

Marguerite Linke

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Friday, May 26, 2017 3:28 PM
To: Marguerite Linke
Cc: County Ordinances
Subject: Emailing - Hernando20170526_Ordinance2017_26_Ack.pdf
Attachments: Hernando20170526_Ordinance2017_26_Ack.pdf

The Department of State is committed to excellence.
Please take our [Customer Satisfaction Survey](#).



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 26, 2017

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. 2017-26, which was filed in this office on May 26, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

1 (b) *Adoption of Deferred Compensation Program.* The Board of County
2 Commissioners adopts and establishes a deferred compensation program with one or
3 more underwriting entities authorized by the Board of County Commissioners to
4 provide deferred compensation plans for said employees at the employee's option.

5 (c) *Approval of Underwriters and Deferred Compensation Plans.* The Board of
6 County Commissioners is authorized to approve deferred compensation plans and to
7 designate and authorize one or more underwriting entities that meet the requirements
8 of law to offer approved deferred compensation plans under this section, by adopting
9 a resolution.

10 (d) *Plan Administrator.* The County Administrator, or his or her designee, is
11 hereby designated as the official to administer one or more deferred compensation
12 plans in accordance with the requirements of Section 112.215(5), Florida Statutes.

13 (e) *Determination of the Status of the Plan.* The Clerk of the Circuit Court and
14 County Comptroller, or his or her designee, is hereby designated as the appropriate
15 official to determine, in accordance with Section 112.215(6)(b), Florida Statutes,
16 whether the compensation deferred under any plan will not be included in the
17 employee's taxable income under federal or state law until it is actually received by
18 such employee under the terms of the plan, and that such compensation will
19 nonetheless be deemed compensation at the time of deferral for the purposes of social

1 security, the retirement system of the County, or for any other retirement, pension,
2 or benefit program established by law.

3 (f) *Authority to Adopt Policies.* The Board of County Commissioners may adopt
4 policies governing the deferred compensation program, including but not limited to,
5 plan oversight, investment policies and options, control procedures, notices to
6 employees, procedures for enrollment, obligations of any designated underwriting
7 entity, and participant withdrawal rights.

8 (g) *Voluntary Participation.* Participation in this deferred compensation
9 program, or any plan approved hereunder, shall be voluntary. Each participant and
10 underwriting entity shall be required to execute a document setting forth any
11 limitations on withdrawals, as well as charges by the underwriting entity to any
12 participant.

13 (h) *Limitation of Liability and Notice to Employees.* It is the purpose of this
14 section to make available to the persons designated in subsection (b) of this section,
15 on a voluntary basis, a deferred compensation plan pursuant to the provisions of
16 Section 112.215(5), Florida Statutes, with one or more underwriters from which such
17 designated persons may select their deferred compensation plan. Hernando County,
18 the Board of County Commissioners, and the Clerk of the Circuit Court and County
19 Comptroller shall have no responsibility or liability for the investment decisions of
20 persons participating in the plan or plans, or the administration of said plan or plans.

1 Each person, prior to entering into any plans authorized hereunder, must
2 acknowledge in writing that his or her participation in a deferred compensation plan
3 is a voluntary, private contractual arrangement between the employee and the
4 underwriter. As part of the acknowledgment, the employee must release Hernando
5 County, the Board of County Commissioners, and the Clerk of the Circuit Court and
6 County Comptroller, the employee's employer, and their respective agents, officers,
7 assigns and successors of any liability resulting from any loss or damage incurred by
8 an employee arising out of the employee's participation in the plan.

9 (i) *Employees May Only Participate in One Plan.* No person may enter into a
10 deferred compensation plan with more than one of the designated and authorized
11 underwriting entities, except that a person may discontinue enrollment in one plan,
12 withdraw their deferred compensation funds, and thereafter enroll in another
13 authorized plan, without penalty.

14 (j) *Plan Availability.* Any underwriting entity approved and designated
15 hereunder shall make such plans available to all persons designated in subsection (b)
16 of this section, except that no such plan shall include a provision for the applicant to
17 purchase any life insurance.

18 (k) *Effectuation of Plan.* The Chairman of the Board of County Commissioners
19 and the Clerk of the Circuit Court and County Comptroller are hereby authorized to
20 execute all plan documents and undertake all other necessary action on behalf of the

1 Board of County Commissioners and the County to effectuate the operation of the
2 plan.

3 (l) *Plan to Be in Addition to any Other Retirement, Pension or Benefit Systems.*

4 The deferred compensation plan authorized hereunder and any other plan approved
5 and adopted as herein provided, will exist and serve in addition to any other
6 retirement, pension or benefit systems established by the federal government, the
7 State of Florida or Hernando County, and shall not supersede, make inoperative or
8 reduce any benefits provided by the Florida Retirement System or by any other
9 retirement, pension or benefit program established by law.

10 (m) *Conflict and Severability.* In the event this section conflicts with any other
11 ordinance of Hernando County or other applicable law, the more restrictive shall
12 apply. If any phrase or portion of this section is held invalid or unconstitutional by
13 any court of competent jurisdiction, such portion shall be deemed a separate, distinct
14 and independent provision and such holding shall not affect the validity of the
15 remaining portion.

16 (n) *Prospective Application Only.* The provisions of this Ordinance shall apply
17 to all plans approved by the Board of County Commissioners and to all plan
18 participation agreements between employees and underwriters that are entered into
19 after the effective date of this ordinance, and shall apply to any renewal or extension
20 of the same made after the effective date of this Ordinance. The provisions of this

1 Ordinance may not be applied to plans, contributions, or agreements that were
2 entered into prior to the effective date of this Ordinance.

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

7 **Section 3. Inclusion in the Code.** It is the intention of the Board of County Commissioners
8 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
9 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the
10 sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that
11 the word “ordinance” may be changed to “section,” “article,” or another appropriate designation.


12 **Section 4. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
13 conflict with the provisions of this ordinance are hereby repealed.

14 **Section 5. Effective Date.** This ordinance shall take effect immediately upon receipt of
15 official acknowledgment from the office of the Secretary of State of Florida that this ordinance has
16 been filed with said office.

1 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
2 **HERNANDO COUNTY** in Regular Session this 23rd day of may 2017.




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

3
4
5
6
7
8
9 Attest: 
10 DONALD C. BARBEE, JR.
11 Clerk

By: 
12 WAYNE DUKES
13 Chairman

14 Approved for Form and Legal Sufficiency

15 
16 _____
17 Deputy County Attorney