

Sponsored by: Janke
Introduction Date: November 25, 2003
Public Hearing Dates: December 9, 2003
December 23, 2003
Enactment date: December 23, 2003

**CITY OF MARATHON, FLORIDA
ORDINANCE 2003-30**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,
CREATING A NEW SECTION OF CHAPTER 5.5, BOATS, DOCKS AND
WATERWAYS, OF THE MARATHON CITY CODE AUTHORIZING
THE CITY TO ESTABLISH VESSEL EXCLUSION AREAS; PROVIDING
FOR DEFINITIONS; PROHIBITING OPERATION OF VESSELS IN
ESTABLISHED VESSEL EXCLUSION AREAS; PROVIDING FOR
EXEMPTIONS; PROVIDING FOR PENALTIES; PROVIDING
AUTHORIZATION OF CITY OFFICIALS**

WHEREAS, Chapter 2001-292, Laws of Florida, authorizes the City of Marathon (the “City”) to exercise its police powers 1,200 feet into the tidal waters adjacent to its corporate limits to regulate “the abatement of nuisances, the enforcement of sanitary laws and regulations, the regulation of zoning, and the suppression of crime;” and

WHEREAS, Section 327.60, Florida Statutes, provides the City with the authority to enact an ordinance creating restricted areas relating to the operation of vessels which imposes the restriction for reasons of public safety; and

WHEREAS, the City Council finds and declares public safety problems could arise where vessels are permitted to navigate in areas used for swimming only; and

WHEREAS, based upon the authority provided in Chapter 2001-292, Laws of Florida and Section 327.60, Florida Statutes, the City Council finds that vessels operating in swim areas could create a dangerous condition to life, limb, vessel traffic safety and public safety; and

WHEREAS, Section 68D-23.103(2)(d)(1) of the Florida Administrative Code provides for regulatory markers for “vessel exclusion areas” where there are public bath or swim areas; and

WHEREAS, the City Council finds that the prohibition of vessels in “vessel exclusion areas” designated for swimming only does not conflict with any federal or state navigation laws.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:¹

Section 1. Section 5.5-228 of the City Code “Boats, Docks, And Waterways” is hereby amended to add the following definitions:

“Operate” shall mean to be in charge of or in command of or in actual physical control of a vessel upon the City controlled waters, or to exercise control over or to have responsibility for a vessel’s navigation or safety while the vessel is underway upon City controlled waters, or to control or steer a vessel being towed by a vessel upon City controlled waters.

“Person” shall mean an individual, partnership, firm, corporation, association or other entity.

Section 2. Article ___ of Chapter 5.5 of the City Code “Boats, Docks, And Waterways” is hereby created to read as follows:

Chapter 5.5 Boats, Docks and Waterways

* * *

Article _____. Vessel Exclusion Areas.

Sec. 5.5 - _____. Boating Prohibited in Vessel Exclusion Area.

(a) Boating prohibited in Vessel Exclusion Areas. It shall be prohibited for any person to operate a vessel in an area marked a “Vessel Exclusion Area.” A map reflecting the boundaries of the prohibited areas shall be available at the City Hall for reference by the public and shall be incorporated by reference into this ordinance. The prohibited areas shall be marked by signs on the shoreline at conspicuous places, at marinas and along the main arterial waterways of the City.

(b) Exemptions. The following acts shall be exempt from the regulations contained in this section:

- (1) A vessel operating under emergency conditions during an emergency.

Sec. 5.5 - _____. Penalties.

¹/ Additions to existing text are shown by underline, deletions are shown as ~~striketrough~~.

A violation of this Article may be enforced by issuance of a citation, summons, notice to appear in county court, arrest as provided in Chapter 901, Florida Statutes, or in accordance with Article () of Chapter () of the City Code, and punishable by a fine not to exceed \$500.00. Nothing contained herein, however, shall prohibit the City from enforcing this Article by any other lawful means.

Section 3. City officials are authorized to prepare, execute and file the necessary documents with the appropriate federal and state agencies to obtain permits, to advertise and hold any necessary hearings and, in accordance with Sections 327.40 and 327.41, Florida Statutes, properly mark the vessel exclusion areas contemplated in this ordinance.

Section 4. This Ordinance shall be effective immediately upon its adoption on second reading.

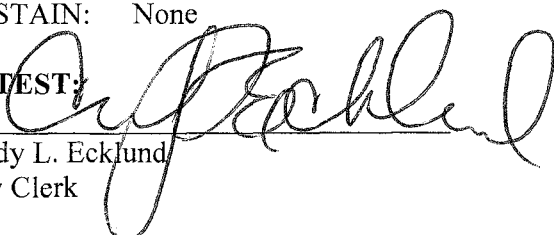
ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 23rd day of December, 2003.

THE CITY OF MARATHON, FLORIDA


Randy Mearns, Mayor

AYES: Bartus, Pinkus, Worthington, Repetto, Mearns
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


Cindy L. Ecklund
City Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:


City Attorney