of the franchise fee
20 on a case-by-case basis.

1 (3) Each utility shall pay the franchise fee to the authority in quarterly
2 installments. Each quarterly installment must be paid within ninety days (90) days
3 of the end of that fiscal quarter of the utility, i.e. the payments are made ninety (90)
4 days in arrears. With each payment, the utility shall file with the authority, a
5 statement of gross receipts for the applicable quarter, verified under oath by an
6 authorized financial officer of the utility.

7 (4) Each utility that fails to promptly submit to the county all required
8 fees and accurate statement of gross receipts within the prescribed period shall pay
9 the county a late fee charge of one percent of the delinquent fee per month, or
10 fraction of a month plus all costs incurred by the authority for collecting the fee.

11 **Section 4. Amendment of Hernando County Code § 28-297(q) to Remove Inconsistent**
12 **Terminology.** Hernando County Code § 28-297(q) is amended to read as follows:

13 (q) The transferor shall remain liable for any outstanding ~~regulatory~~ franchise
14 fees, assessment fees, fines of the utility due to the county or refunds of the utility
15 due to its customers.

16 **Section 5. Amendment of Hernando County Code § 28-297(s)(21) to Remove**
17 **Inconsistent Terminology.** Hernando County Code § 28-297(s)(21) is amended to read as follows:

18 (21) A statement regarding the disposition of any outstanding ~~regulatory~~
19 franchise fees, fines or refunds owed;

1 **Section 6. Amendment of Hernando County Code § 28-557 to Clarify that the Changes**
2 **Made by This Ordinance Will Not Limit the Board's Existing Authority to Receive**
3 **Compensation for the Use of the County's Rights-of-Way.** Hernando County Code § 28-557 in
4 amended to add a new subsection (e) to read as follows:

5 Payments In Lieu of Franchise Fees.

6 (1) Pursuant to Section 337.401(1), Florida Statutes, the occupation of the
7 rights-of-way owned by Hernando County and located in the unincorporated portion
8 of Hernando County, Florida, by a utility for the purpose of constructing or
9 maintaining or erecting or installing utility systems shall be subject to the payment
10 of rent. "Payment in Lieu of Franchise Fee" shall mean the rental charge to be paid
11 by County-owned utilities that are presently occupying or are proposing to occupy
12 rights-of-way owned by Hernando County.

13 (2) The Board may adopt, by resolution, a reclaimed water payment in
14 lieu of franchise fee equal to an amount not to exceed four and one-half per cent
15 (4.5%) of the utility's current year's rate revenues as received from the sale or
16 provision of services in the unincorporated areas of Hernando County, Florida, to
17 residential, commercial, institutional, and industrial customers.

1 **Section 7. Severability.** It is declared to be the intent of the Board of County
2 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
3 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
4 validity of the remaining portions of this ordinance.

5 **Section 8. Inclusion in the Code.** It is the intention of the Board of County Commissioners
6 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
7 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the
8 section of this Ordinance may be renumbered or relettered to accomplish such intention, and that the
9 word "ordinance" may be changed to "section," "article," or other appropriate designation.


10 **Section 9. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
11 conflict with the provisions of this ordinance are hereby repealed.


12 **Section 10. Effective Date.** This ordinance shall take effect immediately upon receipt of
13 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
14 been filed with said office.

1 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
2 **HERNANDO COUNTY** in Regular Session this 9th day of August 2016

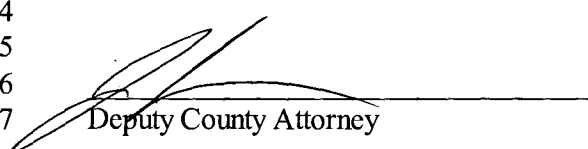


**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

9 Attest: 
10 DONALD C. BARBEE, JR.
11 Clerk

By: 
12 JAMES E. ADKINS
13 Chairman

14 Approved for Form and Legal Sufficiency

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16
17 
Deputy County Attorney