

DRAFT DOCUMENT: F:\1 COUNTY ATTORNEY'S OFFICE\KJB\Legal Requests\2021-520 Ordinance for Mooring of Commercial Vehicles at Boat Ramps\Draft 2 - Ordinance for mooring of commercial vessels at boat ramps.wpd, February 16, 2022 (11:14am) NOTE: additions/~~deletions~~ = language proposed for addition/deletion to existing Code provisions.

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**ORDINANCE NO.: 2022- \_\_\_\_**

AN ORDINANCE MODIFYING THE LANGUAGE IN CHAPTER 7, ARTICLE II OF THE HERNANDO COUNTY CODE OF ORDINANCES TO PROHIBIT THE MOORING AND DOCKING OF COMMERCIAL VESSELS AT BOAT RAMPS BY ADDING SECTION 7-26; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there have been recent incidents of vessels blocking boat ramps in Hernando County for extended periods of time when not actively engaged in commercial fishing; and

WHEREAS, Chapter 7, Article II of the Hernando County Code of Ordinances sets forth the boating regulations in Hernando County; and

WHEREAS, Chapter 327 of the Florida Statutes regulates vessel safety in the waters of the State of Florida; and

WHEREAS, Section 327.02(48) of the Florida Statutes defines “waters of this state” as any “navigable waters of the United States within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of this state”; and

WHEREAS, anchoring or mooring of a vessel “within 150 feet of any public or private

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1 marina, boat ramp, boatyard, or other public vessel launching or loading facility” is prohibited by  
2 Section 327.4109 (1)(a) of the Florida Statutes; and

3 WHEREAS, the prohibition against anchoring or mooring within 150 feet of a boat ramp  
4 does not apply to “a commercial fishing vessel actively engaged in commercial fishing”; and

5 WHEREAS, pursuant to Section 327.02(6) of the Florida Statutes, a “commercial fishing  
6 vessel” is “a vessel primarily engaged in the taking or landing of saltwater fish or saltwater products  
7 or freshwater fish or freshwater products, or a vessel licensed pursuant to s. 379.361 from which  
8 commercial quantities of saltwater products are harvested, from within and without the waters of this  
9 state for sale to the consumer or to a retail or wholesale dealer”; and

10 WHEREAS, Chapter 327.70 of the Florida Statutes provides that the Division of Law  
11 Enforcement of the Fish and Wildlife Conservation Commission and its officers, the sheriffs of the  
12 various counties and their deputies, municipal police officers, and any other law enforcement officer  
13 enforce the prohibition of anchoring or mooring within 150 feet of a boat ramp and may remove  
14 those vessels; and

15 WHEREAS, Section 327.4109(5) of the Florida Statutes provides that a violation is  
16 punishable as a noncriminal infraction pursuant to Section 327.73(1)(bb) of the Florida Statutes; and

17 WHEREAS, Section 327.72 of the Florida Statutes provides that failure to pay the civil  
18 penalty for noncriminal infractions is a misdemeanor of the second degree; and

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1           WHEREAS, it is intended to amend the Hernando County Code of Ordinances to prohibit  
2 vessels from blocking or interfering with the public use of boat ramps in Hernando County by  
3 anchoring or mooring within 150 feet of said boat ramps.

4           NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
5 COMMISSIONERS OF HERNANDO COUNTY:

6           **Section 1. Modification of Chapter 7, Article II of the Hernando County Code of**  
7 **Ordinances.** Chapter 7, Article II of the Hernando County Code of Ordinances is hereby amended  
8 to add Section 7-26 as follows:

9           **7-26. - Incorporation of state law by general reference.**

10           The provisions of state law prohibiting the anchoring or mooring of vessels within 150 feet  
11 of any public or private marina, boat ramp, boatyard, or other public vessel launching or loading  
12 facility related to Section 327.4109 of the Florida Statutes are hereby incorporated by general  
13 reference as they may exist and be amended from time to time. To the extent that the provisions of  
14 this article are more stringent than those of state law, then this article shall apply.

15           **Section 2. Severability.** It is declared to be the intent of the Board of County  
16 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this  
17 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the  
18 validity of the remaining portions of this ordinance.



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1 Approved for legal form and sufficiency:

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Kyle J. Benda, Assistant County Attorney