



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Kathie G. Brooks, Interim City Manager

DATE: January 23, 2013

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 66, ENTITLED "MARINE STRUCTURES, FACILITIES AND VEHICLES," BY AMENDING ARTICLE II, TO BE ENTITLED "RESTRICTED WAKE ZONES," TO CREATE REGULATIONS FOR RESTRICTED WAKE ZONES; PROVIDING FOR A PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESTRICTED AREAS; PROVIDING FOR POSTING OF REGULATORY MARKERS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME

Increase community satisfaction with City government

Enhance the environmental sustainability of the community.

BACKGROUND

The proposed ordinance would provide regulations for the safe operation of motorboats and other vessels in or upon waters within the jurisdiction of the City of Miami Beach. The City has the authority to create such an ordinance based on Section 327.46, Florida Statutes (F.S.) which went into effect October 1, 2009. Section 327.46, F.S. encourages local governments to establish boating restricted areas where needed. The statute does, however, place specific limitations on where and for what purposes boating restricted areas can be established. The statute identifies zones that be established with state review, zones that can be established without state review, as well as areas which can be designated for the purpose of public safety. The Florida Fish and Wildlife Conservation Commission (FWC) is the agency responsible for conducting the aforementioned state review.

COMMITTEE REVIEW

On September 24, 2012, the Neighborhoods Committee held a discussion relative to this ordinance and unanimously voted to transmit the proposed ordinance to the City Commission with a favorable recommendation.

On October 9, 2012, the Marine Authority held a discussion relative to this ordinance and unanimously voted to transmit the proposed ordinance to the City Commission with a favorable recommendation.

CITY COMMISSION MEETING – DECEMBER 12, 2012

This item was presented to the City Commission at their regularly scheduled December 12, 2012 meeting. During discussion of the proposed ordinance amendment Commissioner Wolfson expressed a concern with larger “No Wake Zones” and the item was subsequently referred to the Land Use and Development Committee.

PROPOSED ORDINANCE

In order to address Commissioner Wolfson’s concerns changes were made to the ordinance and a redline version of the ordinance attached for your reference.

In summary, the idle speed zone proposed for the area around the fuel pump within the Miami Beach Marina has been removed from the ordinance. Additionally, the slow speed zone proposed for the area on the south side of the bridge which connects Belle Isle with Rivo Alto Island has been removed. Finally, the scope of the proposed slow speed zone west of the Sunset Harbor area has been reduced. Please see the attached map. Previously, the proposed area extended west around Belle Isle and connected with the Belle Isle-Rivo Alto bridge, the current proposed slow speed zone extends only to about the midpoint of Belle Isle.

The proposed ordinance still protects the waters surrounding the public access boat ramp within the Maurice Gibb Memorial Park and the blind corner created by the Sunset Harbor Marina with idle speed zones. The remaining proposed idle speed zones are necessary to protect waterway users from large wakes thrown by passing vessels. This is especially true given the types of waterway uses in this area, which include stand-up paddle boards, kayaks, and other small watercraft.

FISCAL IMPACT

In accordance with Charter Section 5.02, which requires that the “City of Miami Beach shall consider the long term economic impact (at least 5 years) of proposed legislative actions,” this shall confirm that the City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed Ordinance should not have a significant fiscal impact upon the City, as this Ordinance would only require installation of “idle speed no wake” (no wake) and “slow speed minimum wake” (slow speed) signs. Considering that the Marine Patrol station is adjacent to the area there is no increase enforcement costs.

CONCLUSION

The waters surrounding the City of Miami Beach are one of the City’s greatest sources of enjoyment. The proposed restricted wake ordinance presents a proactive tool for increasing the safe enjoyment of this City resource. The City should certainly make use of every avenue possible for increasing quality of life for residents and minimizing risks to safety. Further, this type of ordinance is specifically encouraged by Section 327.46, F.S. for boating safety reasons.

Additionally, it is recommended that the No Wake Zone Ordinance be referred to the Neighborhoods and Community Affairs Committee in-between first and second reading for its further consideration as that Committee approved the concept of a No Wake Zone at its September meeting, but it has not considered the specific provisions of the proposed Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 66, ENTITLED "MARINE STRUCTURES, FACILITIES AND VEHICLES," BY AMENDING ARTICLE II, TO BE ENTITLED "RESTRICTED WAKE ZONES," TO CREATE REGULATIONS FOR RESTRICTED WAKE ZONES; PROVIDING FOR A PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESTRICTED AREAS; PROVIDING FOR POSTING OF REGULATORY MARKERS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach, Florida is authorized to regulate vessel operations, including the speed and wake of vessels, under Sections 327.46 and 327.60 of the Florida Statutes; and

WHEREAS, the City Commission has determined that the unregulated operation of vessels on the waterways in the City of Miami Beach constitutes a potential hazard to the safety and welfare of the citizens of City of Miami Beach; and

WHEREAS, vessels used as a means of transportation on water have been declared to be dangerous instrumentalities in the State of Florida, pursuant to 327.32, Florida Statutes; and

WHEREAS, boating restricted areas are necessary to avoid safety hazards to persons, property, and marine life resulting from vessels traveling at excessive speeds; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA as follows:

SECTION 1. That Article II of Chapter 66 of the Miami Beach City Code is hereby amended to provide for restricted wake zones as follows:

CHAPTER 66

MARINE STRUCTURES, FACILITIES AND VEHICLES

* * *

Article II. Reserved Restricted Wake Zones.

Sec. 66-41. Reserved Purpose.

The purpose of this ordinance is to provide regulations for the safe operation of motorboats and other vessels in or upon the waters within the jurisdiction of the City of Miami Beach consistent with Chapters 125 and 327, Florida Statutes, and Chapters 68D-21 and/or 68D-23, Florida Administrative Code, and as such Chapters and Codes shall be amended from time to time.

Sec. 66-42. Definitions. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

"Boating-restricted Area" means an area of the waters of the state within which the operation of vessels is subject to specified restrictions or from which vessels are excluded.

"Idle Speed" and "Idle Speed No Wake" indicates a boating restricted area which has been established to protect the safety of the public. The terms 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.

"Idle Speed No Wake Zone" means an area of a waterway in which a vessel cannot proceed at a speed greater than that specified by the Idle Speed No Wake definition.

"No wake" means that vessel speed which is the minimum required to maintain headway and does not produce a wake.

"Regulatory marker" means a device used to alert the mariner to various regulatory matters such as horsepower, speed, wake, or entry restrictions in conformity with the Uniform State Waterway Marking System and the United States Aids to Navigation System, Part 62 of Title 33 of the Code of Federal Regulations.

"Slow Speed" and "Slow Speed Minimum Wake" indicates a boating restricted area which has been established to protect the safety of the public. The terms 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 conditions which endanger or are 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.

"Slow Speed Minimum Wake Zone" means an area of a waterway in which a vessel cannot proceed at a speed greater than that specified by the Slow Speed Minimum Wake definition.

"Speed Zone" means any area lawfully posted as a slow speed minimum wake area or idle speed no wake area.

"Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

"Vessel wake" means the movement of waves created by the motion of the vessel. It is the track or path that the vessel leaves behind. Vessel operators shall be responsible for their own wake and liable for any damage it may cause.

"Wake" means when used in conjunction with a numerical size limit all changes in the vertical height of the water's surface caused by the passage of a vessel including, but not limited to, a vessel's bow wave, stern wake, and propeller wash, measured from the ambient tide level to the crest of the vessel's wake at a distance of not less than 25 feet from the vessel.

Section 66-43. Restricted Areas.

A. The areas of enforcement of the provisions of this Ordinance shall be all public navigable waters, creeks, lakes, canals and channels, as provided herein, whether natural or manmade, located within the boundaries described below 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.

B. Idle Speed No Wake zones shall be established at the following locations:

- 1) Within a 500 foot radius around the fuel pump within the Miami Beach Marina located at 300 Alton Road, Miami Beach, FL.
- 2) Within a 500 foot radius of the public access boat ramp within the Maurice Gibb Memorial Park.
- 23) Within a 300 foot radius of the blind corner presented by the northwest corner of the Sunset Harbor Yacht Club Marina which obstructs the view between the Biscayne Bay and the channel between the Miami Beach Island and Sunset Island IV.

C. A Slow Speed Minimum Wake zones shall be established:

- 1) Within a 300 foot radius of the south side of the bridge connecting Belle Isle with Rivo Alto Island.
- 2) That portion of Biscayne Bay which lies west of the Sunset Harbor area of Miami Beach, north of the eastern portion of the Venetian Causeway and Belle Isle, extending south from the approximate center of Sunset Island IV, and east of Rivo Alto Island, excluding the shoal bounded by Markers 3, 4, 5, and 65; additionally excluding areas otherwise designated herein.

Section 66-44. Posting of Regulatory Markers.

Implementation of the boating restricted areas is contingent upon receiving all applicable state and/or federal authorizations to insure compliance with Chapter 68D-23, Florida Administrative Code and to assist in navigation consistent with the United States Aids to Navigation System.

Regulatory markers shall be installed and maintained to alert boaters to the existence and boundaries of the boating restricted areas established herein. All regulatory markers shall comply with the standards and regulations provided by state law, specified in Chapters 68D-23.108 and 68D-23.109, Florida Administrative Code. No person shall be charged with a violation of this ordinance prior to the posting of regulatory markers as required by this Section.

All areas designated as "boating restricted areas" shall be so posted with regulatory markers that are in accordance with the provisions of the Florida Fish & Wildlife Conservation Commission's Uniform Waterway Marking System.

Section 66-45. Exemptions.

The restrictions created by this Ordinance shall not apply to vessels of any federal, state, county or municipal agency while operated by an officer, employee or agent thereof who is engaged in law enforcement or other necessary municipal or governmental activity.

Section 66-46. Enforcement and penalties.

The provisions of this section may be enforced by the Miami Beach Police Department, the Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission and its officers, and any other authorized law enforcement officer as defined in Section 943.10, Florida Statutes and in accordance with Section 327.70, Florida Statutes.

Pursuant to Section 327.73, Florida Statutes, any person cited for a violation of any provision of this Ordinance 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 by statute.

SECTION 2. SEVERABILITY.

If any section, sentence, clause, or word of this section is for any reason declared to be unenforceable or unconstitutional by a court of competent jurisdiction, the remaining portions shall not be affected.

SECTION 3. REPEALER.

Any ordinance, or part thereof, and/or any resolution, or part thereof, which is in conflict with this Ordinance, is hereby repealed to the extent of such conflict.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida, as amended. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2013, and upon posting of the regulatory markers permitted in accordance with Sections 327.40 and 327.41, Florida Statutes and the provisions in Chapter 68D-23, Florida Administrative Code.

PASSED and ADOPTED this _____ day of December, 2012.

ATTEST:

MATTI HERRERA BOWER
MAYOR

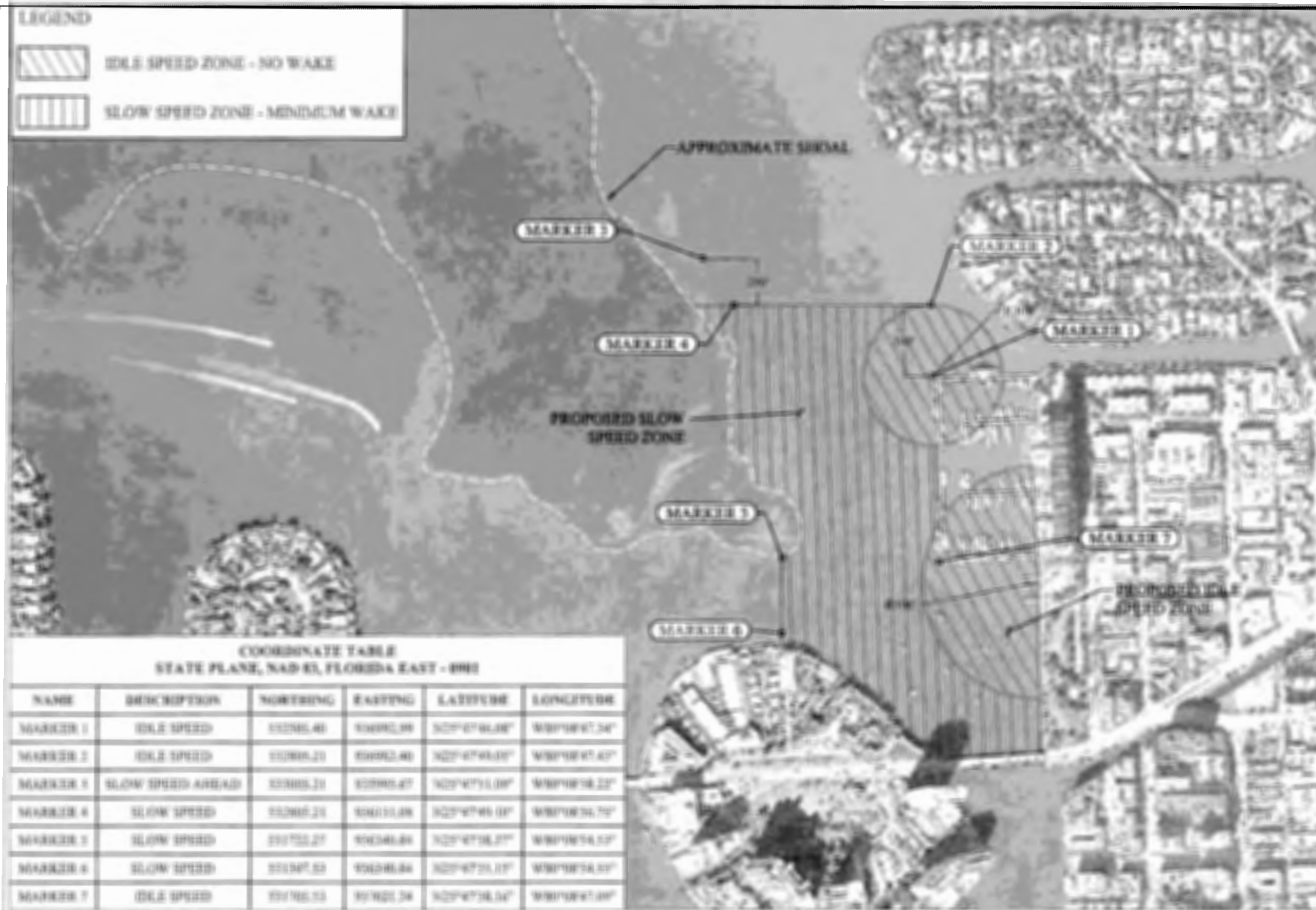
RAFAEL E. GRANADO, CITY CLERK

(Sponsored by Commissioner Jorge Exposito)

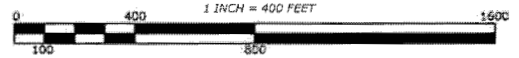
Underline denotes additions

~~Strike through~~ denotes deletions

LUDC#122



NOTES:
 1. AERIAL IMAGE SOURCE: LABINS 2009.
 2. THIS MAP IS NOT INTENDED FOR NAVIGATIONAL USE.



**SUNSET HARBOUR
YACHT CLUB**

1928 Purdy Avenue
Miami Beach, FL 33139

CLIENT:
Ms. Claire Spelts
 Sunset Harbour Yacht Club
 1928 Purdy Avenue
 Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:
**OCEAN
CONSULTING, LLC**
 340 Minorca Avenue, Suite 5
 Coral Gables, Florida 33134
 Tel: (305) 921-9344
 Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:

SEAL / SIGNATURE / DATE

PERMIT SKETCH

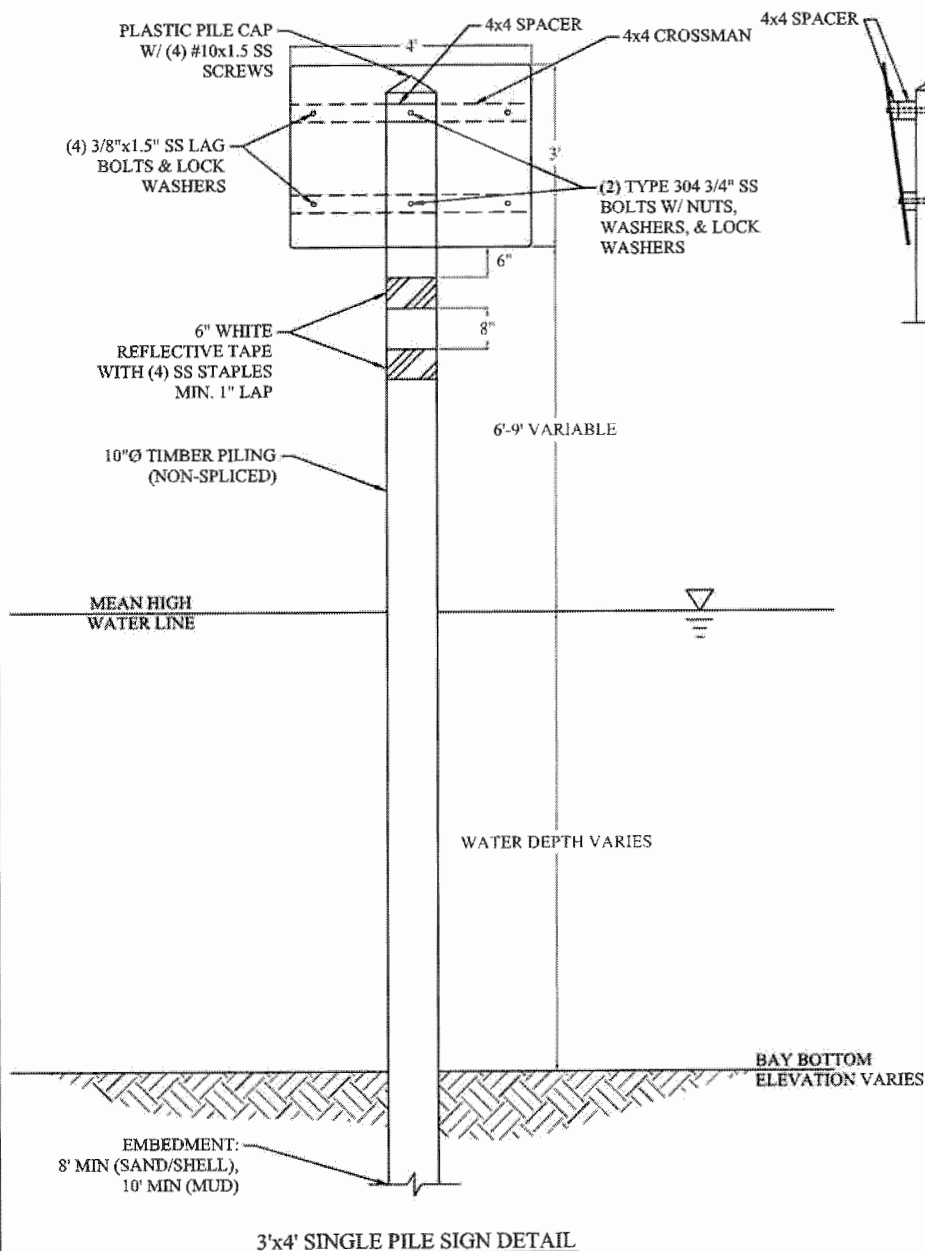
Issue # Issue Date
 ① December 14, 2012

PROJECT: 10-650

**PROPOSED SPEED
ZONE MAP**

SCALE: AS SHOWN
SHEET NO.

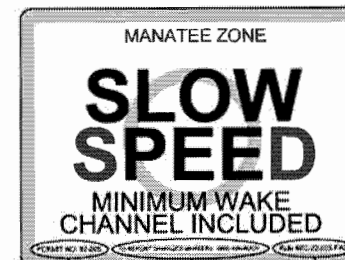
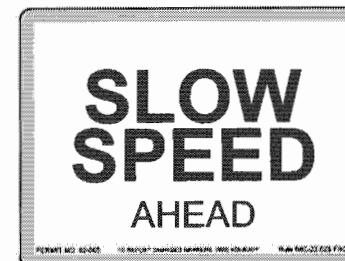
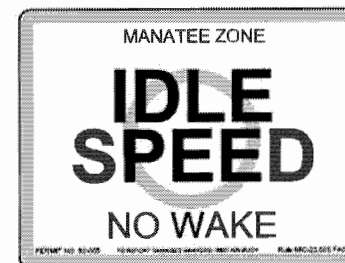
S-1



NOTES:

1. ALL PILINGS SHALL BE PRESSURE TREATED LUMBER (2.50 CCA).
2. ALL FRAMING FOR SIGNBOARD SHALL BE PRESSURE TREATED LUMBER (0.60 CCA, ACQ, OR 0.60 ACZA).
3. BOLT HOLE BORED 1/8" LARGER THAN DIAMETER OF BOLT. ALL FASTENERS MUST BE TAMPER RESISTANT.
4. THE CONTRACTOR SHALL NOT IMPACT THE MESSAGE AREA OR REFLECTIVE SURFACES OF THE SIGN WHEN DRILLING HOLES IN THE SIGNS, OR SPLIT THE ENDS OF THE CROSSING TIMBERS.

3'x4' SIGN DETAIL



PERMIT NO: 92-005 TO REPORT DAMAGED MARKERS: (866) 405-BUOY Rule 68C-22.025 FAC

SUNSET HARBOUR YACHT CLUB

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CONTRACTOR:

PROJECT ENGINEER:

SEAL / SIGNATURE / DATE

PERMIT SKETCH

Issue # Issue Date
① December 14, 2012

PROJECT: 10-650

CHANNEL MARKER DETAILS

SCALE: AS SHOWN
SHEET NO.

S-2

**SUNSET HARBOUR
YACHT CLUB**

1928 Purdy Avenue
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PERMIT SKETCH

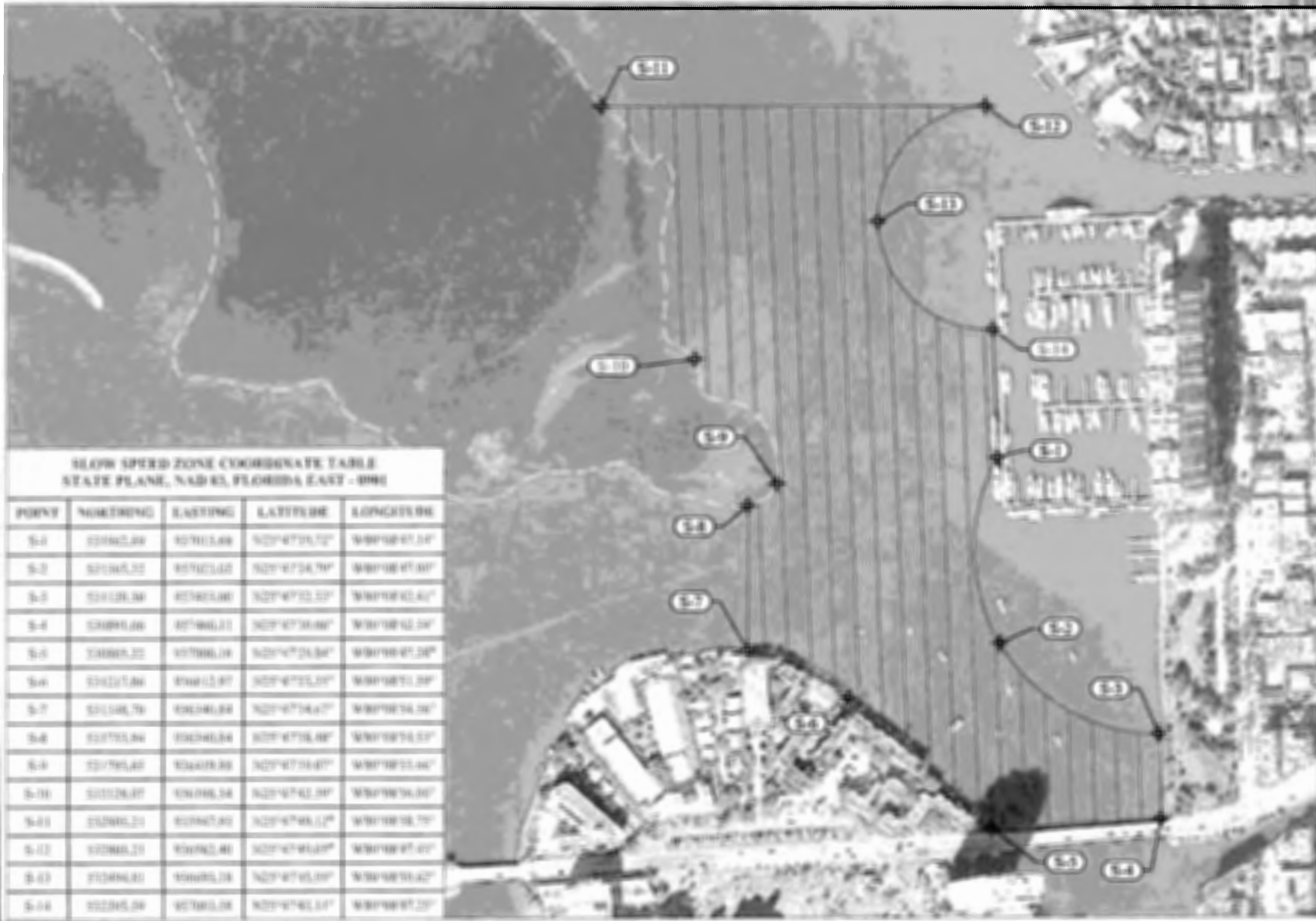
Issue #	Issue Date
①	December 14, 2012

PROJECT: 10-650

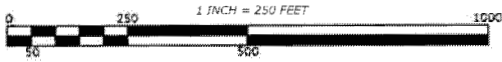
**SLOW SPEED ZONE
BOUNDARY**

SCALE: AS SHOWN
SHEET NO.

S-3



NOTES:
1. AERIAL IMAGE SOURCE: LABINS 2009.
2. THIS MAP IS NOT INTENDED FOR NAVIGATIONAL USE.



LUDC#124

**SUNSET HARBOUR
YACHT CLUB**

1928 Purdy Avenue
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PERMIT SKETCH

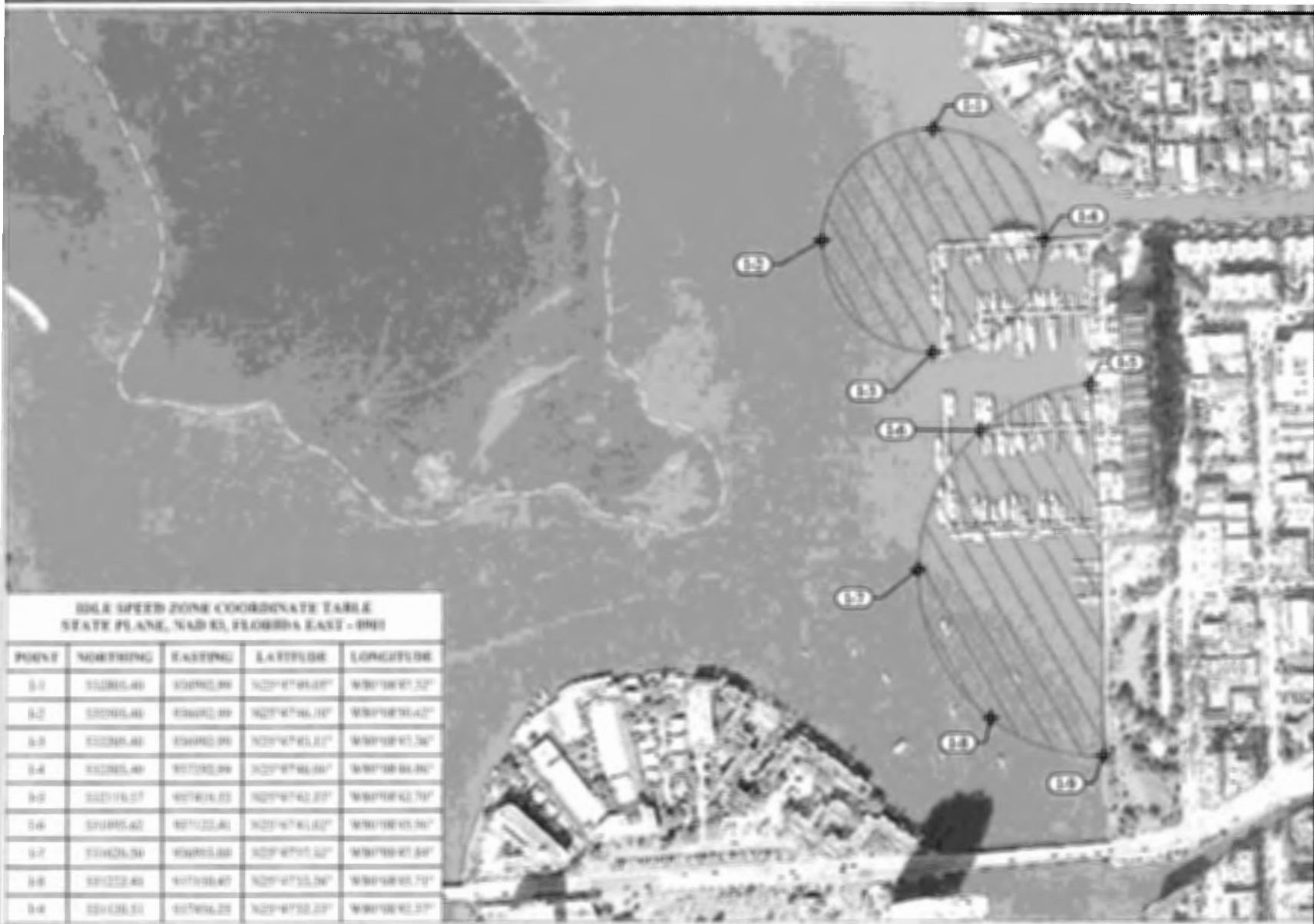
Issue # Issue Date
① December 14, 2012

PROJECT: 10-650

**IDLE SPEED ZONE
BOUNDARY**

SCALE: AS SHOWN
SHEET NO.

S-4



NOTES:
1. AERIAL IMAGE SOURCE: LABINS 2009.
2. THIS MAP IS NOT INTENDED FOR NAVIGATIONAL USE.



LUDC#125

R5 - Ordinances

- R5F An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 66, Entitled "Marine Structures, Facilities And Vehicles," By Amending Article II, To Be Entitled "Restricted Wake Zones," To Create Regulations For Restricted Wake Zones; Providing For A Purpose; Providing For Definitions; Providing For Restricted Areas; Providing For Posting Of Regulatory Markers; Providing For Exemptions; Providing For Enforcement And Penalties; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**
(Requested by Commissioner Jorge R. Exposito)
(Legislative Tracking: City Attorney's Office)
(Memorandum & Ordinance to be Submitted in Supplemental)

Agenda Item R5F
Date 12-12-12