



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

10/27/2020

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### **Subject:**

Addition of Section 122-29 - Use of Vessels on the St Johns River, to Chapter 122 - Waterways of the Code of Ordinances of Brevard County to allow for the implementation of new slow-speed and idle-speed zones.

### **Fiscal Impact:**

FY 20-21 Up to \$5,000 for the installation of waterway markers  
FY 21-22 None

### **Dept/Office:**

Natural Resources Management

### **Requested Action:**

Approval of the included ordinance, amending Chapter 122 Waterways by adding Section 122-29, Use of Vessels on the St Johns River, to allow for the implementation of new slow-speed and idle-speed zones along the St. Johns River.

### **Summary Explanation and Background:**

Brevard County Code of Ordinances, Chapter 122 Waterways, provides for watercraft safety and slow-speed zones within the County's waterways and along the Atlantic coast. Brevard County presently has over 34,000 registered vessels with over 900 of those listed as airboats. Mr. Curt McKinney, the owner of Camp Holly Airboat Rides, operating on the St. John's River at the intersection of Hwy 192, has requested that the County consider placing a boating safety zone at the intersection of HWY 192 and the St. John's River.

On April 19, 2018, Mr. McKinney presented his safety concerns and the concerns of the boating public in this area to the Brevard Marine Advisory Council (BMAC). The BMAC motioned in favor of creating a boating safety zone in this area and asked staff to pursue the necessary actions at the state and local level to implement the appropriate zones.

On July 11, 2018, staff attended a membership meeting of the Brevard County Airboat Club and presented options for slow-speed and idle-speed boating safety zones along the St. John's River in the Camp Holly area. A variety of options were presented to the club at that meeting. On December 5, 2018, the Brevard County Airboat Club formally approved the draft zones as proposed and shown on the attached maps.

On August 6, 2019, the Board approved legislative intent and permission to advertise amendments to Chapter 122 Waterways to allow for the implementation of new slow-speed and idle-speed zones along the St. Johns River.

On June 18, 2020, the Brevard Marine Advisory Council, at their regular meeting, reviewed the

proposed changes and recommended approval of the St. Johns River ordinance amendment.

Per Florida Statutes, formal boating safety zones must be created locally and then brought before the Florida Fish and Wildlife Conservation Commission (FWC) for final approval and adoption at the State level. Approval at the State level will provide enforcement authority to the State in addition to local law enforcement. Staff has been working with the FWC Waterway Management Section in Tallahassee and local FWC Law Enforcement on the development of this ordinance. State and local law enforcement agree on the boating safety concerns in the Camp Holly area.

**Clerk to the Board Instructions:**

Provide one signed and certified copy for filing with the State.

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

# INITIAL CONTRACT REVIEW AND APPROVAL FORM

## SECTION I - GENERAL INFORMATION

<b>1. Contractor:</b> Brevard County	
<b>2. Fund/Account #:</b> N/A	<b>3. Department Name:</b> Natural Resources
<b>4. Contract Description:</b> St Johns Slow Speed Ordinance	
<b>5. Contract Monitor:</b> Matt C. Culver	<b>7. Contract Type:</b>
<b>6. Dept/Office Director:</b> Virginia Barker	INTERGOVT/LOCAL

## SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

## SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Culver, Matt <small>Digitaly signed by Culver, Matt DN: cn=Culver, Matt, ou=St Johns County Government, ou=St Johns Date: 2020.08.18 10:07:18 -0400</small>	08/18/2020
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Valliere, Christine <small>Digitaly signed by Valliere, Christine Date: 2020.09.02 14:24:58 -0400</small>	09/02/2020

## SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



## FLORIDA DEPARTMENT of STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

November 2, 2020

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2020-19, which was filed in this office on October 30, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us



October 28, 2020

**MEMORANDUM**

TO: Virginia Barker, Natural Resources Management Director

RE: Item H.1., Addition of Section 122-29, Use of Vessels on the St. Johns River, to Chapter 122, Waterways of the Code of Ordinances of Brevard County to Allow for the Implementation of New Slow Speed and Idle Speed Zones

The Board of County Commissioners, in regular session on October 27, 2020, adopted Ordinance No. 20-19, amending Chapter 122, Waterways by adding Section 122-29, Use of Vessels on the St. Johns River, to allow for the implementation of new slow speed and idle speed zones along the St. Johns River. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Kimberly Powell*  
Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance  
Budget

**ORDINANCE 2020-19**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 122 WATER WAYS, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, CREATING SECTION 122-29 USE OF VESSELS ON THE ST. JOHNS RIVER; PROVIDING FOR REFERENCE TO OTHER AUTHORITY, PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Brevard County, Florida (hereinafter the "Board") having a responsibility to provide certain services to benefit citizens of the County and to promote the health, safety, and general welfare of the citizens of the County; and

**WHEREAS**, the Board has determined that there is a need for regulation of boating activities in certain areas on the waterways of the County; and

**WHEREAS**, the Board is aware that hazards exist on portions of waterways of the County because of the high rates of speed at which boats, whether driven by outboard or inboard motors or airboats, are operated on portions of said waterways in the County; and

**WHEREAS**, Florida Statutes § 327.46(1)(b)2 authorizes the Board to establish Slow Speed Minimum Wake boating safety zones within 300 feet of bridges by ordinance and without additional agency approval; and

**WHEREAS**, Florida Statutes § 327.46(1)(b)1 authorizes the Board to establish Idle Speed No Wake boating safety zones within 300 feet of public boat ramps by ordinance and without additional agency approval; and

**WHEREAS**, the Board, in regular session on August 6, 2019, approved legislative intent and permission to advertise amendments to Chapter 122 Waterways to allow for the implementation of new slow-speed and idle-speed zones along the St. Johns River; and

**WHEREAS**, the Brevard Marine Advisory Council at their regular meeting on June 18, 2020, reviewed the proposed changes and recommended approval of the ordinance amendment.

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners

of Brevard County, Florida:

**SECTION 1.** Chapter 122, Waterways, Code of Ordinances of Brevard County Florida, is amended to create Sec. 122-29. Use of Vessels on the St Johns River, as follows:

**Sec. 122-29. Use of Vessels on the St. Johns River.**

(1) Pursuant to Florida Administrative Code Chapter 68D-23.103, "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.

(2) Idle Speed No Wake boating safety zone from shoreline to shoreline, on the St. Johns River, southwest of a line that passes through a point (80° 45.101'W, 28° 5.092'N) perpendicular to the centerline of the waterway and running directly parallel to the southern edge of the US-192 Eastbound bridge, and northeast of a line that passes through a point (80° 45.185'W, 28° 5.050'N) perpendicular to the centerline of the waterway, as depicted in the attached Exhibit A.

(3) This boundary describes a boating safety zone that extends 300 feet southwest of the Camp Holly Boat Ramp (80° 45.145'W, 28° 5.084'N) and northeast to the US-192 Eastbound bridge.

(4) Idle Speed No Wake boating safety zone from shoreline to shoreline, on the St. Johns River, southeast of a line that passes through a point (80° 44.700'W, 28° 4.767'N) perpendicular to the centerline of the waterway, and east of a line that passes through a point (80° 44.708'W, 28° 4.725'N) perpendicular to the centerline of the waterway, as depicted in the attached Exhibit B.

(5) This boundary describes a boating safety zone that extends 300 feet northwest and 300 feet west of the Sweetwater Boat Ramp (80° 44.655'W, 28° 4.738'N).

(6) Pursuant to Florida Administrative Code Chapter 68D-23.103, "Slow Speed" and "Slow Speed Minimum Wake" may be used interchangeably and mean that a vessel must be fully off plane and completely settled into the water. The vessel must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway. 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.

(7) Slow Speed Minimum Wake boating safety zone from shoreline to shoreline, on the St. Johns River, south of a line that passes through a point (80° 45.078'W, 28° 5.156'N) perpendicular to the centerline of the waterway, and north of a line that passes through a point (80° 45.101'W, 28° 5.092'N) running directly parallel to the southern edge of the US HWY192 Eastbound Bridge, as depicted in the attached Exhibit A.

(8) This boundary describes a boating safety zone that extends 300 feet north of the US HWY192 Westbound Bridge, and encompassing fully the area under and between the Eastbound and Westbound US HWY192 Bridges (80° 45.093'W, 28° 5.103'N).

(9) The provisions of this section may be enforced by any law enforcement officer as defined in Section 943.10, Florida Statutes. Pursuant to Section 327.73, Florida Statutes, any person cited for a violation of any such provision shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided for allowable county court costs for boating infractions. Where a statute or administrative rules are referenced herein, this shall mean the most recently adopted version of said statute and administrative rules.

**SECTION 2. REFERENCE TO OTHER AUTHORITY.** Where a statute or administrative rules are referenced herein, this shall mean the most recently adopted version of said statute and administrative rules.

**SECTION 3. CODIFICATION.** The provisions of this Ordinance shall become and be made a part of the code of laws and ordinances of the County of Brevard. The sections of this ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

**SECTION 4. SEVERABILITY.** If any part of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by such holding and shall remain in full force and effect.

**SECTION 5. RESOLUTION OF CONFLICTING PROVISIONS.** In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulations, the more restrictive shall apply.

**SECTION 6. EFFECTIVE DATE.** This Ordinance has been approved by Florida Fish and Wildlife Conservation Commission pursuant to Section 327.46, Florida Statutes and will be enforced upon posting of the regulatory markers. This Ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State. A certified copy of the Ordinance shall be filed with the State, within ten days of enactment.

**DONE, ORDERED AND ADOPTED** in regular session, this 27 day of OCT 2020.



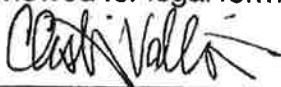
**BRYAN ANDREW LOBER,**  
CHAIR BOARD OF COUNTY  
COMMISSIONERS  
BREVARD COUNTY, FLORIDA

ATTEST:



**SCOTT ELLIS, CLERK OF COURT**

Reviewed for legal form and content:





**Assistant County Attorney**

EXHIBIT A



Proposed Camp Holly Slow-speed & Idle-speed Zones

-  Idle Speed / No Wake
-  Slow Speed Boundary

Prepared by: Brevard GIS, 8/27/2020

EXHIBIT B



 Proposed Sweetwater Ramp Idle-speed Zone

Prepared by: Brevard GIS, 8/27/2020