



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 27, 2014

Honorable Don Barbee Jr.
Clerk of the Circuit Court
Hernando County
Room 131, 20 North Main Street
Brooksville, Florida 34601-2800

Attention: Ms. Ashley Hofecker, 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. 2014-18, which was filed in this office on August 27, 2014.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Ashley Hofecker

From: Reddick, Ernest L. <Ernest.Reddick@DOS.MyFlorida.com>
Sent: Wednesday, August 27, 2014 2:44 PM
To: Ashley Hofecker
Cc: County Ordinances
Attachments: Hernando20140826_Ordinance2014_18_Ack.pdf

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ORDINANCE NO.: 2014-18

AN ORDINANCE REGARDING THE IMPLEMENTATION OF A RECLAIMED WATER USE PROGRAM; PROVIDING FOR A TITLE; PROVIDING FOR A STATEMENT OF LEGISLATIVE INTENT; PROVIDING FOR DEFINITIONS; AUTHORIZING THE COUNTY ADMINISTRATOR TO TAKE PRELIMINARY ACTIONS NECESSARY TO HELP IMPLEMENT RECLAIMED WATER USE; AUTHORIZING THE COUNTY ADMINISTRATOR TO PURSUE FINANCING FOR THE IMPLEMENTATION OF RECLAIMED WATER USE FACILITIES; AUTHORIZING THE COUNTY ADMINISTRATOR TO NEGOTIATE WITH CURRENT AND FUTURE WATER CUSTOMERS; DECLARING OFFICIAL POLICY CONCERNING THE SETTING OF RECLAIMED WATER RATES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING CODE PROVISIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Title.

This Ordinance shall be known as the "Reclaimed Water Ordinance."

Section 2. Statement of legislative intent.

The Board of County Commissioners adopts this enabling Ordinance to:

(a) Facilitate the planning and the construction of a reclaimed water distribution system in Hernando County in order to conserve the County's limited water resources, encourage the use of reclaimed water and storm water, and to provide an environmentally-sensitive method for the County to dispose of wastewater effluent; and,

(b) Facilitate future cost share agreements with the Southwest Florida Water Management District for reclaimed water interconnects with municipalities and other counties to produce regional benefits such as less use of potable water for irrigation and the ability to move reclaimed water where it is needed most; and,

(c) Allow the County Administrator, or the County Administrator's designee, to pursue grants and other financing for the construction of a reclaimed water distribution system; and,

(d) Allow the County Administrator, or the County Administrator's designee, to negotiate with existing potable water customers and existing or planned subdivisions/developments for their connection to a reclaimed water distribution system, including, if necessary, the construction of retrofitted reclaimed water irrigation systems.

Section 3. Definitions.

The following terms and phrases used in this Ordinance shall have the meanings set forth in this Section:

- (a) **Board.** The Hernando County Board of County Commissioners.
- (b) **County.** Hernando County, a political subdivision of the State of Florida.
- (c) **District.** The Hernando County Water and Sewer District, a body corporate and politic.

(d) **Irrigation System.** Any method of application of water to vegetation. The term “sprinkler system” shall be construed as meaning irrigation system under this Ordinance when referring to the application of water to vegetation.

(e) **Non-potable Water.** Groundwater, other subsurface water and storm water that may be used for a beneficial purpose in compliance with applicable County, State, and Federal laws defining standards for non-potable water uses.

(f) **Reclaimed Water Distribution System.** A delivery system, including but not limited to pipelines, pumps, reservoirs, and controls from the source of supply to the point of connection with a building or structure lateral supply pipeline, intended for the delivery of reclaimed water, and which is separate from any potable water distribution system and complies with all material and construction specifications contained in County codes and other applicable State and Federal laws.

(g) **Reclaimed Water Irrigation System.** A system designed for the use of reclaimed water and storm water for the irrigation of vegetation that complies with all material, construction, and water use specifications contained in County codes and other applicable State and Federal laws.

(h) **Reclaimed Water System.** A system of pipes and related facilities designed and used for the transmission of reclaimed water within buildings and structures, including lateral supply pipelines, that complies with all material and construction specifications contained in County codes and other applicable State and Federal laws.

(i) **Reclaimed Water.** Water which, as a result of the treatment of wastewater, is suitable for a direct beneficial use as defined under FAC 62-610.

(j) **Storm Water.** Captured rain water and other run-off or peak surface flows to augment reclaimed water supplies.

Section 4. County Administrator authorized to take actions necessary to implement reclaimed water use.

The County Administrator, or the County Administrator's designee, is hereby authorized to take any preliminary actions that do not need approval by the Board, necessary for the implementation of reclaimed water use.

Section 5. County Administrator authorized to pursue financing for the implementation of reclaimed water use.

The County Administrator, or the County Administrator's designee, is hereby authorized to take any preliminary actions that do not need approval by the Board, necessary to finance the implementation of reclaimed water use.

Section 6. County Administrator authorized to negotiate with water customers.

The County Administrator, or the County Administrator's designee, is hereby authorized to negotiate with existing potable water customers and existing or planned subdivisions/developments for their connection to a reclaimed water distribution system, including if necessary, the construction of retrofitted reclaimed water irrigation systems. The County Administrator shall submit all negotiated agreements to the Board for approval.

Section 7. Declaration of policy concerning reclaimed water rates.

(a) The Board declares that the District shall endeavor, as a matter of public policy, to set a reclaimed water rate that is economically viable to existing and future reclaimed water customers and that recovers the District's reclaimed water costs.

(b) The Board recognizes, however, that reclaimed water rate design is a specialized area within rate-making because of the economic dynamics associated with that particular product. The existence of a near-perfect substitute product, potable water, differentiates reclaimed water rate methodology from classic water rate-making. Economic theory dictates that if a commodity of equivalent functional value exists, the customer's decision to purchase will be based on price. As potable water exists as a near-perfect substitute to reclaimed water, the District cannot set a price for reclaimed water equal to or higher than potable water if the customer has the discretion to choose between the two. Since most reclaimed water systems are retrofitted after potable water systems have been constructed, the reclaimed water systems' amortized cost frequently exceeds potable water costs. Consequently, the Board recognizes that it is often not possible, as a practical matter, to recover the full cost associated with the construction of reclaimed water systems or the provision of reclaimed water services through reclaimed water rates.

(c) The Board further finds that its bond obligations preclude the District from providing free or discounted water without the revenue from such provision being made up from another source.

(d) As a result, the Board finds that the District's rate design process must appropriately allocate those reclaimed water costs not recoverable through reclaimed water rates back to the water and wastewater rates. This can be accomplished, in whole or in part, by

determining, through reasonable estimation processes, the amount of avoided capital and operating costs in each system provided through the use of reclaimed water. For the water system, these avoided costs are represented by the reduced need for water resources development and the cost of additional capacity for water plants, transmission systems, and distribution systems. For the wastewater system, avoided costs are represented by the reduced use of disposal facilities.

Section 8. Application requirements.

No connection to the District reclaimed water system shall be permitted without either a written reuse agreement for large users or a completed application for service for individual connection as provided herein. The application for service shall be on a form provided by the District and shall be filed with the District. The application fee shall be established by the Board. The District shall inspect each property prior to connection to the reclaimed water distribution system. The inspection shall include the following:

- 1) A review of the information in the application for service or written agreement.
- 2) A review of all applicable construction specifications.
- 3) A cross-connection control review.
- 4) Other matters as the District Director shall determine to be applicable.

No connection shall be permitted until the customer has an approved backflow prevention device to protect the potable water supply. All connections to the reclaimed water distribution system shall be inspected by the District prior to use of the reclaimed water.

Section 9. Ownership of reclaimed water distribution and irrigation facilities.

All components of the reclaimed water distribution systems shall be constructed in accordance with District approved specifications and conveyed to the District and shall become and remain the property of the District. The District shall operate and maintain same. All irrigation systems or reclaimed water systems constructed on private real property, except components of the reclaimed water supply system located in utility easements, shall remain the property of the owner and shall be operated and maintained by the owner or his designated agent. Should the property owner use, desire or need pressures exceeding those specified by the District, the owner shall be responsible for providing all necessary devices to make adjustments and for obtaining written approval from the District prior to initiating the design and installation of any such devices.

Section 10. Property developers providing reclaimed water distribution systems.

Proposed developments in the planning stage, after the adoption of this Ordinance, within the unincorporated areas of Hernando County shall, have a reclaimed water distribution system designed and subsequently installed therein for the current or future irrigation of green areas including all residential, commercial, public and private landscape areas within the development. This section only applies where the development will be connected to District water and wastewater facilities.

Section 11. Reclaimed water metering requirements.

Reclaimed water shall only be supplied through metered connections. There shall be no free service. The District Director or Designee shall determine the size and type of meter

required for each service. All meters for the reclaimed water system shall be installed by the District unless provided otherwise in a written agreement with the District.

Section 12. Supply of reclaimed water.

The District shall attempt to the best of its ability to deliver an adequate supply of reclaimed water at all times. However, no guarantees can be provided to deliver specific quantities at specific times.

Section 13. Discontinuing service by the district.

The District may discontinue reclaimed water service to any customer due to a violation of the terms of this Ordinance or District regulation, nonpayment of bills, for tampering with any service, for cross-connections or for any reason that may be detrimental to the system. The District has the right to cease service until the condition is corrected and all costs due the District are paid. These costs may include delinquent billings, connection charges, and payment for any damage caused to the reclaimed water system. Should discontinued service be turned on without authorization, then the District shall remove the service and make such additional charges as are established by Resolution or Ordinance.

Section 14. Service interruption.

The District reserves the right to temporarily discontinue service to any portion of, or the entire reclaimed water system as deemed necessary. The District Director or Designee shall have authority to establish schedules which restrict the use of the reclaimed water system at certain times in order to reduce maximum pressure demands on the system and to regulate usage during periods of limited reclaimed water availability.

Section 15. Right to refuse service.

No payment of any costs, submittal of any petition, or any other act to receive reclaimed water service shall guarantee such service. The District shall have the right, at all times, to refuse to extend service on the basis of a use detrimental to the system, inadequate supply of reclaimed water, lack of payment of required fees, or for any other reason which, in the judgment of the District Director, will cause the extension not to be to the benefit of the District.

Section 16. Unauthorized work to the system.

No person, unless expressly authorized by the District Director or his/her designee, shall tamper with, work on, or in any way alter or damage any District reclaimed water facility. Tampering or work shall include, but is not limited to, opening and closing valves, or causing any water to flow from the system. No unauthorized person shall cut into or make connection to a reclaimed water distribution system line. The offending person shall be liable for the cost of all charges attributable to the correction of such tampering, including legal expenses. Payment for or correcting of such damage shall not relieve the offending person from civil or criminal penalties that Hernando County or a court of law may impose for a violation of this Ordinance. The service valve located between the reclaimed water customer's irrigation system and the District's reclaimed water distribution system may be operated by the customer only with District approval.

Section 17. Cross connection control.

On all premises where reclaimed water service is provided, the public or private potable water supply shall be protected by an approved backflow prevention device. No cross connection shall be permitted. All devices and material installed for cross connection control shall be in accordance with Florida Department of Environmental Protection requirements and must be approved by the District Director or Designee. To determine the presence of any potential hazards to the public potable water system, Hernando County and/or the District shall have the right to enter upon the premises of any customer receiving reclaimed water. Each customer of reclaimed water service shall, by application, give written consent to such entry upon their premises. In the event a cross connection is found on property being provided reclaimed water service, the District Director or his/her designee shall have the authority to immediately discontinue reclaimed water service to said property. Before resuming service, the customer shall make such corrections and install such devices as may be required.

Section 18. System maintenance.

(a) ***Maintenance by the Customer.*** The property owner and/or customer shall be responsible for the maintenance of all irrigation lines and appurtenances on the customer side of the meter on the property served by the District. The District reserves the right to disconnect the service to any property when the irrigation system and appurtenances are not properly maintained. In addition, should the customer require the reclaimed water at different pressures, or different quality, or in any way different from that normally supplied by the District, the customer shall be responsible for the necessary devices to make these adjustments and for obtaining approval by the District.

(b) ***Maintenance by the District.*** All facilities that have been accepted by the District shall become property of the District and will be operated and maintained by the District. No

person shall perform any work or be reimbursed for any work on the system unless written authorization from the District is received prior to the work being accomplished. The District shall make a reasonable effort to inspect and keep its facilities in good repair but assumes no liability for any damage caused by the system or the use of reclaimed water.

Section 19. Inspections.

In order to ascertain and insure compliance with the provisions of this Ordinance and all regulations relating to reclaimed water, the County shall have the right to inspect, secure and disconnect all facilities and devices wherever located which connect to or control any discharge from the reclaimed water distribution system. Upon the execution of an application for reclaimed water service, the customer shall be deemed to have consented to entry by the County upon the property described in said application for the purpose of conducting all inspections permitted or required by this Ordinance. The denial of access to an authorized agent or employee of the County, bearing proper credentials and identification, to any property receiving reclaimed water service for the purpose of conducting any inspection permitted under this Ordinance shall constitute a violation and shall be grounds for the immediate discontinuance of reclaimed water service by the County to the subject property.

Section 20. Chemical injections.

Users wishing to add chemicals to irrigation systems shall be required to install an approved backflow prevention device on the reclaimed water service connections that have been approved by the Director or his/her designee.

Section 21. Service outside of County limits.

Reclaimed water service may be provided to properties outside of the County limits. All applications for service outside of the County limits shall be reviewed by the Director, who shall refer such applications to the Board of County Commissioners upon determination an adequate supply of reclaimed water is available. Final approval must be obtained from the Board to provide service outside the County. The District Director shall review and technically approve all service line sizes and all other necessary design components.

Section 22. Liability and indemnity.

The County shall not be liable for any damages caused by the use of reclaimed water or for any damages caused by a failure to deliver or supply reclaimed water. The customer shall indemnify the County, its agents and employees, from all claims, damages, judgments and expenses (including attorney's fees) incurred by the County as a direct result of the use or discharge of reclaimed water by the customer in violation of the terms of this Ordinance or other applicable laws or regulations, including, but not limited to, cross-connection.

Section 23. Severability.

It is declared to be the intent of the Board of County Commissioners 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 24. 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 sections 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 25. Conflicting provisions repealed.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 26. Effective date.

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

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA in Regular Session this 26th day of August, 2014.



Attest:

Donald C. Barbee, Jr.
Clerk of the Court

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

By:

Wayne Dukes
Chairman

Approved for form and legal sufficiency

County Attorney's Office