

Heidi Kurppe

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Wednesday, September 23, 2020 1:53 PM
To: Heidi Kurppe
Cc: County Ordinances
Subject: [EXT.] -
Attachments: Hernando20200923_Ordinance2020_9_Ack.pdf



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

September 23, 2020

Honorable Doug Chorvat, Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 362
Brooksville, Florida 34601

Attention: Ms. Heidi Kurppe, Deputy Clerk

Dear Mr. Chorvat:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2020-9, which was filed in this office on September 23, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

1 **Section 2. Modification to Notice Procedures to Reflect Collection by Special**
2 **Assessments.** Effective October 1, 2020, Hernando County Code § 15-165, “Notice to Property
3 Owner to Correct Prohibited Conditions,” is amended to read as follows, with deleted text struck-out
4 and added text underlined:

5 Sec. 15-165. Notice to Property Owner to Correct Prohibited Conditions.

6 (a) If the code enforcement department finds and determines that a prohibited
7 condition exists, as described in section 15-163 or in section 15-170 of this article,
8 it shall so notify the record owner of the offending property in writing and demand
9 that such owner cause the situation to be remedied. The written notice may be in the
10 form of initial notice by post card addressed to the owner or owners of the property
11 described with the names and addresses as shown upon the most recent records of
12 the county property appraiser. Initial notice by post card may specify any length of
13 time for compliance that is deemed appropriate by the code enforcement department.

14 **(b)** If the prohibited condition is not remedied after initial notice by post card,
15 or if the code enforcement department elects not to provide initial notice by post
16 card, the code enforcement department may hand-deliver or send by certified mail,
17 return receipt requested, a notice of public code violation in substantially the form
18 set forth in this section, which notice if mailed shall be addressed to the owner or
19 owners of the property described with the names and addresses as shown upon the
20 most recent records of the county property appraiser.

1 (c) If certified mail is returned to code enforcement department for any reason,
2 including but not limited to refusal of delivery by the addressee or incorrect address
3 information from the property appraiser, or if no written response to the notice of
4 public code violation is received by the code enforcement department within twenty
5 (20) days of delivery, the code enforcement department shall post the offending
6 property for a period of ten (10) days. Upon the expiration of the posting date, all
7 persons with interests in the property shall be conclusively deemed to have waived
8 any and all right to appeal the determination of the code enforcement department or
9 otherwise object to county remedy of the prohibited condition and the department
10 may arrange for the property to be mowed, cleaned, or otherwise to correct the
11 violation of the offending property and may bill the property owner pursuant to the
12 provisions of this article.

13 (d) When all persons with interests in the property have been deemed to have
14 waived their right to appeal or otherwise object to county remedy of the prohibited
15 condition, the code enforcement department may use the services of any county
16 employee, agent or contractor for the purpose of abating or correcting the violation
17 on the offending property, providing that entry for the purpose of abatement or
18 correction can be made without use of force.

19 (e) If entry onto property for the purposes of correction or abatement of
20 prohibited conditions is not possible without force, the county court may issue a

1 warrant pursuant to the terms and limitations of F.S. Ch. 933, as the same may be
2 amended from time to time, authorizing such minimal use of force as may be
3 necessary to abate or correct the violation on the offending property, provided that
4 no such warrant shall issue for any owner-occupied dwelling pursuant to limitation
5 of law.

6 (b)(f) The notice shall be in substantially the following form, shall include current
7 surcharge and fee amounts pursuant to resolution, and shall provide notice of waiver
8 of rights in the absence of a written response:

9 NOTICE OF PUBLIC CODE VIOLATION

10 Date _____

11 NAME OF OWNER(S): _____

12 ADDRESS: _____

13 All Our records indicate that you are the owner(s) of the
14 following property in Hernando County, Florida:

15 (Legal Description of Property FROM Property Appraiser Records)

16 An inspection of this property discloses, and the Hernando
17 County Code Enforcement Department has determined, that a Public
18 Code Violation exists thereon so as to constitute a violation of
19 Hernando County Code of Ordinances, section 15-163 or section 15-
20 170 :

(Description of Unlawful Condition on Property)

~~You are hereby notified that unless the condition above described is remedied as required by this Ordinance within twenty (20) days upon receipt of this letter, the County will abate this condition and the cost of the work, including advertising costs, a Nuisance Administrative Surcharge of _____ dollars, Inspection fee of _____ dollars per site visit, and other expenses, will be imposed as a Special Assessment Lien upon the property. Such action WILL be taken if you fail to remedy the violation or otherwise respond in writing to this notice within twenty (20) days of the date of receipt. Any such response must be mailed or delivered so as to reach the Hernando County Code Enforcement Department within twenty (20) days of your receipt of this notice. YOU ARE HEREBY NOTIFIED THAT IF, WITHIN TWENTY DAYS (20) FROM THE DATE OF THIS NOTICE,~~

- a. THE VIOLATION DESCRIBED ABOVE IS NOT REMEDIED AND ABATED, OR
- b. THIS VIOLATION NOTICE HAS NOT BEEN TIMELY APPEALED, AS SET FORTH IN SUBSECTION 15-165(b) OF THE COUNTY'S CODE OF ORDINANCES, THE

1 COUNTY WILL CAUSE THE VIOLATION TO BE
2 REMEDIED, AND THE COSTS INCURRED BY THE
3 COUNTY IN CONNECTION WITH THE CLEANUP WILL
4 BE ASSESSED AGAINST THE PROPERTY. TO APPEAL
5 THIS NOTICE OF VIOLATION, YOU MUST FILE YOUR
6 NOTICE OF APPEAL NO LATER THAN 20 DAYS
7 AFTER RECEIPT OF THIS NOTICE WITH THE
8 HERNANDO COUNTY CODE ENFORCEMENT
9 DEPARTMENT. IF YOU DO NOT REMEDY THE
10 VIOLATION, APPEAL THIS NOTICE, OR OTHERWISE
11 RESPOND IN WRITING, YOU WILL BE DEEMED TO
12 HAVE WAIVED ANY AND ALL RIGHTS TO ANY
13 FURTHER NOTICE AS TO THIS MATTER.

14 ~~Furthermore, please be advised that Hernando County has the~~
15 ~~right to foreclose on properties upon which a lien has been placed and~~
16 ~~not paid within one year.~~

17 The enclosed list of contractors is provided for your
18 convenience and you are not obligated to use the services of these
19 contractors.

1 Your cooperation is greatly appreciated. You may contact the
2 Code Enforcement Department by calling 352-754-4056 if you have
3 questions. However, you MUST respond in writing within twenty
4 (20) days of the date of receipt if you disagree with the
5 determinations in this notice.

6 Sincerely,

7 Code Enforcement Officer

8 If the notice is an after-the-fact notice of an imminent public-health threat, the
9 capitalized portions shall be deleted and, in their place, the information required in
10 Section 15-166 regarding levy of assessment on the property for the costs of
11 abatement incurred by the County shall be substituted.

12 (g) Within twenty (20) days after notice is received, the owner or, if applicable,
13 the agent, custodian, lessee, or occupant of the property may appeal to the Board of
14 County Commissioners that a public nuisance does not exist on the property, or in
15 the case of an after-the-fact notice, that the property did not pose an imminent
16 public-health threat that required immediate cleanup.

1 (1) Content of Appeal. The owner or, if applicable, the agent, custodian,
2 lessee, or occupant of the property must appeal the notice of violation by written
3 notice to the Hernando County Code Enforcement Department. The written notice
4 must be accompanied by a reasonable filing fee, as determined by a resolution
5 adopted by the Board of County Commissioners, and must be physically received
6 by the Code Enforcement Department within the fifteen-day (15) period after notice
7 is received. Upon timely receipt, the Code Enforcement Department will schedule
8 the appeal for a public hearing before the Board of County Commissioners. At the
9 public hearing, the appellant shall be afforded due process and may present such
10 evidence as is probative of the appellant's case. The Code Enforcement Department
11 personnel or other County staff shall present such evidence as is probative of the
12 alleged violation. Members of the public shall be afforded the opportunity to present
13 germane testimony and evidence. Thereafter, the hearing shall be closed and the
14 Board of County Commissioners shall rule on the appeal. If the appeal is successful,
15 the County shall refund the appellate filing fee.

16 (2) Unsuccessful appeal. If the appeal is unsuccessful, the property must
17 be "cleaned up" and the violation remedied and removed within fifteen days (15)
18 from the date of the Board of County Commissioners' decision.

1 **Section 3. Authorization of Collection by Special Assessments.** Effective October 1,
2 2020, Hernando County Code § 15-166, "Collection of Costs and Records," is repealed and
3 reenacted to read as follows:

4 Sec. 15-166. Collection of Costs and Records.

5 (a) The Board of County Commissioners is hereby authorized to impose non-ad
6 valorem assessments against properties on which Hernando County abates a public
7 nuisance existing thereon.

8 (b) Any costs incurred by the County, including all actual, administrative, and
9 collection costs, may be assessed against the property as a special assessment
10 pursuant to Florida law and, if not paid, may be collected as provided in subsection
11 (f) below. Under no circumstances shall any code enforcement fines or penalties be
12 included in such special assessment.

13 (c) A notice of the special assessment shall be provided to the property owner
14 by first class mail at the address on record with the Hernando County Property
15 Appraiser's office specifying: (i) the nuisance that was abated, (ii) the address and
16 parcel identification number of the property, (iii) the actual cost of the abatement,
17 (iv) the amount of administrative costs (if any), (v) a statement that if not paid in full
18 or an appeal to the Board of County Commissioners is not filed in writing with the
19 county administration office within twenty (20) days, a special assessment will be
20 imposed against the property, (vi) the intent of the County to place the assessment

1 on the tax roll as a non-ad valorem assessment if not paid by the following June 1st;
2 (vii) the potential for the property to be subject to the sale of a tax certificate, bearing
3 interest by law at a rate as high as 18% per annum, if the non-ad valorem assessment
4 is not paid as part of the tax bill on the property; and (viii) the potential for the
5 property to be sold and conveyed by tax deed if the tax certificate is not redeemed
6 by payment of the non-ad valorem assessment in full, plus interest, as required by
7 Florida law. The only issue to be determined on appeal is whether or not the costs
8 in the notice are the actual costs incurred by Hernando County and if the notice
9 describes the proper property and owners.

10 (d) The Code Enforcement Department shall keep complete records relating to
11 the amount payable for the assessments above described.

12 (e) There is hereby levied, and the Board of County Commissioner is authorized
13 to levy from time-to-time, a non-ad valorem assessment against each and every
14 property in the County on which the County has abated a public nuisance and,
15 thereby, incurs or has incurred costs, and the owner of the property fails or refuses
16 or has failed or refused, for whatever reason, to pay timely the amount owed to the
17 County under this chapter for the costs incurred by the County in carrying out such
18 abatement and remedy.

1 (f) The Board of County Commissioners elects to use the uniform method to
2 impose and collect non-ad valorem assessments against properties on which
3 violations of this chapter occur or have occurred.

4 (1) The non-ad valorem assessments collected pursuant to this section
5 will be included in the combined notice for ad-valorem taxes and non-ad valorem
6 assessments as provided in Fla. Stat. § 197.3635, as it may be amended from time-to-
7 time. Non-ad valorem assessments collected pursuant to this section are subject to
8 all collection provisions in Fla. Stat. § 197.3632, as it may be amended from time-to-
9 time, including provisions relating to discount for early payment, prepayment by
10 installment method, deferred payment, penalty for delinquent payment, and issuance
11 and sale of tax certificates and tax deeds for nonpayment.

12 (2) Annual non-ad valorem assessment roll. Each year, the Board of
13 County Commissioners will approve a non-ad valorem assessment roll at a public
14 hearing between January 1 and September 20. The non-ad valorem assessment roll
15 will be comprised of properties that have had levied against them non-ad valorem
16 assessments under this section, and such assessments have not otherwise been paid
17 in full prior to approval of the roll.

18 (3) The Board of County Commissioners, or its designee, is authorized
19 and directed each year (i) to prepare the notice that must be provided as required by
20 Fla. Stat. § 197.3632(4)(b), as it may be amended from time-to-time, and (ii) to

1 prepare and publish the newspaper notice required by Fla. Stat. § 197.3632(4)(b), as
2 it may be amended from time-to-time. The notice to be sent by first-class mail will
3 be sent to each person owning property that will be on the non-ad valorem
4 assessment roll and will include the following:

5 (A) The purpose of the assessment;

6 (B) The total amount to be levied against the parcel, which
7 includes the actual cost incurred by the County;

8 (C) A statement that failure to pay the assessment will cause a tax
9 certificate to be issued against the property, which may result in a loss of title;

10 (D) A statement that all affected property owners have a right to
11 appear at the hearing and to file written objections with the local governing board
12 within 20 days of the notice; and,

13 (E) The date, time, and place of the hearing.

14 (4) Upon its approval by Board of County Commissioners, the non-ad
15 valorem assessment roll will be certified to the tax collector as required by law.

16 (5) Each year, the Code Enforcement Department shall provide the data
17 file of applicable properties to the Property Appraiser's Office by July 1st for
18 inclusion on that year's Truth-in-Millage (TRIM) notices, and by September 1st for
19 inclusion on that year's property tax bills.

1 (g) Notwithstanding the Savings Clause contained in Section 4 of this Ordinance,
2 the Board of County Commissioners may follow the procedures outlined in
3 subsection (f) above to collect delinquent liens that it recorded prior to October 1,
4 2020, including the interest accrued thereon, plus reasonable administrative and
5 collection costs, as a non-ad valorem assessment; provided however, (1) that notice
6 is provided to the applicable property owner or owners in the manner required by the
7 Uniform Assessment Collection Act, Fla. Stat. §§ 197.3632 and 197.3635, as it may
8 be amended from time-to-time or any successor statutes, and (2) that any existing
9 lien of record on the affected parcel for the delinquent assessment is supplanted by
10 the lien resulting from certification of the applicable assessment roll to the Hernando
11 County Tax Collector.

12 (h) The Board of County Commissioners shall compensate the Hernando County
13 Property Appraiser and the Hernando County Tax Collector for their costs in levying
14 and collecting the special assessments provided for herein, at the applicable statutory
15 rates, pursuant to the existing interlocal agreements entered into by Hernando County
16 with the Hernando County Property Appraiser and with the Hernando County Tax
17 Collector.

18 **Section 4. Savings Clause.** A special assessment lien recorded or a public nuisance abated
19 before the effective date of this Ordinance, and the rights, obligations, and interests flowing from
20 that lien or abatement are governed by any provision of the Hernando County Code or other rule

1 amended or repealed by this Ordinance as if the amendment or repeal had not occurred and may be
2 foreclosed, terminated, or enforced under that provision of the Hernando County Code or other rule.

3 **Section 5. 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
6 the validity of the remaining portions of this ordinance.

7 **Section 6. 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,
10 the section of this Ordinance may be renumbered or relettered to accomplish such intention, and that
11 the word "ordinance" may be changed to "section," "article," or any other appropriate designation.

12 **Section 7. Conflicting Provisions Repealed.** All ordinances or parts of ordinances in
13 conflict with the provisions of this ordinance are hereby repealed.

14 **Section 8. Effective Date.** Except as specifically provided for herein, this ordinance shall
15 take effect immediately upon receipt of official acknowledgment from the office of the Secretary
16 of State of Florida that this ordinance has been filed with said office.

