



# Ordinance Language Standard Operating Procedure

Chapter 327 Section 46, Florida Statutes, grants local governments the authority to establish boating restriction zones on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards.

Here are a couple of things to keep in mind when creating a boating restriction zone:

The zone must adhere to the requirements laid out in Florida Statutes, Section 327.46. This statute establishes the authority for local governments to create boating restriction zones. There are two parts to this statute. The first (327.46(1)(b)), describes physical circumstances on the waterways that warrant boating restriction zones. These physical circumstances include boat landings and fuel facilities that are open to the public, bridge fender systems, bridges with certain clearance limits, and canals that are less than 75 ft. wide. Local governments are able to regulate within prescribed buffers around these areas.

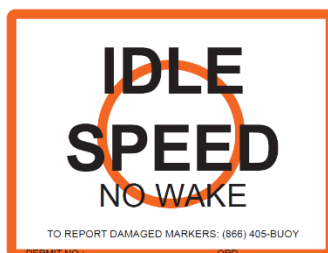
If these buffer zones do not cover the area that your government wishes to regulate then you will need to apply to FWC Boating and Waterways for a review of the ordinance. This process makes up the second part of the statute (327.46(1)(c)). The area will be reviewed based on specific criteria that allows FWC to determine whether there is a boating safety issue on that particular waterway that is best handled by establishing a boating restriction zone. This review process is governed by chapter 68D-21, Florida Administrative Code. We have created a checklist to help local governments navigate the application process.

Here is a breakdown of what you can do under 327.46(1)(b), Florida Statutes:



## Slow Speed Minimum Wake within:

- 300 ft. of bridge fender.
- 300 ft. of bridge with > 25 ft. of vertical clearance or > 100 ft. of horizontal clearance.
- A creek, stream, canal, or similar linear waterway is < 75 ft.



## Idle Speed No Wake within:

- 500 ft. of public boat ramp, hoist, marine railway, launching/landing facility, fuel pumps on waterway > 300 ft.
- 300 ft. of public boat ramp, hoist, marine railway, launching/landing facility, fuel pumps on waterway < 300 ft.
- 300 ft. of lock system.



## Vessel Exclusion:

- Public bathing beach or swim area.
- Within 300 ft. of dam, spillway, or flood control structure.



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If your zone does not meet any of these condition or only a couple of them, then you will need to apply for a review of the ordinance under 327.46(1)(c). Under (1)(c) there are certain conditions that your zone must meet in order to be approved by FWC’s Boating and Waterways Section. Those conditions are as follows:



### Idle Speed No Wake within:

-300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.



### Slow Speed Minimum Wake within:

-300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.

- Subject to unsafe levels of vessel traffic congestion.
- Subject to hazardous water levels or currents, or containing other navigational hazards.
- An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a significant risk of collision or a significant threat to boating safety.



### Vessel Exclusion if the area is reserved exclusively:

- As a canoe trail or otherwise limited to vessels under oars or under sail.
- For a particular activity and user group separation must be imposed to protect the safety of those participating in such activity.

The review process is described in Chapter 68D-21, Florida Administrative Code. Our office has created a checklist to help our applicants for this review process make sure that they are submitting a completed application.



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## FAQ Sheet:

**Question: Can local governments regulate waterways for protection of shoreline?**

**Answer:** No. Here is the portion of Florida Administrative Code [68D-23(1)] that prohibits the regulation of vessels for the protection of shoreline:

“(3) It is further the intent of this chapter that no boating restricted area be established, continued in effect, or enforced for the purpose of noise abatement or for the protection of shoreline, shore-based structures, or upland property from vessel wake or shoreline wash. As provided in Section 327.33(2), F.S., “vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property.” The wake resulting from the reasonable and prudent operation of a vessel is a force which should be anticipated by the owners of property adjacent to the navigable waters of this state.”

**Question: How long does it typically take for a local government to go through a 327.46(1)(c) review process?**

**Answer:** It depends on the local government ordinance establishment process. There are a couple of mandatory public review periods that must be met that cause the process to take at least 42 days. Chapter 68D-21 requires FWC to notify the public for a 21 day period when a completed application is received. 68D-21 also requires FWC to notify the public for a 21 day period of the final decision. During these review periods, members of the public can request a public hearing to discuss the zone that is being proposed.