

Sponsored By: Puto
Public Hearing Date: June 27, 2006
July 11, 2006
Enactment Date: July 11, 2006

**CITY OF MARATHON, FLORIDA
ORDINANCE 2006-011**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 5.5 ENTITLED "BOATS, DOCKS AND WATERWAYS" BY ADDING SECTION 5.5-231(C) RELATING TO ANCHORAGE IN BOOT KEY HARBOR, BY CHANGING CERTAIN TITLES DEFINED THEREIN AND BY ADDING DEFINITIONS THERETO; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in an effort to address the management and use of designated vessel anchorage areas and mooring fields, the City Council of the City of Marathon, Florida (the "City"), on January 8, 2002, enacted Ordinance No. 02-01-08, which created Article XX, Chapter 5.5 of the Code of the City of Marathon, entitled "City Waters and Mooring Fields"; and

WHEREAS, the City Council wishes to amend Article XX by adding provisions regarding anchorage during storm events and by revising certain incorrect references to titles in Article XX; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT:

Section 1. Article XX, Chapter 5.5, of the Code of the City of Marathon is hereby amended to read as follows:

5.5-227 Intent and Purpose.

The intent and purpose of this Article is to regulate activities within City waters to promote water quality, quality of life, and manage the economic impact of the use of City waters. As such, this Article authorizes and provides for the adoption of rules and regulations governing the management and use of City designated vessel anchorage areas and mooring fields, which may be adopted by separate resolution and amended from time to time. City waters, anchorage areas and mooring fields shall be managed so as to eliminate abandoned and derelict vessels, ensure compliance with the Clean Vessel Act, minimize benthic damage, and provide a safe secure harbor for the boating Community. This Article is adopted pursuant to, and shall be construed as consistent with Chapters 327 and 315, Florida Statutes.

Definitions.

"Abandoned vessel" shall mean any vessel that is left unattended long enough for the vessel to become a hazard to other boats, un-seaworthy, or a hazard to navigation regardless of it being properly registered.

"Anchor" shall mean a piece of a vessel's equipment designed to temporarily secure the vessel in an anchorage, or the act of anchoring. All anchors and lines will be considered ground tackle.

"Anchoring Area" shall mean an area or areas designated for vessels to moor temporarily using their own ground tackle (anchor).

"Anchorage or Mooring Agreement" means an agreement or license between the Ports Manager and any person desiring to use a City anchorage area or mooring field, agreeing to the fees, rules and regulations governing the same.

"City waters" shall mean the waters extending 1200' feet into the tidal waters adjacent to the City limits, or as may be otherwise designated by the Florida Legislature. "Commercial Vessel" shall have the same meaning as set forth in Chapter 327, *Fla. Stat.*

"Derelict Vessel" shall mean any vessel in a wrecked, junked, or substantially dismantled condition or abandoned upon any City waters or at any anchorage area or mooring field in City waters without the consent of the City or other agency having jurisdiction thereof or docked at any private property without the consent of the owner of the private property.

"Floating Structure" shall have the same meaning as set forth in Chapter 327, *Fla. Stat.*

"Ports Manager" shall mean the City Manager or designee whom shall manage City waters and operate, manage, and maintain any City anchorage areas and mooring fields.

"Live-aboard Vessel" shall have the same meaning as set forth in Chapter 327, *Fla. Stat.*

"Marine Sanitation Device (MSD)" shall have the same meaning as set forth in Chapter 327, *Fla. Stat.*

"Moor" shall mean the securing of a vessel, by anchoring, attachment, or mooring. rafting to another vessel, or tying to a dock, pier, pile, or wharf.

"Mooring" shall mean a semi-permanent anchorage installation consisting of a heavy anchor, block, or attachment to the bottom, a rode, and a buoy and pennant used for securing a vessel.

"Mooring field" means an area designated by the City with a network of moorings.

"Navigational Channel" shall mean any area designated by the appropriate federal, state or local government agency for the purpose of vessel traffic.

"Registered Owner" means the name denoted on the vessel registration.

"Seaworthy Condition" means a vessel that complies with all applicable federal, state or local government agency regulations concerning equipment, operation, registration and safety.

"Storm Event" means any declared storm event.

"Transient Anchoring Area or Transient Mooring Field shall mean an area in the City's waters designated for short term anchoring and mooring."

"Vessel" shall have the same meaning as set forth in Chapter 327, *Fla. Stat.*

"Vessel Registration" shall mean federal, state, or international registration indicating the ownership of the vessel to include its official number, port of registration and address of owner.

5.5-229 Rules and Regulations for City Waters.

The City may adopt by resolution, fees, rules and regulations for the management of designated anchorage areas and mooring fields in City waters.

5.5-230 Powers and Duties of Ports Manager.

In addition to any duties that may be assigned from time to time, the Ports Manager shall have the following powers and duties:

- (a) To enforce the provisions of this Article.
- (b) To remove or cause to be removed, from City owned, operated, or maintained or regulated anchorage areas, docks, and mooring fields all vessels and floating structures not properly anchored, docked or moored, as determined by the Ports Manager.
- (c) To control and regulate the use of City boat ramps.
- (d) To represent the City as its agent in the execution of all anchorage, docking and mooring agreements or licenses.
- (e) To remove, or cause the removal of, wrecks, derelict vessels, abandoned vessels, and floating structures or navigational hazards as authorized by interlocal agreement with applicable federal, state and local government agencies.
- (f) To inspect the valves and holding tanks and seal the valves upon entry of a vessel to a mooring field or anchorage and to inspect the sealed valves at noticed and scheduled intervals not less than three months apart.

5.5-231 Anchorage Areas and Mooring Fields.

- (a) The City may, by resolution, establish and regulate anchorage areas and mooring fields in City waters to accommodate all vessels both transient and long term.
- (b) Anchorage in a designated mooring field is prohibited.
- (c) Anchorage in Boot Key Harbor is allowed only in designated anchorage areas, except during imminent and post-Storm Events, during which time areas outside the designated anchorage areas and not in designated mooring fields may be used as safe harbor for anchorage.

(d) *Installation of Mooring Fields.* The Ports Manager has the authority to remove or direct the removal of all vessels, floating structures, ground tackle, or any other equipment or materials prior to the installation of a mooring field. The owners of such vessels, floating structures, ground tackle, or any other equipment or materials shall be responsible for their removal. The City shall attempt to give reasonable notice to owners of those vessels, floating structures, ground tackle, or any other equipment or materials to allow for voluntary removal. If the City is unable to contact the owner of those vessels, floating structures, ground tackle, or any other equipment or materials, the City may remove and impound those vessels, floating structures, ground tackle, or any other equipment or materials and dispose of them.

(e) No one may operate a business from a vessel occupying a mooring without the express written permission of the Ports Manager. This may include but is not limited to chartering, brokerage, commercial fishing, boat rentals, rental accommodations, and other similar uses.

(f) All vessels desiring to use a City anchorage area or mooring field shall first register with the Ports Manager or designee. Only seaworthy and registered vessels shall be allowed use of the anchorage areas and mooring fields.

(g) The vessel operator, upon leaving the anchorage, must remove all ground tackle.

5.5-232 Wastewater Discharge and Other Activities Prohibited.

(a) No person shall discharge raw or treated sewage from any vessel including live-aboards or any floating structure. At such time as the Florida Keys are designated a no-discharge zone, the disposal of all waste shall comply with all applicable federal and state rules and regulations applicable to waste discharge. This section shall be enforced pursuant to Section 327.70, *Fla. Stat.*

(b) No person on any vessel or on land may throw garbage, waste (solid or liquid) including plastics, fuel oils, or derivatives thereof, rubbish, swill, offal or refuse into City waters.

(c) With the exception of areas designated by the Ports Manager for emergency purposes, such as hurricane preparations, and until the emergency has subsided (as defined by the City Manager or designee), no person may anchor, moor or dock, or permit or cause to be anchored, moored or docked, any vessel in a canal, basin or cove that is adjacent to any residential area; or within one hundred (100) feet of a canal mouth, basin, cove, or a or natural shoreline whose adjacent or upland property is a residential area. Any vessel with a person or persons aboard that is anchored, moored or docked in the same location for seventy-two (72) hours is presumed for purposes hereof to be a live-aboard vessel. This prohibition does not apply to a marina in lawful operation on the effective date of this Article. Any marina at which a live-aboard is docked, as a condition for site improvements or redevelopment, shall provide an on-site pump out station or a contract for pump out services.

5.5-233 Removal and Impoundment of Dangerous or Hazardous vessels.

Any vessel, due to fire, explosion, accident, or negligence, which in the determination of the Ports Manager creates an immediate danger to life or property, hazard to navigation, or imminent environmental hazard shall be subject to immediate removal and impoundment of the vessel, and costs incident thereto shall be borne by the vessel owner.

5.5-234 Abandoned, Derelict and Wrecked Vessels and Illegal Floating Structures.

(a) No abandoned, derelict or wrecked vessel, or illegal floating structure, shall be allowed in or upon the City waters or the shores of the City. No vessel which is likely to damage private or public property or become a hazard to navigation shall be permitted to anchor, dock or moor in City waters. The Ports Manager or designee shall determine whether any vessel is abandoned, derelict or wrecked, or a floating structure is illegal and if so determined, and as may be authorized by interlocal agreement or state law shall take steps for its removal as follows:

- (1) To the extent possible, notify the owner or other responsible party, as soon as possible, of the determination; and
- (2) If the owner or responsible party fails to remedy the condition, in the manner and time directed, the Ports Manager, shall then notify the registered owner, and any other party known by the City to have an interest in the vessel or floating structure, in writing, specifying the remedy required and the time frame within which it is to be completed.

In addition to the penalties herein, the City may choose to remove, or cause to be removed, the vessel or floating structure. The responsible party shall be required to reimburse the City for the costs incurred in the removal. If the responsible party fails to reimburse the City for the costs of removal, the City may place a lien on the responsible party's real and personal property for the costs incurred by the City. The City may foreclose on the lien, or seek a money judgment, as provided for by state law

(b) Notwithstanding the above, if the Ports Manager determines that a vessel or floating structure is an imminent risk to the health, safety and welfare of the residents of the City, or likely to immediately damage private or public property, or is an immediate hazard to navigation, the City may take all steps necessary to immediately remove, or cause to be removed, the vessel or floating structure without written communication.

5.5-235 Penalties.

A violation of this Article or any resolution adopted pursuant to this Article may be enforced as provided in Chapter 327, Florida Statutes, or pursuant to Chapter 162, Florida Statutes and Chapter 6.3 of the City Code. The City may also enforce this Article by issuance of a citation, summons, or notice to appear in county court, or arrest as provided in Chapter 901, *Fla. Stat.*, or by injunctive relief. Nothing contained in this ordinance shall prohibit the City from enforcing this ordinance by any other lawful means. All fines and fees may be set by Resolution.

Section 2. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.


Section 3. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 5. This Ordinance shall be effective immediately upon its adoption.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 11th day of July, 2006.


THE CITY OF MARATHON, FLORIDA



Marjie Mearns, Vice Mayor


AYES: Pinkus, Tempest, Worthington, Mearns
NOES: None
ABSENT: Bull
ABSTAIN: None

ATTEST:



City Clerk

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



City Attorney