

Marguerite Linke

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Thursday, May 24, 2018 11:38 AM
To: Marguerite Linke
Cc: County Ordinances
Subject: Hernando20180524_Ordinance2018_11_Ack.pdf
Attachments: Hernando20180524_Ordinance2018_11_Ack.pdf

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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 24, 2018

Honorable Don Barbee Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 3621
Brooksville, Florida 34601

Attention: Marguerite Linke

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2018-11, which was filed in this office on May 24, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 2018- 11

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, ADDING NEW SECTION 7-19 ENTITLED “RESTRICTED AREAS FOR OPERATION OF VESSELS IN CERTAIN WATERS IN HERNANDO COUNTY”; ESTABLISHING BOATING REGULATIONS CREATING AN IDLE SPEED, NO WAKE BOATING RESTRICTED AREA WITHIN THE HERNANDO BEACH WESTERN PERIMETER RESIDENTIAL CANAL LOCATED ALONG THE WEST SEGMENT OF GULF WINDS CIRCLE BETWEEN THE WEST ENTRANCE OF CHEEK’S CREEK CANAL AND THE WEST ENTRANCE OF MARLIN CHANNEL; PROVIDING FOR A TITLE; PROVIDING FOR LEGISLATIVE FINDINGS AND AUTHORITY; PROVIDING FOR THE PURPOSE AND INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hernando County Board of County Commissioners adopted Ordinance No. 2011-212 after public hearing on June 28, 2011, providing boating regulations and enforcement provisions; and

WHEREAS, boating concerns were brought to the attention of Hernando County officials within the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek’s Creek Canal and the west entrance of Marlin Channel; and

WHEREAS, the Board of County Commissioners, in response to these concerns, adopted Resolution 2016-160 which identified the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek’s Creek Canal and the west entrance of Marlin Channel as an area requiring the establishment of an Idle Speed, No Wake Boating Safety Zone due to the obstruction of visibility therein; and

WHEREAS, Subsection 327.46(1)(c), Florida Statutes grants Hernando County the authority to implement by ordinance Idle Speed, No Wake Boating Safety Zones within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway in the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek’s Creek Canal and the west entrance of Marlin Channel after the Florida Fish and Wildlife Conservation Commission has reviewed the ordinance and determined by substantial competence evidence that the ordinance is necessary to protect public safety; and

WHEREAS, Subsection 68D-23.103(3)(a), Florida Administrative Code provides that “‘Idle Speed No Wake’ and ‘Idle Speed’ may be used interchangeably and mean that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow”; and

WHEREAS, the Hernando County Department of Public Works, Division of Waterways Maintenance & Aquatic Services has investigated the issue and recommends the creation of the Idle Speed, No Wake Boating Safety Zone within the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek's Creek Canal and the west entrance of Marlin Channel because the regulation of vessel speed and wake will enhance boater safety; and

WHEREAS, the Hernando County Department of Public Works, Division of Waterways Maintenance & Aquatic Services has conferred with the Florida Fish and Wildlife Conservation Commission regarding the establishment of the Idle Speed, No Wake Boating Safety Zone within the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek's Creek Canal and the west entrance of Marlin Channel; and

WHEREAS, the Hernando County Port Authority conducted a public hearing regarding the establishment of an Idle Speed, No Wake Boating Safety Zone within the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek's Creek Canal and the west entrance of Marlin Channel on May 16, 2018, and a majority thereof voted to recommend to the Hernando Board of County Commissioners the establishment of the Idle Speed, No Wake Boating Safety Zone.

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:

Sec. 7-17. - Definitions.

The following definitions shall apply to this article:

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

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

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

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

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

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

Idle Speed, No Wake and Idle Speed mean that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow

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

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

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

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

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

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

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

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

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

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

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

Sec. 7-19. Signage. Restricted Areas for Operation of Vessels in Certain Waters within Hernando County. As provided under Section 327.46, Florida Statutes, restricted areas are established and designated as follows:

(a) Vessel-Exclusion Zones

(1) Public Bathing Beaches or Swim Areas

a. Authority for Restriction: Public bathing beaches designated and marked according to provisions of Subsection 327.46(1)(b)3a., Florida Statutes.

b. Designated Areas:

(i) (None at this time).

(2) Areas within 300 feet of a Dam, Spillway or Flood Control Structure

a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)3b., Florida Statutes.

b. Designated Areas:

(i) (None at this time).

(3) Areas reserved exclusively as a canoe trail or otherwise limited to vessels under oars or sail.

a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)3a., Florida Statutes.

b. Designated Areas:

(i) (None at this time).

- (4) Areas reserved for a particular activity and user group separation must be imposed to protect the safety of those participating in such activity.
 - a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)3b., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
- (b) Idle Speed, No Wake Zones
 - (1) Areas within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width or within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.
 - a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)1a., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
 - (2) Areas within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width or within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.
 - a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)1b., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
 - (3) Areas inside or within 300 feet of any lock structure.
 - a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)1c., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
 - (4) Areas within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.
 - a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)1., Florida Statutes.

b. Designated Areas:

- (i) That waterway in the Hernando Beach Western Perimeter Residential Canal located along the west segment of Gulf Winds Circle between the west entrance of Cheek's Creek Canal and the west entrance of Marlin Channel- extending from latitude 28 29.698, longitude 82 40.049 to latitude 28 29.437, longitude 82 39.996.

(c) Slow Speed, Minimum Wake Zones

(1) Areas within 300 feet of any bridge fender system.

a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)2a., Florida Statutes.

b. Designated Areas:

- (i) (None at this time).

(2) Areas within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.

a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)2b., Florida Statutes.

b. Designated Areas:

- (i) (None at this time).

(3) Areas on a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.

a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)2c., Florida Statutes.

b. Designated Areas:

- (i) (None at this time).

(4) Areas on a lake or pond of less than 10 acres in total surface area.

a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(b)2d., Florida Statutes.

b. Designated Areas:

- (i) (None at this time).

(d) Slow Speed, Minimum Wake or Numerical Speed Limit Zones

- (1) Areas within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.

- a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)2a., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
- (2) Areas subject to unsafe levels of vessel traffic congestion.
- a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)2b., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
- (3) Areas subject to hazardous water levels or currents, or containing other navigational hazards.
- a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)2c., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).
- (4) Areas that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a significant risk of collision or a significant threat to boating safety.
- a. Authority for Restriction: Areas designated and marked according to the provisions of Subsection 327.46(1)(c)2d., Florida Statutes.
 - b. Designated Areas:
 - (i) (None at this time).

Sec. 7-19. 7-20 Signage.

- (a) 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 waterways division, the county code enforcement division, and the county sheriff's office are empowered to post such additional signage within or along any waterway or water body covered under this article necessary to effectuate or enforce any provision herein.
- (b) Implementation of boating restricted areas established by Section 7-19 of this Ordinance is contingent upon receiving all applicable state and federal authorizations to ensure compliance with Chapters 68D-21 and 68D-23, Florida Administrative Code, and to assist in navigation consistent with the United States Aids to Navigation System

Sec. 7-20. 7-21 Operation of all vessels in safe manner required; violations.

Sec. 7-21. 7-22 Enforcement.

Sec. ~~7-22~~. 7-23 **Vessels on Withlacoochee River—Operation at certain times prohibited.**

Sec. ~~7-23~~. 7-24 **Penalties.**

Sec. ~~7-24~~. 7-25 **Allocation of Fines, Penalties and Forfeitures.**

Secs. ~~7-25~~ 7-26–7-50. **Reserved.**

SECTION II. All other provisions of Chapter 7 (Boats and Waterways), Article II (Boating Regulations) not amended hereby shall remain in full force and effect.

SECTION III. 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 IV. 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 re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate designation.

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

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

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

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 22nd day of May, 2018.

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

Attest: Margaret Deke, D.C.
DONALD C. BARBEE JR., CLERK

By: [Signature]
STEVE CHAMPION, CHAIRMAN

(Seal)



Approved as to Form and
Legal Sufficiency

By: [Signature]