

ORDINANCE NO. 19-15

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RESCINDING ORDINANCE 19-02; AMENDING CHAPTER 66 "WATERWAYS", ARTICLE I "IN GENERAL", SECTION 66-2 "OPERATION OF VESSELS IN RESTRICTED AREAS" OF THE VILLAGE CODE TO CREATE A SLOW SPEED MINIMUM WAKE ZONE GENERALLY LOCATED NORTH NORTH-WEST OF WHALE HARBOR CHANNEL OFF UPPER MATECUMBE KEY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Section 327.46, Florida Statutes, Islamorada, Village of Islands (the "Village") has the authority to adopt slow speed / minimum wake boating restricted areas within the Village; and

WHEREAS, Florida Statutes § 327.46 (1)(b) grants the Village Council of Islamorada, Village of Islands (the "Village Council") the authority to implement slow speed / minimum wake boating safety zones on a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline; and

WHEREAS, the Village Council has identified that the area known as the "Wheel Ditch" located just west of the Whale Harbor Channel off Upper Matecumbe Key as further described in Exhibit "A" hereto requires such regulation in order to protect the boating public; and

WHEREAS, allowing boaters to operate at speeds greater than slow speed / minimum wake within the "Wheel Ditch" has and would continue to create dangerous navigational hazards; and

WHEREAS, the Village Council desires to establish slow speed / minimum wake boating safety zone for the "Wheel Ditch" area pursuant to Florida Statutes § 327.46 (1)(b); and

WHEREAS, nothing in this ordinance shall limit or nullify any no wake zones, slow speed minimum wake zones, and/or idle speed no wake zones already existing within the waterways and boundaries of the Village; and

WHEREAS, the Village Council hereby finds and declares that the adoption of this Ordinance is necessary, appropriate and in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Rescinding Ordinance 19-02.** Ordinance 19-02 as adopted by the Village Council on January 31, 2019, is hereby rescinded in its entirety and replaced by the provisions herein.

Section 3. **Amendments to Chapter 66 the Village Code.** Chapter 66 entitled “Waterways”, Article I “In General”, Section 66-2 is hereby amended as set forth herein:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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Article I. In General

Sec. 66-2 Operation of vessels in restricted areas

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning. If any definition is inconsistent with the definitions in F.S. § 327.02, the definition in F.S. § 327.02 shall take precedence.

Idle speed - no wake means 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.

Marker means any channel mark or other aid to navigation, information or regulatory mark, isolated danger mark, safe water mark, special mark, inland waters obstruction mark, or mooring buoy in, on, or over the village controlled waters or the shores thereof.

Motorized vessel means any vessel equipped with machinery for propulsion, irrespective of whether the propulsion is in actual operation.

Operate means to be in charge of or in command of or in actual physical control of a vessel upon the village controlled waters, or to exercise control over or to have responsibility for a vessel's navigation or safety while the vessel is underway upon village controlled waters, or to control or steer a vessel being towed by a vessel upon village controlled waters.

Person means an individual, partnership, firm, corporation, association or other entity.

Slow Speed Minimum Wake and *Slow Speed* may be used interchangeably and means 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.

Steerageway means the minimum rate of motion required for the helm of the vessel to have effect.

Vessel means every description of watercraft, barge, and air boat, used or capable of being used as a means of transportation on water.

- (b) *Prohibited activities.* It shall be prohibited for any individual to operate a motorized vessel at a speed greater than four knots or in a manner which creates a wake, in the following restricted areas:

- (1) Within an area designated and marked as an idle speed - no wake zone;
- (2) Within 300 feet of a "diver down" flag; or
- (3) Within 300 feet of improved residential or commercial shorelines.

~~(c) — Idle Speed No Wake Zones.~~

~~(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) — The following described waterways or portions of waterways is hereby established as Idle Speed No Wake zones within 300 feet of a narrow bend/blind corner as an intervening obstruction to visibility created from an overhanging and encroaching mangrove canopy may obscure other vessels or other users of the waterway:~~

a. A boating safety zone from approximately mangrove fringe to mangrove fringe, within the Whale Harbor Wheel Ditch, which encompasses the area of a line drawn perpendicular to the waterway, that passes through a westerly point (24°56'43.76" N 80°37'24.82" W) to a line that passes through an eastern point (24°56'44.14" N 80°37'08.16" W) as depicted in the attached Exhibit "A".

[Add Map]

(c) Slow Speed Minimum Wake Zones.

(1) Pursuant to Florida Administrative Code Chapter 68D-23.103, "Slow Speed Minimum Wake" and "Slow Speed" may be used interchangeably and mean that all vessels 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. A vessel that is:

a. Operating on plane is not proceeding at this speed,

b. In the process of coming off plane and settling into the water or coming up onto plane is not proceeding at this speed,

c. Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels or other persons using the waterway, or is likely to do so, is not proceeding at this speed,

d. Completely off plane and which has fully settled into the water and is proceeding at a reasonable and prudent speed with little or no wake is proceeding at this speed.

(2) The following described waterways or portions of waterways is hereby established as Slow Speed Minimum Wake zones on a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline:

a. A boating safety zone from approximately mangrove fringe to mangrove fringe, within the Whale Harbor Wheel Ditch, which encompasses the area of a line drawn perpendicular to the waterway, that passes through a westerly point (24°56'43.76" N 80°37'24.82" W) to a line that passes through an eastern point (24°56'44.14" N 80°37'08.16" W) as depicted in the attached Exhibit "A".

[Add Map]

- ~~(e)~~(d) *Exemptions.* The following acts shall be exempt from the regulations contained in this section:
- (1) A motorized vessel operating under emergency conditions during an emergency; or
 - (2) Operation of a motorized vessel within an officially marked channel at the speed specified in the officially marked channel-;
 - (3) Vessels used solely for sea rescue/emergency or for ensuring compliance with local, state or federal law.

~~(d)~~(e) *Penalties.*

- (1) A violation of subsection (b) of this section may be enforced by issuance of a uniform boating citation by a duly authorized law enforcement officer pursuant to the procedures set forth in F.S. § 327.73 and F.S. § 327.74.
- (2) The civil penalty for a violation of subsection (b) of this section shall be \$50.00 as provided in F.S. § 327.73, or such other amount as may be authorized by the state legislature should F.S. § 327.73 be amended.
- (3) Nothing contained herein, however, shall prohibit the village from enforcing this section by any other lawful means.

Section 4. Repeal of Conflicting Provisions. The provisions of the Village of Islamorada Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any sentence, section, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Village of Islamorada Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was offered by Councilwoman Cheryl Meads, who moved its adoption on first reading. This motion was seconded by Vice Mayor Mike Forster, and upon being put to a vote, the vote was as follows:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	YES
Councilman Jim Mooney	YES

PASSED on the first reading this 30th day of May, 2019.

The foregoing Ordinance was offered by Vice Mayor Mike Forster, who moved its adoption on second reading. This motion was seconded by Councilman Jim Mooney, and upon being put to a vote, the vote was as follows:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	ABSENT
Councilman Jim Mooney	YES

PASSED AND ADOPTED on the second reading this 27th day of June, 2019.



DEB GILLIS, MAYOR

ATTEST:

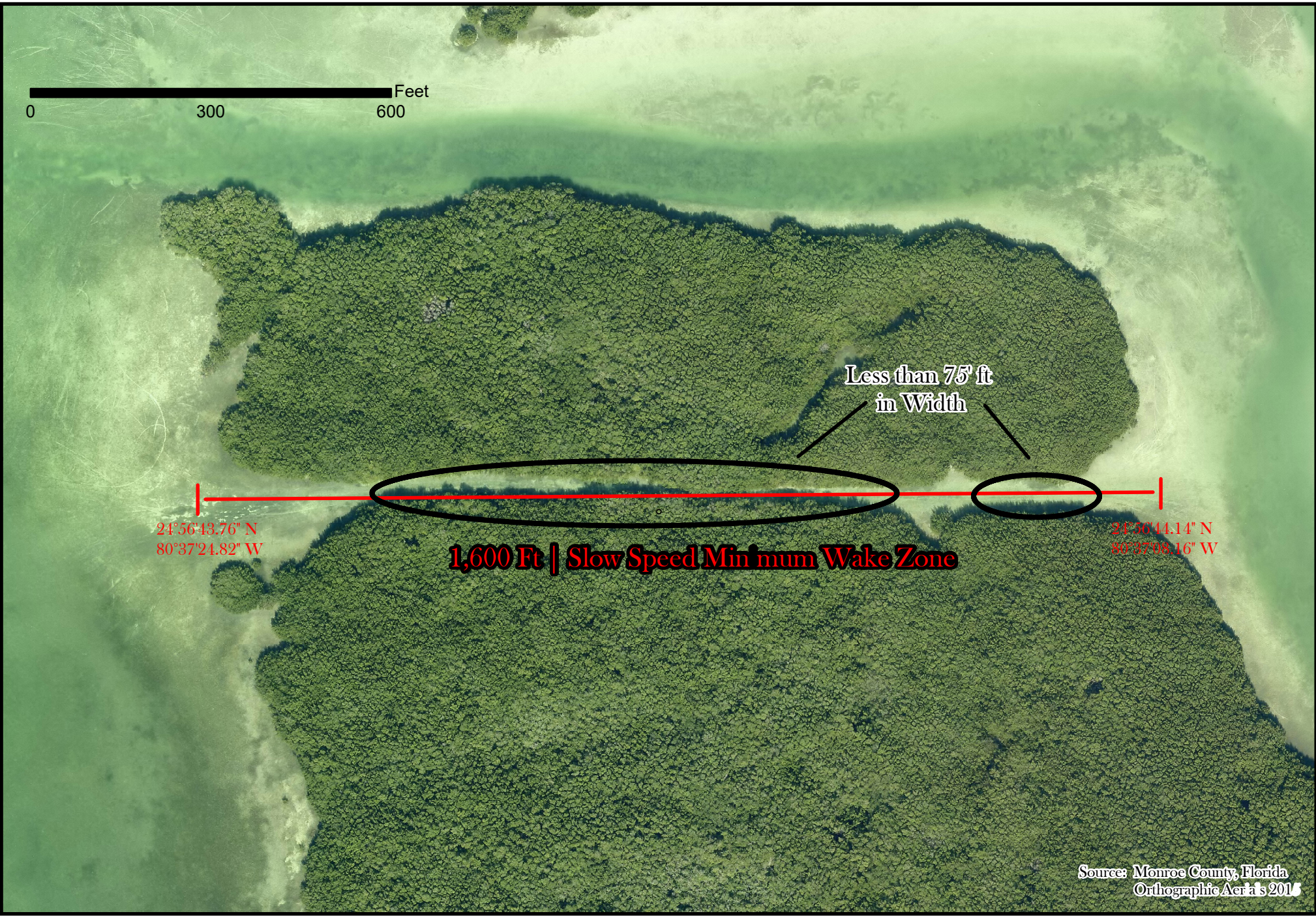


KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY



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Created by C. Southern, CFM

Islamorada, Village of Islands

Whale Harbor Wheel Ditch
Slow Speed Minimum Wake

Map
1.0



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Islamorada, Village of Islands

Whale Harbor Wheel Ditch
Slow Speed Minimum Wake Zone

Map
2.0