

**ORDINANCE NO. 2001-10**

**AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, AMENDATORY TO THE EXISTING CODE OF ORDINANCES; AMENDING SECTION 15-162, HERNANDO COUNTY CODE OF ORDINANCES, "PURPOSES AND GOALS," TO BE CONSISTENT WITH AMENDMENTS OF OTHER SECTIONS HEREIN; AMENDING SECTION 15-163, HERNANDO COUNTY CODE OF ORDINANCES, "PROHIBITED CONDITIONS; EXEMPTIONS," TO CLARIFY INTENT AND SPECIFY CIRCUMSTANCES UNDER WHICH TRASH, DEBRIS AND EXPOSED SALVAGEABLE MATERIALS CONSTITUTE PROHIBITED CONDITIONS AND ESTABLISHING PROOF THEREOF; AMENDING SECTION 15-165, HERNANDO COUNTY CODE OF ORDINANCES, "NOTICE TO PROPERTY OWNER TO CORRECT PROHIBITED CONDITIONS", PROVIDING ADDITIONAL NOTICE AND PROPERTY OWNER DUE PROCESS PROTECTIONS; AMENDING SECTION 15-167, HERNANDO COUNTY CODE OF ORDINANCES, "CIVIL FINES," TO PROVIDE FOR PROCEDURE PURSUANT TO ADDITIONAL PROPERTY OWNER DUE PROCESS PROTECTIONS AND TO SPECIFY ALTERNATIVE ENFORCEMENT; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.**

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

**SECTION 1. AMENDING SECTION 15-162, HERNANDO COUNTY CODE OF ORDINANCES, "PURPOSES AND GOALS," TO BE CONSISTENT WITH AMENDMENTS OF OTHER SECTIONS HEREIN.**

Section 15-162, Hernando County Code of Ordinances, is hereby amended to read as follows, with underlined matter added and struck-through matter deleted:

The purpose and intent of this article is to protect the public health, safety and welfare and to protect the aesthetic and property values of properties by providing for abatement of gross ~~gross~~ unaesthetic, unsanitary ~~and or~~ unsafe conditions, including the accumulation of litter, trash, waste and debris and overgrown vegetation, which constitutes a code violation on land subject to and in violation of this article.

**SECTION 2. AMENDING SECTION 15-163, HERNANDO COUNTY CODE OF ORDINANCES, "PROHIBITED CONDITIONS; EXEMPTIONS," TO CLARIFY INTENT AND SPECIFY CIRCUMSTANCES UNDER WHICH TRASH, DEBRIS AND EXPOSED SALVAGEABLE MATERIALS CONSTITUTE PROHIBITED CONDITIONS AND ESTABLISHING PROOF THEREOF.**

Section 15-163, Hernando County Code of Ordinances, is hereby amended to read as follows, with underlined matter added and struck-through matter deleted:

(A) ~~The excessive~~ Any accumulation of weed growth or grass excluding seed pods, to a height in

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excess of eighteen (18") inches high are subject to this ordinance ~~or rubbish, trash, debris, or manmade materials up on any lot, tract, or parcel of land~~ where such growth or accumulation increases the conditions leading to a haven or breeding place for snakes, rats, rodents or other vermin of like or similar character, or creates a breeding place for mosquitos, creates a fire hazard to adjacent properties or adversely affects or impairs the economic welfare of adjacent properties or creates a hazard at road intersections or rights-of-way within the County shall be declared a public code violation and is hereby prohibited. Dead, decaying, or living trees that pose ~~a natural~~ an actual threat of damage to ~~permitted buildings on the public, rights-of-way, utilities or~~ adjacent property are hereby declared to be a public code violation.

Said public code violations shall be unlawful in any unincorporated areas of the County. Prohibited conditions of this section shall apply to the various zoning districts in the following manner:

(1) The ~~excessive~~ weed growth and the grass height provisions shall be applicable to tracts or parcels of land zoned commercial, industrial, or residential to the extent the accumulation of weed growth and grass height lies within 100' of any improved property.

(2) ~~The trash and debris provisions of this ordinance shall apply to any tract or parcels that are zoned commercial, industrial, residential, agricultural/residential, or agricultural without any distance limitation to adjacent property.~~ The weed growth and the grass height provisions ~~(3)~~ Only the trash and debris provisions, without any distance limitations to adjacent property shall not apply to parcels with natural vegetation which shall be defined as any parcel of land considered naturally vegetated if the parcel has not been cleared or mowed subsequent to January 17, 1984, except those lots mowed for the first time as a result of Ordinance 95-17.

(B) It shall be unlawful for any owner or occupant of property to permit or maintain, or for any person to cause, an accumulation of rubbish, waste, trash, or debris, decaying vegetative matter, exposed salvageable material or other manmade materials upon any lot, tract, or parcel of land where the effect of such accumulation is to cause or create:

(1) an actual or potential haven or breeding place for snakes, rats, rodents or other vermin of like or similar character, or

(2) an actual or potential breeding place for mosquitos, or

(3) a fire hazard to adjacent properties, or

(4) an adverse effect on or impairment of the economic welfare of adjacent properties, or

(5) a hazard to traffic at road intersections or rights-of-way within the County, or

(6) a nuisance as defined by law, or other unsanitary condition, or

(7) a visual nuisance or other unsightly condition visible from adjoining public or private property.

Provided however, that paragraphs (4) and (7) shall not apply to generally accepted horticultural, agricultural or environmental enhancement practices, including but not limited to use of decaying vegetative matter for composting, mulching, or habitat creation, or to a reasonable and timely accomplished process of clearing and removing overgrown vegetation.

(C) For purposes of this section, "rubbish, waste, trash or debris" shall mean and include without

limitation garbage, rubbish and refuse from residential, commercial, or industrial activities, including animal waste; kitchen and table food waste or other waste that is attendant with or results from the storage, preparation, cooking or handling of food material; paper, wood scraps, cardboard, cloth, glass, rubber, plastic; discarded vehicle tires or other vehicle or watercraft fixtures or parts; household goods and appliances; tools and equipment; and similar materials.

(D) Proof of adverse effect, impact or impairment to economic welfare shall not require expert opinion testimony or a showing of any specific decrease in property value and may be given by fact-based opinion of affected property owners or occupants or any other person generally knowledgeable concerning property in the area.

**SECTION 3. AMENDING SECTION 15-165, HERNANDO COUNTY CODE OF ORDINANCES, "NOTICE TO PROPERTY OWNER TO CORRECT PROHIBITED CONDITIONS", PROVIDING ADDITIONAL NOTICE AND PROPERTY OWNER DUE PROCESS PROTECTIONS.**

Section 15-165, Hernando County Code of Ordinances, is hereby amended to read as follows, with underlined matter added and struck-through matter deleted:

(A) If the Code Enforcement Department finds and determines that a prohibited condition exists, as described in section 15-163 of this article, it shall so notify the record owner of the offending property in writing and demand that such owner cause the situation to be remedied. The written notice may be in the form of initial notice by post card addressed to the owner or owners of the property described with the names and addresses as shown upon the most recent records of the Hernando County Property Appraiser. Initial notice by post card may specify any length of time for compliance that is deemed appropriate by the Code Enforcement Department. shall be given by certified mail addressed to the owner or owners of the property described with the names and addresses as shown upon the most recent records of the Hernando County Property Appraiser; and shall be determined complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. Once official notification has been mailed and the letter is returned to Code Enforcement Department because forwarding address or data from Property Appraiser's records are not current, the Code Enforcement Department shall post the offending property for a period of ten (10) days. If the prohibited condition is not remedied after initial notice by post card, or if the Code Enforcement Department elects not to provide initial notice by post card, the Code Enforcement Department may hand-deliver or send by certified mail, return receipt requested, a Notice of Public Code Violation in substantially the form set forth in this section, which notice if mailed shall be addressed to the owner or owners of the property described with the names and addresses as shown upon the most recent records of the Hernando County Property Appraiser. If certified mail is returned to Code Enforcement Department for any reason, including but not limited to refusal of delivery by the addressee or incorrect address information from the Property Appraiser, or if no written response to the Notice of Public Code Violation is received by the Code Enforcement Department within 20 days of delivery, the Code Enforcement Department shall post the offending property for a period of ten (10) days. Upon the expiration of the posting date, all persons with interests in the property shall be conclusively deemed to have waived any and all right to appeal the determination of the Code Enforcement Department or otherwise object to County remedy of the prohibited condition. Code Enforcement Department shall order or have ordered the County contractor to mow, clean, or otherwise correct the violation of the offending property and bill the property owner as defined in

Section VI of this ordinance, and the Department may arrange for the property to be mowed, cleaned, or otherwise to correct the violation of the offending property and may bill the property owner pursuant to the provisions of this article. When all persons with interests in the property have been deemed to have waived their right to appeal or otherwise object to County remedy of the prohibited condition, the Code Enforcement Department may use the services of any County employee, agent or contractor for the purpose of abating or correcting the violation on the offending property, providing that entry for the purpose of abatement or correction can be made without use of force. If entry onto property for the purposes of correction or abatement of prohibited conditions is not possible without force, the Hernando County Court may issue a warrant pursuant to the terms and limitations of Ch. 933, F.S., as the same may be amended from time to time, authorizing such minimal use of force as may be necessary to abate or correct the violation on the offending property, provided that no such warrant shall issue for any owner-occupied dwelling pursuant to limitation of law.

B. The notice shall be in substantially the following form, shall include current surcharge and fee amounts pursuant to resolution, and shall provide notice of waiver of rights in the absence of a written response:

#### **NOTICE OF PUBLIC CODE VIOLATION**

Date\_

NAME OF OWNER(S)\_

ADDRESS:\_

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

(Legal Description of Property FROM Property Appraiser Records)

An inspection of this property discloses, and the Hernando County Code Enforcement Department

has determined, that a Public Code Violation exists thereon so as to constitute a violation of Hernando County Code of Ordinances, section 15-163 Ordinance 98-3:

(Description of Unlawful Condition on of 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 ~~twenty-five (\$25.00)~~ \_\_\_\_\_ dollars, Inspection fee of ~~twenty (\$20.00)~~ \_\_\_\_\_ 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 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 20 days of your receipt of this notice. If you do not remedy the violation or otherwise respond in writing,

**YOU WILL BE DEEMED TO HAVE WAIVED ANY AND ALL RIGHTS TO ANY FURTHER NOTICE AS TO THIS MATTER.**

Furthermore, please be advised that Hernando County has the right to foreclose on properties upon which a lien has been placed and not paid within one (1) year.

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

Your cooperation is greatly appreciated, ~~and You may if you should have any questions regarding this matter, please~~ contact the Code Enforcement Department by calling 352-754-4056 if you have questions. However, you MUST respond in writing within 20 days of the date of receipt if you disagree with the determinations in this notice.

Sincerely,

Code Enforcement Officer

**SECTION 4. AMENDING SECTION 15-167, HERNANDO COUNTY CODE OF ORDINANCES, "CIVIL FINES," TO PROVIDE FOR PROCEDURE PURSUANT TO ADDITIONAL PROPERTY OWNER DUE PROCESS PROTECTIONS AND TO SPECIFY ALTERNATIVE ENFORCEMENT.**

Section 15-167, Hernando County Code of Ordinances, is hereby amended to read as follows, with underlined matter added and struck-through matter deleted:

(A) In the event the owner or owners of any lot, tract, parcel of land, should fail to remedy ~~the a~~ prohibited condition on his or her such property or to make a written response within the time set forth in the notice required by section 15-165 of this article, or if the owner or owners should make a written response to the Notice of Public Code Violation within 20 days of receipt which does not directly consent to remedy of any such prohibited conditions by the County, its agents or contractors, a Citation may be issued the Code Enforcement Department may elect to issue a citation. Any such citation shall be delivered within the County or served by certified mail to addresses outside the County, and shall be accompanied by a notice of the provisions of paragraph (C) hereof. Any violation of this article may be considered a civil infraction for purposes of the issuance of a citation. Issuance of a citation will subject the owner to a maximum civil penalty not to exceed five hundred (\$500.00) dollars plus administrative costs and fees including but not limited to site visits. Each day that a violation continues after the time set forth in said Notice of Violation or citation shall constitute a separate offense. All penalties, fines, fees, and costs collected under this article shall be credited to the County Code Enforcement Department.

(B) At any time, the Code Enforcement Department may elect to cite the owner, owners or occupants of particular property, or any or all of them, for any conditions on such property which are prohibited herein pursuant to any authorized means of enforcing codes now or hereafter existing. Such election may be made in lieu of, or in addition to, other enforcement measures taken pursuant to this article or any other authority against any party with an interest in the property.

(C) If conditions prohibited herein remain on a particular property five (5) days after payment of

the amount provided for on a citation, or after the cited person has failed to pay the applicable fine or plead not guilty within the time provided for, or after a final judicial determination of violation, the Code Enforcement Department may arrange for the property to be mowed, cleaned, or otherwise to correct the violation of the offending property and may bill the property owner pursuant to the provisions of this article in the same manner as if no response had been made to the notice provided for in section 15-165 of this article, except that the amount of any fine or fines imposed which have been paid, not including court costs, shall be deducted from the amount billed.

**SECTION 5. SEVERABILITY**

It is declared to be the intent of the Board of County Commissioners of Hernando County, Florida, 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 remaining portions of this Ordinance.

**SECTION 6. INCLUSION IN THE CODE**

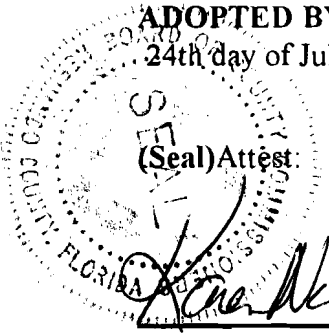
It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the section of this Ordinance may be renumbered or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

**SECTION 7. EFFECTIVE DATE**

This Ordinance shall become effective upon filing with the Department of State.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS** in Regular Session this 24th day of July, 2001 A.D.

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



(Seal) Attest:

*Karen Nicolai*

KAREN NICOLAI

Clerk

*Christopher A. Kingsley*

CHRISTOPHER A. KINGSLEY

Chairman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY *[Signature]* 7/24/01  
County Attorney's Office