

Marguerite Linke

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Friday, January 26, 2018 10:30 AM
To: Marguerite Linke
Cc: County Ordinances
Subject: Hernando20180125_Ordinance2018_2_Ack.pdf
Attachments: Hernando20180125_Ordinance2018_2_Ack.pdf

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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 26, 2018

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. 2018-2, which was filed in this office on January 25, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO.: 2018- 2

AN ORDINANCE OF THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING SANITARY NUISANCES; PROVIDING FOR THE REPEAL OF PREEMPTED OR OTHERWISE ANACHRONISTIC SECTIONS; RENAMING AND AMENDING ARTICLE IV OF HERNANDO COUNTY CODE CHAPTER 15 TO REMOVE PROVISIONS THAT HAVE BEEN PREEMPTED BY THE LEGISLATURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR PROSPECTIVE APPLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS. the Board of County Commissioners of Hernando County is authorized, pursuant to Chapter 125, Florida Statutes, to adopt ordinances necessary for the exercise of its powers; and,

WHEREAS, the Board of County Commissioners of Hernando County is authorized, pursuant to Section 381.0016, Florida Statutes, to enact public health ordinances provided that such ordinances do not conflict with state law; and,

WHEREAS, the Board of County Commissioners enacted the Hernando County Environmental Health Ordinance, *codified at* Hernando County Code §§ 15-121 through 15-146, in 1981; and,

1 WHEREAS, the Board of County Commissioners' primary purpose in enacting the
2 Environmental Health Ordinance was to provide the Hernando County Health Department with a
3 procedural mechanism by which it could enforce the statutes and rules for which it had regulatory
4 authority; and,

5 WHEREAS, to do so, the Board of County Commissioners incorporated those statutes and
6 rules into the Hernando County Code and established an environmental health board to adjudicate
7 alleged violations of the incorporated statutes and rules; and,

8 WHEREAS, since 1981, the Florida Legislature has enacted statutes that invest county health
9 departments with independent enforcement authority; and,

10 WHEREAS, also since 1981, the Florida Legislature has enacted statutes that preempt
11 counties from regulating certain health-related activities (e.g., the operation of hospitals, trailer
12 parks, etc.); and,

13 WHEREAS, as a result, many of the provisions of the Environmental Health Ordinance have
14 been preempted or rendered unenforceable; and,

15 WHEREAS, the Board of County Commissioners has been engaged in the process of
16 removing unenforceable or otherwise anachronistic provisions from the Hernando County Code;

17 NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
18 COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

19 **Section 1. Repeal of Preempted or Otherwise Anachronistic Sections.**

20 Hernando County Code §§ 15-121 (Short Title), 15-122 (Declaration of Legislative Intent),

1 15-123 (Definitions), 15-124 (Adoption of Certain Statutes by Reference); 15-125 (Laboratory), 15-
2 126 (Fees), 15-127 (Exemptions), 15-141 (Environmental Health Board), 15-142 (Environmental
3 Health Officer), 15-143 (Permits), 15-144 (Enforcement Procedures Against Permitted
4 Establishments), 15-145 (Hearing on Notice of Noncompliance), and 15-146 (Judicial Review) are
5 hereby repealed.

6 **Section 2. Enacting a New Article IV of Chapter 15 of the Hernando County Code.**

7 A new Article IV of Chapter 15 of the Code of Ordinances of Hernando County, Florida,
8 entitled "ARTICLE IV – SANITARY NUISANCES," is hereby enacted to read as follows:

9 ARTICLE IV – SANITARY NUISANCES

10 Short title.

11 This article shall be known and cited as the "Hernando County Sanitary Nuisance
12 Ordinance."

13 Adoption of Florida Statutes and Administrative Rules.

14 (a) Part I of Chapter 386, Florida Statutes, and any administrative rules that may be
15 promulgated thereunder, as they may be amended from time-to-time, are hereby
16 adopted and made a part of this article.

17 (b) Any person or entity who violates any of the statutes referenced in section (a)
18 above shall, in addition to all other penalties provided by law, be in violation of the
19 Hernando County Code of Ordinances. Any person or entity violating any of the
20 provisions of this article shall be prosecuted as described in Chapter 2, Article III as

1 amended from time to time. Each incident or separate occurrence of an act that
2 violates this article shall be deemed a separate offense. The selection or use of any
3 remedy or penalty authorized by this Code for a violation of this article shall not
4 preclude the use or application of any other penalties or remedies authorized by this
5 Code or by general law.

6 (c) Notwithstanding section (b) above, upon receipt of a complaint that concerns
7 a matter over which another government agency has primary regulatory jurisdiction,
8 the complaint shall be reduced to writing and then forwarded to the appropriate
9 regulatory agency for further investigation.

10 Conflict with State Law.

11 Nothing in this Article is intended to conflict with the provisions of the Florida
12 Constitution, Florida Statutes, or the Florida Administrative Code. In the event that
13 a provision of this Article directly and expressly conflicts with a provision of the
14 Florida Constitution, Florida Statutes, or the Florida Administrative Code, then the
15 applicable provision of the Florida Constitution, Florida Statutes, or the Florida
16 Administrative Code shall control.

17 Applicability to Municipalities.

18 The provisions of this Article are to be applied and enforced within all
19 unincorporated areas of Hernando County as well as within all incorporated areas of
20 Hernando County to the extent that there are no conflicting municipal regulations. In

1 the event a municipal regulation conflicts with this Article, the municipal regulation
2 will prevail within the jurisdiction of that municipality.

3 **Section 3. Severability.**

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

8 **Section 4. Inclusion in the Code.**

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

14 **Section 5. Conflicting Provisions Repealed.**

15 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are
16 hereby repealed.

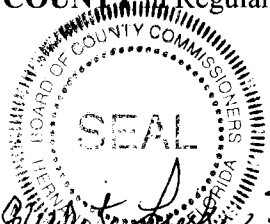
17 **Section 6. Prospective Application.**

18 This ordinance shall operate prospectively and shall not apply to any proceedings that have
19 been initiated prior to the effective date of this ordinance.

1 **Section 7. Effective Date.**

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

4 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
5 **HERNANDO COUNTY**, in Regular Session this 23rd day of January, 2018.



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

8
9
10 Attest: Margaret Smith, D.C.
11 DONALD C. BARBEE, JR.
12 Clerk

13 By: [Signature]
14 Steve Champion
15 (Print Name)
16 Chairman

17 Approved for Form and Legal Sufficiency
18
19 [Signature]
20 Deputy County Attorney