

ORDINANCE NO.: 2011-12

AN ORDINANCE AMENDING CHAPTER 7 (BOATS AND WATERWAYS), ARTICLE II (BOATING REGULATIONS) OF THE HERNANDO COUNTY CODE OF ORDINANCES BY AMENDING THE VARIOUS CODE SECTIONS THEREIN; PROVIDING FOR ADDITIONAL REGULATIONS, ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR A FINDING AND DECLARATION OF EMERGENCY; PROVIDING FOR SERVING A COPY TO THE FLORIDA FISH AND WILDLIFE COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE.

FILED
2011 JUL 11 PM 12:25
HERNANDO COUNTY CLERK
TALLAHASSEE, FLORIDA

WHEREAS, the County desires to update and amend certain provisions of Chapter 7, Article II of the Hernando County Code of Ordinances relating to boating regulations and to provide for additional regulations, penalties and as provided for herein.

NOW THEREFORE:

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

SECTION I. AMENDING CHAPTER 7 (BOATS AND WATERWAYS), ARTICLE II (BOATING REGULATIONS). Chapter 7 (Boats and Waterways), Article II (Boating Regulations) is amended to read as follows, with underlined matter added and struck-through matter deleted:

ARTICLE II. BOATING REGULATIONS

Sec. 7-16. Findings.

The board of county commissioners hereby makes the following findings of fact:

- (1) There exists extreme safety hazards on portions of the The Weeki Wachee River, Withlacochee River, Hernando Beach Channel, Bayport Channel, tributaries and canals connecting thereto and all other navigable waterways, lakes and water bodies of Hernando County which within the county are used by the public for public bathing, pleasure boating and fishing by children and adults any recreation including, without limitation, boating, fishing, swimming, bathing, commerce and transportation.

1 (2) The ~~hazards result from the~~ operation of watercraft vessel such as boats (regardless
2 of propulsion method), jet skis and airboats – whether ~~driven by~~ outboard or inboard
3 motor(s) or jet drive – driven at high rates of excessive speed, or driven in such a
4 fashion manner as to create a substantial wake where wake is prohibited or create
5 excess wake where wake required to be minimized, or driven in a careless fashion
6 , reckless or intentionally dangerous manner, or driven within any prohibited or
7 restricted area causes public safety concerns and is otherwise contrary to the health,
8 safety and welfare of the public at large.
9

10 (3) The health, safety and welfare of the citizens of the county and of all persons using
11 or living along or near the Weeki Wachee River, Withlacoochee River, Hernando
12 Beach Channel, Bayport Channel, canals, tributaries connecting to any of the
13 foregoing, and all other waterways, lakes and water bodies of the county is are
14 jeopardized unless the use of such watercraft and operation of vessels is are
15 regulated.
16

17 (Ord. No. 82-17, § 1, 12-21-82; Ord. No. 90-09, § 1, 6-26-90)

18
19 **Sec. 7-17. ~~Restricted speed zones; authority to designate.~~ Definitions.**
20

21 The following definitions shall apply to this article.
22

23 *Airboat* means a watercraft which has a principle propulsion system which utilizes a pusher-
24 type or tractor-type propeller, fan or blade which is not normally submerged below the water surface
25 upon which the watercraft operates; the fact an airboat can be propelled by a small auxiliary motor
26 or by some other force does not change its characterization as an airboat.
27

28 *Bayport Seagrass Protection Zones* shall refer to those submerged lands lying westward of
29 Weeki Wachee/Bayport/Pine Island Drive, as generally delineated on Appendix Map B-1 [attached
30 to Ordinance No. 2009-07], (incorporated herein by reference and made a part hereof), designated
31 to protect seagrasses from propeller scarring and to encourage seagrass regeneration. The actual
32 delineation of these zones shall be by signage at appropriate points around the perimeter of each
33 zone. Watercraft shall use caution in the Bayport Seagrass Protection Zones and shall operate in a
34 manner not to destroy or damage seagrasses.
35

36 *Dredge boat* means any boat or barge which contains, holds, carries or floats equipment or
37 machinery of any size or type for the purpose of dredging or removing rock or sand from any
38 channel, tributary, canal, waterway or water body within the boundary or under the jurisdiction or
39 control of the county and which includes, without limitation, the Hernando Beach Channel and the
40 Bayport Channel.
41

42 *Existing natural waterway* shall mean an area of navigable water that is naturally created and
43 unaltered. This definition specifically excludes any and all man made trails, without regard to the
44 length of their existence or reason for their creation.
45

1 Flood stage (as to the Withlacoochee River) means that period of time commencing when
2 the waters of the Withlacoochee River reach flood stage, as set from time to time by either the
3 federal government or the State of Florida, and ending when the Withlacoochee River crests, as
4 determined by the same governmental body.

5
6 Idle speed means that a watercraft operating within any such area must be throttled down to
7 the point where the engine is just above a stall. At idle speed, a watercraft should cast little or no
8 wake.

9
10 Jumping of roadways shall mean the propulsion of a watercraft onto or over any roadway.

11
12 No entry zone means an area where no vessel of any kind shall be permitted within the
13 designated area.

14
15 Operation means to have actual control and/or the ability to have control of the vessel,
16 whether moving or not, whether the engines are powered or running, or not.

17
18 Person means any person, firm, corporation, public agency or legal entity.

19
20 Seagrasses shall refer to all underwater and aquatic grasses, grass beds and grass bed
21 communities and shall have the same meaning as the terms "seagrasses" and "seagrass beds" are used
22 within Chapter 62 of the Florida Administrative Code.

23
24 Seagrass regeneration special protection zones shall refer to those marsh and coastal areas
25 lying westward of Hernando Beach but excluding the Bayport Seagrass Protection Zones (as
26 separately defined), as generally delineated on Appendix Map A [attached to Ordinance No. 2008-
27 22] (incorporated herein by reference and made a part hereof), designated to protect seagrasses and
28 environmentally sensitive zones. The actual delineation of these zones shall be by signage at
29 appropriate points around the perimeter of each zone.

30
31 Slow speed/minimum wake zone means that a vessel operating within any such area must be
32 fully off plane and completely settled into the water. It may not proceed at a speed greater than that
33 speed which is reasonable and prudent to avoid the creation of an excessive wake or other hazardous
34 condition under the existing circumstances.

35
36 Trail means any defined area where continuous previous usage by vessels is evident by
37 propeller-created trenches or bottom scarring.

38
39 Vessel means any type of boat or floating craft and includes all watercraft.

40
41 Watercraft means any type of boat or floating craft which is propelled or powered by an
42 engine or motor. Examples of watercraft include, without limitation, ships, yachts, motorboats,
43 tugboats, jet boats, jet skis, airboats, hovercrafts, hydrofoils, seaplanes, and sailboats containing any
44 motorized drive or propeller. Watercraft does not include any type of boat or floating craft powered
45 solely by sail, wind, or human paddle or stroking.

1
2 Withlacoochee River means all portions of the Withlacoochee River, its tributaries and their
3 overflow within Hernando County, except those portions of the Withlacoochee River between the
4 point where the Withlacoochee River first enters the Withlacoochee State Forest and Alligator Point.

5
6 (Ord. No. 2011-____)

7
8 **Sec. 7-17. 7-18. Restricted speed zones; authority to designate; signage; area around operation**
9 **of dredge boat.**

10
11 (a) Designation of restricted speed zones. The board of county commissioners is hereby
12 authorized to designate areas within navigable waters of the county, including the Hernando Beach
13 Channel and the Bayport Channel as restricted zones, either as a "Slow Down– Minimum Wake"
14 zone or as an "Idle Speed–No Wake" zone. Such designation shall not take effect until there has
15 been one publication in a local newspaper of general circulation in the county, in which the area
16 designated as the restricted zone is defined and the type of zone indicated. No area shall be
17 designated as either type of restricted zone unless a public hearing is first held by the board of county
18 commissioners, after due notice is published at which all interested persons shall be heard. Any
19 amendment to this article which has been duly advertised in accordance with s. 125.66, Florida
20 Statutes, and a public hearing by the board of county commissioners has been held shall be deemed
21 to satisfy all of the foregoing advertising and notice requirements. ~~Violations of this provision and~~
22 of the restrictions in the restricted zone shall constitute a violation of this article. Any area
23 designated as a "Slow Down–Minimum Wake" zone or as an "Idle Speed–No Wake" zone shall be
24 posted by the county with signs clearly marking the areas designated. The county port authority shall
25 be advised of any such proposed designation, and the board of county commissioners may consider
26 any comments or recommendations of the authority pertaining thereto.

27
28 (b) Mandatory "Idle Speed–No Wake" zone around dredge boats. The operation,
29 moving or parking of any dredge boat within any waterway or water body covered under this article
30 shall be deemed to constitute a navigational and safety hazard. There shall be a three hundred feet
31 (300') "Idle Speed–No Wake" around any dredge boat which is operating, moving or parked in
32 connection with any dredging operation. A violation of this provision shall carry the severest
33 fine/penalty allowed by law upon plea or finding of guilt.

34
35 (Ord. No. 82-17, § 3, 12-21-82; Ord. No. 2004-05, § 1, 5-4-04; Ord. No. 2011-____)

36
37 **7-19. Signage.**

38
39 Any area designated as a "Slow Down–Minimum Wake" zone or as an "Idle Speed–No
40 Wake" zone shall be posted by the county with signs clearly marking the areas designated. The
41 county waterways division, the county code enforcement division, and the county sheriff's office are
42 empowered to post such additional signage within or along any waterway or water body covered
43 under this article necessary to effectuate or enforce any provision herein.

44
45 (Ord. No. 2011-____)

1
2 **Sec. 7-18 7-20. Operation of all vessels in safe manner required; violations.**
3

4 (a) All watercraft vessels being operated in ~~the navigable waters~~ any waterways or water
5 body of the county shall be operated in a safe manner. No persons shall operate a ~~watercraft~~ any
6 vessel in a dangerous, ~~or reckless~~ or careless manner so as to endanger the safety or welfare of any
7 person or ~~any person's~~ property.
8

9 (b) No person shall operate any vessel at such a speed so as to cause a wake of such
10 magnitude as to endanger the safety of any swimmer or diver, or as to endanger any other vessel
11 (whether underway, anchored, or secured to a dock, seawall or other mooring device), or as to cause
12 damage to any dock, seawall or mooring device, or as to cause damage to public or private property,
13 or to cause appreciable erosion to any bank or shoreline.
14

15 (c) No person shall operate any vessel in excess of any posted speed limit.
16

17 (d) No person shall operate any vessel in any no entry zone or in any restricted area in
18 violation of said restriction.
19

20 (e) No person shall operate any watercraft within any seagrass regeneration special
21 protection zone.
22

23 (f) No person shall operate any vessel as to cause wake in any designated "Idle Speed-No
24 Wake" zone which has been duly posted with appropriate signage or within 300' of any dredge boat.
25 A dredge boat shall have appropriate "Idle Speed-No Wake" signage posted if it is not plainly
26 visible with the naked eye that the vessel is a dredge boat.
27

28 (g) No person shall operate any vessel as to cause excessive wake in any designated
29 "Slow Down-Minimum Wake" zone which has been duly posted with appropriate signage.
30

31 (h) No person may intentionally navigate any vessel across any dredge pipe or dredge
32 pipng which is floating on the surface and plainly visible with the naked eye during daylight hours
33 or which pipe or piping can reasonably be seen floating with the use of a spotlight as to vessels
34 operating between dusk and dawn. Any person operating a vessel fast enough to create a noticeable
35 or excessive wake, or is operating the vessel in a dangerous, reckless or careless manner, or is
36 operating the vessel within any seagrass regeneration special protection zone, or is operating the
37 vessel outside of any channel, canal or tributary containing navigation markings, then the operator
38 of said shall vessel be "presumed" to have been acting intentionally for purposes of this provision.
39 This presumption may only be rebutted (overturned) by the operator demonstrating to the trier of
40 fact, by clear and convincing evidence, that the operator was not acting intentionally.
41

42 (i) No person shall operate a vessel in violation of chapter 327 or 328, Florida Statutes.
43

44 (b j) No person shall operate a ~~watercraft~~ or any vessel in violation of any provision of this
45 article or of any provision of article IV of this chapter.

1 The penalties set forth in Code Sec. 7-23 herein may be imposed upon any plea or finding
2 of guilt that a violation of any of the foregoing has occurred. Each violation shall constitute a
3 separate offense.

4
5 (Ord. No. 82-17, § 4, 12-21-82; Ord. No. 90-09, § 1, 6-26-90; Ord. No 2008-22, § II, 10-21-08; Ord.
6 No. 2011-____)

7
8 **Sec. 7-19. ~~Speed restricted generally.~~**

9
10 ~~No watercraft shall be operated in the navigable waters of the county at such a speed so as~~
11 ~~to cause a wake of such magnitude as to endanger the safety of any swimmer or diver or as to~~
12 ~~endanger any other watercraft, whether anchored, secured to a dock or underway. No watercraft shall~~
13 ~~be operated at such a speed so as to cause a wake of such magnitude as to cause danger to any dock,~~
14 ~~or any other public or private property, or cause appreciable erosion to the banks of any navigable~~
15 ~~waterway.~~

16
17 (~~Ord. No. 82-17, § 5, 12-21-82; Ord. No. 90-09, § 1, 6-26-90~~)

18
19 **Sec. 7-20 ~~7-21. Enforcement. officers.~~**

20
21 ~~All law enforcement officers as defined under existing or future Florida Statutes, including but not~~
22 ~~limited to the sheriff of the county and his duly authorized deputies, officers of the Florida Fish and~~
23 ~~Wildlife Conservation Commission, and officers of the Florida Marine Patrol, and the are hereby~~
24 ~~authorized to enforce the provisions of this article and article IV of this chapter.~~

25
26 (a) The county may establish and post areas to prohibit or restrict entry, limit speed, or
27 otherwise regulate vessels operating in any waters within the boundaries of the county as necessary
28 to effectuate or enforce this article.

29
30 (b) The prohibitions and restrictions contained in this article shall not apply to any vessel
31 owned or under contract to any federal, state or local law enforcement authority operated by sworn
32 law enforcement officer(s) acting in their official capacity or to any fire/rescue boat responding to
33 an emergency.

34
35 (c) The provisions of this article shall be enforced by members of all duly authorized
36 federal, state, county and municipal law enforcement agencies within the county including, but not
37 limited to, all sworn law enforcement officers employed by or under the county sheriff, all sworn law
38 enforcement officers of the Florida Fish and Wildlife Conservation Commission, all sworn law
39 enforcement officers of the Florida Marine Patrol, and all sworn law enforcement officers of any
40 other state or federal agency having jurisdiction in these waters.

41
42 (Ord. No. 82-17, § 8, 2-21-82; Ord. No 2008-22, § III, 10-21-08; Ord. 2011-____)

1 **Sec. ~~7-21~~ 7-22. Watercraft Vessels on Withlacoochee River—Operation at certain times**
2 **prohibited.**

3
4 (a) *Legislative findings.* The recitation of the following findings is hereby incorporated
5 as findings of fact by the Hernando County Board of County Commissioners:

- 6
7 (1) Severe flooding conditions develop along the Withlacoochee River as a result
8 of heavy rains from time to time;
9
10 (2) The Withlacoochee River then overflows its banks and floods adjacent
11 property, causing property damage and otherwise threatening the health,
12 safety and welfare of the residents of Hernando County;
13
14 (3) Such catastrophic conditions result in the development of health and safety
15 hazards to residents of Hernando County along the Withlacoochee River; and
16
17 (4) The use of ~~watercraft vessel~~, boat craft, canoes, rafts, motorized boat craft or
18 any type of flotation device on the Withlacoochee River and on the waters
19 overflowing the Withlacoochee River other than for law enforcement,
20 evacuation and emergency purposes constitutes a hindrance to the
21 implementation of emergency preparedness plans of Hernando County and
22 threatens the protection of the health, safety and welfare of the citizens of the
23 county.

24
25 (b) ~~Definitions. The following definitions shall apply to this section.~~

- 26
27 (1) ~~Flood stage. That period of time commencing when the waters of the~~
28 ~~Withlacoochee River reach flood stage, as set from time to time by either the~~
29 ~~federal government or the State of Florida at the Trilby gauge, and ending~~
30 ~~when the Withlacoochee River crests, as determined by either the federal~~
31 ~~government or the State of Florida at the Holder gauge.~~
32
33 (2) ~~Watercraft. Any type of flotation device of any nature or kind, including, but~~
34 ~~not limited to, boats, rafts, tubes, canoes, motorized boat craft, sailboats,~~
35 ~~submarines, air boats, hovercraft, hydrofoils, jet skis, jet boats, wet bikes,~~
36 ~~surfboards and wind-surfboards.~~
37
38 (3) ~~Withlacoochee River. All portions of the Withlacoochee River, its tributaries~~
39 ~~and their overflow within Hernando County, except those portions of the~~
40 ~~Withlacoochee River between the point where the Withlacoochee River first~~
41 ~~enters the Withlacoochee State Forest and Alligator Point.~~

42
43 (c) ~~(b)~~ *Operation of watercraft vessels prohibited.* The operation or utilization of watercraft
44 vessels on the Withlacoochee River is prohibited during flood stage. (d) ~~Exceptions. Paragraph (c)~~
45 ~~above~~ This provision shall not apply to the operation or utilization of watercraft vessels on the

1 Withlacoochee River during flood stage by law enforcement officers or other government officials
2 or employees or the operation or utilization of ~~watercraft vessels~~ by others as authorized or directed
3 by such officers, officials or employees for evacuation or emergency purposes.
4

5 ~~(e) Penalties. Any violation of this section shall constitute a misdemeanor and shall be~~
6 ~~punished as provided by law for violations of county ordinances.~~
7

8 (Ord. No. 88-34, §§ 1--5, 12-13-88; Ord. No. 2011-____)
9

10 Editor's note: Section 7 of Ord. No. 88-34, adopted by the board of commissioners Dec. 13, 1988,
11 provided that the provisions of said ordinance be included in the Code, but did not specify the exact
12 nature of this inclusion. At the editor's discretion, therefore, §§ 1--5 of Ord. No. 88-34 have been
13 included herein as ~~a new § 7-21~~ 7-22.
14

15 **Sec. 7-23. Penalties.**
16

17 (a) Pursuant to s. 125.69, Florida Statutes, any person or persons, firm or corporation,
18 or any agent thereof who violates any provision of this section shall be subject to
19 prosecution in the name of the state in the same manner as misdemeanors are
20 prosecuted; and, upon conviction such person shall be punished by a fine not to
21 exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to
22 exceed sixty (60) days or by both such fine and imprisonment. Each incident or
23 separate occurrence of an act that violates this article shall be deemed a separate
24 offense.
25

26 (b) Any person or persons, firm or corporation, or any agent thereof who violates any
27 provision of this section may be prosecuted in the manner provided for in chapter 2,
28 Article III, of the Hernando County Code of Ordinances.
29

30 (c) The remedies and penalties herein are not intended to be cumulative and the county
31 or any law enforcement officer or agency having jurisdiction may institute any
32 appropriate action or proceedings to prevent, restrain, enjoin, correct, abate, penalize
33 or fine any violation of this article.
34

35 (d) Any combination of the foregoing.
36

37 **Sec. 7-24. Allocation of Fines, Penalties and Forfeitures.**
38

39 For all enforcement actions initiated by any sworn law enforcement officer under the county
40 sheriff and prosecuted by or in the name of the sheriff or the State of Florida, then all fines, penalties
41 and forfeitures assessed by the court or recovered shall be retained by the sheriff except as otherwise
42 required to be shared with, or turned over to, the State of Florida. For all enforcement actions
43 initiated by the Florida Fish and Wildlife Commission or the Florida Marine Patrol and prosecuted
44 by or in the name of the respective state agency or the State of Florida, then all fines, penalties and
45 forfeitures assessed by the court or recovered shall be retained by the respective initiating state

1 agency except as otherwise required to be shared with, or turned over to, the State of Florida. For
2 all enforcement actions initiated and prosecuted by or in the name of the county, then all fines,
3 penalties and forfeitures assessed by the court or recovered shall be retained by the county except
4 as otherwise required to be shared with, or turned over to, the State of Florida.
5

6 **Secs. ~~7-22~~ 7-25-7-50. Reserved.**
7

8 **SECTION II. SEVERABILITY.** It is declared to be the intent of the Board of County Commissioners
9 that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any
10 reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the
11 remaining portions of this ordinance.
12

13 **SECTION III. INCLUSION IN THE CODE.** It is the intention of the Board of County Commissioners
14 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
15 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end,
16 any section or subsection of this Ordinance may be renumbered or relettered to accomplish such
17 intention, and the word "ordinance" may be changed to "section, "article," or other appropriate
18 designation.
19

20 **SECTION IV. REPEAL OF CONFLICTING ORDINANCES.** The provisions of any other Hernando
21 County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are
22 repealed to the extent of such inconsistency or conflict.
23

24 **SECTION V. DECLARATION OF EMERGENCY.** The Board of County Commissioners of Hernando
25 County, Florida hereby finds and declares that an emergency exists which requires that this
26 Ordinance shall take effect immediately upon adoption because the county is currently in the process
27 of dredging the Hernando Beach Channel, that the existing dredge boat and dredge pipes and piping
28 present navigational and safety hazards, and that any delay in implementing this Ordinance would
29 delay making the Hernando Beach Channel safer and, thereby, potentially preventing or minimizing
30 future boating-related injuries and damages.
31

32 **SECTION VI. FILING WITH FLORIDA FISH AND WILDLIFE COMMISSION.** Upon its adoption, a
33 true copy of this Ordinance shall be sent to the Florida Fish and Wildlife Commission.
34

35 **SECTION VII. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon filing with
36 the Department of State.
37

38 [-CONTINUED ON NEXT PAGE-]

1 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO**
2 **COUNTY** in Regular Session this 28th day of June, 2011.

3
4 **BOARD OF COUNTY COMMISSIONERS**
5 **HERNANDO COUNTY, FLORIDA**

6
7
8 Attest:

9 *Karen Nicolai*
10 KAREN NICOLAI
11 CLERK

By:

James E. Adkins
12 JAMES E. ADKINS
13 CHAIRMAN

(SEAL)



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY

[Signature] 6/14/11
County Attorney's Office