

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: January 16, 2008

Division: Growth Management

Bulk Item: Yes X No

Department: Planning & Environmental Resources

Staff Contact: Richard Jones

AGENDA ITEM WORDING:

Approval to advertise an ordinance modifying Chapter 5.5, Article III, Monroe County Code concerning water-borne craft, establishing No Discharge Zone regulations for water-borne craft, providing penalties for violations, providing for repeal of all ordinances inconsistent herewith, providing for incorporation into the Monroe County Code of ordinances, and providing for an effective date.

ITEM BACKGROUND:

The No Discharge Zone (NDZ) created by the February 2003 NDZ ordinance designated the area to be established but did not provide for local regulations or penalties. The new ordinance will provide for regulations and penalties consistent with those created by other local governments in the Florida Keys.

PREVIOUS RELEVANT BOCC ACTION:

February 2003- the Board approved an ordinance establishing a No Discharge Zone area to coincide with the boundaries of the No Discharge Zone established by the Environmental Protection Agency in 2002.

May 1999- the Board approved an ordinance designating seventeen areas in the Keys as No Discharge Zones.

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No

AMOUNT PER MONTH **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

ORDINANCE NO. 2008

AN ORDINANCE MODIFYING CHAPTER 5.5, ARTICLE III, MONROE COUNTY CODE CONCERNING WATER-BORNE-CRAFT, ESTABLISHING NO DISCHARGE ZONE REGULATIONS FOR WATER-BORNE CRAFT, PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Monroe County is home to North America's only coral barrier reef, among the most endangered coral reefs in the world due to multiple stressors including pollution from sewage and stormwater that has caused a decline in water quality; and

WHEREAS, the reduction of water quality in Monroe County is caused in part by the discharge of untreated or poorly treated sewage from vessels within Monroe County; and

WHEREAS, these waters are of such value that the State of Florida has designated them as Outstanding Florida Waters and Congress has designated them as part of the Florida Keys National Marine Sanctuary; and

WHEREAS, through the efforts of the Governor and the U.S. Environmental Protection Agency, state waters within the boundaries of the Florida Keys National Marine Sanctuary were established as a No Discharge Zone for boater sewage effective June 19, 2002, as published in the *Federal Register* at 67 FR 35735 on May 21, 2002; and

WHEREAS, the No Discharge Zone applies to untreated or treated sewage from marine sanitation devices but does not apply to gray water from showers or sinks, only sewage; and

WHEREAS, in order to comply with the No Discharge Zone, vessels should close their through hull fittings and utilize pump-out facilities; and

WHEREAS, compliance with the Florida Keys No Discharge Zone within Monroe County will be enhanced by the passage of an ordinance establishing that water-borne craft comply with current U.S. Coast Guard regulations and the federal No Discharge Zone regulations; and

WHEREAS, passage of such an ordinance will help improve water quality by providing for an enforceable mechanism within Monroe County to implement the No Discharge Zone, and encourage the use of certified pump out facilities by water-borne craft;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA,

Section 1. Chapter 5.5, Article III shall be amended by adding the following sections.

Sec. 5.5-49. No Discharge Zone Regulations.

- (1) It shall be unlawful for any person to discharge treated or untreated sewage into the jurisdictional waters of a No Discharge Zone from any water-borne craft, whether moored, docked, in transit, or otherwise located within these waters.
- (2) When operating a water-borne craft within the jurisdictional waters of the No Discharge Zone the operator must secure any marine sanitation device in a manner which prevents any discharge. Some acceptable methods are: padlocking overboard discharge valves in the closed position, using non-releasable wire tie to hold overboard discharge valves in the closed position, closing overboard discharge valves and removing the handle, locking the door, with padlock or keylock, to the space enclosing the toilets (for Type I and Type II Marine Sanitation Devices only).
- (3) Type I and II Marine Sanitation Devices, composting toilets, electrical, or gas waste burning toilets or similar devices are allowed, in lieu of a Type III Marine Sanitation Device, so long as the residual waste product produced by such devices is not deposited into state waters.
- (4) If a water-borne craft, as defined herein, is not equipped with a marine sanitation device capable of retaining sewage for pump-out, and the craft remains in the No Discharge Zone for twenty-four (24) consecutive hours, then the owner or operator shall:
 - (i) Immediately install a marine sanitation device with a holding tank that complies with Chapter 327.53 Florida Statutes; or
 - (ii) Berth the water-borne craft, when not in use in navigation, at a marina that has either a pump-out facility to which the water-borne craft can establish a dockside sewage disposal hookup or land based restroom facilities which are available for use by the occupants of the water-borne craft.

Sec. 5.5-50 Violations.

Violations of this ordinance may be prosecuted in the same manner as misdemeanors are prosecuted. In such cases, the violations shall be prosecuted in the name of the state in a court having jurisdiction over misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 for each day of violation or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Violations may also be prosecuted through proceedings before the Monroe County Code Enforcement Special Magistrate, or through any other lawfully available means including civil and injunctive relief.

Section 2. Severability.

If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 3. Repeal of Inconsistent Provisions.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 4. Inclusion in the Monroe County Code.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform marking system of the Code.

Section 5. Effective date.

This Ordinance shall be filed with the Office of the *Secretary of State* of the State of Florida, and will take effect upon receipt by that agency.

PASSED AND ADOPTED by the Board of County Commissioners, Monroe County, Florida at a regular meeting of said Board held on the _____ day of _____, A.D., 2008.

Mayor Charles "Sonny" McCoy	_____
Mayor Pro Tem Mario DiGennaro	_____
Commissioner George Neugent	_____
Commissioner Dixie Spehar	_____
Commissioner Sylvia Murphy	_____

BOARD OF COUNTY COMMISSIONERS
MONROE COUNTY, FLORIDA

BY: _____
MAYOR/CHAIR PERSON

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

BY: _____
DEPUTY CLERK

