

ORDINANCE NO.: 2003-20

AN ORDINANCE CREATING THE HERNANDO COUNTY VESSEL MOORING AND NUISANCE VESSEL REMOVAL CODE; PROVIDING FOR DEFINITIONS AND LEGISLATIVE INTENT; REGULATING THE MANNER IN WHICH AND LOCATIONS WHERE VESSELS MAY BE LAWFULLY MOORED; PROHIBITING ABANDONMENT OF VESSELS AND CERTAIN DISCHARGES; PROVIDING FOR SAFETY INSPECTIONS AND PENALTIES FOR VIOLATIONS OF THE ORDINANCE; PROVIDING FOR DETERMINATION OF VESSELS CONSTITUTING NUISANCES, A PROCESS OF NOTICE TO OWNERS OF NUISANCE VESSELS AND OWNERS OF LAND TO WHICH SUCH VESSELS ARE MOORED; PROVIDING FOR APPEALS OF NUISANCE DETERMINATIONS TO THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR REMOVAL OF NUISANCE VESSELS BY THE COUNTY UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR PREPARATION, RECORDING, FILING AND ENFORCEMENT OF LIENS FOR COSTS OF REMEDY OR REMOVAL WHERE NECESSARY; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND ADDITIONAL INTENT; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. Short title; definitions; scope.

(A) This ordinance as codified shall be known as the "Hernando County Vessel Mooring and Nuisance Vessel Removal Code" and shall apply to the waters of the County or State within Hernando County, Florida, whether within or without the limits of municipalities, except to the extent of conflict with municipal ordinances.

(B) The word "vessels" as used herein includes all craft, boats, ships, barges, and floating structures. The standards for the mooring of vessels provided herein shall not pertain to emergencies, or during periods of hurricane watch and hurricane warning as designated by the United States Weather Bureau and a three-day period after the said hurricane watch or warning.

(C) Any reference herein to the County Administrator means the Hernando County Administrator or his designee.

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(D) References herein to the liabilities of an owner of land shall mean and include the owner of any land to which a dock is attached by any permanent or temporary means if the liability relates to the dock or to a vessel moored thereto.

SECTION 2. Declaration of legislative intent.

The Board of County Commissioners finds and determines that the insecure and improper mooring of vessels in waters of the County or State within Hernando County increases the danger of grounding and breaking loose of the said vessels and thereby endangers navigation, life and property; that insecurely and improperly moored vessels have broken loose in the past and damaged bridges, structures, and other valuable property; that scrap and derelict vessels occupy areas which could be developed as berths for economically active and attractive vessels; that scrap and derelict vessels moored or sunk in waters of the County or State within Hernando County are unsightly, a danger to navigation, and a detriment to tourism and to property values; that the infestation of rats and the breeding of mosquitoes on derelict vessels moored upon waters of the County or State within Hernando County constitute dangers to public health, and that derelict or sunken vessels often constitute attractive nuisances that endanger the lives and safety of children. The Board hereby declares its intention that the provisions of this article are not intended and should not be construed as in any way superseding or attempting to conflict with applicable statutes, ordinances, rules or regulations of the federal government or of the State of Florida but are intended to supplement any such enactments or provisions.

SECTION 3. Mooring to bank except where bulkhead prohibited.

No vessel shall be moored to the bank or shore unless the major portion of the moored vessel lies adjacent to a bulkhead, seawall, dock or pier, or the natural condition of the bank is solid and comparable to concrete bulkheading, and the depth of the water at mean low water along the entire length of the vessel is equal to the draft of the vessel.

SECTION 4. Mooring to bitts, cleats, bollards or pilings required.

All moored vessels shall be secured by attachment to bitts, cleats, bollards, or to pilings or secured hardware of sufficient strength to clinch them to the adjacent bulkhead, seawall, dock or pier. No vessels shall be moored to trees, shrubs, houses or other structures on shore, or to bridges, bridge approaches, bridge fenders, or piles driven or placed for the protection of bridges or their approaches.

SECTION 5. Nesting or rafting of vessels prohibited in certain circumstances.

The installation of pilings or the nesting or rafting of vessels in such manner as encroaches on the navigable channel of waters of the County or waters of the State within Hernando County or creates a hazard to navigation shall be unlawful.

SECTION 6. Adequate mooring lines required.

Vessels of fifty (50) or more feet in length shall be moored by at least four (4) strong lines with each line having no less strength than 6,500 pounds breaking strength. One (1) of such four (4) lines shall be a bow line, one (1) shall be a stern line, and two (2) shall be an amidship lines. Vessels of between twenty-five (25) and fifty (50) feet in length shall be moored by at least three (3) strong lines with each line having no less strength than 6,500 pounds breaking strength. One (1) of such lines shall be a bow line, one (1) shall be a stern line, and one (1) shall be an amidship line. Vessels of less than twenty-five (25) feet in length shall be moored by at least two (2) strong lines, one (1) fore and one (1) aft, with each line having no less strength than 3,300 pounds breaking strength.

SECTION 7. Abandonment of vessels.

It shall be unlawful to abandon or sink a vessel or to permit a vessel to remain sunk for more than seven (7) days.

SECTION 8. Unlawful discharges.

Discharges from vessels which constitute a violation of any state or federal law, rule or regulation shall also constitute a nuisance under the provisions of this code and shall subject the source vessel or its owner or both to nuisance abatement procedures and prosecution as provided herein.

SECTION 9. Penalties for violation of ordinance provisions.

Any person having control of a vessel in violation of the terms of this ordinance, or owning or controlling the land to which such a vessel is moored, who causes or permits such a vessel to violate any provision of this ordinance or who permits a vessel offending against the terms of this ordinance to be moored to his land, shall be guilty of a violation of this ordinance and upon conviction therefor shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail not to exceed thirty (30) days or by both such fine and imprisonment, in the discretion of the court of appropriate jurisdiction. Prosecutions for the violation of this ordinance may be in a court of appropriate jurisdiction or heard by any other officer or agency with jurisdiction over violations of the Hernando County Code in general. It shall be the duty of all municipal police officers within the boundaries of Hernando County as well as the duty of the law enforcement officers of Hernando County to enforce the penal provisions of this ordinance. Code enforcement officers shall have concurrent jurisdiction to enforce the provisions of this ordinance in the manner provided therefor. Penalties under this ordinance shall be supplemental and cumulative to any other penalties provided by any other applicable law, ordinance, rule or regulation. Each day a violation of this ordinance continues shall constitute a separate offense for purposes of enforcement, fines and penalties as provided herein.

SECTION 10. Vessels constituting nuisances; remedies.

(A) Offending vessels declared nuisances.

Vessels in violation of this ordinance are hereby declared to endanger public health, safety and welfare and to be public nuisances.

(B) Notice.

If the County Administrator finds and determines that a vessel constituting a public nuisance is located within the boundaries of Hernando County, he shall so notify the record owner of the offending vessel or his lawful agent. In the case of a vessel moored at or adjacent to abutting land, the record owner of any such land shall also be notified. Notice shall be required only to the record owner of affected land if the record owner of the offending vessel or his lawful agent cannot be ascertained. The notice shall be in writing and shall demand that such owners cause the condition to be remedied. The notices shall be given by certified or registered mail, addressed to the owner or owners of the vessel or the owner or owners of property described, as applicable, as their names and addresses are known to the Administrator or are shown upon the records of the State of Florida, the Hernando County Property Appraiser or the public records of Hernando County, Florida, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. In the event that such notices are returned by postal authorities the Administrator shall cause a copy of the notices to be served by a law enforcement officer upon the owner of the offending vessel or his lawful agent and upon the occupant of the land, the owner, or upon any agent of the owner thereof. In the event that personal service upon the owner of the offending vessel or his lawful agent or upon the occupant of the land, the owner, or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer the notices shall be accomplished by physical posting on the said property.

The notices shall be in substantially the following form:

NOTICE OF PUBLIC NUISANCE

(VESSEL _____)

Name of Owner of Vessel or his Lawful Agent

Address of Owner of Vessel or his Lawful Agent

Our records indicate that you are the owner(s) or lawful agent of the owner of the following

vessel in Hernando County, Florida:

(describe vessel)

An inspection of this vessel and its surrounds discloses, and I have found and determined, that a public nuisance exists thereon so as to constitute a violation of the Hernando County Vessel Mooring and Nuisance Vessel Removal Code in that:

(describe here the condition which places the vessel in violation)

You are hereby notified that unless the condition above described is remedied so as to make it nonviolative of the Hernando County Vessel Mooring and Nuisance Vessel Removal Code within twenty (20) days from the date hereof, Hernando County will proceed to remedy this condition and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the vessel if not otherwise paid within thirty (30) days after receipt of billing.

Hernando COUNTY, FLORIDA

By: _____

County Administrator

NOTICE OF PUBLIC NUISANCE

(VESSEL _____)

Name of Owner of Land or his Lawful Agent

Address of Owner of Land or his Lawful Agent

Our records indicate that you are the owner(s) or lawful agent of the owner of the following land in Hernando County, Florida:

(describe property)

An inspection of this land discloses, and I have found and determined, that a public nuisance exists thereon so as to constitute a violation of the Hernando County Vessel Mooring and Nuisance Vessel Removal Code in that:

(describe here the condition which places the property in violation)

You are hereby notified that unless the condition above described is remedied so as to make it nonviolative of the Hernando County Vessel Mooring and Nuisance Vessel Removal Code

within twenty (20) days from the date hereof, Hernando County will proceed to remedy this condition and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the land if not otherwise paid within thirty (30) days after receipt of billing.

Hernando COUNTY, FLORIDA

By: _____

County Administrator

(C) Hearing.

Within twenty (20) days after the mailing of Notice of Public Nuisance to him, the owner of a vessel which is the subject of such notice may make written request to the Board of County Commissioners for a hearing before that body to show that the condition alleged in the notice does not exist or that such condition does not constitute a public nuisance. At the hearing the County and the vessel owner may introduce such evidence as is deemed necessary.

Within twenty (20) days after the mailing of Notice of Public Nuisance to him, the owner of the land which is the subject of such notice may make written request to the Board of County Commissioners for a hearing before that body to show:

- (1) That the condition alleged in the notice does not exist,
- (2) That such condition does not constitute a public nuisance, or
- (3) That the vessel moored beside or tangential to the owner's land was moored or positioned there without the said land owner's consent, and that the said land owner receives no rental or other similar benefit from the owner of the vessel or his agent.

At the hearing the County and the land owner may introduce such evidence as is deemed necessary.

(D) Condition may be remedied by County.

If within twenty (20) days after the mailing or posting of the notices no hearing has been requested and the condition described in the notice has not been remedied, the County Administrator shall cause the condition to be remedied by Hernando County at the expense of either vessel owner or the land owner or both of these property owners, jointly or severally. If a hearing has been held and has been concluded adversely to either or both of these property owners, the County Administrator may cause the condition to be remedied by Hernando County at the expense of either or both of these property owners unless the Commission directs otherwise. Actions taken by the County Administrator to remedy the said condition may include but are not limited to pumping out vessels, providing lines for vessels, installing cleats, bitts, bollards or pilings adequate to keep vessels securely moored, and removing and destroying vessels abandoned or left in a derelict condition and having only nominal or junk value. Persons designated by the Administrator to remedy the said

conditions are hereby expressly authorized to enter upon the said property described in the notices set out herein. Upon ordering a condition to be remedied by the County, the County Administrator shall cause to be recorded in the public records a notice of vessel mooring lien pending, which shall include a description of the vessel and land involved and a statement that the mooring of a vessel or its destruction in accordance with this ordinance has been ordered, the cost of which shall under this ordinance constitute a lien. The said notice of vessel mooring lien pending shall, twelve (12) months after the date thereof be null and void and constitute no record notice of a pending lien. After remedying the nuisance, the County Administrator shall certify the expenses incurred in effecting the proper vessel mooring or destruction, and shall include a copy of the notice described in the preceding sentence, whereupon such expense shall become payable within thirty (30) days, after which a special assessment lien and charge will be made upon the vessel or land or both, together with costs of recordation of all documents required to be recorded hereby and with interest at the rate of six (6) percent per annum from the date of such certification until paid; provided however, that the said lien may be satisfied at any time by the payment of the entire sum due plus accrued interest, recordation costs, and such expenses and penalties as may result from the advertisement and sale of certificates for delinquent liens as hereinafter set out. The County Administrator shall file for record a notice of lien pertaining to such lien in the office of the Clerk of the Circuit Court, and shall keep complete records relating to the amount payable thereon. The amount of liens accruing during any year ending on June first shall be billed and mailed in the fall of the same year to the owners of the vessel, the land, or both of these properties subject to such liens at the same time as tax statements for ad valorem taxes are mailed, and if the said amount shall not be paid on or before April first of the following year, the lien shall be delinquent, overdue, and in default, and the entire amount of the lien shall be collected in the same manner as delinquent taxes by advertisement and sale of certificates. Upon full payments of liens provided hereby or sale certificates resulting therefrom, the Director of Finance shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the public records. The cost of recordation of the notice of vessel mooring lien pending, the notice of lien, and the satisfaction of lien shall be secured by the lien hereby provided.

(D) Right of action to collect costs.

If the costs of remedying the condition constituting a nuisance shall not be paid when due and payable, as provided herein, the said land owner or owners and also the owner or owners of the offending vessel constituting a nuisance shall be liable to Hernando County for the said costs and Hernando County shall have a right of civil action against either the said land owners or said vessel owners or against both of them. This remedy shall be cumulative and in addition to other remedies elsewhere provided.

SECTION 11. 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 12. 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, "ordinance", or other appropriate designation.

SECTION 13. Requirements, procedures supplemental to existing Code provisions.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be deemed to be supplemental to, and not in derogation of, the provisions of the Marine Construction Code, as codified in Article V of Chapter 8 of the Code of Ordinances; and it is declared by the Board that the adoption, enactment and codification of this Ordinance is not intended to repeal any other Code provisions either expressly or impliedly.

SECTION 14. 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 18th day of November, 2003.

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

Attest: Jerome E. Nimer, Deputy By: Diane B. Rowden
KAREN NICOLAI DIANE B. ROWDEN
Clerk Vice-Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY [Signature] 11/19/03
County Attorney's Office