

Alachua County
Board of County Commissioners

ORDINANCE 2020-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING CHAPTER 114 OF THE ALACHUA COUNTY CODE OF ORDINANCES; REPEALING SECTION 114.09, NIGHTTIME AIRBOAT CURFEW AND REPLACING WITH SECTION 114.09, OPERATION OF AIRBOATS; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR MODIFICATION AT PUBLIC HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Alachua County is a charter county of the State of Florida under Article VIII, section 1(g) of the Florida Constitution; and

WHEREAS, Chapter 125, Florida Statutes, authorizes counties to exercise powers of local self-government; and

WHEREAS, section 327.60(2)(e), Florida Statutes, authorizes local governments to regulate the operation of airboats;

WHEREAS, airboats can navigate shallow waters, otherwise not accessible by other aquatic vessels with on-board engines;

WHEREAS, airboats may travel at a high rate of speed through open waters, as well as near shorelines and in vegetated areas; and

WHEREAS, the ability of airboats to access shallow water at a high rate of speed creates a safety hazard for individuals otherwise using the shallow waters, including those individuals wading or paddling near the shoreline; and

WHEREAS, the natural vegetation in the waterbodies of Alachua County are worthy of additional protection for habitat and water quality; and

1 WHEREAS, airboats present a unique threat to natural aquatic vegetation along shallow
2 waters due to their ability to navigate in those shallow waters and over aquatic vegetation, which
3 may kill or harm the vegetation in the airboat's path; and

4 WHEREAS, harm to natural aquatic vegetation harms the aquatic ecosystem of the
5 waterbody and has negative environmental impacts; and

6 WHEREAS, airboat use in close proximity to bird rookeries and night-time roosting
7 areas can cause harm to local and migratory populations of wading birds that live on the lakes
8 and near the shoreline; and

9 WHEREAS, because airboats are capable of operating in shallow waters where birds
10 often nest, the presence of airboats may cause the birds to abandon their nests; and

11 WHEREAS, during hours of limited visibility, the threat to other users of waterbodies
12 within Alachua County and the aquatic vegetation contained in those waterbodies is increased
13 due to an airboat operator's limited ability to see and avoid other users or vegetation; and

14 WHEREAS, the Board of County Commissioners of Alachua County, desires to amend
15 its Alachua County Code of Ordinances to regulate the operation of airboats for the safety of
16 other users and the protection of the environment; and

17 WHEREAS, limiting the hours of operation for airboat operation protects other users and
18 aquatic vegetation during hours of low visibility and protects bird populations during nesting
19 hours; and

20 WHEREAS, a duly noticed public hearing was conducted on such proposed amendment
21 on November 10, 2020 by the Board of County Commissioners.

22 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
23 ALACHUA COUNTY, FLORIDA:

1 SECTION 1. The Board of County Commissioners finds and declares that all statements
2 in the preamble of the ordinance are true and correct.

3 SECTION 2. Section 114.09 of Alachua County Code is repealed in its entirety and
4 replaced for codification as follows:

5 **Sec. 114.09. – Operation of airboats**

6 (a) No person may operate an airboat in such a manner as to endanger the public health,
7 safety, or welfare of an individual or the natural habitat or ecosystem of waterbodies within
8 Alachua County. No person may operate an airboat in such a manner as to direct the propeller blast
9 in the direction of any person, building, dock, swimming area, rookery, or other aquatic vessel.

10 (b) No person may operate an airboat in Alachua County between one-half hour after
11 sunset and one-half hour before sunrise, with exceptions for government airboats operated in the
12 line of duty by authorized personnel, and private airboats authorized by law enforcement personnel
13 during specific emergency incidents.

14 (c) Airboat means a vessel that is primarily designed for use in shallow waters and
15 powered by an internal combustion engine with an airplane-type propeller mounted above the stern
16 and used to push air across a set of rudders.

17 (d) Operate means to be in command of, or in physical control of, an airboat while the
18 engine is running.

19 (e) This section may be enforced by any codes enforcement officer of Alachua County
20 or any duly authorized law enforcement officer having authority through any enforcement
21 mechanism authorized in the Alachua County Code, including but not limited to injunction, code
22 violation, civil action or misdemeanor violation.

23 (f) As established in section 24.16, a first violation shall carry a Class IV penalty and
24 subsequent violations shall carry Class V penalties for each violation.

25 SECTION 3. Repealing Clause. All ordinances or portions thereof in conflict herewith
26 are, to the extent of such conflict, hereby repealed.

27 SECTION 4. Severability. If any word, phrase, clause, paragraph, section or provision of
28 this ordinance or the application hereof to any person or circumstance is held invalid or
29 unconstitutional, such finding shall not affect the other provisions or applications of the
30 ordinance which can be given effect without the invalid or unconstitutional provisions or
31 application, and to this end the provisions of this ordinance are declared severable.

SECTION 5. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this ordinance may be renumbered or re-lettered to accomplish such intent and that the word "ordinance" may be changed to "section", "article", or other appropriate designation. The correction of typographical errors that do not affect the intent of the ordinance may be authorized by the County Manager or designee, without public hearing, by filing a corrected or re-codified copy of the same with the Clerk of the Circuit Court.", "article", or other appropriate designation.

SECTION 6. Modification. It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

SECTION 7. Effective Date. This ordinance shall take effect immediately upon final adoption.

DULY ADOPTED in regular session, this _____ day of _____, 2020.

**BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA**

ATTEST:

BY: _____,
_____, Chair
Board of County Commissioners

J.K. "Jess" Irby, Esq.
Clerk

APPROVED AS TO FORM

County Attorney's Office

(SEAL)