



EMERGENCY ORDER NO. 2020-04

CITY OF BOCA RATON COVID-19

LAKE BOCA RATON – NO ANCHORING ORDER

WHEREAS, Executive Order 2020-52 issued by the Governor of the State of Florida, and Chapter 327, Florida Statutes (the "Florida Vessel Safety Law"), authorize the Florida Fish and Wildlife Conservation Commission ("FWCC") to permit local governments to adopt and enforce regulations of vessels upon the Florida Intracoastal Waterway ("Intracoastal"), including orders prohibiting the anchoring of such vessels; and

WHEREAS, the FWCC issued a permit to the City of Boca Raton ("City"), attached hereto as Exhibit "A," (the "FWCC Permit"), which provides for the City to adopt and enforce regulations prohibiting or limiting anchoring within the City's jurisdiction for the duration of Executive Order 2020-52 (including any extensions); and

WHEREAS, in order to protect the health, safety, and welfare of the community through the implementation of community mitigation strategies to curtail the spread of Novel Coronavirus 2019 (COVID-19), the City wishes to prohibit the anchoring of any vessel upon Lake Boca Raton, and any portion of the Intracoastal Waterway 500 feet to the north and south of Lake Boca Raton, which waterways are depicted on the attached Exhibit "B" (the "No Anchoring Zone" or "Lake Boca"), commencing at 12:01 a.m. on Saturday, April 25, 2020, and expiring at 12:01 a.m. on Monday, April 27, 2020, unless amended or extended (the "No Anchoring Order"); and

WHEREAS, this No Anchoring Order for Lake Boca is supplemental to, and in addition to, FWCC Executive Order No. 20-9, attached hereto as Exhibit "C," which remains in effect for all waters of the State of Florida, and limits recreational vessel occupancy to no more than 10 people and requires such vessels to maintain a minimum distance separation of 50 feet; and

WHEREAS, in addition to the FWCC Permit, this No Anchoring Order for Lake Boca is authorized pursuant to the Home Rule powers of the City (s. 2(b), Art. VIII of the Florida Constitution and Chapter 166, Florida Statutes), Chapter 252, Florida Statutes (Emergency Management), any and all other applicable statutes, the City Charter and City's Code of Ordinances, and all applicable Executive Orders issued by the Governor of the State of Florida and the FWCC; now therefore

I HEREBY ORDER:

Section 1. LAKE BOCA RATON – NO ANCHORING ORDER

- (A) Except as provided in subsection (B) below, no vessel shall anchor upon Lake Boca Raton, or any portion of the Intracoastal Waterway 500 feet to the north and south of Lake Boca Raton, which waterways are depicted on the attached Exhibit "B."
- (B) The prohibition in subsection (A) above shall not apply to
- (1) permitted mooring fields, public or private marinas, or any other permanently installed wet slips; or
 - (2) a vessel underway, unless such vessel is tied, rafted or moored to another vessel.

Section 2. This No Anchoring Order is issued pursuant to all police powers of the City and shall have the full force and effect of law. This No Anchoring Order shall be enforceable through all enforcement methods authorized by law, and may be enforced by the Police Services Department, as the City's law enforcement agency, as well as any other law enforcement officer. Any violation of this No Anchoring Order shall be punishable as provided by law and the Code of Ordinances of the City of Boca Raton.

Section 3. This No Anchoring Order shall take effect at 12:01 a.m. on Saturday, April 25, 2020, and shall remain in effect until 12:01 a.m. on Monday, April 27, 2020, unless amended or extended.

ORDERED this 24th day of April, 2020, at the time of 6:30 pm.


Leif J. Ahnell, C.P.A., C.G.F.O., City Manager

ATTEST:


Gail M. Medina, Executive Office Manager

EXHIBIT "A"



STATE OF FLORIDA
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Temporary Exemption from Limitation on Local
Government Regulation of Vessel Anchoring based on
Covid-19 Response

**Florida Fish
and Wildlife
Conservation
Commission**

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resources for their long-term
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of people.*

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MyFWC.com

The Fish and Wildlife Conservation Commission of the State of Florida, acting under the authority of Florida Governor's Executive Order 2020-52, Section 4, and section 327.71, Florida Statutes, and acting through its Executive Director under Delegation of Authority Paragraph 22, hereby establishes this permit granting a temporary exemption to the City of Boca Raton to establish regulations prohibiting or limiting anchoring within its jurisdiction for the duration of Executive Order 2020-52, including any extensions of the Order.

City of Boca Raton has contacted the Commission to address an upcoming event, traditionally called Boca Bash, in which during the last weekend in April vessels come from all over to congregate, raft and anchor within Lake Boca. In order effectively address vessel congregations to ensure adequate social distancing, the City of Raton has requested a temporary exemption to allow for the ability to regulate anchoring in their jurisdiction. A review of the City's request to be able to regulate anchoring within its jurisdictional limits has been conducted. The Florida Fish and Wildlife Conservation Commission has determined the following:

1. Florida Governor's Executive Order 2020-52, provides that the Fish and Wildlife Conservation Commission may suspend the provisions of any regulatory statute under its jurisdiction if strict compliance with the provisions of the statute would prevent, hinder, or delay necessary action in coping with the emergency.
2. Florida Governor's Executive Order 2020-91 directs that all persons in Florida shall limit their movements and personal interactions outside their homes to only those necessary to obtain essential services or to conduct essential activities. The Order provides that participating in recreational activities, while maintaining social distancing guidelines, is an essential activity. Boating is, therefore, an essential activity. It further states that State and County marinas, boat launches, fueling, and docking are essential businesses.
3. In conjunction with the Governor's directives discussed above, the Fish and Wildlife Conservation Commission issued Executive Order 20-09, which currently requires that vessel occupancy be limited to no more than 10 persons and that a minimum distance of 50 feet must be maintained between vessels, with some exceptions.
4. In Order to prevent the transmission of Covid-19, the City of Boca Raton has area specific complaints identifying the need to limit vessel anchoring in a manner more restrictive than FWC EO 20-09 that would not ordinarily be permissible pursuant to section 327.60, Florida Statutes, but which takes into

account and is in keeping with purposes of the directives of Florida's Governor and the Fish and Wildlife Conservation Commission, described above.

5. Strict compliance with the provisions of section 327.60 by the City of Boca Raton in not regulating anchoring in a more restrictive manner, will prevent, hinder, or delay necessary action in coping with the Covid-19 emergency.
6. Furthermore, the undersigned finds that boating safety will not be adversely affected, but will be enhanced, by temporarily exempting the City of Boca Raton from the regulation of anchoring limitations in section 327.60, Florida Statutes.

This permit will allow the City of Boca Raton, notwithstanding the limitations of section 327.60, to regulate the anchoring of vessels on the waters within its jurisdiction as a response to the Covid-19 emergency.

This permit does not exempt the City of Boca Raton from compliance with all other federal, state or local boating safety, navigation, manatee protection or other laws, rules or ordinances.

This order shall become valid beginning on the date executed below and remain in effect for the duration of Florida Governor's Executive Order 2020-52, as it may be extended.

GIVEN UNDER MY HAND AND SEAL
OF THE FISH AND WILDLIFE
CONSERVATION COMMISSION OF
THE STATE OF FLORIDA THIS 24th
DAY OF April, 2020

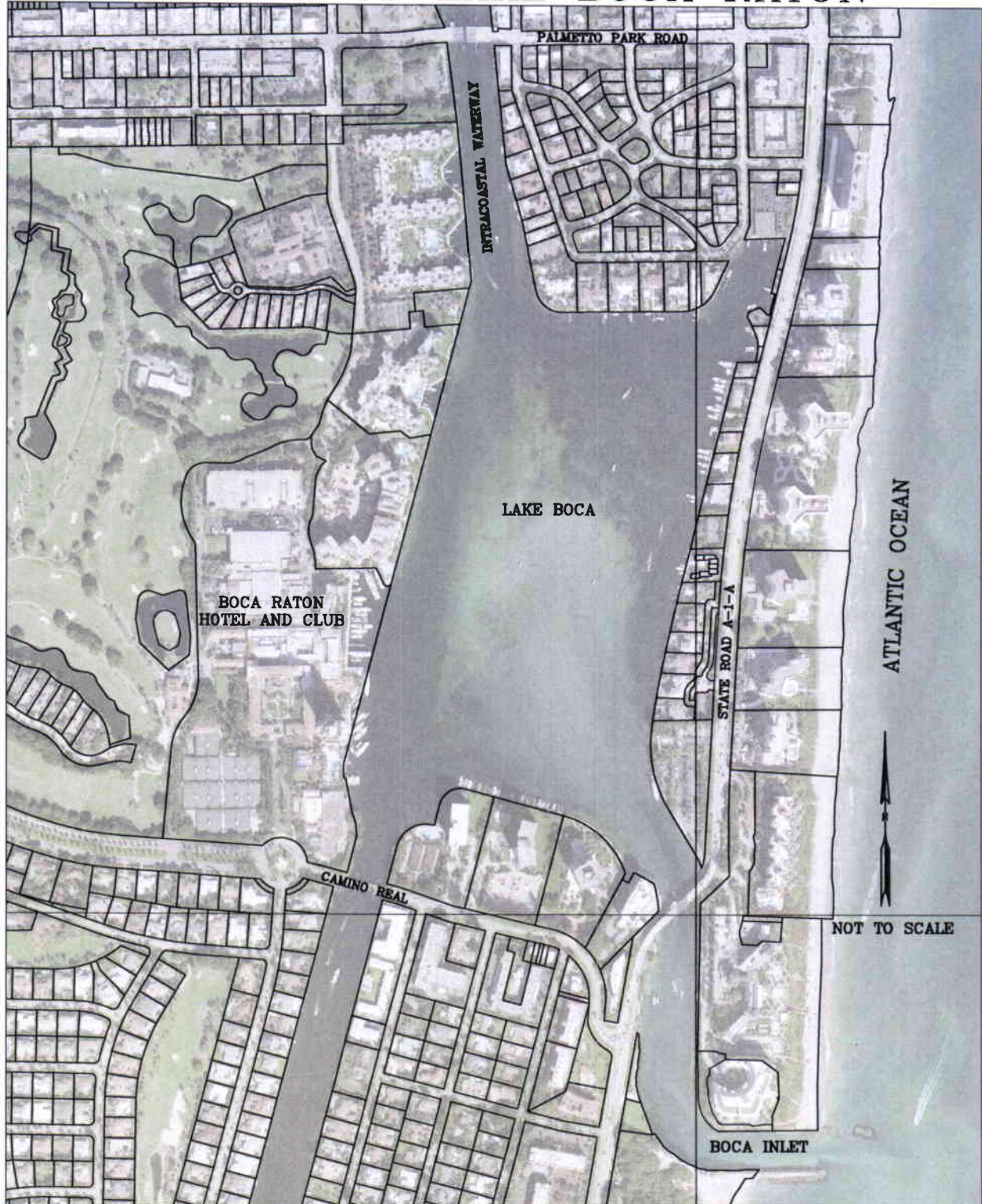


Eric Sutton
Executive Director

A person whose substantial interests are affected by FWC's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. A person seeking a hearing on FWC's action shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision. The petition must contain the information and otherwise comply with section 120.569, Florida Statutes, and the uniform rules of the Florida Division of Administration, chapter 28-106, Florida Administrative Code. Upon such notification, the Permittee shall cease all work authorized by this permit until the petition is resolved. The enclosed Explanation of Rights statement provides additional information as to the rights of parties whose substantial interests are or may be affected by this action.

EXHIBIT "B"

SKETCH OF LAKE BOCA RATON



City Of Boca Raton
Municipal Services Department
201 West Palmetto Park Rd. Boca Raton Florida 33432

SKETCH OF LAKE BOCA RATON

EXHIBIT "C"

**STATE OF FLORIDA
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION**

FWC EXECUTIVE ORDER NO. 20-09

**RECREATIONAL VESSELS
COVID-19**

WHEREAS, The Fish and Wildlife Conservation Commission of the State of Florida, acts under the authority of Article IV, Section 9, of the Florida Constitution, and acts through its Executive Director under 68-1.009, F.A.C., Delegations of Authority, February 14, 2013, Paragraphs 17 and 22; and

WHEREAS, Florida Governor Ron DeSantis on March 1, 2020 by Executive Order No.: 20-51, directed the State Health Officer and Surgeon General, Dr. Scott Rivkees to declare a public emergency in the State of Florida pursuant to F.S. 381.00315; and

WHEREAS, Governor DeSantis issued Executive Order No.: 20-52 on March 9, 2020, pursuant to the authority vested in him by Article IV, Section 1(a) of the Florida Constitution, the State Emergency Management Act, s. 252.31, Florida Statutes, *et al.*, as amended, and all other applicable laws declared a State of Emergency for the State of Florida as a result of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) recommends community preparedness and various prevention and mitigation measures be taken. These measures include among other things, keeping people away from persons who are sick or have been exposed to persons ill with COVID-19, limiting face-to face contact with individuals who are sick or have been exposed to persons ill with COVID-19, exercising social distancing which includes avoiding congregate settings, and maintaining distance (approximately 6 feet or 2 meters) from others and remaining at home; and

WHEREAS, on March 16, 2020, President Donald J. Trump and the CDC issued the “15 Days to Slow the Spread” guidance advising individuals to adopt far-reaching social distancing measures, such as working from home and avoiding gatherings of more than 10 people; and

WHEREAS, the CDC states that large events and mass gatherings can contribute to the spread of COVID-19 whether organized by communities or by individuals, and the Commission has observed and received numerous reports from across the state that large numbers of vessels are congregating together in various locations across the state, tying up or anchoring close together, and individuals are often leaving their vessels and assembling closely in shallow water; and

WHEREAS, Section 327.71, F.S., authorizes the Commission to issue temporary exemptions to any provisions of Chapter 327 if it determines that federal law imposes less restrictive requirements or determines that the exemption will not adversely affect boating safety.

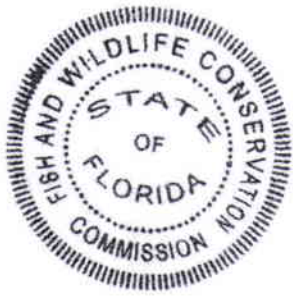
NOW THEREFORE, pursuant to the authority granted by Executive Orders 20-51, 20-52 of the Executive Office of the Governor and consistent with Executive Order 20-68; pursuant to the Commission’s aforementioned delegations of authority; and pursuant to the authority granted in 327.71, F.S. to create temporary exemptions from any provision of Chapter 327 or the rules

thereunder and notwithstanding anything to the contrary in Florida Statutes or Florida Administrative Code:

1. In order to protect the public from the continued spread of COVID-19 I hereby suspend any provisions of Section 327.02, F.S., Section 327.46, F.S., or any other provision of Chapter 327 or regulation thereunder that limits the Commission's ability to implement boating restrictions on the vessels on the waters of this state necessary to enforce effective social distancing provisions; and
2. I interpret "other navigational hazards" within Section 327.46, F.S., for purposes of this order, to include behavior that may result in mass gatherings or congregations of people susceptible to the spread of COVID-19; and
3. I further determine that vessels accessing the waters of the state that do not follow the requirements outlined below constitute a "hazard to public safety" during this public health emergency; and
4. I hereby designate all waters of the state to be a boating-restricted area and the owners and operators of recreational vessels, as defined in s. 327.02, F.S., thereon are subject to the following restrictions:
 - a. Recreational vessel occupancy is limited to no more than 10 persons per vessel; and
 - b. A minimum distance of 50 feet between recreational vessels and any other vessel shall be maintained;
 - i. This distance provision does not apply to permitted mooring fields, public or private marinas, or any other permanently installed wet slips, and does not apply to vessels underway unless they are tied, rafted or moored to another vessel.

This Order shall be effective upon execution and shall expire when the Governor's Executive Order 20-52, expires, or any extension thereof, unless rescinded or superseded at a sooner date.

Specific Authority: Executive Order No. 20-52 of the Executive Office of the Governor, Article IV, Section 9, Florida Constitution, Sections 20.331, 327.71, 327.46, and 327.70, Florida Statutes and Rule 68-1.009, F.A.C.



Given under my hand and seal of the Florida
Fish and Wildlife Conservation Commission
on this 27th day of March, 2020

Eric Sutton
Executive Director

Attest:

Agency Clerk