

**ORDINANCE NO.: 2004- 05**

**AN ORDINANCE AMENDING SECTIONS 7-17, 8-246, 8-247, 8-249, 8-253, 8-255 AND 21-1 OF THE HERNANDO COUNTY CODE OF ORDINANCES; PROVIDING FOR REMOVAL OF THE MANDATORY ROLE OF THE HERNANDO COUNTY PORT AUTHORITY WITH RESPECT TO RESPONSIBILITIES FOR POSTING CERTAIN DESIGNATED AREAS AND WITH RESPECT TO THE MARINE CONSTRUCTION CODE; PROVIDING FOR PORT AUTHORITY EVALUATION AND RECOMMENDATIONS TO THE BUILDING DIVISION WITH RESPECT TO THE MARINE CONSTRUCTION CODE; PROVIDING FOR SEAWALL PERMIT CONSISTENCY WITH EXISTING CONDITIONS, SUBJECT TO HARDSHIP EXCEPTIONS; PROVIDING FOR APPLICANT DETERMINATION OF MEAN LOW OR HIGH WATER LINE IN CERTAIN CIRCUMSTANCES WHEN REQUIRED FOR CODE PURPOSES; PROVIDING FOR EMERGENCY ACTION AND RECOVERY OF COSTS UPON DUE PROCESS NOTICE IN THE CASE OF CERTAIN HAZARDOUS VESSELS; PROVIDING FOR SEVERABILITY AND INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION 1. Amending Hernando County Code of Ordinances, "Sec. 7-17. Restricted speed zones; authority to designate." to read as follows, with underlined text added and struck-through text deleted:**

**Sec. 7-17. Restricted speed zones; authority to designate.**

The board of county commissioners is hereby authorized to designate areas within navigable waters of the county as restricted zones, either as a "Slow Down - Minimum Wake" zone or as an "Idle Speed - No Wake" zone. Such designation shall not take effect until there has been one publication in a local newspaper of general circulation in the county, in which the area designated as the restricted zone is defined and the type of zone indicated. No area shall be designated as either type of restricted zone unless a public hearing is first held by the board of county commissioners, after due notice is published at which all interested persons shall be heard. Violations of this provision and of the restrictions in the restricted zone shall constitute a violation of this article. Any area designated as a "Slow Down - Minimum Wake" zone or as an "Idle Speed - No Wake" zone shall be posted by the county with signs clearly marking the areas designated. The county port authority shall be responsible for posting and maintaining all such signs shall be advised of any such proposed designation, and the board of county commissioners may

2004 MAY 11 PM 2:17  
FILED

consider any comments or recommendations of the authority pertaining thereto.

**SECTION 2. Amending Hernando County Code of Ordinances, "Sec. 8-246. Administration." to read as follows, with underlined text added and struck-through text deleted:**

**Sec. 8-246. Administration.**

Refer to the Standard Building Code, 1991 edition, Chapter 1--Administration, as modified by county Ordinance No. 92-25, in addition to the following:

(1) Every application for a permit in and upon Hernando County waterways must be submitted to the county building division; ~~and to the Hernando County Port authority via the building division;~~ with plans and specifications thereof, together with a sketch of the property and the adjoining waterbody, which sketch must show the width of the existing waterbody at the point of the property from which the dock, pier or seawall is to be built; the proposed length of the dock or pier into the waterbody; and such other items as may, from time to time, be required by the building division; ~~port authority~~ or other appropriate agency.

(2) The intent of these specifications is to set minimum standards for typical marine construction ~~and any deviation must be approved by the port authority.~~

(3) Good engineering practice shall be used at all times.

(4) Any person, firm or corporation who violates any of the provisions set forth in this code shall be deemed guilty of a misdemeanor which shall be punishable within the limits and as provided by state laws.

(5) Upon receipt of an application for any marine construction along the county's rivers the building division may forward the application to the port authority for their evaluation and recommendations prior to permitting. ~~Any marine construction along the county's rivers requires port authority involvement prior to permitting to evaluate the river's current depth and contour of the bottom on a case-by-case basis.~~ Construction standards shall be consistent with the Riverine Protection Ordinance. ~~Should the port authority determine that the length of a dock presents a navigational hazard, marine construction standards shall apply.~~

(6) The building division may at any time request evaluation and recommendations from the port authority with respect to marine construction. The building division may incorporate any such recommendation in any final decision regarding marine construction. All recommendations must be consistent with the provision of the marine construction code.

**SECTION 3. Amending Hernando County Code of Ordinances, "Sec. 8-247. Descriptions." to read as follows, with underlined text added and struck-through text deleted:**

### **Sec. 8-247. Descriptions.**

The following descriptions shall be applicable in this article:

- (1) Waterbody measurements shall be made from mean low water line.
- (2) For a waterbody one hundred fifty (150) feet or over, with seawalls at low mean water line, docks shall not exceed twenty-two (22) feet into waterbody.
- (3) For a waterbody one hundred twenty (120) feet to one hundred forty-nine (149) feet, with seawalls at mean low water line, docks shall not exceed twenty (20) feet into waterbody.
- (4) For a waterbody one hundred (100) feet to one hundred nineteen (119) feet, with seawalls at mean low water line, docks shall not exceed eighteen (18) feet into waterbody.
- (5) For a waterbody seventy-five (75) feet to ninety-nine (99) feet, with seawalls at mean low water line, docks shall not exceed twelve (12) feet into waterbody.
- (6) For a waterbody fifty (50) feet to seventy-four (74) feet, with seawalls at mean low water line, docks shall not exceed six (6) feet into the waterbody.
- (7) For a waterbody forty-nine (49) feet or less, with seawall at low mean water line, docks shall not exceed four (4) feet into waterbody and docks shall be alternated from one side of waterbody to the dock on opposite side.
- (8) Side yard setbacks on a manmade waterbody are not required unless this construction encroaches on the riparian rights of other property owners. In this case, side yard setbacks shall be no less than ten (10) percent of the lot width when measured at the waterfront lot line, with the setback not to exceed ten (10) feet.
- (9) Side yard setbacks on natural waterbodies for structures and activities shall be a minimum of twenty-five (25) feet from the applicant's riparian rights line. Marginal docks may be set back ten (10) feet. There shall be no exceptions to the setbacks unless the applicant's shoreline frontage is less than sixty-five (65) feet, or a sworn affidavit of no objection is obtained from the affected adjacent upland riparian owner, or the proposed structure is a subaqueous utility line.
- (10) In waterbodies where property lines exceed mean low water line, the mean low water line will govern seawalls and docks. Where mean low water lines exceed property lines, the property lines shall govern seawalls and docks. Notwithstanding the foregoing, any permit to construct a seawall may require that the seawall be constructed in such a manner as to be consistent with the location of any adjacent or nearby seawall or seawalls on the same side of the affected waterbody, unless the applicant demonstrates the existence of hardship, including but not limited to water depths in the relevant portion of the waterbody, the location of property lines, or clearly excessive construction costs; provided, however, that consistency may be required where hardship approval would result in a

hazard to navigation or would be likely to cause water quality degradation.

(11) No docks shall significantly hinder navigation upon the waterways.

(12) Single pilings (mooring) shall not extend beyond the side property line or beyond the maximum distance into a waterbody allowed for a dock.

(13) Conditions for ~~special exceptions~~ variances may occur from time to time including, but not limited to, navigational hazards. ~~In the event this happens, the port authority will have final determination on manmade waterbodies and the board of county commissioners on natural waterbodies;~~ Any final determination on such a variance shall be made by the board of county commissioners subject to the Riverine Protection Ordinance, with such evaluation or recommendations from the port authority as the board may deem appropriate.

(14) Stakes at mean low water line ~~shall~~ may be installed to assist ~~the zoning division and the port authority~~ permitting authorities in verifying setbacks. If a precise determination of either the mean low or mean high water line becomes necessary in measuring or verifying setbacks for purposes of this article or any other provision of the code, it shall be the responsibility of the applicant to provide a current survey meeting all statutory and rule standards for such determination.

(15) A marginal dock is a dock without an accessway, a terminal platform, with the longest side parallel to the shoreline that does not exceed one hundred thirty (130) square feet.

**SECTION 4. Amending Hernando County Code of Ordinances, "Sec. 8-249. Commercial structures. " to read as follows, with underlined text added and struck-through text deleted:**

**Sec. 8-249. Commercial structures.**

(a) Boat docks, piers, or other similar structures built on property zoned commercial which exceed the above guidelines ~~must receive approval of~~ may be referred by permitting authorities to the county port authority for recommendations or advice.

(b) All wooden members and pilings shall be pressure treated with a minimum treatment of 2.5.

(c) Wood pilings shall be smooth-surfaced, straight and free of splits. The minimum average diameter of each pile shall be not less than eight (8) inches.

(d) All floating docks must have a minimum of twenty-five (25) pounds per square foot flotation.

(e) All styrofoam billets must be coated with environmentally safe coating.

(f) All floating docks with single ramps must be safely secured to the seawall on each inside corner of the dock with no less than two-inch galvanized pipe.

(g) All ramps shall be a minimum width of forty-eight (48) inches with minimum forty-two-inch handrails attached.

**SECTION 5. Amending Hernando County Code of Ordinances, “Sec. 8-253. Docks.” to read as follows, with underlined text added and struck-through text deleted:**

**Sec. 8-253. Docks.**

Pursuant to this section of the marine construction code, all docks built in the county shall be maintained in a good and safe condition by the owners of these docks. Pursuant to notification by certified mail from the county port authority that a dock is unsafe, an owner will be given thirty (30) days to return the dock to good and safe condition. At the expiration of thirty (30) days, the county ~~will take proper action~~ may pursue such action against the property owner as may be authorized by law or other provisions of the code of ordinances for ordinance violations, provided that nothing herein shall preclude enforcement of any other provisions of law or ordinance against any unsafe dock or the owner thereof.

**SECTION 6. Amending Hernando County Code of Ordinances, “Sec. 8-255. Hazardous and abandoned vessels or watercraft.” to read as follows, with underlined text added and struck-through text deleted:**

**Sec. 8-255. Hazardous ~~and abandoned~~ vessels or watercraft.**

~~(a) It shall be unlawful to own, operate, berth, moor, lease, control or abandon any vessel or watercraft in such a manner, place or condition as to menace or interfere with navigation or to threaten docks or other property or persons:~~

~~(b) In any case where the condition or operation or location of a vessel or watercraft, as stated above, creates an emergency situation menacing or interfering with navigation or threatening docks or other vessels or watercraft, property or persons, the county port authority shall order the owner, operator, or person in custody or control of such vessel or watercraft to take whatever actions are appropriate to eliminate the hazard, threat, interference or menace. The county port authority shall give written notice to the owner, operator, or custodian to remove it within thirty (30) days of receipt of notice. If the owner, operator, or person in custody or control of the vessel or watercraft is unable to comply with the order, county waterways staff, law enforcement officials, and the county port authority shall have the right to enter upon the vessel or watercraft and take whatever steps or actions are necessary to eliminate or minimize the hazard, threat, interference, or menace. All costs incurred by the county port authority, including towing, storage or repair of the vessel or watercraft, shall be charged against the owner, operator or custodian of the vessel or watercraft. Actual costs incurred therein by the county, law enforcement, and the port authority may be recovered from the owner, operator or custodian of the vessel or watercraft and shall constitute a lien on the vessel or watercraft if such costs remain unpaid~~

thirty (30) days after written notice thereof to the owner, operator or custodian unless such person or entity files a written notice of objection to payment of such costs within such thirty (30) day period. In the event of a timely written notice of objection, the board of county commissioners shall hold a hearing to consider the evidence and to determine the objector's responsibility for payment of such costs

**SECTION 7. Amending Hernando County Code of Ordinances, "Sec. 21-1. Fishing in manmade canals/waterways." to read as follows, with underlined text added and struck-through text deleted:**

**Sec. 21-1. Fishing in manmade canals/waterways.**

(a) Prohibited generally. Pursuant to the authority of section 370.102, Florida Statutes, fishing, as described in paragraph (b) below, within the manmade canals/waterways in Hernando County that have been dedicated to the county as rights-of-way is prohibited in order to protect the safety and welfare of the citizens of the county.

(b) Setting of nets prohibited; exception. It shall be unlawful for any person, firm or corporation to set, fish or cause to be fished in the manmade saltwater canals in Hernando County, Florida, any seine, gill net or any other kind of net for the purpose of taking or catching any saltwater fish. Common dip nets or cast nets used only for the catching of bait are permitted.

(c) Crab traps. It shall be unlawful for any person, firm, entity or corporation to set unattended crab traps or any unattended device designed for the purpose of taking or catching any variety of crabs within the man-made saltwater canals in Hernando County, Florida. Crab traps designed for the purpose of taking or catching any variety of crabs within the man-made canals in Hernando County shall be deemed as attended if secured to a seawall, dock or bank and do not pose a threat to navigation.

(d) Posting and maintenance of signs. The ~~Hernando County Port Authority~~ shall post and maintain signs at the entrance to such waterways indicating the above prohibition.

**SECTION 8. Severability.**

It is declared to be the intent of the board of county commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

**SECTION 9. Inclusion in the Code.**

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish

such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate designation.

**SECTION 10. Effective date.**

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

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY** in Regular Session this 4th day of May, 2004.

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

Attest: *Karen Nicolai, Deputy Clerk*  
KAREN NICOLAI  
Clerk

By: *Hannah M. Robinson*  
HANNAH M. ROBINSON  
Chairperson

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY *[Signature]* 5/4/04  
County Attorney's Office