

**CITY OF BROOKSVILLE
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS
201 HOWELL AVENUE**

AGENDA

May 2, 2011

6:00 P.M.

A. **CALL TO ORDER**

B. **ADJOURN MEETING AND CONVENE IN EXECUTIVE SESSION**

EXECUTIVE SESSION PURSUANT TO F.S. CHAPTER 286.011(8)

The purpose of the Executive Session is to discuss settlement options and litigation strategy for pending City actions. The persons attending the meeting will be Council Members Joe Bernardini, Lara Bradburn, Frankie Burnett, Joe Johnston & Emory Pierce; Attorney's for the City of Brooksville, Thomas S. Hogan, Jr., Debbie Hogan and Jennifer Rey; City Manager, T. Jennene Norman-Vacha; and court reporter C. Gail Donato of Carolyn F. Engle & Associates. The meeting is expected to last approximately thirty minutes.

Adjourn Executive Session & Reconvene Council Meeting

7:00 P.M.

C. **INVOCATION AND PLEDGE OF ALLEGIANCE**

D. **CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

1. **Law Week Proclamation**

Presentation of Proclamation designating May 1-7, 2011 as Law Week.

Presentation: Mayor
Attachment: Proclamation

2. **Law Enforcement Awareness Proclamation**

Presentation of Proclamations to Officers and representatives of the Brooksville Police Department, Hernando County Sheriff's Office, Florida Highway Patrol and Florida Department of Law Enforcement designating and supporting the month of May as Law Enforcement Awareness Month.

Presentation: Mayor
Attachment: Proclamation

3. **Arson Awareness Week Proclamation**

Presentation of Proclamation designating the week of May 2, 2011, as Arson Awareness Week.

Presentation: Mayor
Attachment: Proclamation

REGULAR COUNCIL MEETING – MAY 2, 2011

E. CITIZEN INPUT

F. CONSENT AGENDA

1. Hernando County Fire and Rescue District's Renewal Application for Certificate of Public Convenience & Necessity (COPCN)

Consideration for Council to recommend that Hernando County Board of County Commissioners grant renewal of COPCN for Hernando County Fire and Rescue District, for the period of May 6, 2011 through May 7, 2014.

CONSENT AGENDA APPROVAL (✓)

Recommendation: Approval of Consent Agenda
Action: Motion to Approve
Attachments: 1) Memo from City Manager, Letter from Hernando County Board of County Commissioners dated 04/11/11, Application

G. PUBLIC HEARINGS

- Entry of Proof of Publication into the Record

1. Ordinance No. 817 - Pain Clinic Moratorium

Consideration of proposed Ordinance with submission to the Planning and Zoning Advisory Board for review and recommendation.
[First Reading 04/18/11]

Presentation: Director of Community Development & City Planner
Recommendation: Approval of Second Reading of Ordinance No. 817 upon roll call vote
Attachments: Memo from Director of Community Development dated 05/02/11, Ordinance

H. REGULAR AGENDA

1. Ordinance No. 777-A – Flagstone Pavers

Consideration of ordinance establishing requirements of Flagstone Pavers' Tax Exempt Exemption.

Presentation: Director of Community Development & Director of Finance
Recommendation: Approval of First Reading of Ordinance No. 777-A upon roll call vote and schedule second reading for 05/16/11
Attachments: Memo from Director of Community Development dated 04/11/11, Ordinance No. 777-A and 777

REGULAR COUNCIL MEETING – MAY 2, 2011

2. **Ordinance No. 818 – Cemetery Code Change – Green Burials**

Consideration of Code change incorporating the Green Burial concept at the Brooksville Cemetery.

Presentation: Director of Parks, Facilities & Recreation

Recommendation: Approval of **First Reading** of Ordinance No. 818 upon roll call vote and schedule second reading for 05/16/11

Attachments: Memo from Director of Parks, Facilities & Recreation dated 05/02/11, Proposed Ordinance

3. **Sign Regulations Chapter 125 of the Code of Ordinances**

Staff report and consideration of options relating to the Code of Ordinances Chapter 125 regarding signs.

Presentation: City Planner

Recommendation: Direction to Staff

Attachments: Memo from City Planner dated 05/02/11, Chapter 125 Signs

I. CITIZEN INPUT

J. ITEMS BY COUNCIL

K. ADJOURNMENT

CORRESPONDENCE TO NOTE

Meeting agendas and supporting documentation are available from the City Clerk's office, and on line at www.cityofbrooksville.us. Persons with disabilities needing assistance to participate in any proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/540-3853.

Any person desiring to appeal any decision with respect to any matter considered at this meeting, may need a record of the proceedings including the testimony and evidence upon which the appeal is to be based, and therefore must make arrangements for a court reporter to ensure that a verbatim record of the proceedings is made.

Proclamation

WHEREAS, Law Week 2011 will be observed from May 1 through May 7, 2011, pursuant to Chapter 683.22, Florida Statutes, and will provide an opportunity for all citizens to affirm their appreciation of the liberties we enjoy under our unique legal system; and

WHEREAS, in 1787, when the founders of this nation set forth the guiding principles "to form a more perfect Union," the first goal they listed in the preamble to the new Constitution was to "establish Justice." Over the past two hundred years, our laws, our courts, and even our Constitution itself, have been revised and amended in a continual effort to achieve that promise of justice. History has witnessed our struggle to extend equal treatment under the law to all Americans; and

WHEREAS, this year's national Law Week theme of "The Legacy of John Adams: From Boston to Guantanamo," is in keeping with our love of freedom, and provides us an opportunity to explore the historical and contemporary role of lawyers in defending the rights of the accused, as we have only to read the newspaper or watch news reports about other countries to understand how easy it is to say the word "freedom" and how difficult it is to guarantee it; and

WHEREAS, the Congress and the President of the United States, as well as the Legislature and Governor of the state of Florida, have set this period aside as a special time for recognition of the place of law in American life.

NOW, THEREFORE, the Hernando County Board of County Commissioners,

NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, FRANKIE BURNETT, MAYOR, in recognition of the importance of the rule of law, due process and freedom do hereby proclaim the week of May 1 through May 7, 2011,

Law Week

in the City of Brooksville, to call to the attention of every resident both the principles and practices of American law and justice. The City Council encourages residents to reflect on our legal heritage as Americans, the role of law in our society, and the freedoms, rights and liberties we enjoy under our Federal and State Constitutions; and to reaffirm the basic principles of our constitutional democracy and continue the quest for equality by working to insure the rights and liberties of all citizens.

IN WITNESS WHEREOF, we have hereunto set our hand and caused to be affixed the seal of the City of Brooksville this 2nd day of May, 2011.

CITY OF BROOKSVILLE

Frankie Burnett, Mayor

Joseph E. Johnson, III, Vice Mayor

Joe Bernardini, Council Member

Lara Bradburn, Council Member

Emory Pierce, Council Member

ATTEST: _____
Janice L. Peters, CMC, City Clerk

City of Brooksville

Proclamation

WHEREAS, the law enforcement officers are guardians of life and property, defenders of the constitutional rights of free men and women, and dedicated to the preservation of life, liberty and the pursuit of happiness; and,

WHEREAS, law enforcement officers protect our rights and freedoms, keep our streets and neighborhoods safe, and our families secure; and,

WHEREAS, these dedicated professionals make a valuable difference in our communities by upholding the principle that no one is beyond the protection or reach of the law; and,

WHEREAS, the City of Brooksville would like to recognize the dedication of the brave men and women who devote their lives to protecting and serving our communities, particularly our own police officers.

NOW, THEREFORE, on behalf of the City Council for the City of Brooksville, Florida, I, **Frankie Burnett, Mayor**, do hereby proclaim May 2011, as

“Law Enforcement Awareness Month”

in Brooksville and call upon all our citizens in this community to especially honor and show our sincere appreciation for the City of Brooksville Police Department, Hernando County Sheriff's Department, Florida Highway Patrol and the Florida Department of Law Enforcement by deed, remark and attitude.

IN WITNESS WHEREOF, we have hereunto set our hand and caused the seal of the City of Brooksville, Florida, to be affixed this 2nd day of May, 2011, A.D.

CITY OF BROOKSVILLE

Frankie Burnett, Mayor

Joseph E. Johnston, III, Vice Mayor

Joe Bernardini, Council Member

Lara Bradburn, Council Member

Emory Pierce, Council Member

ATTEST: _____
Janice L. Peters, CMC, City Clerk

City of Brooksville

Proclamation

WHEREAS, The price that America pays for arson is severe. In 2007, three firefighters died on scene or during response to intentional fires, and 6,100 firefighters were injured at the scene of intentional fires. In addition to needless injury and death, an estimated 1 billion dollars in direct property loss occurs annually; and,

WHEREAS, The U.S. Fire Administration reports that there are an estimated 210,300 intentionally set fires each year resulting in approximately 375 deaths and 1,300 injuries; and,

WHEREAS, The Bureau of Alcohol, Tobacco, Firearms and Explosives reports that from 2009 – 2010, there were 88 incidents reported as being associated with serial arson, with an aggregate monetary loss of \$4.8 million; and,

WHEREAS, The theme for 2011 Arson Awareness Week is “Working Together to Extinguish Serial Arson”; and,

WHEREAS, Public awareness is one of the specific responsibilities of the U.S. Fire Administration.

NOW, THEREFORE, I, FRANKIE BURNETT, MAYOR, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE FLORIDA, do hereby proclaim the week of May 2, 2011, as

“Arson Awareness Week”

and urge all citizens to put the “neighbor” back into neighborhood by creating a sense of cooperation bringing the fire service, law enforcement and citizens together to reduce the crime of arson.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Brooksville to be affixed this 2nd day of May, 2011.

CITY OF BROOKSVILLE

Frankie Burnett, Mayor

Joseph E. Johnston, III, Vice Mayor

Joe Bernardini, Council Member

Lara Bradburn, Council Member

Emory Pierce, Council Member

ATTEST: _____
Janice L. Peters, CMC, City Clerk



**CONSENT AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN

FROM: T. JENNENE NORMAN-VACHA, CITY MANAGER

**SUBJECT: CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
HERNANDO COUNTY FIRE AND RESCUE DISTRICT**

DATE: APRIL 25, 2011

GENERAL SUMMARY/BACKGROUND:

The City of Brooksville received a letter dated April 11, 2011, from the Hernando County Board of County Commissioners indicating the Hernando County Fire and Rescue District has submitted application for a Certificate of Public Convenience and Necessity (COPCN) to serve within Hernando County for the period May 6, 2011 to May 7, 2014. This application is to continue providing emergency and non-emergency Advanced Life Support (ALS) and Basic Life Support (BLS) patient transport services with limitations to areas contained within the geographical boundaries of Hernando County excluding the area contained within the Spring Hill Fire and Rescue Emergency Medical Service District.

BUDGET IMPACT:

There is no budgetary impact for the City of Brooksville.

LEGAL REVIEW:

The City Council has Home Rule Authority (Art. VIII, 2(b), Fla. Const., and Fla. Stat. §166.011) to consider and take action on this matter. Pursuant to Fla. Stat. §401.25(2)(d), in issuing the certificate of public convenience and necessity, the governing body of each county shall consider the recommendations of municipalities within its jurisdiction.

STAFF RECOMMENDATION:

Staff recommends that the City Council recommend/approve the renewal of the COPCN for the Hernando County Fire and Rescue District for the period of May 6, 2011 through May 7, 2014 and to authorize the City Manager to sign the attached letter returning approval to the Board of County Commissioners.

ATTACHMENTS: Letter from Board of County Commissioners
Application

Board of County Commissioners
Hernando County
County Attorney's Office



Garth C. Collier, County Attorney
Geoffrey T. Kirk, Assistant County Attorney
Jon A. Jouben, Assistant County Attorney
Susan H. Bishop, Legal Administrator

20 N. Main Street, Suite 462
Brooksville, FL 34601
352-754-4001 Fax
352-754-4122

April 11, 2011

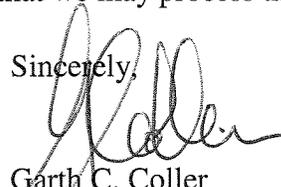
T. Jennene Norman-Vacha
City Manager
201 Howell Avenue
Brooksville, FL 34601
jnvacha@ci.brooksville.fl.us

Dear Ms. Norman-Vacha:

Pursuant to Section 401.25(2)(d), Florida Statutes, the Board of County Commissioners may grant a Certificate of Public Convenience and Necessity for the provision of advanced and basic life support services to Hernando County. However, the statutes provide that recommendations must be obtained from municipalities within the area to be served prior to such certificates being granted.

Hernando County Fire and Rescue District has submitted an application for a Certificate of Public Convenience and Necessity to continue providing emergency and non-emergency Advanced Life Support (ALS) and Basic Life Support (BLS) patient transport services with limitations to areas contained within the geographical boundaries of Hernando County excluding the area contained within the Spring Hill Fire and Rescue Emergency Medical Service District.

Please indicate the recommendation of the City of Brooksville by completing the statement written below and signing in the space provided so that we may process this request.

Sincerely,

Garth C. Collier

GCC/pjv

The City of Brooksville hereby recommends (approval/disapproval) _____ of the renewal of the Certificate of Public Convenience and Necessity for Hernando County Fire and Rescue District for the period of May 6, 2011 to May 7, 2014.

City Manager

**APPLICATION
FOR
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

Pursuant to Section 21-166, Hernando County Code of Ordinances, applicants for a Certificate of Public Convenience and Necessity must provide the following information. Please complete the form in its entirety. *Note: extra space is provided in number 14.*

1. Name and business address of owner or operator of the Advanced Life Support (ALS) or Basic Life Support (BLS) service, or proposed service:

Hernando County Board of County Commissioners
20 N. Main Street, Room 461
Brooksville Florida 34601

2. Name under which the applicant will operate: Hernando County Municipal Service Benefit Unit for Fire Rescue Services (a/k/a Hernando County Fire Rescue District)

3. List names and addresses of all officers, directors, and shareholders of applicant:

(Same as no. 1)

Hernando County Board of County Commissioners

4. Territory which the applicant desires to serve; Hernando County, excluding the Spring Hill Fire Rescue District. Service may be performed in the area of the Spring Hill Fire Rescue District, pursuant to any mutual aid agreement between the Hernando County Fire Rescue District and the Spring Hill Fire Rescue District; number of vehicles 10 (ten)

	<u>Vehicle #1</u>	<u>Vehicle #2</u>	<u>Vehicle #3</u>
a. Type of vehicle:	Ambulance	Ambulance	Ambulance
b. Make & Model:	Ford F-350	Ford F-350	Ford F-450
c. Year:	2002	2006	2006
d. Mileage:	235,505	142,318	134,499
e. VIN:	1FDWF36F12EC82303	1FDWF36P46EA39177	1FDXF46P46EC50762
f. Aviation/Marine Registration Nr.	N/A	N/A	N/A
g. Passenger capacity:	4	4	4
h. Size & gross weight:	12,500	12,500	12,500
i. Identifying Markings:	Permit 11557	Permit 13379	Permit 13873
j. Color Scheme:	White/Red	White/Red	White/Red

ADDENDUM TO NO. 4

<u>Vehicle #4</u>	<u>Vehicle #5</u>	<u>Vehicle #6</u>	<u>Vehicle #7</u>	<u>Vehicle #8</u>	<u>Vehicle #9</u>	<u>Vehicle #10</u>
a. Ambulance	Ambulance	Ambulance	Ambulance	Ambulance	Ambulance	Ambulance
b. Ford F-450	Ford F-450	Ford F-350	International	International	International	International
c. 2008	2008	2003	2010	2010	2010	2010
d. 114,734	124,548	151,857	67,985	60,549	72,106	85,911
e. 1FDXF46R58EA05764	1FDXF46R78EA05765	1FDWF36P53ED86609	1HTMNAAL9AHI76004	1HTMNAALOAH176005	1HTMNAAL2AHI76006	1HTMNAAL4AHI76007
f. N/A	N/A	N/A	N/A	N/A	N/A	N/A
g. 4	4	4	4	4	4	4
h. 12,500	12,500	12,500	21,000	21,000	21,000	21,000
i. Permit 14437	Permit 14438	Permit 15312	Permit 15514	Permit 15515	Permit 15516	Permit 15517
j. White/Red	White/Red	White/Red	White/Red	White/Red	White/Red	White/Red

Legend:

- a. Type of vehicle
- b. Make & Model
- c. Year
- d. Mileage
- e. VIN
- f. Aviation/Marine Registration Nr.
- g/ Passenger capacity
- h. Size & gross weight
- i. Identifying Markings
- j. Color Scheme

5. Location and description of each place from which applicant's service is intended to operate:

All ALS / BLS emergency and non-emergency, county-wide, excluding Spring Hill Fire Rescue District

6. Training and experience of the applicant in the transportation and care of patients:

Since the early 1970's, Hernando County has either operated, or contracted and overseen, the ambulance services. Commencing October 1, 2000, the ambulance service for Hernando County merged into Hernando County Fire Rescue District and has been functioning under COPCN, dated May 6, 2008 with date of expiration May 6, 2011.

7. Names and addresses of three (3) county residents available as references:

a. Name:	<u>Mike Rampino</u>	<u>Tim Mossgrove</u>	<u>T.Jennene</u>
	<u>Fire Chief</u>	<u>Fire Chief</u>	<u>Norman-Vacha</u>
	<u>Spring Hill Fire Rescue</u>	<u>Brooksville Fire Dept.</u>	<u>City Manager</u>
			<u>Brooksville</u>
b. Street:	3445 Bob Hartung Ct	85 Veterans Avenue	201 Howell Avenue
d. City, St, Zip:	Spring Hill FL 34606	Brooksville FL 34601	Brooksville FL 34601
e. Phone:	352-683-0642	352- 540-3840	352-544-5400

8. In the event that the application shall be granted and prior to its effectiveness, applicant shall provide copies of public liability, property damage and malpractice insurance or a surety bond conditioned for the payment and satisfaction of any final judgment as required or provided for in this article and chapter 401, Florida Statutes.

9. Applicant certifies that it will provide continuous service on a 24-hour/day, seven-day-week- basis, and the minimum level of patient care rendered and/or available will always be advanced life support, with the exceptions of disasters or extraordinary circumstances, (advanced life support applicants only).

10. The applicant may provide any other information that the board deems necessary bearing on the applicant's capabilities, character, past experiences, or any other factors that indicate applicant's qualifications for issuance of a Certificate of Need.

11. During the past five (5) years, or other relevant time period, has the applicant or any of its officers, agents, or employees, been sued for any reason on account of rendering inappropriate care regarding BLS or ALS services? If so, please describe and indicate whether any judgments were rendered against applicant, its officers, employees, or agents and the amount of any such judgment.

12. Please list the name of each employee or applicant at the time of this application that will be providing BLS or ALS services under the Certificate of Need as indicated below:

Name	Date Employed	Certificate Held	Certificate Number
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A list of all Hernando County Fire and Rescue employees and their certificates for both BLS (Emergency Medical Technicians)and ALS (Paramedics) are filed with Hernando County Human Resources Department

13. State if during the last five (5) years, or other relevant time period, if applicant has received any disciplinary notices or actions from the Department of HRS for violation of any Florida Statutes or administrative rule regarding the provisions of BLS or ALS Services. For each violation or notice, please provide the outcome and the measures taken to correct the violation.

Violation or Notice	Corrective Actions
N/A	
_____	_____
_____	_____
_____	_____
_____	_____

14. The space below is provided for additional information that would not fit in the space provided above. Please refer to the question number that you are responding to and attach to this application. You may attach additional sheets as necessary.

Number 4 See Addendum, Page 4, for continuation of Vehicle List

Number _____

Number _____

Number _____

15. I/we have answered all questions truthfully and fully to the best of my/our knowledge.

By: *Michael V. Nickerson*
 Printed name Michael V. Nickerson

By: *Frank DeFrancesco*
 Printed name Frank DeFrancesco

STATE OF FLORIDA
 COUNTY OF Hernando

Sworn to and subscribed before me this 23rd day of March 2011, by
Michael V Nickerson and Frank DeFrancesco

Personally Known OR Produced Identification NA
 Type of Identification Produced NA



Kathleen M Connell
 (Signature of Notary Public - State of Florida)



AGENDA ITEM MEMORANDUM

TO: Honorable Mayor and City Council

VIA: T. Jennene Norman-Vacha, City Manager 

VIA: Bill Geiger, Community Development Director 

FROM: Steve Gouldman, AICP, City Planner 

SUBJECT: Pain Management Clinic Ordinance No. 817

DATE: May 2, 2011

BACKGROUND:

As City Council is aware, the Florida Legislature has identified concerns regarding the increased use and frequency of injury and deaths occurring through the use of pain management clinics by persons obtaining drugs for improper purposes and enacted the Prescription Drug Monitoring Act, which requires physicians and other persons dispensing prescription drugs through pain management clinics, facilities or offices, to register with the State Department of Health in order to conduct such business. Additionally, many counties and municipalities in Florida have established moratoriums on new pain management businesses to curb negative impacts created by these clinics, facilities or offices. Council member Bernardini also suggested and City Council concurred to enact a moratorium on Pain Management Clinics.

The Prescription Drug Monitoring Act, as mentioned above, added stronger prohibitions to previous legislation related to regulating pain management clinics. The legislation requires that all such clinics be registered with the Florida Department of Health (DOH), must be owned by a licensed physician (no convicted felons) or is licensed as a health care clinic and must undergo annual inspections by the DOH. The bill also prohibits physicians in these clinics to advertise or promote the use, sale or dispensing of a controlled substance. When patients pay by cash, check or credit card without insurance, physicians cannot dispense more than a 72-hour supply of any controlled substance. Finally, effective July 1, 2012, all physicians practicing in pain-management clinics will be required to have completed a pain medicine fellowship or residency, or be recognized as a specialist in pain by the appropriate licensing board. The legislation directs the boards of Medicine and Osteopathic Medicine to promulgate rules governing the conduct of clinic doctors. The rules have been on hold due to a new requirement that they receive legislative ratification before they can take effect. The Senate Health Regulation Committee introduced a bill in early March that begins the ratification process. Procedurally, the bill will have to return to the Committee for a vote before advancing further in the Senate.

Pain Management Clinics

May 2, 2011

Page 2

In the House of Representatives, another bill dealing with Pain Management Clinics has been introduced. The House proposal would erase new regulations on clinics, including the Board of Medicine rules. The House's approach centers on banning doctors from dispensing drugs to patients and requiring that prescriptions are filled at pharmacies. House leaders argue the ban would cut off the pill-mill abuses and end the need for the regulations.

The attached proposed Ordinance does not conflict with existing Florida legislation. Changes to the Ordinance may be required as a result of the pending legislation noted above and would be accomplished following codification of the State regulations.



BUDGET/IMPACT:

No additional staff will be required to administer the provisions of the Ordinance and permit fees will be required for Pain Management Clinic Specific Use permits. Any additional financial impacts will be the result of enforcement of the regulations.



LEGAL REVIEW:

Although the regulation of Businesses, Occupations, and Professions is ordinarily the province of the State of Florida, because the use of some Pain Management Clinics for illegal drug distribution is something of recent origin, there may be gaps in the regulation of commercial enterprises or persons who treat pain which may contribute to illegal drug use. F.S. (2009) § 125.581(1). grants the City the authority to regulate this subject matter in the absence of state law, and states:

Except as authorized by law, no county or municipality shall enact or enforce any ordinance, resolution, rule, regulation, policy, or other action which requires the registration or background screening of any individual engaged in or applying for a specific type or category of employment in the county or municipality or requires the carrying of an identification card issued as a result of such registration or screening, whether or not such requirement is based upon the residency of the person. However, an ordinance that regulates any business, institution, association, profession, or occupation by requiring background screening, which may include proof of certain skills, knowledge, or moral character, is not prohibited by this section, provided that such regulation: (a) Is not preempted to the state or is not otherwise prohibited by law; (b) Is a valid exercise of the police power; (c) Is narrowly designed to offer the protection sought by the county or municipality; and (d) Does not unfairly discriminate against any class of individuals.

The regulation of Pain Management Clinics is not preempted to the State of Florida. The draft addresses issues identified by staff, the City Attorney and staff of other Florida jurisdictions, and is intended to be compatible with regulations prepared by Hernando County for such clinics.

STAFF & PLANNING & ZONING COMMISSION RECOMMENDATION:

The draft ordinance addresses issues identified by staff, the City Attorney and staff of other Florida jurisdictions, and is intended to be compatible with regulations prepared by Hernando County for such clinics. At their April 13, 2011 meeting the Planning and Zoning Commission concurred with the staff recommendation for the Commission to recommend approval of the Ordinance to the City Council.

CITY COUNCIL ACTION:

On April 18, 2010 the City Council reviewed and approved the first reading of Ordinance No. 817 to amend the City of Brooksville Code of Ordinances to establish Pain Management Clinic regulations. The City Council also authorized the public hearing for the second and final reading of Ordinance No. 817.

ATTACHMENT: Ordinance No. 817

ORDINANCE NO. 817

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING AUTHORITY, LEGISLATIVE FINDINGS OF FACT AND ESTABLISHING INTENT AND PURPOSE FOR PERMITTING CERTAIN PAIN MANAGEMENT CLINICS; AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 137, "LAND USE AND ZONING," ARTICLE I, SECTION 137-2, "DEFINITIONS" AND SECTION 137-9, "SPECIFIC USE REGULATIONS;" AMENDING ARTICLE II, SECTION 137-46, "ADMINISTRATIVE FEES AND COST OF PUBLIC NOTICE;" PROVIDING FOR CONFLICT AND SERVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

WHEREAS, the State of Florida and its municipalities and counties have recognized that a pattern of illegal drug use and distribution has been linked to pain management clinics operating in the State; and

WHEREAS, the Centers for Disease Control and Prevention reported on June 18, 2009, that emergency department visits involving non-medical use of prescription drugs, opioid analgesics and benzodiazepines, more than doubled during 2004-2008 in the United States; and,

WHEREAS, records from the Florida Department of Law Enforcement show that in the first half of 2010, 24 residents of Hernando County, the county in which the City of Brooksville is located, died of prescription drug related deaths which is double the statewide average per capita; and,

WHEREAS, the Florida League of Cities estimates that the average number of prescription drug related deaths per capita is rising to seven (7) deaths per day in Florida in 2011; and

WHEREAS, about six percent (6%) of non-crime related deaths in the City of Brooksville in 2010 were due to drug toxicity; and,

WHEREAS, the threat of illegal narcotic activity operating through pain management clinics is significant and could undermine the economic health of the City's development and redevelopment efforts; and

WHEREAS, the published data suggests that existing public health and law enforcement measures to prevent the non-medical use of prescription drugs through pain management clinics are not effective and that additional measures are needed; and

WHEREAS, the Florida Legislature has identified concerns regarding the increased use and frequency of injury and deaths occurring through the use of pain management clinics by persons obtaining drugs for improper purposes and enacted the Prescription Drug Monitoring Act, which requires physicians and other persons dispensing prescription drugs through pain management clinics, facilities or offices, to register with the State Department of Health in order to conduct such business; and

WHEREAS, many counties and municipalities in Florida have established moratoriums on new pain management businesses to curb negative impacts created by these clinics, facilities or offices; and

WHEREAS, the City of Brooksville adopted Ordinance No. 811 on July 19, 2010 to implement a moratorium on the establishment of new pain management clinics within the corporate limits of the City; and,

WHEREAS, the City Council desires to incorporate additional standards into its Land Development Code relating to the establishment and location of pain management clinics within the City which would promote the public health, safety, morals and general welfare; and

WHEREAS, the Brooksville City Council has determined that regulation and registration of businesses operating as pain management clinics within the jurisdiction of the City of Brooksville will provide local oversight of these businesses and hinder illegal activities associated with these clinics; and

WHEREAS, it is not the intent of this Ordinance to interfere with legitimate medical clinics or the legal use of controlled substances; and

WHEREAS, the City Council of the City of Brooksville, Florida finds and declares that the illegal activities associated with certain pain management clinics creates the need for regulation of such clinics in the City of Brooksville.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes (2010), to enact ordinances and under the home rule powers of the City in the interest of the health, peace, safety and general welfare of the people of the City of Brooksville.

SECTION 2. LEGISLATIVE FINDINGS OF FACT. The foregoing Whereas clauses, are true and correct and incorporated herein as if set forth verbatim. The City finds and declares that there exists a need to enact an ordinance regulating the establishment, expansion, or operation of pain management clinics in the City of Brooksville.

SECTION 3. INTENT AND PURPOSE. It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents of the City of Brooksville through the regulation of certain pain management clinics (as defined below), both existing and new.

SECTION 4. AMENDMENT TO CHAPTER 137 ARTICLE I, SECTION 137-2. The Code of the City of Brooksville, Florida, Chapter 137 “Land Use and Zoning”, Article I “In General,” Section 137-2 “Definitions” is hereby amended to add the following definitions as follows:

Article I. In General

Sec. 137-2. Definitions.

Chronic nonmalignant pain means pain unrelated to cancer, which persists beyond the usual course of the disease or the injury that is the cause of the pain, or for more than ninety days after surgery.

Pain management clinic means a privately owned clinic, facility or office, including mobile medical-care facilities (such as mobile MRI services or blood mobiles), which (1) advertises in any medium for any type of pain management services, or holds itself out as a clinic, facility, or office for treatment of pain, or (2) engages a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications. A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Included in this definition are facilities designating themselves as a pain research centers or emergency medical clinics, or (3) is required to register with the Florida Department of Health pursuant to Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law.

Physician includes any medical professional holding an MD, a PhD, or any other doctoral degree including but not limited to physicians, licensed psychologist, biomedical scientists, osteopathic doctors or dentists.

Specific use means a use which is essential or would promote the public health, safety or welfare in one or more districts, but which would require additional design standards to ensure compatibility with adjacent uses and the surrounding neighborhood. The additional standards supplement and are in addition to the standards and criteria otherwise required within this Code. Unless otherwise required herein, compliance with these supplemental standards shall be determined during development review and shall not require any additional procedural steps or review processes.

SECTION 5. AMENDMENT TO CHAPTER 137 ARTICLE I, SECTION 137-9. The Code of the City of Brooksville, Florida, Chapter 137 “Land Use and Zoning”, Article I “In General,” and Section 137-9 “Specific use regulations” is hereby amended to add subsection (c) as follows:

Sec. 137-9. Specific use regulations.

(c) *Pain management clinics.* The following conditions, limitations and regulations shall apply to pain management clinics located or operating in the City of Brooksville.

(1) Permit Required.

- a. No pain management clinic shall be located or operate in the City of Brooksville by any means without having been issued a Specific Use Permit by the Community Development Department. A separate application and Specific Use Permit is required for each pain management clinic location. The Specific Use Permit shall be prominently displayed in the common public area of the pain management clinic.
- c. A Specific Use Permit for a pain management clinic is non-transferrable and non-assignable. Whenever the ownership or management of a pain management clinic changes, a new application must be filed for a new Specific Use Permit at the location and all applicable fees must be paid. For the purposes of this Ordinance, the transfer of stock or member-interest by one owning more than 20% of the interest in a non-natural entity shall be deemed a change in ownership. For purposes of this Ordinance, the termination, addition, or replacement of the designated physician or the person who signed the application for permit shall be deemed a change of management.
- c. This subsection does not preclude the requirement for existing lawfully permitted pain management clinics to have a permit as required by this Section.
- d. The Community Development Department shall have the responsibility to monitor and issue specific use permits for pain management clinics pursuant to this Section.

(2) Location Separation Requirements.

- a. There shall be a one-half (1/2) mile separation between each pain management clinic regardless of the municipal boundaries of the City of Brooksville.
- b. There shall be a one-half (1/2) mile separation for a pain management clinic from a pharmacy regardless of the municipal boundaries of the City of Brooksville.
- c. The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance in linear feet between the pain management clinic and the above uses measured from the nearest point of one (1) establishment to the nearest point of the other establishment in a straight line.

(3) Application Required. Any pain management clinic operating in the City of Brooksville shall file a sworn application with the City. Applications for a specific use permit shall be submitted to the Community Development Department on a form created by the City which shall contain the following information:

- a. A copy of the applicant's State application form, including all attachments and information required for the Florida Department of Health registration;

- b. Provide an accurate legal description of the property on which the pain management clinic is located including street address and a certified survey from a land surveyor registered in the State of Florida, as provided for in (c)(2) above;
- c. Proof that the applicant has registered with the State Department of Health as of the effective date of this Ordinance as required by Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law, or proof that the applicant is exempt from registration with the state;
- d. Designation of the physician who shall be responsible for complying with all requirements related to registration and operation of the clinic and the physician's DEA number. The designated physician must have a full, active, and unencumbered license under Florida Statutes Chapters 456 or 459 and shall practice at the clinic location for which the physician has assumed responsibility. Within ten (10) days after termination or absence of a designated physician, the clinic must notify the Community Development Department of the identity of another designated physician for the clinic or forfeit the clinic's permit;
- e. Provide an affidavit by the medical director, as defined by Fla. Stat. § 458.3265(1)(c), attesting to the fact that no employees, full-time, part-time, contract, independent or volunteers have been convicted of or who has pled guilty or *nolo contendere* at any time to an offense constituting a felony in this state or in any other state involving the prescribing, dispensing, supplying, selling or possession of any controlled substance prior to the adoption date of this section and that the business shall not employ any such persons thereafter.
- f. A list of all persons associated with the management or operation of the clinic, whether paid or unpaid, part-time or full time, including all contract labor and independent contractors. This list will include, but is not limited to, all owners, operators, employees and volunteers. For persons listed, the following additional information must be provided:
 - (i) The person's name and title,
 - (ii) A current home address, telephone number and date of birth,
 - (iii) A list of all criminal convictions whether misdemeanor or felony,
 - (iv) A copy of a current Florida driver's license or a government issued photo ID, and
 - (v) A set of fingerprints.

This list shall be required to be updated within ten (10) days of any new person becoming associated with the pain management clinic.

- g. The property owner's name, address, telephone number, and a copy of a Florida driver's license or a government issued photo ID, if the property owner is different than the manager or operator;
- h. Provide a disclosure of interest affidavit to identify the natural persons having the ultimate ownership interest in the business. The disclosure of interest affidavit shall provide in detail as applicable all principal stockholders and percent of stock owned by each, or a list of the trust beneficiaries and the percent of interest held by each, or a list of the principals including general and limited partners. Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests.
- i. An indication of whether the pain management clinic dispenses controlled substances on the pain management clinic site.
- j. Any other information the City deems necessary.
- k. A sworn and notarized statement from the designated physician attesting to the veracity and accuracy of the information provided in the application.
- l. The application for a permit shall be notarized, typewritten, signed and sworn to by a person who seeks to operate a pain management clinic and the person who is the property owner for property on which the pain management clinic is located and shall include the post office address of the applicant(s) and the property owner. At least one (1) applicant shall be the medical director of the pain management clinic. The application shall not be signed by an authorized agent.

(4). Application Processing.

- a. *Application Fee.* Each application for a Specific Use Permit for a pain management clinic shall be accompanied by a nonrefundable application and permit fee of \$250.00, or such other fee as may be set by resolution of the City Council. Calculation of the appropriate fee shall be based on the cost to the City for implementing and enforcing the provisions of this Ordinance. Fees for applications received after May 31 but before September 30 of any year may be prorated.
- b. *Incomplete Applications.* The applicant(s) shall be fully responsible for compliance with this Section and each applicant shall be considered a permittee upon the grant of a permit pursuant to this Section. It is the applicant's sole responsibility to provide accurate contact information when submitting the application to the Community Development Department. If the application for a Specific Use Permit is not fully complete, in the sole discretion of the Community Development Department, the Community Development Department shall notify the contact person listed in the application. The applicant will have fifteen (15) business days after receipt of the deficiency notice from the Community Development Department to provide the information necessary to complete an application. Failure to provide the necessary

information within fifteen (15) business days after the mailing of the notification shall result in a denial of the application and a new application must then be submitted, accompanied by a full non-refundable application fee.

- (5) Permit Issuance, Renewal, Denial or Revocation; Appeals.
- a. *Time period for granting or denying Permit.* The Community Development Department shall grant, renew, or deny a Specific Use Permit for a pain management clinic within twenty (20) business days from the date of filing of a fully completed application.
 - b. *Granting of permit.* If there is no basis for denial of a Specific Use Permit pursuant to the criteria set forth herein, the Community Development Department shall grant the permit, notify the applicant and issue the permit to the applicant. Upon issuance of a permit, a permit holder is required to provide written notice to the Community Development Department within ten (10) business days of any change to the information submitted in the application, including but not limited to: change in physicians, change in officers of a corporation, revocation or suspension of a state permit, change in service person or address, etc.
 - c. *Renewal of Permit.* Specific Use Permits for pain management clinics shall expire annually on the 30th day of September. At least thirty (30) days prior to expiration of a Permit, a renewal application, must be submitted, along with a non-refundable renewal application fee of \$150.00, or such other fee as may be set by resolution of the City Council. Provided the pain management clinic named in the renewal application and all information on the application are in compliance with this Ordinance, a renewal permit shall be issued by the Department, after payment of the Renewal Application Fee. Renewal permits shall only be issued to businesses that were previously permitted and who timely file a renewal application.
 - d. *Denial or revocation of permit.* The Community Development Department shall deny or revoke a pain management clinic Permit on the basis of any one of the following grounds:
 - i. An application for a Specific Use Permit contains material false or missing information;
 - ii. An applicant is not registered pursuant to Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law, or has not proven it is entitled to an exemption from state registration;
 - iii. An applicant has had a registration issued under either Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law, suspended or revoked;
 - iv. A Permit holder has refused to allow entry and/or inspection of the premises by a law enforcement officer, code enforcement officer, or any other person authorized to enforce ordinance violations in the City at any time someone is present on the premises;

- v. A permit holder fails, within ten (10) business days, to provide written notice to the Department of any change to the information submitted in the application;
- vi. Failure to abide by any provision of this Ordinance;
- vii. Allowing any person to work or volunteer at the clinic, whether paid or unpaid, who has been convicted of or plead guilty or nolo contendere to, (even if sealed or expunged) an offense that constitutes a felony for receipt of illicit and diverted drugs, including any controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of Florida Statutes Section 893 03, or any other state, or the United States;
- viii. The facility is owned by or has any contractual or employment relationship with a physician:
 1. Whose Drug Enforcement Administration number has ever been revoked, or
 2. Whose application for a license to prescribe, dispense, or administer controlled substance has been denied by any jurisdiction, or
 3. who has been convicted of or plead guilty or nolo contendere to, (even if sealed or expunged) an offense that constitutes a felony for receipt of illicit and/or diverted drugs, including any controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of Florida Statutes Section 893 03, or any other state, of the United States.

The Community Development Department may grant an exception to sub-sections vii and viii above, in its sole discretion, if more than ten (10) years have elapsed since the adjudication date.

- ix. If the payment for the application fee, permit fee, or renewal fee is invalid or uncollectible for any reason.
- xiii. If the registration of a pain management clinic is revoked or suspended by the Florida Department of Health, the Specific Use Permit shall be revoked automatically.
- xiv. A Specific Use Permit may be revoked or denied if the facility restricts itself to a “cash-only” form of payment.
- xv. A Specific Use Permit may be revoked or denied if the facility dispenses controlled substances on the same premises as stated on the Permit.

(6) Appeals. Appeals of any denial or non-renewal of a Specific Use Permit for a pain management clinic may be pursued in accordance with Section 137-43 of this Code.

- (7) Exemptions. This section shall not apply to the following types of clinics, medical offices, or facilities:
- a. Clinics that are licensed as a facility pursuant to Fla. Stat. Ch. 395;
 - b. The majority of the physicians who provide services in the clinic primarily provide surgical services;
 - c. The clinic is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded fifty million dollars (\$50,000,000.00);
 - d. The clinic is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
 - e. The clinic does not prescribe and dispense controlled substances for the treatment of pain; or
 - f. The clinic is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

(8) Other Compliance Requirements.

- a. The pain management clinic shall be required to update the disclosure of interest affidavit information prior to October 1 of each year or at any time that there is a change of ownership or natural persons as defined in subsection (c)(3) in this Section.
- b. The pain management clinic must be registered with the Florida Department of Health pursuant to Fla. Stat. § 458.3265 as, amended from time to time.
- d. The pain management clinic shall be fully owned by a physician or a group of physicians each of whom are Florida licensed physicians in good standing; or must be a licensed clinic under Fla. Stat. Ch. 400, Pt. X as, amended.
- e. The pain management clinic shall not have employees, full-time, part-time, contract, independent or volunteers who have been convicted of or who has pled guilty or *nolo contendere* at any time to an offense constituting a felony in this state or in any other state involving the prescribing, dispensing, supplying, selling or possession of any controlled substance prior to the adoption date of this section and that the business shall not employ any such persons thereafter.
- f. The pain management clinic is prohibited from having any outdoor seating areas, queues or customer waiting areas. All activities of the pain management clinic, including sale, display, preparation and storage shall be conducted entirely within a completely enclosed building.

- g. The pain management clinic is prohibited from having an on-site prescription drug dispensary for controlled substances listed in Fla. Stat. § 893.03, Schd. II.
 - h. Within thirty (30) days of the removal of a pain management clinic from a building, site or parcel of land for any reason, the property owner shall be responsible for removing all signs, symbols and vehicles identifying the premises as a pain management clinic.
 - i. The pain management clinic shall be in compliance with all federal, state, county and municipal laws and ordinances, as amended.
 - j. All pain management clinics shall allow representatives of the City of Brooksville to enter and inspect their places of business during business hours or at any time the business is occupied for the purpose of verifying compliance with the permit requirements of this section and with the Code of Ordinances of the City of Brooksville. No person who operates a pain management clinic shall refuse to permit a lawful inspection of the premises by a representative of the City of Brooksville during business hours or at any time the business is occupied.
 - k. The designated physician shall secure all prescription pads so that only authorized persons may access them. Every prescription written on a prescription pad shall contain the facility's name and Specific Use Permit number.
- (9) Applicability of this Section to existing pain management clinics issued Certificates of Occupancy or Change of Use permits prior to the adoption of this Section.
- a. All pain management clinics shall comply with the regulations contained herein within sixty (60) days following the adoption of this Section unless otherwise provided for in this subsection.
 - b. All pain management clinics shall immediately comply with subsection (8) of this Section.
- (10) Violations and Penalty. A person who operates or causes to be operated a pain management clinic without a valid Specific Use Permit issued under this Section or otherwise commits any act in violation of this Section is subject to a suit for injunction as well as prosecution or other enforcement action for criminal or noncriminal violations, in a judicial, quasi-judicial or administrative forum, as applicable. Each day a person operates a pain management clinic without a permit or commits any act in violation of this Section shall constitute a separate offense or violation.
- a. The requirements of this Ordinance may be enforced as follows:
 - i. By citation for civil penalties pursuant to the authority granted by Section 166.0415, Fla. Stat., Chapter 162, Part I, Fla. Stat., and/or as otherwise provided for in the City of Brooksville Code.

- ii. By revocation or temporary suspension of necessary permits and/or certificates of occupancy and/or licenses;
- iii. By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction.
- iv. By initiating an action to recover any and all damages that may result from a violation of or refusal to comply with any part of this Ordinance; and
- v. By any other action or enforcement method permitted at law or equity.

Nothing herein relating to remedies or penalties for violation of this Section shall preclude enforcement of each and every provision of this article by any other lawful means including but not limited to code enforcement, permit revocation proceedings, disconnection of utilities serving the premises, or fines.

b. Persons responsible for violations include:

- i. Any person who owns, operates, or manages a pain management clinic;
- ii. Any physician who prescribes or dispenses controlled substance medications for the treatment of chronic nonmalignant pain for patients of a pain management clinic;
- iii. The owner of the premises occupied by a pain management clinic;
- iv. Any person in physical control of the activities which may occur on the premises;
- v. If a responsible person is a non-natural entity, the officers, directors, members, managers or other principals of the entity are jointly and severally responsible for violations by the entity; and
- vi. Any other person causing or contributing to a violation.

SECTION 6. AMENDMENT TO CHAPTER 137 ARTICLE II, SECTION 137-46.

The Code of the City of Brooksville, Florida, Chapter 137 “Land Use and Zoning”, Article II “Administration and Enforcement,” and Section 137-46 “Administrative fees and costs of public notice” is hereby amended and restated as follows:

Sec. 137-46. Administrative fees and cost of public notice.

Regulations concerning collection of costs, charges, fees and expenses in connection with zoning permits, certificates of use, public notice and city review and administration of planned development projects, special exception uses, specific use permits, appeals and zoning amendment petitions shall be as set forth by resolution of city council. No permit, certificate, application or authorization shall be issued unless and until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proceedings before the commission or city council, unless or until preliminary charges have been paid in full.

SECTION 7. CONFLICTS AND REPEALER. All ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 8. AMENDMENT TO CODE. This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 137 "Land Use and Zoning" as directed herein.

SECTION 9. CODIFICATION. It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 1, 2, 3, 7, 8, 9 and 10 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 10. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

CITY OF BROOKSVILLE

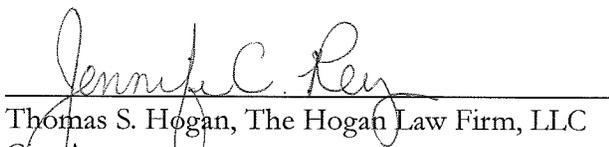
Attest: _____
Janice L. Peters, CMC, City Clerk

By: _____
Frankie Burnett, Mayor

PASSED on First Reading _____
NOTICE Published on _____
PASSED on Second & Final Reading _____

APPROVED AS TO FORM FOR THE RELIANCE
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:
Bernardini _____
Bradburn _____
Burnett _____
Johnston _____
Pierce _____



Thomas S. Hogan, The Hogan Law Firm, LLC
City Attorney



AGENDA ITEM MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCILMEN

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER *[Signature]*

FROM: BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR *BG*
STEVE BAUMGARTNER, FINANCE DIRECTOR *SB*

SUBJECT: ORDINANCE NO. 777-A FLAGSTONE PAVERS, INC., AD VALOREM
TAX ABATEMENT

DATE: APRIL 11, 2011

GENERAL SUMMARY/BACKGROUND:

In 2006, property owned by Flagstone Pavers, Inc., was annexed into the City. At the time of annexation, improvements were being made to the property that included the addition of a new production plant, maintenance building and office facility. The property owner submitted an application for the ad valorem tax exemption in 2006, however, since the property was just annexed into the city and the improvements were completed in the 2006 calendar year, city tax assessments for the improvements would not be applied until the 2007 tax year (due to the one-year lag time in the value being added to the tax rolls). Therefore, the property owner was advised to apply for the exemption in the following tax year. The property owner re-submitted the application to the City in 2009. The business is a Qualified Manufacturer pursuant to Section 196.012, F.S., and the business expansion completed in 2006 was projected by the Company to result in a net increase of thirty employees/jobs being added to the business and local work force. As per the Guidelines for Tax Abatement adopted by the City via Resolution No. 2003-02, the business was eligible to receive a 100% tax abatement on the value of the new improvements for the 1st through the 5th years, and a 75% tax abatement on the value of the new improvements for the 6th through the 10th and final year.

At the public hearing to consider the Ad Valorem Tax Exemption application on September 21, 2009, the City Council approved Ordinance No. 777 to implement this tax abatement request. Ordinance No. 777 requires the Company to provide documentation to the City each year, during the term in which they are receiving the tax abatement, that demonstrates that they are maintaining at least 26 additional employees (above the base year amount). The Company had a base number of 40 employees in 2006 prior to the improvements constructed on the property, and was required to have at least 66 employees in order to maintain the level of exemption established by the Ordinance. The information provided by Flagstone Pavers to the City for the recent term (2010) indicates that the Company's current employment is 45, which is an increase of 5 employees over the original base number of employees (21 jobs less than required).

The Guidelines adopted by City Resolution No. 2003-02 establish a baseline increase of at least 10 new jobs/employees in order for a Qualified Manufacturing business to be eligible for receiving, or continuing to receive a tax abatement incentive.

CITY COUNCIL ACTION:

This item was reviewed and debated by the City Council at meetings on March 21, 2011 and April 4, 2011. At the April 4, 2011 meeting, direction was given to staff to modify the 100% provision in Ordinance No. 777 to 80%, with the understanding that the City would continue to review the number of jobs being produced and maintained by the business on an annual basis.

Ordinance No. 777-A (attached) provides for the reduction in the benefit provided in Ordinance No. 777, from 100% to 80% for the next three years, and continues the 75% abatement for the remaining five years after that.

SB

BUDGET IMPACT:

The Hernando County Property Appraiser estimated that the 2009 City tax revenue reduction, in granting the exemption at 100% of the value of the improvements made to the Flagstone Pavers' property, to be \$28,879 (as calculated using the adopted millage rate of 6.0690). Ordinance No. 777 provided for a full ten year period of tax abatement with a 100% ad valorem tax abatement to the taxable value of the improvements (as completed in 2006) for the first five years, and a 75% abatement for the second five years, consistent with the guidelines established by Resolution No. 2003-02. The Property Appraiser estimated the 2009 taxable value of the improvements completed in 2006 to be \$4,758,400. The 2010 City tax revenue reduction based on the original valuation of improvements at the current 6.370 millage rate at 80% would be \$23,198. This information was obtained from the Hernando County Property Appraiser. The exact amount for 2011 is not available because the estimate of total assessed property is not due until June 1, 2011. We expect the 80% exemption will be approximately the same as last year's.

gch

LEGAL NOTE:

The City is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes. Pursuant to Section 1.03 of the Charter, the City has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services. The City is authorized under Fla. Stat. §196.1955 to grant tax exemptions and Fla Stat. §288.106 to financially participate in the total tax refund incentives as refunds become due.

STAFF RECOMMENDATION:

Approve the first reading of Ordinance No. 777-A, and authorize staff to advertise for the second and final reading of the Ordinance to take place on May 16, 2011 at 7:00 P.M. in the city council chambers.

ATTACHMENTS:

- (1) Ordinance No. 777-A
- (2) Ordinance No. 777

Attachment 1

Ordinance No. 777-A

ORDINANCE NO. 777-A

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING ORDINANCE NO. 777 WHICH PROVIDED A TAX ABATEMENT FOR UP TO TEN YEARS FOR THE EXPANSION OF A QUALIFIED MANUFACTURING BUSINESS ON PROPERTY OWNED BY FLAGSTONE PAVERS, INC., LOCATED AT 9070 OLD COBB ROAD, BROOKSVILLE, FLORIDA 34601-9300; AMENDING SECTION 1 OF SAID ORDINANCE BY REDUCING THE LEVEL OF TAX EXEMPTION PROVIDED BY SAID ORDINANCE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Qualified Manufacturing Business has not been able to sustain the number of employees required to maintain a tax exemption at the level adopted by local policy in Resolution No. 2003-02; and

WHEREAS, the City Council finds that granting a conditional ad valorem tax exemption to FLAGSTONE PAVERS, Inc., an expanding Qualified Manufacturing Business located within the City of Brooksville, continues to be in the best interest of the citizens of Brooksville by virtue of said business establishing jobs and promoting positive economic development within the incorporated area of Brooksville; and

WHEREAS, the City Council will continue to annually review the number of jobs provided by the Qualified Manufacturing Business to determine future year benefits under the Ad Valorem Tax Exemption Program.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, THAT:

ARTICLE I. AMENDED PROVISIONS. Section 1. of Ordinance No. 777 is hereby amended as follows:

SECTION 1. FLAGSTONE PAVERS, Inc., whose expansion of a Qualified Manufacturing Business located at 9070 Old Cobb Road, Brooksville, Florida, meets the definition of "Expansion of an existing business" as stipulated by Chapter 196, Florida Statutes and City of Brooksville Resolution No. 2003-02, and is hereby granted a conditional tax exemption for qualified improvements constructed thereon and completed in calendar year 2006 in the amount of ~~one hundred~~ **eighty (40080)** percent of the assessed value of the improvements to real and tangible personal property as listed in the application dated November 14, 2006, for a **the remaining three year** period of five (5) years, beginning January 1, 2011~~09~~ and ending December 31, 2013; and in the amount of seventy-five (75) percent of the assessed value of the improvements to real and tangible personal property as listed in the application dated November 14, 2006, for a period of five (5) years, beginning January 1, 2014 and ending December 31, 2018.

ARTICLE II. Conflict. Any ordinance or code of the city, or any portion thereof, in conflict with the provisions of this ordinance, is hereby repealed to the extent of such conflict.

ARTICLE III. Severability. In the event that any portion or section of this ordinance is determined to be invalid, unlawful or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance, which shall remain in full force and effect.

ARTICLE IV. Effective Date. This ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

ADOPTED IN REGULAR SESSION THIS ___ DAY OF _____, 2011, A.D.

CITY OF BROOKSVILLE

Attest: _____
Janice L. Peters, CMC, City Clerk

By: _____
Frankie Burnett, Mayor

PASSED on First Reading _____
NOTICE Published on _____
PASSED on Second & Final Reading _____

APPROVED AS TO FORM FOR THE RELIANCE
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini _____
Bradburn _____
Burnett _____
Johnston _____
Pierce _____

THOMAS S. HOGAN, JR., THE HOGAN LAW FIRM, LLC
CITY ATTORNEY

Insertions indicated by **Bold/Double Underline**
Deletions indicated by ~~Strikethrough~~

Attachment 2

Ordinance No. 777

ORDINANCE NO. 777

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING FOR QUALIFIED TAX ABATEMENT FOR UP TO TEN YEARS FOR THE EXPANSION OF A QUALIFIED MANUFACTURING BUSINESS ON PROPERTY OWNED BY FLAGSTONE PAVERS, INC., LOCATED AT 9070 OLD COBB ROAD, BROOKSVILLE, FLORIDA 34601-9300; PROVIDING THAT THE EXPANSION OF THIS BUSINESS HAS CREATED THIRTY AND MUST MAINTAIN A MINIMUM OF TWENTY-SIX ADDITIONAL FULL-TIME JOBS; PROVIDING A SUMMARY OF THE ESTIMATED VALUES AND PROPOSED ABATED TAX REVENUE; PROVIDING FOR RESTRICTIONS, CONDITIONS AND TERMINATION; PROVIDING FOR THE EXEMPTION THROUGH THE HERNANDO COUNTY PROPERTY APPRAISER; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the voters of the City of Brooksville passed a referendum on March 14, 2000 authorizing the City Council to grant conditional economic ad valorem tax exemptions to new and expanding businesses; and

WHEREAS, the City Council finds that the granting of a conditional ad valorem tax exemption to FLAGSTONE PAVERS, Inc., an expanding Qualified Manufacturing Business located within the City of Brooksville, is in the best interest of the citizens of Brooksville by virtue of said business establishing jobs and promoting positive economic development within the incorporated area of Brooksville; and

WHEREAS, the City Council finds that the expanded business satisfies the requirements of Chapter 196, Florida Statutes, as well as adopted guidelines of the City of Brooksville to implement the provisions of said Statute; and

WHEREAS, the City Council has carefully considered the Hernando County Property Appraiser's report and has determined that the information contained therein does not present a basis for denying the exemption and that the application satisfies the requirements of City Council Resolution 2003-02.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AS FOLLOWS:

SECTION 1. FLAGSTONE PAVERS, Inc., whose expansion of a Qualified Manufacturing Business located at 9070 Old Cobb Road, Brooksville, Florida, meets the definition of "Expansion of an existing business" as stipulated by Chapter 196, Florida Statutes and City of Brooksville Resolution No. 2003-02, and is hereby granted a conditional tax exemption for qualified improvements constructed thereon and completed in calendar year 2006 in the amount of one hundred (100) percent of the assessed value of the improvements to real and tangible personal property as listed in the application dated November 14, 2006, for a period of five (5) years, beginning January 1, 2009 and ending December 31, 2013; and in the amount of seventy-five (75) percent of the assessed value of the improvements to real and tangible personal property as listed in the application dated November 14, 2006, for a

period of five (5) years, beginning January 1, 2014 and ending December 31, 2018.

SECTION 2. The improvements deemed eligible for the ad valorem tax exemption, must be in accordance with the application submitted by FLAGSTONE PAVERS, Inc., dated November 14, 2006, and the applicant's business at the subject location must maintain at least twenty-six (26) additional full-time, permanent jobs during the exempt period.

SECTION 3. FLAGSTONE PAVERS, Inc., shall submit an annual report on or before March 1st of each year that an exemption is being requested to the City of Brooksville regarding compliance with the requirements of this Ordinance and adopted City Guidelines, and shall submit annual applications (on DR Form #418) in order to be eligible to maintain the tax exemption for the period of time specified in this ordinance.

SECTION 4. The total amount of ad valorem tax revenue for the City in the 2009 fiscal year is estimated to be \$3,287,977.00 based on the TRIM notice at 7 MILS; the total amount of revenue lost for the 2008-2009 fiscal year because of the economic development ad valorem tax exemptions currently in effect is \$0.00; and the amount of estimated revenue which would be lost to the City of Brooksville for the 2009-2010 fiscal year attributable to this exemption is \$28,879.00 (@ 6.0690 Mils), or assuming no change in taxable value or city millage, \$252,690.00 over a ten (10) year period.

SECTION 5. The City Council may, by ordinance, terminate or amend this exemption upon a finding that the expanded business has failed to maintain at least twenty-six (26) additional full-time, permanent jobs, or upon findings that the requirements of this Ordinance, City of Brooksville Code or guidelines (as may be amended), or Florida Statutes with regard to ad valorem tax exemption, are not satisfied.

SECTION 6. This Ordinance shall be forwarded to the Hernando County Property Appraiser, who will apply this exemption to the City's millage assessment for improved real and tangible personal property on the subject parcel (parcel key #00945936) in accordance with this ordinance. The City will notify the Property Appraiser's office if the exemption for the property no longer qualifies in the future.

SECTION 7. Conflict. Any ordinance or code of the city, or any portion thereof, in conflict with the provisions of this ordinance, is hereby repealed to the extent of such conflict.

SECTION 8. Severability. In the event that any portion or section of this ordinance is determined to be invalid, unlawful or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance, which shall remain in full force and effect.

SECTION 9. Effective Date. This ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

ADOPTED IN REGULAR SESSION THIS 23rd DAY OF September, 2009, A.D.

CITY OF BROOKSVILLE

ATTEST: _____ s/Joe Bernardini
Janice L. Peters, City Clerk Joe Bernardini, Mayor

PASSED on First Reading September 9, 2009

NOTICE Published on September 13, 2009

PASSED on Second & Final Reading September 23, 2009

VOTE OF COUNCIL:

APPROVED AS TO FORM AND CONTENT
FOR THE RELIANCE OF THE CITY OF
BROOKSVILLE ONLY:

Bernardini	<u>AYE</u>
Bradburn	<u>AYE</u>
Johnston	<u>AYE</u>
Lewis	<u>AYE</u>
Pugh	<u>AYE</u>

s/Jennifer C. Rey, for
Thomas S. Hogan, Jr., City Attorney



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: MIKE WALKER, DIRECTOR OF PARKS, FACILITIES & RECREATION
SUBJECT: GREEN BURIAL CEMETERY CODE CHANGE - ORDINANCE NO. 818
DATE: May 2, 2011

GENERAL SUMMARY/BACKGROUND: At the February 7, 2011, City Council meeting, Council accepted and approved a Green Burial Concept at the Brooksville Cemetery, which is a burial designed to have minimal environmental impact, typically with the remains of a deceased person that has not been embalmed and being placed in a biodegradable coffin or shroud.

City Council directed staff to prepare modifications needed to implement Green Burial provisions. Changes to the Brooksville Code of Ordinances Article II, Sections 18-31 through 18-53 must be made to implement the Green Burial concept.

Provided as Attachment 1 is proposed Ordinance No. 818, which includes the modifications to Sections 18-31 through 18-53. The modifications will allow vaults and liners to be exempt for green burials, scattering of cremains and provides for a required depth of 36 inches for all green burials.

Additionally, we have included provisions for columbarium niches and the removal of the monument permit fee in section 18-48 (b) (c) that is no longer permitted by Florida Statutes 497. 278.

Following adoption of Ordinance No. 818, staff will return with a resolution and revised Cemetery Rules that will be necessary for final implementation.

BUDGET IMPACT: The green burial plots have a higher sales price than the conventional plots in the cemetery, while utilizing the same size plots. This will have positive impact on the cemetery revenues, which will allow for additional revenue to the General Fund.

LEGAL REVIEW: Pursuant to home rule authority provide for by Article VII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and Section 1.03 of the Charter of the City of Brooksville, the City Council has the power to conduct municipal functions and to adopt ordinances.

STAFF RECOMMENDATION: Approval of the first reading of Ordinance No. 818.

Attachments: Proposed Ordinance No. 818

ORDINANCE NO. 818

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING CHAPTER 18, ARTICLE II BROOKSVILLE CITY CEMETERY OF THE CITY OF BROOKSVILLE CODE OF ORDINANCES, PROVIDING FOR CONFLICT AND SERVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

WHEREAS, amendments to the Code are necessary to comply with Chapter 497, Florida Statutes; and,

WHEREAS, at its regular meeting on February 7, 2011, the City Council of the City of Brooksville considered a proposal to add a green burial component to cemetery services currently offered at the Brooksville Cemetery; and

WHEREAS, the City Council desires to incorporate Green Burials into the Cemetery.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes (2010), to enact ordinances and under the home rule powers of the City in the interest of the health, peace, safety and general welfare of the people of the City of Brooksville.

SECTION 2. AMENDMENT TO CHAPTER 18. The Code of the City of Brooksville, Florida, Chapter 18 "Cemeteries", Article II Brooksville Cemetery is hereby amended and restated as follows:

Sec. 18-31. Public cemetery of city.

The legal description tract of land being part of the city cemetery shall be on file in the city clerk's office. (Code 1988, § 13-26)

Sec. 18-32. New lands acquired by city for cemeteries.

Any land hereafter acquired by the city for cemetery purposes and constituting a cemetery and all burials therein shall be subject to all the provisions of this article. (Code 1988, § 13-27)

Sec. 18-33. Use of cemetery.

The city cemetery is for the burial and interment of human remains, cremation remains, and the scattering of cremains. ~~and shall only be used for cemetery purposes.~~ Use of Cemetery grounds may be authorized by the Cemetery sexton to facilitate City projects or purposes.

Sec. 18-34. Burials restricted to specified areas.

Except as provided in this section, no body of a deceased person shall be buried within the city in any place other than a cemetery or other specifically designated area of ground set apart for burial of the dead. (Code 1988, § 13-29)

Sec. 18-35. Lot prices to be fixed by city council.

The city council shall by resolution fix the prices of the various lots or plots, and services of the city cemetery. The same shall be subject to change and revision by the city council at any time.

Sec. 18-36. Plan of cemetery and prices of lots or plots to be kept in office of sexton; furnish deeds to purchasers.

A map or plat of the survey of the city cemetery, which shall set forth each individual lot or plot in the entire cemetery, shall be maintained ~~in the office of~~ by the sexton. The sexton shall indicate on the map or plat which lots have been sold. The sexton shall sell such blocks or lots accordingly, furnishing to the purchaser upon complete payment of the purchase price a deed to the lot or plot which shall be executed by the mayor and attested by the city clerk, with the seal of the city attached, and duly acknowledged according to law. The sexton shall not furnish a burial permit for the interment of any person for whom space in the cemetery has not been purchased except as hereinafter provided in this article. (Code 1988, § 13-31)

Sec. 18-37. Records of ~~lot sales.~~ rights to interment

It shall be the duty of the sexton to keep on file ~~in his office~~ proper books of records in regard to the city cemetery. The records ~~book~~ shall contain a record of all ~~lots sold~~ sales of rights to interment, with the names of the grantees to whom the same are conveyed and of all burial certificates issued permitting use of lots, ~~or~~ plots, and cremation niches or other rights of interment within the city cemetery.

Sec. 18-38. Sale or transfer of burial spaces; fee.

The sale or transfer of any burial space or right to interment within the city cemetery by any owner shall not be binding upon the city unless it shall first be approved in writing by the sexton or his designee, and then such burial space or right to interment must be reconveyed to the city. The city shall then issue a quit claim deed to the new owner. This procedure is required so that the city may have a complete and accurate record of all owners. The city council shall by resolution set the prices of the sale or transfer of burial space or right to interment. (Code 1988, § 13-33)

Sec. 18-39. Cemetery rules and regulations.

The city council shall adopt rules and regulations for the city cemeteries by ordinance, resolution or administrative directive as the case may be which rules shall regulate the operation and management of such properties. (Code 1988, § 13-34)

Sec. 18-40. Management of cemetery.

All city cemetery lands shall be in the charge, care and management of the city council and shall be subject to such rules and regulations relating to the management of such cemeteries as shall be made by the city council. (Code 1988, § 13-35)

Sec. 18-41. Burial certificate required.

(a) No interment shall be made in any city cemetery, nor any body removed therefrom, except by authority of written permit or certificate obtained from the proper state registrar of vital statistics or such other person as may be authorized by law to issue such permit. Before interment of any dead body, the sexton shall be furnished proper evidence of issuance of a certificate from the proper state registrar of vital statistics.

(b) The cemetery sexton or his designee must be presented with evidence of ownership of the burial right in cemetery before interment will be permitted. The city shall have the exclusive right and responsibility for the same of all cemetery spaces and lots except as outlined in section 18-38. (Code 1988, § 13-36)

Sec. 18-42. Emergency burial certificate.

In cases of emergency, due to briefness of time or other reason, the proper person, upon application to the sexton or ~~other properly authorized city employee~~ his designee, and for good and sufficient reasons stated, may obtain an emergency burial certificate. The application shall be accompanied by such fee as may be regularly required. The issuance of such certificate and the acceptance of such fee, if required, shall be reported at the beginning of the next working day to the sexton together with all information necessary to complete the records normally kept in such matters by the city sexton. (Code 1988, § 13-37)

Sec. 18-43. Permit required to exhume bodies.

A body shall not be exhumed from any city cemetery without a permit from the sexton. (Code 1988, § 13-38)

Sec. 18-44. Temporary marking of graves.

In order to secure the recognition of graves and prevent mistakes, each grave upon interment shall be marked by placing at the head a stake or other marker inscribed with the name of the deceased, and such stake shall remain until a permanent monument or headstone is erected by the friends or relatives of the deceased. (Code 1988, § 13-39)

Sec. 18-45. Depth required for graves.

All graves, except green burials, must be dug to a depth that upon proper closing there shall remain a minimum of ~~eight to~~ 12 inches of soil above the grave liner or vault to the average ground level. Green burials shall have a minimum of 36 inches of soil above the remains to the average ground level. ~~However, in~~ unique cases or cases of a hardship ~~nature~~, the undertaker or other interested party may, upon proper petition to the sexton or ~~other properly authorized city employee~~ his designee, obtain a variance of the requirements of this section in keeping with the hardship or unique situation encountered.

Sec. 18-46. Liner or vault required.

All graves for deceased persons except cremation lots, scattering gardens and green burials must have a liner or vault properly installed in the following or more stringent specifications:

- (1) *Concrete liner or vault.* All concrete liners or vaults shall have six sides each not less than one inch in thickness, reinforced with steel mesh or other like or similar reinforcing material.
- (2) *Steel liner or vault.* All steel liners or vaults shall have six sides and shall be constructed of 14 gauge material or thicker.
- (3) *Fiberglass or similar material liner or vault.* All liners or vaults made of fiberglass, polypropylene or similar material shall have six sides and shall be constructed of nonbiodegradable material with strength substantially equivalent to concrete or steel liners.
- (4) *Size.* All liners or vaults regardless of material shall be no less than 86 inches inside length, 30 inches inside width and 25 inches inside depth.
- (5) *Liner or vault for infant children.* Liners or vaults installed for the burial of infants or children shall be of the same or better quality as that required by the other subsections of this section, but of a size sufficient only to accommodate the casket. (Code 1988, § 13-41)

Sec. 18-47. Preinstallation of liner or vault prohibited.

No person shall install or cause to be installed any grave liner or vault, except upon a basis of need at the time of burial. (Code 1988, § 13-42)

Sec. 18-48. Stones and monuments.

(a) *Permit required.* No stone, monument or other edifice, memorial or structure shall be placed, constructed or erected upon any gravesite or within or upon any city cemetery property unless and until a monument permit allowing the same shall have been obtained from the sexton, or ~~some other properly authorized city employee~~ his designee.

~~(b) *Permit fee required.* The sexton or other properly authorized city employee shall collect a fee from each person applying for a monument permit to erect stone, monument or other edifice, memorial or structure. The city council shall by resolution set these fees for each burial space to pay for the inspection of such placing or construction and for the making of proper records in connection therewith.~~

~~(c) *Failure to obtain permit.* Failure of any person, monument company or other entity to acquire a monument permit for the placing, construction or addition of any monument, stone or other edifice prior to such placing, construction or addition shall be charged a penalty equal to a sum double the amount of the permit fee plus an additional \$5.00 penalty fee.~~

~~(d)~~ (b) *Issuance of permit.*

(1) A monument permit shall be construed to be a license to proceed with the work and shall not be construed as an authority to violate, cancel, alter or set aside any of the provisions of this Code, nor shall such issuance of a permit prevent the sexton or his designee from thereafter requiring a correction of error in placement or construction or in violations of this Code.

(2) Any permit issued shall become invalid within six months after its issuance.

~~(e)~~ (c) *Foundation required.* All foundations for monuments shall be not less than six inches in thickness and shall extend in width and length not less than two inches on all sides in excess of the dimensions of the base of the monument to be placed thereon, ~~and they shall be properly reinforced by at least two steel rods of at least one-half inch in diameter placed across the entire length of the foundation.~~ In the case of an unusual size or shape, foundations for monuments shall be constructed in manner and specifications other than those set forth above, but of sufficient dimension to properly base such monument intended to be placed thereon, and must have prior approval of the sexton.

~~(f)~~ (d) *Inspection.* Inspection by the city will take place within a reasonable time after the setting of such stone, monument or other edifice.

Sec. 18-49. Direction of stones, monuments.

All stones, monuments or other edifices, memorials or structures shall be placed at the head of the grave with the primary inscription facing the foot of the grave (east). The family name only may be on the back (facing westerly) of such stone or monument. (Code 1988, § 13-49)

Sec. 18-50. Lots and graves, improvement of lot by owners; permit.

(a) Owners of lots or rights to interment in any city cemetery and members of the family and friends of deceased persons interred therein may make proper improvements to the respective lots after obtaining an improvement permit from the sexton.

(b) All plans for special work must be submitted to the sexton or his designee in advance for approval before an improvement permit will be issued. (Code 1988, § 13-50)

Sec. 18-51. Indigent burial; exception.

Upon the death of an indigent person, the funeral director shall bring evidence of such indigence to the cemetery sexton. If indigence shall be determined, that person shall be buried in the city cemetery at no charge at a location to be determined by the sexton or his designee. (Code 1988, § 13-51)

Sec. 18-52. Interference with funerals.

It shall be unlawful for any person to interfere, without legal cause, with the proper conduct of a funeral or the burying or exhuming of a body in any city cemetery. (Code 1988, § 13-52)

Sec. 18-53. Driving vehicles in cemetery.

Except for official purposes and as authorized by sexton, No person shall drive any vehicle within any city cemetery except upon the driveways prepared and designated for that purpose. No through traffic is allowed in the cemetery. (Code 1988, § 13-53)

SECTION 3. CONFLICTS AND REPEALER. All ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 4. AMENDMENT TO CODE. This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 18 "Cemeteries" as directed herein.

SECTION 5. CODIFICATION. It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

CITY OF BROOKSVILLE

Attest: _____
Janice L. Peters, CMC, City Clerk

By: _____
Frankie Burnett, Mayor

PASSED on First Reading _____

NOTICE Published on _____

PASSED on Second & Final Reading _____

APPROVED AS TO FORM FOR THE RELIANCE
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini _____
Bradburn _____
Burnett _____
Johnston _____
Pierce _____

Thomas S. Hogan, The Hogan Law Firm, LLC
City Attorney



AGENDA ITEM MEMORANDUM

TO: Honorable Mayor and City Council

VIA: T. Jennene Norman-Vacha, City Manager 

VIA: Bill Geiger, Community Development Director 

FROM: Steve Gouldman, AICP, City Planner 

SUBJECT: Sign Regulations

DATE: May 2, 2001

BACKGROUND AND DISCUSSION:

At the April 18, 2011 City Council meeting, the Council, in response to a local business owner's request, directed staff to provide to them for review and discussion the City's current regulations regarding banners, flags and pennants. The current regulations are attached.

As is indicated in Chapter 125, Section 125-5.(4), "banners" are permitted on-site when they advertise a specific special event. The banner size (area), when combined with existing permitted attached signs cannot exceed ten percent of the total area of the exterior wall to which it is affixed. There is no time limit for display of such banners. Section 125-5.5.(5) allows "special event banners" used by governmental, charitable or nonprofit organizations to promote specific special events of city-wide significance to be displayed a maximum of 30 days. "Banners" and "Special event banners" are defined as any sign of durable fabric or similar material mounted to or hung from a building, adequately secured on all four extreme corners and used in conjunction with a special event. National flags, state or municipal flags or the official flag of any institution or business are not considered banners.

Chapter 125, Section 125-6. prohibits a variety of sign types. With some qualifications, the signs prohibited by Section 125-6 include flags, pennants/streamers and spinners, as well as beacon lights, portable signs, signs incorporating flashing, moving or animation, signs which emit sound, odor or visible matter, and signs incorporating strobe lights. Section 125-6.(3) states that flags, pennants/streamers and spinners are only permitted for the purpose of attracting attention or conveying messages to the public when associated with new business openings. The flags, pennants/streamers and spinners may be displayed for a maximum of 30 days. A flag is defined as a fabric or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, political subdivision or other entity. The definition of a pennant/streamer is any lightweight plastic, fabric or other material, whether or not containing a message of any

Sign Regulations

May 2, 2011

Page 2

kind, suspended from a rope, wire or string, usually in series, designed to move in the wind. Spinners are defined as any device designed to attract attention to the premises upon which it is displayed through mechanical movement or through movement caused by the wind.

The City Council may consider various options relative to the regulation of temporary signs, including:

- Option 1: Make no changes.
- Option 2: Remove regulations relative to banners, flags, pennants/streamers and spinners.
- Option 3: Increase the number of days from 30 to 60 or 90 that banners, flags, pennants/streamers and spinners are permitted to be displayed.
- Option 4: Allow one permanent banner, 24 square feet in size, on each lot or parcel zoned for non-residential or multi-family residential purposes;

Allow a maximum of 3 permanent flags/pennants/streamers on each lot or parcel zoned for non-residential or multi-family residential purposes. Additionally, allow each lot or parcel zoned for non-residential or multi-family purposes with 300 or more feet of roadway frontage 1 permanent flag/pennant/streamer for every 100 feet of such frontage;

Except as provided above, allow banners, flags, pennants/streamers and spinners on a lot or parcel zoned for non-residential or multi-family purposes a maximum of six times per year for an aggregate time of no more than 60 days per year. Additionally, allow a 30, 60 or 90 day period for the display of banners, flags, pennants/streamers and spinners advertising the opening of a new business. Require temporary sign permits for such temporary signs.

This option is similar to Hernando County sign regulations, with the exception that Hernando County also allows temporary portable signs and inflatable signs/balloons.

BUDGET/IMPACT:

No additional staff will be required to administer the provisions of a revised Ordinance. Any additional financial impacts will be the result of enforcement of the regulations.

LEGAL REVIEW:

The City is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes. Pursuant to Section 1.03 of the Charter, the City has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services. Florida Statutes § 163.3202(1) requires that each county and

each municipality must adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan. Florida Statutes § 163.3202(2) mandates that Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan.

STAFF RECOMMENDATION:

It is recommended that City Council evaluate the above-described options and any other options deemed acceptable and, if changes are necessary, direct staff to provide City Council an ordinance reflecting the chosen modifications.

ATTACHMENT: Code of Ordinances Chapter 125, Signs

Chapter 125 SIGNS*

***State law references:** Authority to enact sign regulations consistent with state and federal law, F.S. § 166.0425; mandatory that land development regulations regulate signage, F.S. § 163.3203(1)(f); sign regulations to be consistent with state and federal law, F.S. § 166.0425.

Sec. 125-1. Definitions.

Sec. 125-2. Purpose and intent.

Sec. 125-3. Permit required.

Sec. 125-4. Fees.

Sec. 125-5. Exemptions.

Sec. 125-6. Prohibited signs.

Sec. 125-7. Nonconforming signs.

Sec. 125-8. General provisions.

Sec. 125-9. Violations and penalties.

Sec. 125-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means a permitted sign which was erected on property in conjunction with a particular use which use has been discontinued.

Administrative official means that person designated by the city manager to administer and enforce the provisions of this chapter.

Attached sign means any sign affixed directly to or painted on or otherwise inscribed on an exterior wall of any building.

Back-to-back sign means a sign constructed on a single set of supports with messages visible on any side; provided, that double message boards are physically contiguous.

Banner, on-site, means any sign of durable fabric or similar material mounted to or hung from a building, adequately secured on all four extreme corners and used in conjunction with a special event. National flags, state or municipal flags or the official flag of any institution or business shall not be considered a banner. An on-site banner shall be considered an attached sign.

Banner, special event, means any sign of durable fabric or similar material, secured on all four extreme corners and used in conjunction with a specific event. National flags, state or municipal flags or the official flag of any institution or business shall not be considered a special event banner.

Beaconlight means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Billboard means any outdoor advertising sign erected and maintained by an advertising business or service whose surface is sold, rented or leased for the display of advertising material. A billboard shall be considered a freestanding or detached sign.

Canopy sign means a sign which is a part of a canopy. A canopy sign shall be considered an attached sign.

Central business district means that district as delineated on the future land use map of the city's comprehensive plan as presently adopted or as hereinafter amended.

Dilapidated sign means any sign which is structurally unsound, has defective parts or is in need of painting or maintenance.

Directional sign means a sign which directs vehicular or pedestrian traffic and parking on private property.

Electrical sign means a self-illuminated sign or sign structure in which electric wiring, connections or fixtures are used as part of the sign proper.

Erect means to build, construct, attach, hang, place, suspend or affix.

Establishment means a commercial, industrial, institutional, educational, office, business or financial entity.

Existing sign means any sign that was erected, mounted or displayed prior to the adoption of this chapter.

Facade means the entire building wall, including main street wall face, and parapet, fascia, windows, doors, canopy and roof on any complete elevation.

Flag means a fabric or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, political subdivision or other entity.

Flashing sign means a sign designed to attract attention through the use of a flashing, changing, revolving or flickering light source, or a change of light intensity.

Freestanding or detached sign means a sign supported by a structure secured in the ground and which is wholly independent of any building, fence, vehicle or other object. By definition, freestanding or detached signs include all signs defined herein which are supported by a structure in the ground.

Frontage means the length of the property line of any one premises along a street on which it borders.

Height of sign means the vertical distance measured from the finished grade at the base of the sign to the top of the sign face or sign structure, whichever is greater.

Illuminated sign means a sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, backlighted and reflectorized signs which depend upon automobile headlights for an image.

Mansard sign means any sign attached to or erected against a mansard roof of a building, with the face horizontally parallel to the building wall. Since such sign is to be mounted parallel to and within the limitations of the building wall on which the same is to be mounted, the same is deemed to be a wall sign and not a roof sign.

Marquee means a structure constructed of rigid materials, including, but not limited to, metal, wood, concrete, plastic or glass, which is attached to and supported by a building and extends more than one foot from the building face.

Nonconforming sign means any sign which does not conform to the requirements of this chapter.

Painted wall sign means any sign which is applied with paint or a similar substance on the face of a wall. A painted wall sign shall be considered an attached sign.

Pennant/streamer means any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

Pole sign means a sign supported by a pole (sometimes more than one) and otherwise separated from the ground by air. A pole sign shall be considered a freestanding or detached sign.

Political sign means a sign identifying and urging voter support of or opposition to a particular issue, political party, or candidate for public office. For purposes of this section, a "political sign" does not include bumper stickers, magnetic signs, window decals and any similar items attached or affixed to a licensed motor vehicle, or balloons, stickers, novelty items or any type of item designed to be worn by a person.

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels and signs converted to A-frames or T-frames.

Premises means any area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Projecting sign means any sign other than a wall sign affixed to any building or wall whose leading edge extends beyond such building or wall.

Real estate sign means a sign indicating the availability for sale, rent or lease of the specific lot, building or portion of a building upon which the sign is erected or displayed.

Roof sign means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

Sandwich board sign means a double-faced or single-faced portable display designed for temporary use which may readily be moved from place to place. Each sign face shall not exceed a maximum of two feet wide by three feet high. The sign height shall not exceed five feet, or occupy more than 13 square feet of ground space.

Sign face means the area of a sign on which the copy is placed which may or may not be part of the support structure as may be determined by the administrative official.

Sign support structure means any construction used or designated to support a sign, provided no advertising, lettering or other information is contained thereon.

Snipe sign means any sign of any material whatsoever that is attached in any way to a utility pole, tree, fence post or any other similar object located or situated on public or private property. Snipe signs shall not include "posted property" signs, such as "no hunting," "no trespassing," etc.

Spinner means any device designed to attract attention to the premises upon which it is displayed through mechanical movement or through movement caused by the wind.

Subdivision sign means any sign designated to identify a subdivision or neighborhood.

Temporary sign means a sign or advertising display constructed of cloth, canvas, fabric, paper, plywood or other light material and intended to be displayed for a short period of time. Included in this category are retailers' signs temporarily displayed for the purpose of informing the public of a sale or special offer and banner signs.

Vehicle sign means a permanent or temporary sign affixed to or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, the primary purpose of which is to attract the attention of the traveling public; provided, that this definition does not include any signs which are required by any unit of government and does not include a single sign placed on a single vehicle or trailer at a residence of an individual which sign identifies the vehicle or trailer as being for sale.

Wall sign means a sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall and not extending more than one foot. A wall sign shall be considered an attached sign.

Window sign means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior. A window sign shall be considered an attached sign.

(Code 1988, § 12.5-2; Ord. No. 501-E, § 1(12.5-2), 8-16-2004)

Sec. 125-2. Purpose and intent.

(a) This chapter shall be construed and implemented to create a comprehensive and balanced system of sign control which accommodates both the need for a well-maintained, safe and attractive community, and the need for effective business identification, advertising and communication in a manner that implements the goals, objectives, policies and standards in the city's comprehensive plan, particularly as set forth in the future land use and conservation elements. It is the intent of this chapter, and it shall be interpreted, to promote the health, safety, convenience, aesthetics and general welfare of the community by controlling signs which are intended to communicate to the public, and to authorize the use of signs which are:

- (1) Compatible with their surroundings thereby enhancing the attractiveness and economic well-being of the city as a place to live and conduct business;
- (2) Designed, constructed, installed and maintained in a manner which does not endanger public safety or unduly distract motorists;
- (3) Appropriate to the type of activity to which they pertain;
- (4) Large enough to convey sufficient information about the owner or occupants of a particular property, the products or services available on the property, or the activities conducted on the property, and small enough to satisfy the aesthetic and safety needs of the community; and
- (5) Reflective of the identity and creativity of individual occupants.

(b) The standards and regulations are designed to protect the city against:

- (1) The unlimited proliferation in number and location of offsite and on-site signs, including mobile signs;
- (2) Construction and placement of oversized, unsightly, animated, flashing and other aesthetically unpleasant signs which dominate and detract from the surrounding visual environment;
- (3) Commercial and other signs being placed in residential and rural neighborhoods which unpleasantly commercialize and clutter such neighborhoods for residents and travelers;
- (4) Signs being constructed and placed without first obtaining proper permits as well as permission of the owner of the property on which the signs were placed;
- (5) Signs failing to be properly maintained once erected and placed; and
- (6) Signs which are placed dangerously in or near street or driveway intersections and rights-of-way so as to pose actual or potential hazards to traffic.

(Code 1988, § 12.5-1)

Sec. 125-3. Permit required.

Any person intending to erect, relocate or alter any sign within the city shall, except as provided hereafter, first apply for and obtain a sign permit from the office of the department of development. The administrative official or his designee is authorized to promulgate rules and procedures to accommodate for the permit application process.

(Code 1988, § 12.5-3)

Sec. 125-4. Fees.

Each application for signage shall be accompanied by permit fees as shall from time to time be established by resolution by the city council and are on file with the city clerk.

(Code 1988, § 12.5-4)

Sec. 125-5. Exemptions.

The following signs shall be allowed in any zoning district without the necessity of obtaining a sign permit, providing such sign is not in conflict with any other provision of this chapter. Noncompliance with the terms set forth below shall cause such sign to forfeit its exempt status and require the owner to obtain a permit as set forth in section 125-3. Owners or lessees of such signs shall ensure that exempt signs conform to all other applicable regulations and they shall be responsible for the safe and proper erection and maintenance of such signs. Failure to comply with the provisions of this section shall subject the violator to the penalties as outlined in section 125-9. Each violation shall constitute a separate offense.

- (1) One non-illuminated sign not to exceed two square feet identifying a residence.
- (2) One sign customary and necessary in the offering of real estate for sale or to let by the owner or the owner's licensed broker or agent not to exceed six square feet in residential zones or 24 square feet in nonresidential zones. Upon sale of the property, the sign must be removed within 14 days.
- (3) Signs, memorials or plaques erected by or on behalf of the United States of America, the state or local governments pursuant to and in discharge of any governmental function or required or permitted by any law, ordinance or governmental regulation.
- (4) On-site banners, when used in conjunction with a specific special event, provided the banner area when combined with the area of existing attached signs does not exceed ten percent of the total area of the exterior wall to which it is affixed. Banners are to be maintained in good condition at all times.
- (5) Special event banners, when used by governmental, charitable or nonprofit organizations in conjunction with a specific special event of city-wide significance. Special event banners permitted under this section shall in no instance remain in place for more than 30 days.
- (6) Sandwich board signs. Such signs must be placed in a location so as not to impede pedestrian or vehicular visibility and general public safety, and may only be placed outdoors in front of the advertised business during business hours. One sandwich board

sign will be allowed per building on single lot developments, or one sandwich board sign per unit in buildings designed as multiunit, independent, separate entry storefronts.

(7) Political signs are permitted to be erected no more than 90 days prior to the applicable election day and shall be removed within ten days after said election day. The candidate for office or a designee shall have the responsibility for removal of signs advertising the candidacy. Signs that are not removed within the time period referenced herein shall be subject to removal by the city and may be disposed of pursuant to administrative policies set up by the city manager. The size of such signs shall not exceed six square feet in a residential district and 24 square feet in a nonresidential district. No signs may be posted within public rights-of-way or on utility poles, trees, traffic or regulating signs of any nature.

(8) Construction or contractor signs. One per location identifying the project, the building and subcontractors, not to exceed 12 square feet in residential areas and 24 feet in nonresidential areas and must be removed upon completion of the job.

(9) Holiday signs are allowed 30 days prior to and 15 days after the specific holiday. Holidays are defined and include all federal, state or local legal holidays.

(10) Signs necessary for the identification, operation or protection of public service structures or signs incident to a legal process or necessary to the public safety or welfare.

(11) Directing or instructing signs for vehicular or pedestrian traffic and parking on private property, providing such signs bear no advertising matter and do not exceed six square feet in area.

(12) Graphic presentations and murals approved by the city council which feature cultural, civil or historical events containing no commercial advertising material.

(Code 1988, § 12.5-5; Ord. No. 501-D, 3-5-2001; Ord. No. 501-E, § 1(12.5-5), 8-16-2004)

Sec. 125-6. Prohibited signs.

The following signs shall not be permitted in any zoning district within the city:

- (1) Abandoned or dilapidated signs.
- (2) Beaconlights.
- (3) Flags, pennants/streamers and spinners when used solely for the purpose of attracting attention or conveying messages to the public except when associated with new business openings, not to exceed 30 days.
- (4) Portable signs.
- (5) Signs which incorporate any flashing, moving or changing illumination or animation or which emit sound, odor or visible matter and signs which incorporate strobe lights in any

manner. Time or temperature displays incorporated in signs which otherwise comply with all provisions of this section, may be approved by the city council.

(6) Signs using the words "stop," "danger" or any other word, phrase, symbol or character in a manner that misleads, confuses or distracts a vehicle driver.

(7) Signs which pose a safety hazard to the general public.

(8) Signs which exhibit statements, words or pictures of obscene or pornographic subjects.

(9) Snipe signs.

(10) Tethered balloons, flying paraphernalia and inflatable signs.

(11) Vehicle signs. No person shall park any vehicle or trailer on a public right-of-way, or on public property or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of product, or directing people to a business or activity, located on the same or nearby property.

(Code 1988, § 12.5-6)

Sec. 125-7. Nonconforming signs.

(a) The following signs shall be removed or made to conform to this chapter within 30 days from the effective date of this chapter:

(1) All prohibited signs as defined by this chapter.

(2) All temporary signs other than those permitted by this chapter.

(3) Any nonconforming signs that are located within a public right-of-way.

(b) Subject to the limitation imposed by this regulation, all other nonconforming signs shall be maintained in good condition. However, nonconforming signs shall not be:

(1) Structurally altered to prolong the life of the sign, except to meet safety requirements.

(2) Altered in any manner that increases the degree of nonconformity.

(3) Expanded.

(4) Continued in use after cessation or change of the business or activity to which the sign pertains.

(5) Reestablished after damage or destruction exceeding 50 percent of the sign.

(6) Continued in use when a conforming sign or sign structure shall be permitted and erected on the same premises or unit.

(7) Continued in use if the property is sold or leased to another party, or when any land use to which the sign pertains has ceased for a period of 90 consecutive days.

(c) Property owners with signs that are required to be removed as a result of any governmental activity may be permitted to move the existing sign to a new location on the same property. The sign's relocation may be permitted provided that the sign structure and new location will not exceed the scope of the structure's existing nonconformity and will not pose a safety hazard at the new location.

(Code 1988, § 12.5-7)

Sec. 125-8. General provisions.

All signs shall be subject to the following regulations except where otherwise provided for in this chapter:

(1) *Freestanding or detached signs.* Only one freestanding or detached sign shall be permitted on the premises. All freestanding or detached signs and all parts thereof shall be located at least 25 feet from all street right-of-way lines and at least 20 feet from all property lines or area of traffic circulation. The maximum height of such signs shall not exceed 16 feet and when such signs are located within a parking lot or area of traffic circulation, shall provide for a clearance space of at least eight feet so as not to obstruct the vision of approaching vehicles. No freestanding or detached sign shall exceed 32 square feet in size. Signs excepted from the above provisions may be permitted if one or more of the following circumstances are presented:

a. The parcel fronts 500 feet minimum on each of more than one street in which case one freestanding sign not to exceed 96 square feet or two freestanding signs not to exceed 48 square feet each may be permitted provided the signs maintain a separation of 250 feet.

b. The parcel contains two or more units, each of which contain a business establishment or use with a separate identity from other uses on the premises in which case one freestanding sign not to exceed 72 square feet for under four units or 96 square feet for four or more units may be permitted.

c. Freestanding signs located in the central business district may be permitted to utilize five-foot setbacks from property lines provided such placement does not constitute a visual obstruction for pedestrian or vehicular traffic.

(2) *Attached signs.* No attached sign shall extend or project more than six feet above or beyond the building walls. A clear space of not less than eight feet shall be provided below all parts of such signs. In no case, however, shall an attached sign be permitted to extend or project beyond a line drawn perpendicularly upward from two feet inside the curblines facing a street or alley. No attached sign shall exceed ten percent of the total area of the exterior wall, including any glass area, to which it is being attached.

(3) *Lighting.* No sign shall be permitted which involves lighting or motion resembling traffic or directional signals, warnings or other similar devices which are normally associated with highway safety or regulations or which constitutes a safety hazard or hindrance because of light, glare, focus, animation, rotation, flashing or intensity of illumination. Lighted signs shall be designated and located so as to prevent direct glare or hazardous interference of any kind to adjoining streets or properties.

(4) *Maintenance.* Every sign shall be structurally sound, securely attached to its supporting structure, adequately maintained including proper alignment of structures, continued readability of the sign face and preservation of the structure with paint or other preservatives. If any sign is not maintained in conformance with this chapter, the administrative official shall give written notice of such nonconformance to the owner of such sign in accordance with the provisions of section 125-9.

(5) *Building code compliance.* All signs shall comply with the provisions of the Standard Building Code.

(6) *Zoning districts.* Unless otherwise provided for in this chapter, no signage shall be permitted in single-family residential districts.

(Code 1988, § 12.5-8)

Sec. 125-9. Violations and penalties.

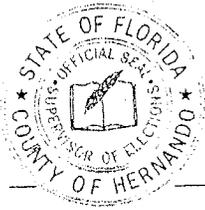
Those persons, including the property owner, lessor, lessee or occupant, who may violate any portion of this chapter shall first be notified by certified mail citing time, place, date and nature of the violation and date certain when violation is to be brought into compliance. Violations existing beyond the above referenced date certain shall be deemed a civil infraction and shall be punished by a fine not to exceed \$50.00. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense. The city shall have the right to remove any sign that remains in noncompliance beyond 30 days after notification. Violations which involve signs found to be structurally unsound, insecurely attached or otherwise posing hazards to the immediate safety and general welfare of the public are subject to the structure's removal by the city. The violator, upon receiving actual notice of the safety violations from the administrative official, shall be responsible for correcting the violation immediately, or the city is authorized to compel the structure to be removed. Signs impounded for a period of 30 days, if unclaimed, shall be disposed of as abandoned property in accordance with public law. The city will bill the owner for the cost of such removal, storage and disposal. If unpaid after 90 days, the sign will be considered abandoned and a lien will be filed on the property for the city's cost of removal, storage, disposal and legal processing.

(Code 1988, § 12.5-9)

CORRESPONDENCE-TO-NOTE
REGULAR COUNCIL MEETING – May 2, 2011

1. **TYPE:** Letter
 DATE RECEIVED: April 13, 2011
 RECEIVED FROM: Hernando County Supervisor of Elections
 ADDRESSED TO: Mike Walker, Director of Parks, Facilities & Recreation
 SUBJECT: Search for New Polling Place

2. **TYPE:** E-Mail
 DATE RECEIVED: April 13, 2011
 RECEIVED FROM: Mike Nickerson
 ADDRESSED TO: Tim Mossgrove, Fire Chief
 SUBJECT: Brooksville EMS Transport Report



Annie D. Williams

HERNANDO COUNTY SUPERVISOR OF ELECTIONS
- STATE CERTIFIED -

Mike Walker, CPRP
Director, Parks/Facilities and Recreation
99 Jerome Brown Place
Brooksville, FL 34601

April 13, 2011

Dear Mr. Walker:

We are currently looking for a new polling place for the voters in Precinct 4.

We would like to request to use the Jerome Brown Community Center as a polling place. The center is located within the boundaries of Precinct 4, is easy to find, provides ample parking and meets our polling place guidelines.

At your convenience, we would like to further discuss with you using the center as a polling place.

We look forward to working with you.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth R. Townsend". The signature is fluid and cursive, with a large loop at the end.

Elizabeth R. Townsend
Director of Operations
(352) 540-6313
etownsend@hernandocounty.us

CTN
05-02-2011
J Walker

T. Jennene Norman-Vacha

From: Mike Nickerson
Sent: Wednesday, April 13, 2011 8:10 PM
To: Tim Mossgrove; T. Jennene Norman-Vacha
Cc: Frank Defrancesco; Jill Allen
Subject: Brooksville EMS Transport Report
Attachments: DOC041311.pdf

Jennene and Tim,

Sorry this report is being submitted late (slipped off our radar), it won't happen again!

Mike

CTN
05-02-2011
JWV
cc: chief T.
Mossgrove

