

ORDINANCE 2020-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 122 WATERWAYS, 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 _____ day of _____ 2020.

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

ATTEST:

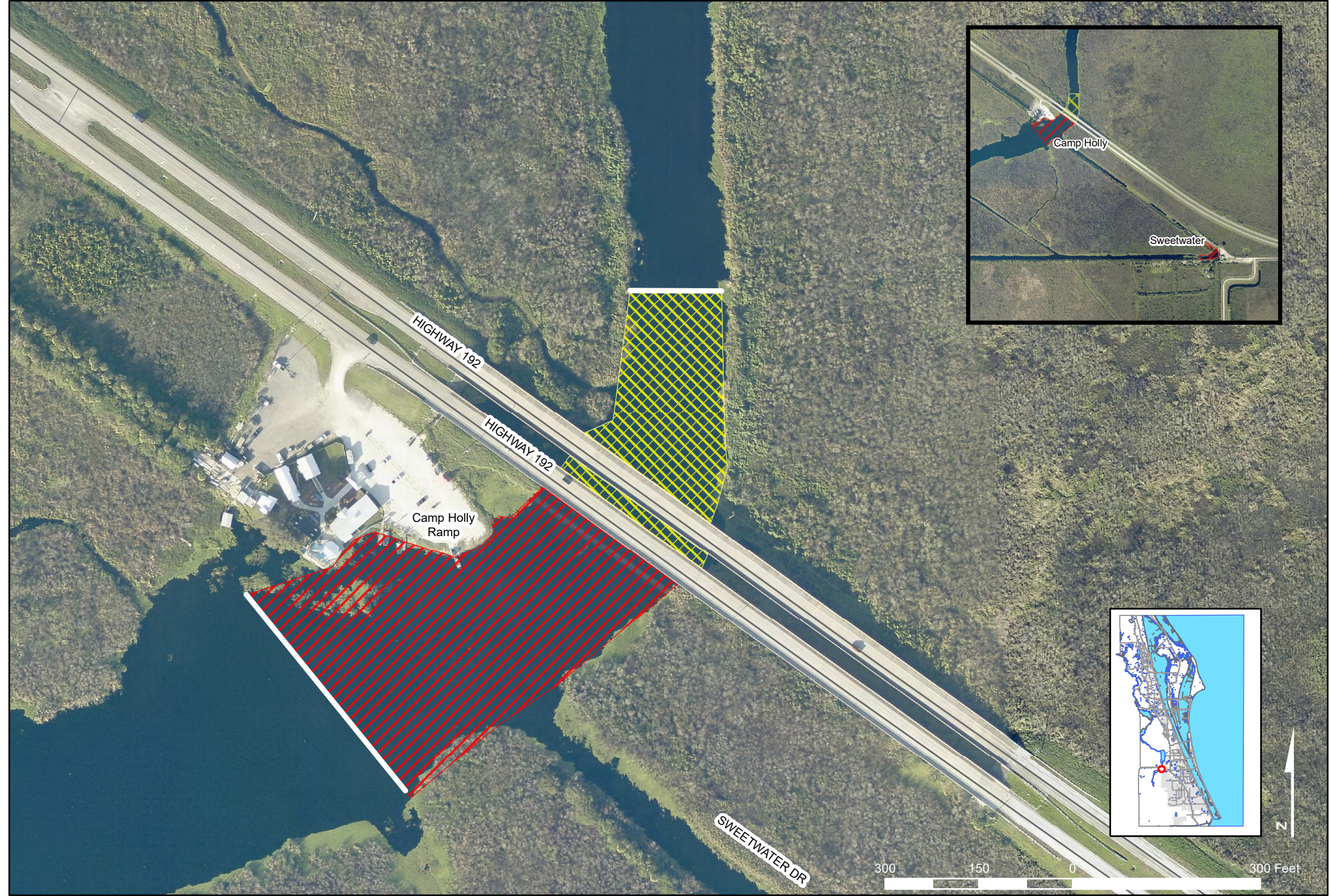
SCOTT ELLIS, CLERK OF COURT

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

EXHIBIT B



Proposed Sweetwater Ramp Idle-speed Zone

Prepared by: Brevard GIS, 8/27/2020