

**RESOLUTION NO. 2018 - \_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS SETTING FORTH REQUIREMENTS FOR A CITIZEN APPLICATION FOR A BOATING-RESTRICTED AREA PURSUANT TO SECTION 327.46(1), FLORIDA STATUTES; PROVIDING FOR AN APPLICATION FEE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 327.46(1), Florida Statutes, grants Nassau County the authority to implement an Idle Speed No Wake Boating-Restricted Ordinance pursuant to certain conditions; and

**WHEREAS**, the Board of County Commissioners can submit a draft Ordinance to the Florida Fish and Wildlife Conservation Commission prior to formal consideration to ensure compliance with State regulations; and

**WHEREAS**, each application must include certain criteria as set forth in F.A.C. 68D-21.001; and

**WHEREAS**, an application for approval of an ordinance establishing a Boating-Restricted Area pursuant to Section 327.46(1), Florida Statutes, must be submitted to the Florida Fish and Wildlife Conservation Commission; and

**WHEREAS**, the Board of County Commissioners of Nassau County, Florida, does not have the staff to compile the required information for each application; and

**WHEREAS**, the Board of County Commissioners has determined that an applicant shall provide the information required by F.A.C. 68D-21.001; and

**WHEREAS**, if the applicant(s) submits the required information, and it is complete, it will be transmitted, in a draft ordinance form, to the Florida Fish and Wildlife Conservation Commission for review; and

**WHEREAS**, upon review and “sign off” by Florida Fish and Wildlife Conservation Commission, the County Attorney will finalize an ordinance for consideration at a public hearing; and

**WHEREAS**, the Board of County Commissioners of Nassau County, Florida, desires to establish a formal procedure and fee schedule for an application for a Boating-Restricted Area, pursuant to Section 327.46, Florida Statutes, and F.A.C. 68D-21.001.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Nassau County, Florida, as follows:

**SECTION 1. NO WAKE BOATING RESTRICTED ZONES**

1. The Board of County Commissioners of Nassau County, Florida, reserves the right to declare restricted waterways within its boundaries.
2. The areas of enforcement shall be all waters, creeks, and canals located within its jurisdictional boundaries for the purpose necessary to protect the safety of the public as such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards in compliance with Section 327.46, Florida Statutes.
3. Implementation of the Boating-Restricted Areas is contingent upon receiving all applicable state and/or federal authorizations to ensure compliance with §§327.40 and 327.41, Florida Statutes, and Chapter 68D-23, Florida Administrative Code, and to assist in navigation consistent with the United States Aids to Navigation System.

## **SECTION 2. APPLICATIONS**

Any municipality or county application for approval of an ordinance establishing a Boating-Restricted Area pursuant to Section 327.46(1)(c), F.S., must be submitted to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section.

## **SECTION 3. APPLICANT/APPLICATION**

Each applicant or group of applicants requesting a No Wake Boating-Restricted Area Ordinance shall utilize a form attached as Exhibit "A". The form may be changed by the County Manager and County Attorney as required.

Each application for the establishment by the County of a Boating-Restricted Area must include:

1. The name of the applicant(s).
2. The name, mailing address, telephone number, and any email address or facsimile number of the applicant's:
  - a. Primary contact person; and
  - b. Attorney or qualified representative.
3. One or more scaled drawings no larger than 8 1/2 inches by 11 inches, reproducible in black and white on standard office photocopying equipment which clearly show the following:
  - a. The exact boundaries of each Boating-Restricted Area to be established by an ordinance and the proposed restrictions on vessel operation imposed within each Boating-Restricted Area.

- b. Any other known Boating-Restricted Area (federal, state, county, other municipality, etc.) located within 2,500 feet of any Boating-Restricted Area to be established by an ordinance.
4. The location of any of the following within a proposed Boating-Restricted Area or used as a basis for establishing a Boating-Restricted Area, identified with a label or legend as to whether or not it is available for use by the general public:
- a. Any boat ramp, hoist, marine railway, or other launching or landing facility.
  - b. Any fuel pump or dispenser at any marine fueling facility or licensed terminal facility.
  - c. Any lock structure.
  - d. Any designated public bathing beach or swim area.
5. The location of any of the following within a proposed Boating-Restricted Area or used as a basis for establishing a Boating-Restricted Area:
- a. Any bridge, including any bridge fender system, if present.
  - b. Any dam, spillway, or flood control structure.
  - c. Any confluence of water bodies presenting a blind corner.
  - d. Any bend or other intervening obstruction to visibility that may obscure other vessels or other users of the waterway in a narrow channel, fairway, or other similar area within the meaning of Inland Navigation Rule 9 (33 U.S.C. § 2009) as adopted by Section 327.33, F.S.
  - e. Any specific hazards to navigation (with a label or legend describing the hazard).
6. If relied upon as a basis for establishing the Boating-Restricted Area, the location and description of any of the following:
- a. Any specific area subject to unsafe levels of vessel traffic congestion.

- b. Any specific area subject to hazardous water levels or currents.
- c. Any reported boating accident.
- d. Any issuance of a Uniform Boating Citation.

7. The shoreline-to-shoreline width of the body of water upon which the Boating-Restricted Area is to be established and, if the water body is a lake or pond, the total surface area expressed in acres.

8. Documentation that the proposal to be codified in an ordinance was developed, prior to presenting language for adoption, in consultation and coordination with:

- a. The governing body of every other county or municipality sharing jurisdiction over the area in which the Boating-Restricted Area is located (if applicable).
- b. The United States Coast Guard if the Boating-Restricted Area is to be established on navigable waters of the United States as defined in 33 C.F.R. § 2.36(a) (2009), which is adopted by reference and is available at <http://www.gpoaccess.gov/cfr/index.html>.
- c. The United States Army Corps of Engineers if the Boating-Restricted Area is to be established on navigable waters of the United States as defined in 33 C.F.R. § 329.4 (2009), which is adopted by reference and is available at <http://www.gpoaccess.gov/cfr/index.html>.

9. A summary of the facts and circumstances the applicant(s) contends justifies the establishment of the restriction on speed or operation and a list of the evidence in support of that contention the applicant(s) requests.

10. An appendix containing all evidence listed in paragraph (9) above, except that the appendix need not include the following:

- a. Copies of Boating Accident Reports or Boating Accident Investigation Reports if those reports are identified by law enforcement agency case number and provided in a list. If the

Boating and Waterways Section does not have a copy on file of one or more such reports, it will request that the applicant supplement the application appendix with copies of those reports.

b. Copies of Florida Uniform Boating Citations if identified by citation number in a list. If one or more citations are not already entered into the ArrestNet Database maintained by the Field Services Section, the Boating and Waterways Section will request the applicant to supplement the application appendix with copies of those citations.

11. The signature of the applicant's attorney or qualified representative (if applicable).

12. The date the application is submitted.

#### **SECTION 4. PROCEDURE**

1. The form will be submitted to the County Manager's Office for review by the County Manager or designee and County Attorney. If the form is determined to be incomplete or the information not in compliance with the statute or administrative code, it shall be returned to the applicant to address the section that is incomplete. The review of the form by the County Manager or designee and County Attorney shall occur within forty-five (45) days of receipt.

2. The cost required to produce the information required in the form shall be the responsibility of the applicant.

3. If the form is complete, the County Attorney's Office will prepare a draft ordinance to submit to the appropriate agency for review. If the agency comments indicate additional information is required, the applicant shall be notified and the additional information provided, at applicant's expense, to the County prior to setting the ordinance for public hearing.

4. The cost of the advertisement for the public hearing shall be the responsibility of the applicant and notification of surrounding residents shall be accomplished at the direction of the County Manager or designee and at the applicant's cost. The form of the advertisement for the public hearing shall be provided by the County Attorney's Office. Proof of notification and advertisement shall be provided to the County Manager's Office prior to a public hearing.

5. If the state agency indicates it cannot approve an ordinance the applicant will be notified and the ordinance shall not be considered by the Board of County Commissioners.

6. If the ordinance is considered complete and the draft approved by the state agency, a public hearing will be held for consideration of the ordinance.

#### **SECTION 5. FEES**

A fee of \_\_\_\_\_ is hereby established for the processing of an application in order to process an application for approval of an ordinance establishing a Boating-Restricted Area pursuant to Section 327.46(1), Florida Statutes. The fee may be modified based on an amendment to this Resolution adopted by the Board of County Commissioners.

#### **SECTION 6. EFFECTIVE DATE**

This Resolution shall become effective on \_\_\_\_\_.

**DULY ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

\_\_\_\_\_  
PAT EDWARDS  
Its: Chairman

ATTEST AS TO CHAIRMAN'S  
SIGNATURE:

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JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

APPROVED AS TO FORM BY THE  
COUNTY ATTORNEY:

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MICHAEL S. MULLIN



**EXHIBIT "A" TO RESOLUTION NO. 2018-**  
**NASSAU COUNTY APPLICATION REQUESTING THE ESTABLISHMENT OF A NO WAKE**  
**BOATING-RESTRICTED AREA ORDINANCE**

**Applicant Information**

Name of Applicant(s) \_\_\_\_\_

Applicant's Primary Contact Person \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Facsimile Number \_\_\_\_\_

Name of Attorney or Qualified Representative \_\_\_\_\_

If Attorney, Bar Number: \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Facsimile Number \_\_\_\_\_

**Boating Restricted Area Information**

Applicant shall provide one or more scaled drawings no larger than 8 ½ inches by 11 inches, reproducible in black and white on standard office photocopying equipment which clearly show the following:

1. The exact boundaries of each Boating-Restricted Area to be established by an ordinance and the proposed restrictions on vessel operation imposed within each Boating-Restricted Area. (Use a separate sheet if necessary)

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2. Any other known Boating-Restricted Area (federal, state, county, other municipality, etc.) located within 2,500 feet of any Boating-Restricted Area to be established by an ordinance. (If yes,

describe the parameters of the Boating-Restricted Area and attach a copy of the document that created the Boating-Restricted Area)

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3. The location of any of the following within a proposed Boating-Restricted Area or used as a basis for establishing a Boating-Restricted Area, identified with a label or legend as to whether or not it is available for use by the general public:

a. Any boat ramp, hoist, marine railway, or other launching or landing facility. (Identified on a map attached hereto)

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b. Any fuel pump or dispenser at any marine fueling facility or licensed terminal facility. (Identified on a map attached hereto)

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c. Any lock structure. (Identified on a map attached hereto)

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d. Any designated public bathing beach or swim area. (Identified on a map attached hereto)

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4. The location of any of the following within a proposed Boating-Restricted Area or used as a basis for establishing a Boating-Restricted Area:

a. Any bridge, including any bridge fender system, if present. (Describe location or attach a map)

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b. Any dam, spillway, or flood control structure. (Describe location or attach a map)

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c. Any confluence of water bodies presenting a blind corner. (Describe location or attach a map)

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d. Any bend or other intervening obstruction to visibility that may obscure other vessels or other users of the waterway in a narrow channel, fairway, or other similar area within the meaning of Inland Navigation Rule 9 (33 U.S.C. § 2009) as adopted by Section 327.33, Florida Statutes. (Describe location or attach a map)

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e. Any specific hazards to navigation (with a label or legend describing the hazard shown on a map).

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5. If relied upon as a basis for establishing the Boating-Restricted Area, the location and description of any of the following:

a. Any specific area subject to unsafe levels of vessel traffic congestion. (Describe or shown on a map)

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b. Any specific area subject to hazardous water levels or currents. (Describe or shown on a map)

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c. Any reported boating accident. (Attach copies of boating accident reports)

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d. Any issuance of a Uniform Boating Citation. (Attach copies of citation(s))

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6. The shoreline-to-shoreline width of the body of water upon which the Boating-Restricted Area is to be established and, if the water body is a lake or pond, the total surface area expressed in acres. (Describe or attach a map)

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7. Documentation that the proposal to be codified in an ordinance was developed, prior to presenting language for adoption, in consultation and coordination with:

a. The governing body of every other county or municipality sharing jurisdiction over the area in which the Boating-Restricted Area is located (if applicable)

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b. The United States Coast Guard if the Boating-Restricted Area is to be established on navigable waters of the United States as defined in 33 C.F.R. § 2.36(a) (2009), which is adopted by reference and is available at <http://www.gpoaccess.gov/cfr/index.html> (Attach documentation)

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- c. The United States Corps of Engineers if the Boating-Restricted Area is to be established on navigable waters of the United States as defined in 33 C.F.R. § 329.4 (2009), which is adopted by reference and is available at <http://www.gpoaccess.gov/cfr/index.html> (Attach documentation)

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8. A summary of the facts and circumstances the applicant(s) contends justifies the establishment of the restriction on speed or operation and a list of the evidence in support of that contention the applicant(s) request. (Use a separate sheet if necessary)

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9. An appendix containing all evidence listed in paragraph 8 above, except that the appendix need **not** including the following:

- a. Copies of Boating Accident Reports or Boating Accident Investigation Reports if those reports are identified by law enforcement agency case number and provided in a list. If the Boating and Waterways Section does not have a copy on file of one or more such reports, it will request that the applicant supplement the application appendix with copies of those reports.
- b. Copies of Florida Uniform Boating Citations if identified by citation number in a list. If one or more citations are not already entered into the ArrestNet Database maintained by the Field Services Section, the Boating and Waterways Section will request the applicant to supplement the application appendix with copies of those citations.

Applicant Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

Additional Signature of Applicant \_\_\_\_\_

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name \_\_\_\_\_

State of Florida  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2018, by  
\_\_\_\_\_, who is personally known to me or who has produced  
\_\_\_\_\_ as identification and who did take an oath.

\_\_\_\_\_  
Notary Public  
Printed Name  
My Commission Expires: \_\_\_\_\_