

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: September 4th, 2018

SUBJECT: Lake Summit No-Wake Zones

PRESENTER: Jimmy Brissie, Emergency Services Director

ATTACHMENTS: Yes

- 1.) Resolution
- 2.) Public Hearing Notice
- 3.) Certification of Notice of Public Hearing
- 4.) Draft Map of No Wake Zones
- 5.) NC Wildlife Resource Commission Application D-1
- 6.) Investigative Findings of NCWRC (5)

SUMMARY OF REQUEST:

In February of 2018 the County Manager's Office was contacted by the NC Wildlife Resource Commission (NCWRC) regarding the current "No-Wake Zones" in effect on Lake Summit. In North Carolina, such zones are enacted as administrative rules by the NCWRC after request by the county commissioners. The current rule setting Lake Summit zones has been in effect since 1976. Staff believes that it should be updated to reflect the areas which are generally accepted as no wake zones in practice.

County Staff has subsequently met with representatives from the NCWRC, the Lake Summit Property Owner's Association, and several summer camps to review the current zones. This group worked to recommend new zones, which are actually currently generally accepted practice. Staff from the NCWRC conducted a safety review of the proposals and concurred with the recommendations. The Lake Summit Property Owner's Association has agreed to fund the purchase of any materials necessary for bringing the markings into compliance with State Law.

Under Administrative Procedure Act, for such changes to take place they must be requested by the Board of Commissioners. After receiving input from Property Owners, Summer Camps, NCWRC Enforcement Officers and the Public it is requested the Board of Commissioners Adopt the Attached Resolution and make application to the North Carolina Wildlife Resources Commission to consider the requested changes.

BOARD ACTION REQUESTED:

The Board is requested to adopt the attached Resolution as presented.

SUGGESTED MOTION:

I move that the Board adopt the attached Resolution in support of the changes to the No-Wake Zones on Lake Summit.

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1
Hendersonville, NC 28792
Phone (828) 697-4808 • Fax (828) 692-9855
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J. MICHAEL EDNEY
Chairman
GRADY HAWKINS
Vice-Chairman

CHARLIE MESSER
WILLIAM G. LAPSLEY
THOMAS H. THOMPSON

RESOLUTION REQUESTING THAT THE N.C. WILDLIFE RESOURCES COMMISSION UNDERTAKE RULEMAKING TO MAKE CHANGES TO THE NO WAKE ZONES ON LAKE SUMMIT

WHEREAS, under authority of North Carolina General Statutes Section 75A-15, any subdivision of the State of North Carolina may at any time, after public notice, make formal application to the North Carolina Wildlife Resources Commission for special rules and regulations with reference to the safe and reasonable operation of vessels on any water within its territorial limits; and

WHEREAS, on August 6, 2018, the Henderson County Board of Commissioners set a public hearing to receive comment regarding requested changes to the no wake zones on Lake Summit in Henderson County, which was subsequently advertised in The Hendersonville Tribune on Wednesday, August 22, 2018; and

WHEREAS, on September 4, 2018, the Henderson County Board of Commissioners held a public hearing to receive public comment regarding the requested changes to the no wake zones and voted to approve said request;

NOW THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners hereby requests that the North Carolina Wildlife Resources Commission undertake rulemaking for purposes of modifying the no wake zones to mitigate hazards to water safety on Lake Summit in Henderson County at the areas denoted in Appendix A of this resolution known as “Green River”, “Mondamin Cove”, “Gasoline Cove”, “Oates Cove” and “Dam Cove”.

Adopted this the 4th day of September, 2018.

J. MICHAEL EDNEY, CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

TERESA L. WILSON, CLERK TO THE BOARD

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September 4th, 2018

NC Wildlife Resources Commission
Attn: No Wake Zone Coordinator
1701 Mail Service Center
Raleigh, NC 27699-1701

Re: Proposed changes to Lake Summit No-Wake Zones

This letter is to advise you of our request to have the NC Wildlife Resource Commission consider changes to the No-Wake Zones for Lake Summit in Tuxedo, NC. During the Spring of 2018 County Staff worked with stakeholders to evaluate the current no-wake zones established by your agency. This group has provided our Board with the attached recommendations. The Lake Summit Property Owners Association has agreed to purchase the necessary supplies and materials for NCWRC Staff to install for legal posting.

On August 6th, 2018 the Board of Commissioners set a time for a hearing of the proposed changes. Public notice was made on August 22nd, 2018 of the intention to make application to the Wildlife Resources Commission for the rule that is being proposed. A hearing was held on Tuesday September 4th at 5:30 PM during the regular meeting of the Board of Commissioners.

Attached you will find a resolution requesting the consideration of the proposed changes along with your application "D-1".

Sincerely,

J. Michael Edney, Chairman
Henderson County Board of Commissioners

**NOTICE OF PUBLIC HEARING
ON PROPOSED CHANGES TO LAKE SUMMIT NO WAKE ZONES**

The Henderson County Board of Commissioners will hold a public hearing for proposed changes to the No-Wake Zones established for Lake Summit. In North Carolina, such zones are enacted as administrative rules by the North Carolina Wildlife Resource Commission after request by the County Commissioners. The current rule setting Lake Summit zones has been in effect since 1976. County and State Wildlife Staff believe that it should be updated to reflect the areas which are generally accepted as no wake zones in practice.

The public hearing will be held on Tuesday, September 4th, 2018, at 5:30 P.M. in the Board of Commissioners Meeting Room located in the Henderson County Historic Courthouse, at 1 Historic Courthouse Square, in Hendersonville, NC. The public is invited to attend and comment on the proposed changes.

Written comments addressed to the Henderson County Board of Commissioners, 1 Historic Courthouse Square, Suite 1, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed changes is available for review in the Henderson County Emergency Services Department, 211 First Ave East, Hendersonville, NC, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, or on the Henderson County EM Website at <http://www.hendersoncountync.gov/em> For more information, call the Emergency Services Department at (828) 697-4728.

Please note that after considering public hearing comments, the Board of Commissioners may discuss other options or make changes to the proposed no-wake zone request before taking final action.

Terry Wilson
Clerk to the Board
Henderson County Board of Commissioners

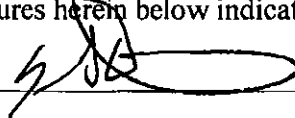
For publication in the Hendersonville Lighting on Wednesday, August 22, 2018.

Certification of Notice of Public Hearing

In accordance with GS 75A-15 the Emergency Services Department certifies notices of the September 4th, 2018 hearing regarding the proposed changes to the Lake Summit No-Wake Zones, were:

1. Submitted to the Hendersonville Lightning on August 19, 2018 to be published on August 22, 2018 by Jimmy Brissie;
2. Posted to the Henderson County Emergency Management Website on August 20, 2018 by Jimmy Brissie;
3. A sign posted at the Lake Summit Boat Ramp on August 22, 2018 by Jimmy Brissie.

The signatures herein below indicate that such notices were made as indicated herein above:

1.  _____

STATE OF NC

COUNTY OF Henderson

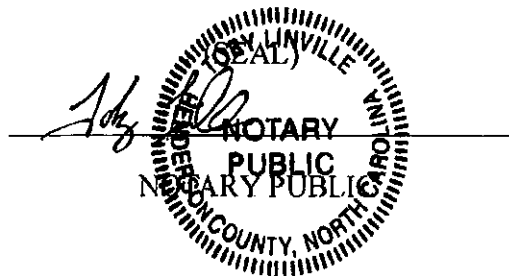
I, Toby Linville, a Notary Public, in and for the above County and State, do hereby certify that Jimmy Brissie

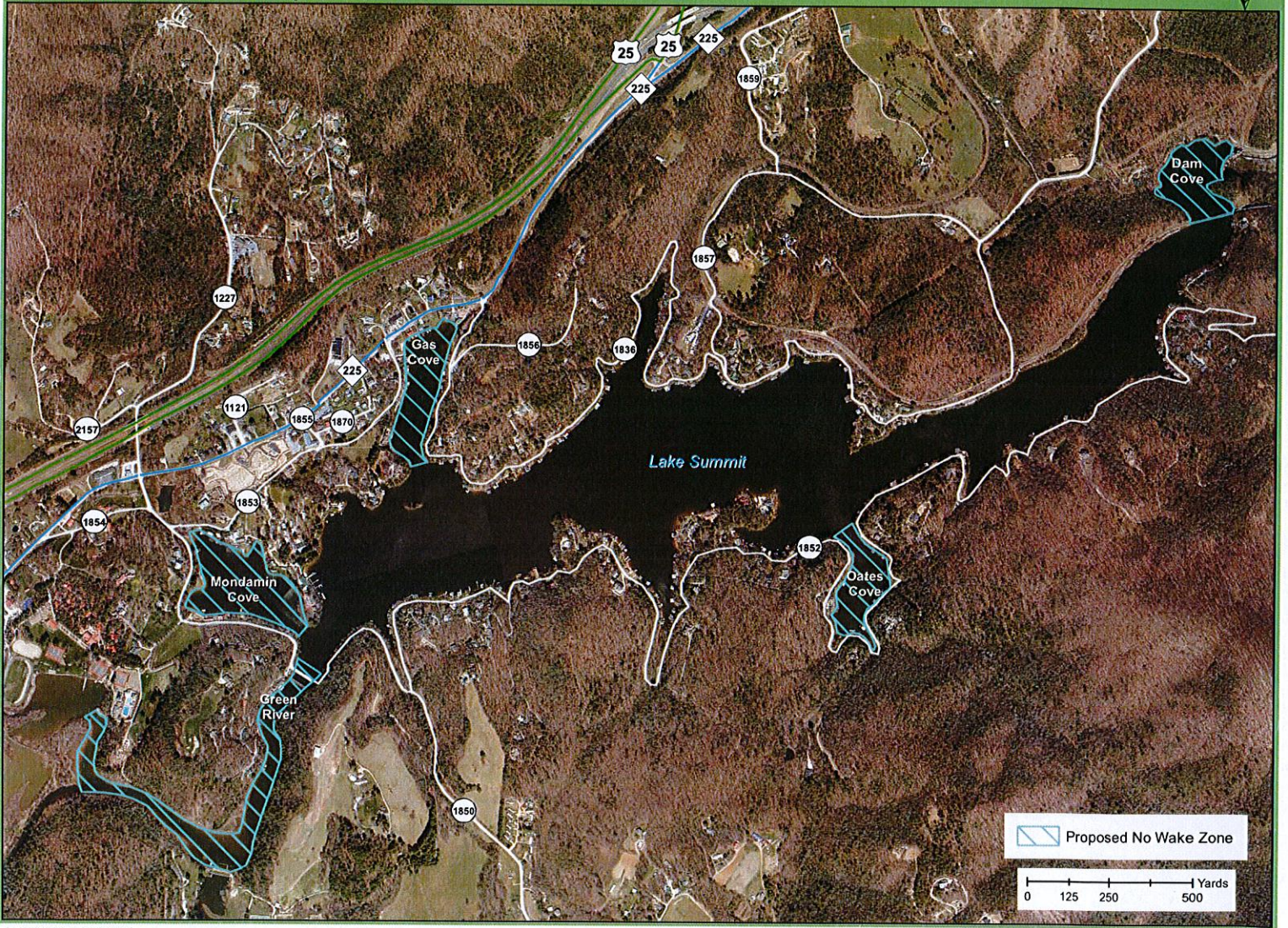
personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 22 day of August, 2018.

My commission expires:

5-25-21







North Carolina Wildlife Resources Commission

Application for Water Safety Rulemaking on Navigable Waters of the State of North Carolina

1. Governmental Unit: Henderson County Date: September 4, 2018
 Contact Name: Steve Wyatt, County Manager
 Mailing Address: 1 Historic Courthouse Sq, Suite 2 Phone # 828-697-4809
Hendersonville, NC 28792

2. In accordance with G.S. 75A-15, the above-named subdivision of the State applies to the North Carolina Wildlife Resources Commission for water safety rulemaking in the following waters:

Name of Body of Water, County, Location: Lake Summit, Henderson County, Tuxedo

Popular Name (if any): Lake Summit

Describe Proposed Regulated Area – No-Wake Zone, Swim Area, Other:
No Wake Zones in the following locations: Green River, Mondamin Cove, Gasoline Cove, Oates Cove and Dam Cove

3. Safety hazard prompting rulemaking request (No Wake Zones, marked swim areas, and mooring areas shall be approved to mitigate hazards to boater and recreational water safety):
Areas indicated may include shallow water, restricted points of access or egress, low overhead clearance limited viability or numerous docks and structures.

4. Include the following information with your application:

- a. Statement that public notice was given of the intention to make application to the Wildlife Resources Commission for the Rule that is being proposed
- b. A resolution from the above-named governmental unit requesting rulemaking for the waters named in Item 2
- c. Affirmation that the local unit of government *or* a designee agrees to purchase and place markers that conform to U.S. Aids to Navigation (USATONS) standards to implement a Rule. The North Carolina Wildlife Resources Commission is required to submit a Fiscal Note to the Office of State Budget and Management to report the fiscal impact of a Rule on a state or local unit of government.

Regulatory markers that do not conform to USATONS standards and that are placed without authorization by the NC Wildlife Resources Commission shall be unlawful.

Mail completed application and supporting documents to:
 No Wake Zone Coordinator
 NC Wildlife Resources Commission
 1701 Mail Service Center
 Raleigh, NC 27699-1701

or email to:
nowakezonecoordinator@ncwildlife.org

NO-WAKE ZONING MATRIX

SECTION 1:

Name of organization/entity: Henderson County

Primary contact information: Jimmy Brissie, Director – Henderson Co. Emergency Services phone 828-697-4728 jbrissie@hendersoncountync.org

Exact location of requested no-wake zone:

Body of water: Green River

Location: a portion of Green River shore to shore, southwest of where it joins Lake Summit

Popular name of area, if any: _____

Width of No-Wake Zone: Narrowest Point: 37 yds_ Widest Point: 72 yds_

Brief Description of area (example: bridge overpass, obstructed views, Intracoastal Waterway; etc) HOA reports there is a bridge on Co Road 1852, shoal, and private docks that create water safety hazards in this narrow part of the river. The river doglegs to the west such as there is an obstructed view around a 90 degree corner. _____

Attach map of designated no-wake zone

Ensure proposed no-wake zone map/and or location is agreed upon by point of contact

Attach detailed reason given from point of contact for the request

Is the proposed no-wake zone located within an area that is regulated by the U.S Army Corp of Engineers or the Division of Coastal Management (CAMA) i.e.; Intracoastal Waterway?

YES

NO

(When dealing with the point of contact, please advise that placement of markers in these waters is subject to prior approval of above agency in waters where applicable. NCWRC has no authority to supersede these rules.)

SECTION 2:

PUBLIC SAFETY HAZARD

What public safety hazard exists? _Shallow water, narrow channel, docks submerged concrete structures and bridges.____

Is this a public swimming or recreational area?

NO

YES would the establishment of a swimming area or placement of regulatory buoys be more appropriate? YES NO

SECTION 3:

NAVIGATIONAL HAZARDS

Identify any and all potential hazards associated with the proposed no-wake zone (check all that apply)

OBSTRUCTIONS (Identify) ___Low hanging trees. Logs, Concrete structures._____

NARROW CHANNEL (give approximate width) ___37 yards_____

SHALLOW WATER (give average depth) ___1-2 feet up river._____

OBSTRUCTED VISION (for approximately how great a distance) _____

STRUCTURES (Check all applicable)

DAM

LOCK

SPILLWAY

JETTY

FLOOD CONTROL STRUCTURE

SUBMERGED STRUCTURE

TRESTLE

SANDBAR

- | | |
|--|---|
| <input type="checkbox"/> POWER LINE | <input type="checkbox"/> SHOAL |
| <input type="checkbox"/> FUELING DOCK | <input checked="" type="checkbox"/> PRIVATE DOCKS |
| <input type="checkbox"/> RESTURANT DOCKS | <input checked="" type="checkbox"/> BRIDGE |
| <input type="checkbox"/> ACCESS AREA/BOAT LAUNCH | <input checked="" type="checkbox"/> PIER |

OTHER (list and describe) _This area is a shallow river channel with many docks and low hanging trees. _____

SECTION 4:

If approved, will the no-wake zone extend into a designated channel?

NO

YES (if yes, identify on map)

What is the total distance boaters will travel at a no-wake speed 500 yards _____

Estimated time to travel for boaters through the proposed no-wake zone at no-wake speed _5 min. _

SECTION 5:

List any other known incidents, safety concerns or problems that have occurred? _____

___ We have had several boating accidents in the past where boats ran into the docks up the river causing serious injuries. _____

Rate traffic density in this area from light to heavy

LIGHT 1 2 3 4 5 6 7 8 9 10 **HEAVY**

Is traffic density specific to weekend/and or holidays?

_____ No _____

Does traffic density or ability to maneuver a vessel due to traffic cause safety issues? YES
NO

Rate the likelihood of an incident occurring in this area compared to other similar areas on this same body of water **VERY UNLIKELY 1 2 3 4 5 6 7 8 9 10 MORE LIKELY**

SECTION 6:

OFFICER RECOMENDATION

YES:

NO:

Reason for decision: _____ We have had several boating accidents in the past where boats ran into the docks up the river causing serious injuries . The river is shallow and there are several concrete structures submerged just barely under the surface. _____

Officer: Toby Jenkins Sgt.

NO-WAKE ZONING MATRIX

SECTION 1:

Name of organization/entity: Henderson County

Primary contact information: Jimmy Brissie, Director – Henderson Co. Emergency Services
Ph 828-697-4728

Exact location of requested no-wake zone:

Body of water: Lake Summit

Location: East of Route 1853 and south of Mondamin Cove

Popular name of area, if any: Mondamin Cove

Width of No-Wake Zone: Narrowest Point: 59 yds Widest Point: 224 yds

Brief Description of area (example: bridge overpass, obstructed views, Intracoastal Waterway; etc) Entrance to the cove is very narrow at 35 yards wide. The mouth of the cove is located at 35.2104 N, 82.42676 W.

Attach map of designated no-wake zone

Ensure proposed no-wake zone map/and or location is agreed upon by point of contact

Attach detailed reason given from point of contact for the request

Is the proposed no-wake zone located within an area that is regulated by the U.S Army Corp of Engineers or the Division of Coastal Management (CAMA) i.e.; Intracoastal Waterway?

YES

NO

(When dealing with the point of contact, please advise that placement of markers in these waters is subject to prior approval of above agency in waters where applicable. NCWRC has no authority to supersede these rules.)

SECTION 2:

PUBLIC SAFETY HAZARD

What public safety hazard exists? _____

Is this a public swimming or recreational area?

NO

YES would the establishment of a swimming area or placement of regulatory buoys be more appropriate? YES NO

SECTION 3:

NAVIGATIONAL HAZARDS

Identify any and all potential hazards associated with the proposed no-wake zone (check all that apply)

OBSTRUCTIONS (Identify) ___docks and the area is used as a kayaking, sub area for local camps. _____

NARROW CHANNEL (give approximate width) _____

SHALLOW WATER (give average depth) ___3-5 feet _____

OBSTRUCTED VISION (for approximately how great a distance) ___50 yards _____

STRUCTURES (Check all applicable)

DAM

SPILLWAY

FLOOD CONTROL STRUCTURE

TRESTLE

POWER LINE

FUELING DOCK

RESTURANT DOCKS

ACCESS AREA/BOAT LAUNCH

LOCK

JETTY

SUBMERGED STRUCTURE

SANDBAR

SHOAL

PRIVATE DOCKS

BRIDGE

PIER

OTHER (list and describe) _____

SECTION 4:

If approved, will the no-wake zone extend into a designated channel?

NO

YES (if yes, identify on map)

What is the total distance boaters will travel at a no-wake speed 200
yards _____

Estimated time to travel for boaters through the proposed no-wake zone at no-wake speed 3
minutes _____

SECTION 5:

List any other known incidents, safety concerns or problems that have occurred? _____

Several boating accidents over the past several years.

Rate traffic density in this area from light to heavy **LIGHT 1 2 3 4 5 6 7 8 9 10 HEAVY**

Is traffic density specific to weekend/and or holidays?

No _____

Does traffic density or ability to maneuver a vessel due to traffic cause safety issues? YES

NO

Rate the likelihood of an incident occurring in this area compared to other similar areas on this
same body of water **VERY UNLIKELY 1 2 3 4 5 6 7 8 9 10 MORE LIKELY**

SECTION 6:

OFFICER RECOMENDATION

YES:

NO:

Reason for decision: Several boat accidents have occurred here in the past and the area is a kayak, canoe and SUB paddling area for two camps on the lake and has several private docks and shallow water in back of the cove.

Officer: Toby Jenkins, Sgt.

NO-WAKE ZONING MATRIX

SECTION 1:

Name of organization/entity: __Henderson County

Primary contact information: _ Jimmy Brissie, Director – Henderson Co Emergency Services
828-697-4728

Exact location of requested no-wake zone:

Body of water: __Lake Summit

Location: _north side of Lake Summit, south of Old US Hwy 25

Popular name of area, if any: __Gasoline Cove

Width of No-Wake Zone: Narrowest Point: _42 Yards Widest Point: _132 yards

Brief Description of area (example: bridge overpass, obstructed views, Intracoastal Waterway; etc) _very narrow mouth of cove, very busy area, many docks

Attach map of designated no-wake zone

Ensure proposed no-wake zone map/and or location is agreed upon by point of contact

Attach detailed reason given from point of contact for the request

Is the proposed no-wake zone located within an area that is regulated by the U.S Army Corp of Engineers or the Division of Coastal Management (CAMA) i.e.; Intracoastal Waterway?

YES

NO

(When dealing with the point of contact, please advise that placement of markers in these waters is subject to prior approval of above agency in waters where applicable. NCWRC has no authority to supersede these rules.)

SECTION 2:

PUBLIC SAFETY HAZARD

What public safety hazard exists? Heavily Congested Area, narrow cove with lots of docks and boat traffic.

Is this a public swimming or recreational area?

NO

YES would the establishment of a swimming area or placement of regulatory buoys be more appropriate? YES NO

SECTION 3:

NAVIGATIONAL HAZARDS

Identify any and all potential hazards associated with the proposed no-wake zone (check all that apply)

OBSTRUCTIONS (Identify) _____

NARROW CHANNEL (give approximate width) 42 Yards

SHALLOW WATER (give average depth) 3-5 feet

OBSTRUCTED VISION (for approximately how great a distance) _____

STRUCTURES (Check all applicable)

DAM

SPILLWAY

FLOOD CONTROL STRUCTURE

TRESTLE

POWER LINE

FUELING DOCK

RESTURANT DOCKS

ACCESS AREA/BOAT LAUNCH

LOCK

JETTY

SUBMERGED STRUCTURE

SANDBAR

SHOAL

PRIVATE DOCKS

BRIDGE

PIER

OTHER (list and describe) _____

SECTION 4:

If approved, will the no-wake zone extend into a designated channel?

NO

YES (if yes, identify on map)

What is the total distance boaters will travel at a no-wake speed 150
yards _____

Estimated time to travel for boaters through the proposed no-wake zone at no-wake speed 2
minutes _____

SECTION 5:

List any other known incidents, safety concerns or problems that have occurred? _____

Rate traffic density in this area from light to heavy **LIGHT** 1 2 3 4 5 6 7 8 **9** 10
HEAVY

Is traffic density specific to weekend/and or holidays?
 No _____

Does traffic density or ability to maneuver a vessel due to traffic cause safety issues? YES
NO

Rate the likelihood of an incident occurring in this area compared to other similar areas on this same body of water **VERY UNLIKELY 1 2 3 4 5 6 7 8 9 10 MORE LIKELY**

SECTION 6:

OFFICER RECOMENDATION

YES:

NO:

Reason for decision: _____ This area has previously been included in a designated no wake zone. _____

Officer: Toby Jenkins, Sgt. _____

NO-WAKE ZONING MATRIX

SECTION 1:

Name of organization/entity: Henderson County

Primary contact information: Jimmy Brissie, Director – Henderson County Emergency Services Ph. 828-697-4728 jbrissie@hendersoncountync.org

Exact location of requested no-wake zone:

Body of water: Lake Summit

Location: south shore of lake surrounded by Route 1852.

Popular name of area, if any: Oates Cove

Width of No-Wake Zone: Narrowest Point: 54 Widest Point: 133

Brief Description of area (example: bridge overpass, obstructed views, Intracoastal Waterway; etc) mouth of cove very narrow at 55 yards wide. Mouth located at 35.22408 M. 82.41027 W. There are several private docks.

Attach map of designated no-wake zone

Ensure proposed no-wake zone map/and or location is agreed upon by point of contact

Attach detailed reason given from point of contact for the request

HOA believes that boater safety hazards exist due to the narrow mouth and cove and presence of private docks on both sides of cove.

Is the proposed no-wake zone located within an area that is regulated by the U.S Army Corp of Engineers or the Division of Coastal Management (CAMA) i.e.; Intracoastal Waterway?

YES

NO

(When dealing with the point of contact, please advise that placement of markers in these waters is subject to prior approval of above agency in waters where applicable. NCWRC has no authority to supersede these rules.)

SECTION 2:

PUBLIC SAFETY HAZARD

What public safety hazard exists? _____ Narrow Channel and
Docks _____

Is this a public swimming or recreational area?

NO

YES would the establishment of a swimming area or placement of regulatory buoys
be more appropriate? YES NO

SECTION 3:

NAVIGATIONAL HAZARDS

Identify any and all potential hazards associated with the proposed no-wake zone (check all that
apply)

OBSTRUCTIONS (Identify) _____

NARROW CHANNEL (give approximate width) 54 yards _____

SHALLOW WATER (give average depth) 3-5 feet _____

OBSTRUCTED VISION (for approximately how great a distance) _____

STRUCTURES (Check all applicable)

DAM

LOCK

SPILLWAY

JETTY

FLOOD CONTROL STRUCTURE

SUBMERGED STRUCTURE

TRESTLE

SANDBAR

POWER LINE

SHOAL

FUELING DOCK

PRIVATE DOCKS

RESTURANT DOCKS

BRIDGE

ACCESS AREA/BOAT LAUNCH

PIER

OTHER (list and describe) _____

SECTION 4:

If approved, will the no-wake zone extend into a designated channel?

NO

YES (if yes, identify on map)

What is the total distance boaters will travel at a no-wake speed 150 yards _____

Estimated time to travel for boaters through the proposed no-wake zone at no-wake speed 2 minutes_

SECTION 5:

List any other known incidents, safety concerns or problems that have occurred? _____

Rate traffic density in this area from light to heavy **LIGHT 1 2 3 4 5 6 7 8 9 10 HEAVY**

Is traffic density specific to weekend/and or holidays? _____

Does traffic density or ability to maneuver a vessel due to traffic cause safety issues? YES

NO

Rate the likelihood of an incident occurring in this area compared to other similar areas on this same body of water **VERY UNLIKELY 1 2 3 4 5 6 7 8 9 10 MORE LIKELY**

SECTION 6:

OFFICER RECOMENDATION

YES:

NO:

Reason for decision: A narrow, shallow channel with many boat docks and obstructed views from main body of lake.

Officer: Toby Jenkins, Sgt.