



ORDINANCE NO. \_\_\_\_\_ - 2012

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 26 OF THE MONROE COUNTY CODE (WATERWAYS) TO PROVIDE FOR “ARTICLE V ANCHORING AND MOORING RESTRICTED AREAS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR FILING AND AN EFFECTIVE DATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EXPIRATION DATE.**

**WHEREAS**, in 1992 the Monroe County Department of Marine Resources prepared *The Boating Impacts Management Plan Final Report* which documented liveaboard vessel impacts associated with unmanaged anchorages throughout the Keys; and

**WHEREAS**, in 2002 the Monroe County Department of Marine Resources prepared a *Keys-Wide Mooring Field System Preliminary Planning Document* which included an evaluation of anchorages throughout the Keys including Boca Chica Harbor, Cow Key Channel, and Key West Harbor (i.e. Wisteria Island/Fleming Key area) and recognized the need to address negative boating impacts associated with those unmanaged anchorages; and

**WHEREAS**, in 2008 the Monroe County Marine Resources Office prepared the *Development of a Boating Management Plan for the Boca Chica Harbor Area* which evaluated a variety of boating impacts in that anchorage area and provided options for managing anchoring activity, but recognized the lack of authority (at that time) provided to the County to regulate vessels other than liveaboard vessels; and

**WHEREAS**, in 2009 the Florida Legislature directed the Florida Fish & Wildlife Conservation Commission (FWC), in consultation with the Florida Department of Environmental Protection, to establish a Pilot Program to explore potential options for regulating the anchoring or mooring of non-liveaboard vessels outside the marked boundaries of public mooring fields (327.4105 F.S.); and

47 **WHEREAS**, the goals of the Pilot Program are to encourage the establishment of  
48 additional public mooring fields and to develop and test policies and regulatory regimes  
49 that: promote the establishment and use of mooring fields, promote public access to  
50 waters of the state, enhance navigational safety, protect maritime infrastructure, protect  
51 marine environment, and deter improperly stored, abandoned or derelict vessels; and  
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53 **WHEREAS**, in November 2009 Monroe County sent a Letter of Interest to FWC to  
54 participate in the Pilot Program in partnership with the Cities of Marathon and Key West,  
55 each of which operate public mooring fields; and  
56

57 **WHEREAS**, the Monroe County Board of County Commissioners entered into Inter-  
58 local Agreements with the Cities of Marathon and Key West on February 17, 2010  
59 providing for coordinated partnerships in the FWC Pilot Program; and  
60

61 **WHEREAS**, the Monroe County Marine Resources Office retained consultants to  
62 complete vessel surveys inside and outside of public mooring fields at Key West and  
63 Marathon and in the anchorage at Boca Chica basin, and conducted stakeholder  
64 workshops to take public input on anchoring and mooring issues and potential regulatory  
65 regimes, in accordance with the criteria of the FWC Pilot Program; and  
66

67 **WHEREAS**, FWC staff evaluated Monroe County's vessel surveys, considered public  
68 input provided at stakeholder workshops, and provided a recommendation to the FWC to  
69 approve Monroe County for participation in the Pilot Program; and  
70

71 **WHEREAS**, at its February 2011 meeting the FWC approved Monroe County as one of  
72 five local governments in the state to participate in the Pilot Program, including St.  
73 Petersburg, Sarasota, St. Augustine and Martin County; and  
74

75 **WHEREAS**, the Monroe County Marine and Port Advisory Committee and the Monroe  
76 County Board of County Commissioners held numerous public meetings from 2009 to  
77 the present to discuss, and take public input on FWC Pilot Program objectives, anchoring  
78 impacts in unmanaged Keys anchorages, and viable solutions to address those anchoring  
79 impacts; and  
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81 **WHEREAS**, the Monroe County Board of County Commissioners provided direction at  
82 its September 21, 2011 meeting for staff to draft an anchoring ordinance to provide for  
83 managed anchoring zones with accompanying regulations, and to coordinate with the  
84 Cities of Marathon and Key West for the inclusion of ordinance language providing for  
85 anchoring regulations in association with their respective mooring fields; and  
86

87 **WHEREAS**, at the September 21, 2011 Monroe County Board of County  
88 Commissioners meeting the Board received a request from a representative of Wisteria  
89 Island to have Key West harbor included as a managed anchoring zone, and the Board  
90 approved the inclusion of that area as a managed anchoring zone; and  
91

92 **WHEREAS**, the Monroe County Board of County Commissioners provided additional  
93 direction at its January 19, 2012 meeting for the anchoring ordinance to provide for four  
94 managed anchoring zones, and revised the regulations for development to be applied  
95 within those zones; and

96  
97 **WHEREAS**, the Monroe County Board of County Commissioners at its April 18, 2012  
98 meeting accepted a request by the City of Marathon to include the greater Boot Key  
99 Harbor area as a fifth managed anchoring zone, heard concerns from the Navy, and  
100 directed staff to include a prohibition on vessels within managed anchoring zones that  
101 exhibit conditions known to precede a derelict vessel condition, eliminate floating  
102 structures language and eliminate USCG Auxiliary Vessel Safety Check language  
103 pending a recommendation from the USCG; and

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105 **WHEREAS**, the Monroe County Board of County Commissioners at its May 16, 2012  
106 meeting accepted a request by Naval Air Station Key West to make areas of Boca Chica  
107 basin, encompassed by the Navy Accident Potential Zone and baybottom, a no anchoring  
108 zone to ensure the safety and security of the public; and

109  
110 **WHEREAS**, the Monroe County Board of County Commissioners has indicated that the  
111 anchoring ordinance should not be over-reaching and not overburden transient boaters;  
112 and

113  
114 **WHEREAS**, it is the intention of the Monroe County Board of County Commissioners to  
115 optimize the incentive for vessel owners, who contribute to Boating Improvement Funds  
116 through vessel registration fees and contribute to DEP Clean Vessel Act Program funds  
117 through marine fuel taxes, to properly pumpout and comply with existing sewage  
118 discharge regulations within the federal No Discharge Zone in the Keys, by providing  
119 free pumpout service to vessels located in managed anchoring zones and which are  
120 served by the County pumpout program; and

121  
122 **WHEREAS**, Monroe County staff is negotiating a contract with the National Marine  
123 Waste Foundation to provide free pumpout service to vessels anchored in unincorporated  
124 areas of the Florida Keys and to provide for a registration process, with accompanying  
125 participation stickers or tags to be displayed on vessels indicating proof of regular  
126 pumpouts; and

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128 **WHEREAS**, because the anchoring ordinance is a test program the Monroe County  
129 Board of County Commissioners desires that vessel owners be provided warnings by  
130 enforcement officers prior to the issuance of citations, to allow every opportunity for the  
131 vessel owner to comply with the described regulations; and

132  
133 **WHEREAS**, the anchoring ordinance shall provide for the regulation of both liveaboard  
134 and non-liveaboard vessels; and

135  
136 **WHEREAS**, the Monroe County Board of County Commissioners encourages FWC to  
137 fully implement the agency's At Risk Program in designated managed anchoring zones as

a tool to identify vessels which exhibit conditions known to precede a derelict vessel condition; and

**WHEREAS**, the regulations established in the anchoring ordinance are consistent with the municipal codes of the City of Marathon and the City of Key West; and

**WHEREAS**, the Monroe County Board of County Commissioners will transmit the approved anchoring ordinance to FWC for consideration and approval prior to adoption of the ordinance by the Board of County Commissioners;

**NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS:**

**Section 1.** Chapter 26 of the Monroe County Code is amended as follows:

Chapter 26  
WATERWAYS

ARTICLE V  
ANCHORING AND MOORING RESTRICTED AREAS

Sec. 26-100. Purpose. It is the purpose of this section of this Code to provide for anchoring and mooring restricted areas where unmanaged anchoring and/or mooring and associated environmental and navigational impacts exist. These areas and restrictions are created in accordance with F.S. § 327.4105, and by approval of the Florida Fish and Wildlife Conservation Commission which has been directed by the Florida State Legislature to establish a Pilot Program to explore potential options for regulating the anchoring or mooring of non-liveaboard vessels outside the marked boundaries of public mooring fields. These restrictions are deemed to be necessary to protect the public health, safety and welfare. These restrictions also include the regulation of liveaboard vessels and floating structures, as provided for in F.S. § 327.60(3).

Sec. 26-101. Definitions.

*Proof of pumpout* means an acceptable form of proof that a vessel has had its vessel sewage legally pumped out, or disposed of (in the case of a Porta-Potti or other portable toilet). Acceptable forms of proof include a pumpout registration sticker or tag issued by the City of Key West, City of Marathon or Monroe County pumpout programs indicating that the vessel receives routine pumpouts, or a pumpout receipt from a pumpout facility (including portable toilet dump stations) or pumpout vessel within the past ten (10) days.

*Derelict Vessel* means any vessel, as defined in F.S. § 327.02, that is left, stored, or abandoned:

(a) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.

185 (b) At any port in this state without the consent of the agency having jurisdiction  
186 thereof.

187 (c) Docked or grounded at or beached upon the property of another without the  
188 consent of the owner of the property

189  
190 Sec. 26-102. Anchoring and Mooring Restricted Areas.  
191

192 (a) *Managed Anchoring Zones.* Managed Anchoring Zones are established for the  
193 purpose of protecting the marine environment, enhancing navigational safety, and  
194 detering improperly stored, abandoned, or derelict vessels. Managed Anchoring  
195 Zones are created as a tool to regulate anchoring activity in currently unmanaged  
196 anchorage.

197  
198 (1) Managed Anchoring Zones shall be established in the following described  
199 geographic areas. Maps delineating the Managed Anchoring Zones are  
200 attached hereto as Attachment A, and are incorporated herein by reference and  
201 will be made available in the Marine Resources Office.  
202

203 a. Boca Chica Basin: To include the body of water occurring between Stock  
204 Island and Boca Chica Key (excluding the Navy Accident Potential Zone  
205 (APZ), restricted areas, and bay bottom) south of U.S. Highway 1, west of  
206 the western edge of the arc of the NAS Key West Accident Potential Zone  
207 (APZ), west of a line intersecting the APZ at 24° 34.10' N 81° 43.35' W  
208 and running south to 24° 33.63' N 81° 43.35' W, south of a line running  
209 east-west from 24° 33.63' N 81° 43.35' W to 24° 33.63' N 81° 43.15' W,  
210 west of the western edge of Boca Chica Channel running southwest from  
211 24° 33.63' N 81° 43.15' W to 24° 33.45' N 81° 43.24' W, north of latitude  
212 24° 33.45' N (approximately at the location of Boca Chica Channel  
213 marker 7), east of a line running north-northwest from 24° 33.45' N 81°  
214 43.38' W to 24° 33.82' N 81° 43.46' W and continuing along the Stock  
215 Island shoreline.

216 b. Key West Harbor: To include the body of water occurring west of  
217 Fleming Key and Key West (excluding Navy restricted areas), south of a  
218 line running east-west at latitude 24 ° 35.19' N, east of a line running from  
219 the northwest tip of Pearl Bank to the north side of Tank Island (Sunset  
220 Key), and north of a line running east-west at latitude 24° 33.84' N.

221 c. Cow Key Channel: To include the body of water occurring between Key  
222 West and Stock Island, south of U.S. Highway 1, and north of a line  
223 running east-west at latitude 24° 33.44' N (approximately at the location  
224 of Cow Key Channel marker 5).

225 d. Boot Key Harbor: To include the area of Boot Key Harbor (excluding the  
226 permitted public mooring field and No-Anchoring Buffer Zone) occurring  
227 south of the Vaca Key shoreline, east of Boot Key Harbor main channel  
228 entrance marker 7 located at position 24° 42.13' N 81° 06.84' W, north of  
229 the Boot Key shoreline, and west of the far eastern side of Boot Key  
230 Harbor at position 24° 42.54' N 81° 04.99' W, and including the entirety  
231 of Sisters Creek south to marker 4 at the entrance of Sisters Creek, and

including the area occurring from Sisters Creek marker 4 at position 24° 41.35' N 81° 05.26' W running east to the shoreline of Vaca Key at position 24° 41.43' N 81° 04.93' W and running north along the shoreline of Vaca Key and continuing to the west along the shoreline of Sombrero Beach.

(2) The following regulations shall apply within Managed Anchoring Zones:

- a. Prohibition of vessels exhibiting pre-derelict vessel conditions. Vessels determined to exhibit conditions known to precede a derelict vessel condition are prohibited, including:
  - 1) Vessel is not able to be used for navigation.
  - 2) Vessel is listing.
  - 3) Vessel is aground.
  - 4) Vessel is in danger of breaking its mooring.
  - 5) Vessel is sinking.
  - 6) Vessel is dragging anchor.
  - 7) Vessel has broken its mooring and has been secured for the protection of the health, safety and welfare of the citizens.
- b. Prohibition of derelict vessels. Vessels determined to be derelict in accordance with F.S. § 823.11 are prohibited.
- c. Proof of pumpout required. Vessels anchored or moored for more than ten (10) consecutive days, and which are required to have a marine sanitation device in accordance with F.S. § 327.53, must provide proof of pumpout. Vessel owners may utilize a pumpout service which may be provided by the City of Key West, City of Marathon, Monroe County pumpout programs, or other authorized vessel pumpout facility or vendor. The municipal and County pumpout services are structured to provide ongoing pumpouts for vessels located within managed anchoring zones, and may provide a registration process by which vessel owners sign up for regular pumpouts at a frequency based on anticipated need, with a minimum of one pumpout per month. A monthly, color coded, registration sticker or tag may be provided which vessel owners may display on their vessel, indicating participation in the municipal or County pumpout program, and which will be considered proof of pumpout. The municipal and/or County pumpout programs shall maintain registration documentation and pumpout logs throughout the duration of the Pilot Program, which shall be available for review by any law enforcement officer. If a vessel owner utilizes another vessel pumpout provider the vessel owner is required to maintain documentation and pumpout logs to demonstrate use of pumpout to FWC, MCSO or other law enforcement officers.

(b) No-Anchoring Buffer Zones. No-Anchoring Buffer Zones are established outside of, and immediately adjacent to, permitted public mooring fields for the purpose of protecting maritime infrastructure, enhancing navigational safety and promoting public access and the use of public mooring fields.

(1) No-Anchoring Buffer Zones shall be established in the following described geographic areas. Maps delineating the No Anchoring Zones are attached hereto as Attachment B, and are incorporated herein by reference and will be made available in the Marine Resources Office.

- a. Boot Key Harbor: To include a fifty foot (50') wide area immediately adjacent to, and outside of, the perimeter of the east and west mooring fields and the leased anchoring area.
- b. Seaplane Basin: To include the area of Garrison Bight known as the Seaplane Basin occurring north of the Key West shoreline, east of the Fleming Key shoreline, south of a line running east-west 50' north of the Garrison Bight mooring field boundary markers C and D, and west of Sigsbee Park.
- c. Boca Chica Basin: To include the body of water occurring between Stock Island and Boca Chica Key (excluding Navy restricted areas) south of U.S. Highway 1, east of the western edge of the arc of the NAS Key West APZ, east of a line intersecting the Navy APZ at 24° 34.10' N 81° 43.35' W and running south to 24° 33.63' N 81° 43.35' W, north of a line running east-west from 24° 33.63' N 81° 43.35' W to 24° 33.63' N 81° 43.15' W, and west of the western edge of Boca Chica Channel and the Navy restricted area (which includes Boca Chica Channel and the Navy mooring field basin).

(2) The following regulations shall apply within No-Anchoring Buffer Zones:

No anchoring or mooring of any kind (vessels or floating structures) except for vessels mooring within established permitted public mooring fields by permission of the mooring field owner or manager, vessels within a leased anchoring area associated with a mooring field, commercial vessels (e.g. barges) engaged in marine related work, military operations, vessels anchored for the purpose of fishing or other recreational activities (but not overnight), or in the case of an emergency (e.g. weather, mechanical, medical) causing the need for a vessel to temporarily anchor.

Sec. 26-103. Enforcement. Regulations described in this Article may be enforced by law enforcement officers of the City of Marathon or City of Key West (within their areas of jurisdiction), Monroe County, or FWC or any other law enforcement officer.

Sec. 26-104. Penalties.

- (a) Any person cited for a violation of this article shall be charged with a noncriminal infraction. A written warning shall be issued to provide the vessel owner 30 days for corrective action or removal of the vessel. If corrective action or removal is not accomplished, a Uniform Boating Citation may be issued for violations of this ordinance pursuant to F.S. § 327.74 by any law enforcement agency authorized to issue such citations. Vessel owners will be provided thirty (30) days between issuance of citations. Fines associated with citations are established as follows:

- (1) First offense- \$50  
(2) Second offense- \$100  
(3) Third offense- \$250  
(4) Fourth or subsequent offenses- \$250 and FWC will request that the owner remove the vessel from the Managed Anchoring Zone or No-Anchoring Buffer Zone

(b) Any person who fails to properly respond to a Uniform Boating Citation issued for a violation of this article shall, in addition to the charge relating to the violation of the boating laws of this County, be charged with the offense of failing to respond to such citation and upon conviction be guilty of a misdemeanor of the second degree punishable as provided in F.S. § 775.082 and F.S. § 775.083.

(c) If a law enforcement officer determines that a vessel is derelict, the violation shall be processed in accordance with F.S. § 823.11

(d) Allowance shall be provided for vessels in need of safe harbor due to severe weather conditions or temporary mechanical issues which may otherwise prohibit a vessel from safely departing a managed anchoring zone.

Sec. 26-105. Exemptions. The following exemptions are provided:

(a) Vessels equipped with only incinerating or composting toilets are not required to provide proof of pumpout, as those types of toilets are not designed to be pumped out. However, effluent from those toilets is not allowed to be disposed of in the waters of the No Discharge Zone within the Florida Keys.

(b) Stored vessels are not required to provide proof of pumpout.

**Section 2.** Severability. If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 3.** Repeal of Inconsistent Provisions. All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

**Section 4.** Filing and Effective Date. This ordinance shall be filed in the Office of the Secretary of the State of Florida and shall become effective as provided by law.



**Section 5.** Codification. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of Monroe County, Florida and shall be numbered to conform with the uniform numbering system of the Code.

**Section 6.** Expiration Date. The FWC Pilot Program is scheduled to expire on July 1, 2014, unless extended by the Florida State Legislature. This ordinance shall expire or be extended concurrently with the FWC Pilot Program.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 17th day of October, 2012.

Mayor David Rice

Mayor *pro tem* Kim Wigington

Commissioner George Neugent

Commissioner Heather Carruthers

Commissioner Sylvia Murphy

**MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**

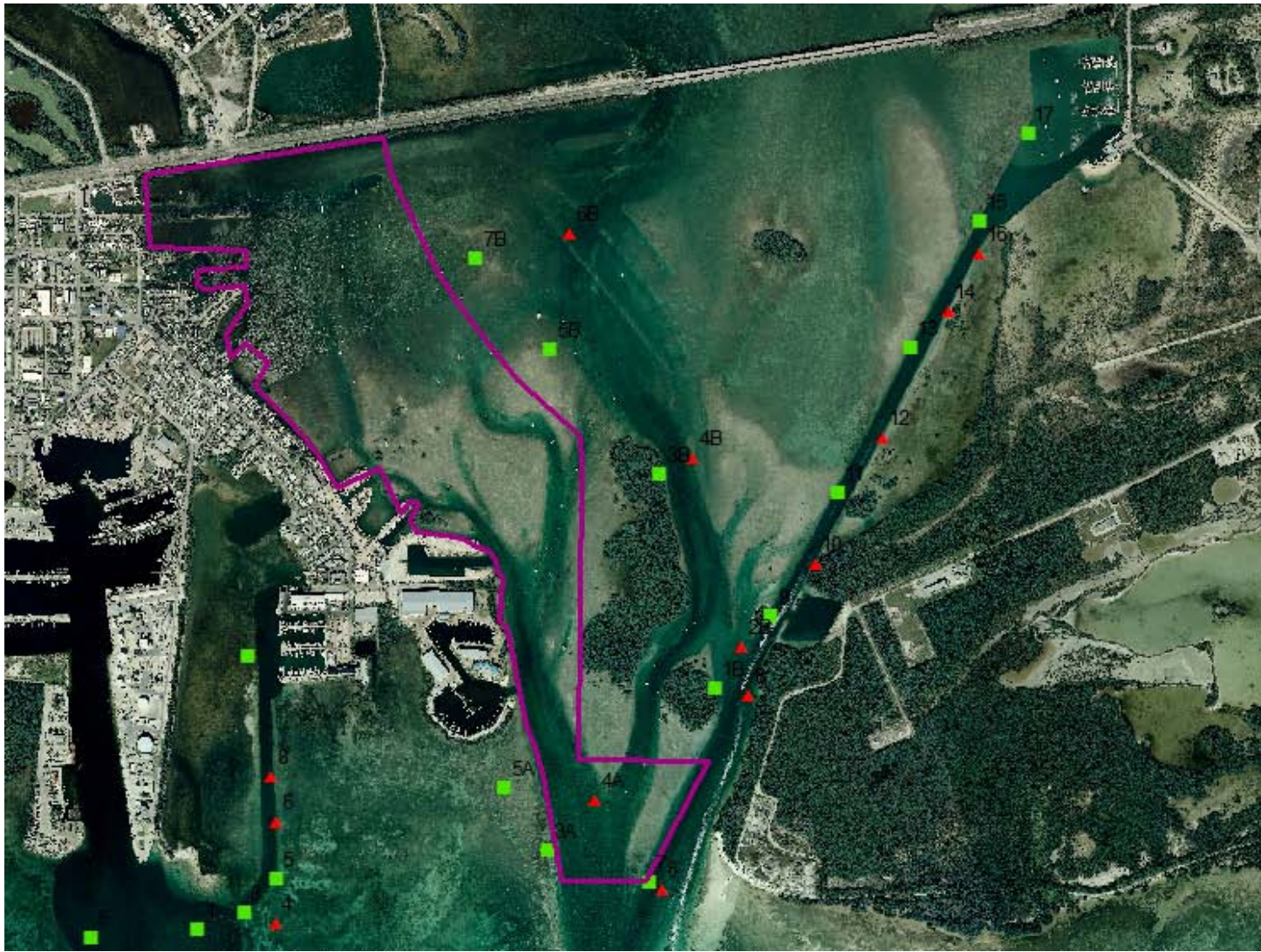
Attest: DANNY L. KOLHAGE, CLERK

By \_\_\_\_\_  
Deputy Clerk

By \_\_\_\_\_  
Mayor David Rice

## Attachment A- Maps of Managed Anchoring Zones

### Boca Chica Harbor

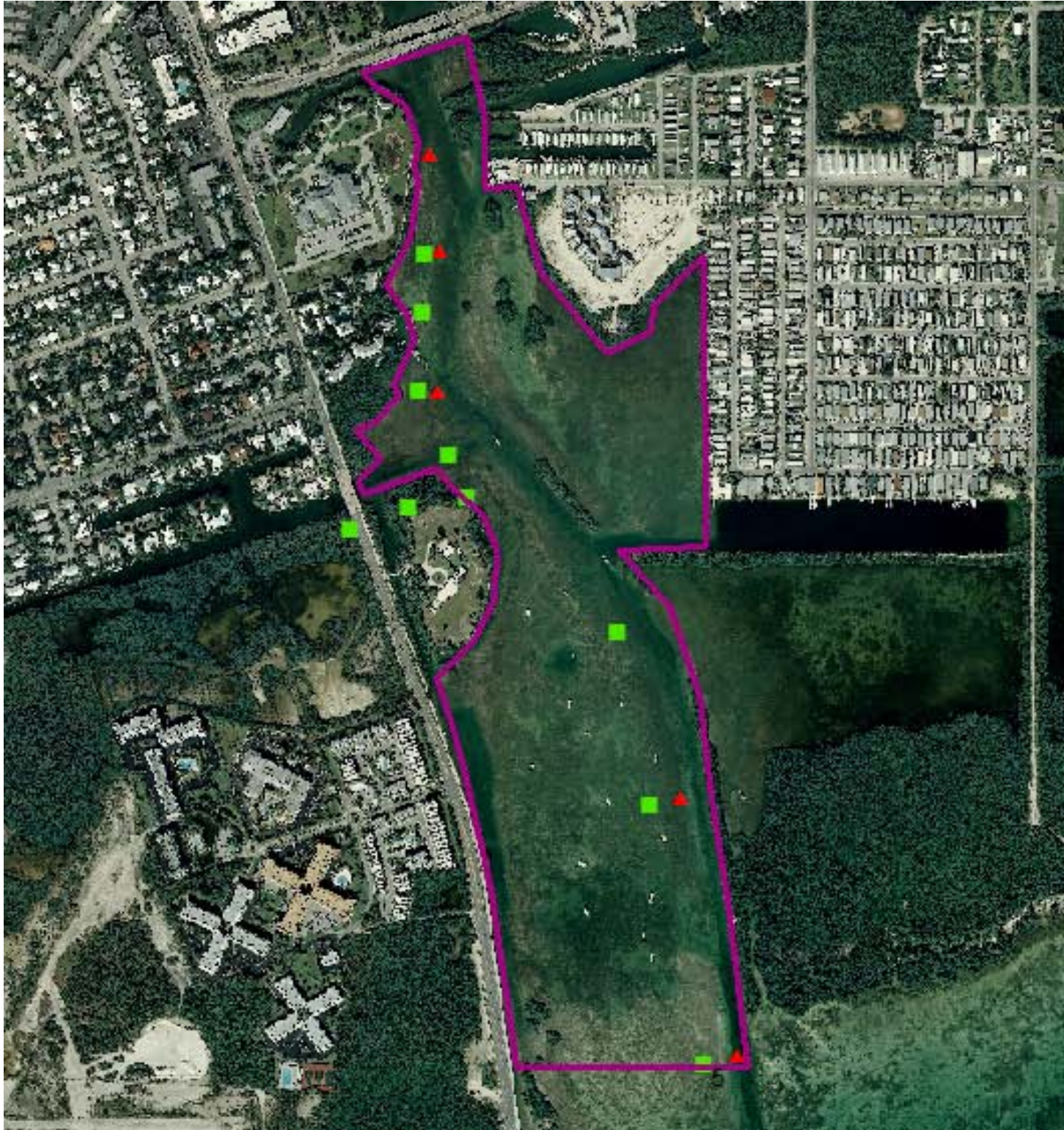






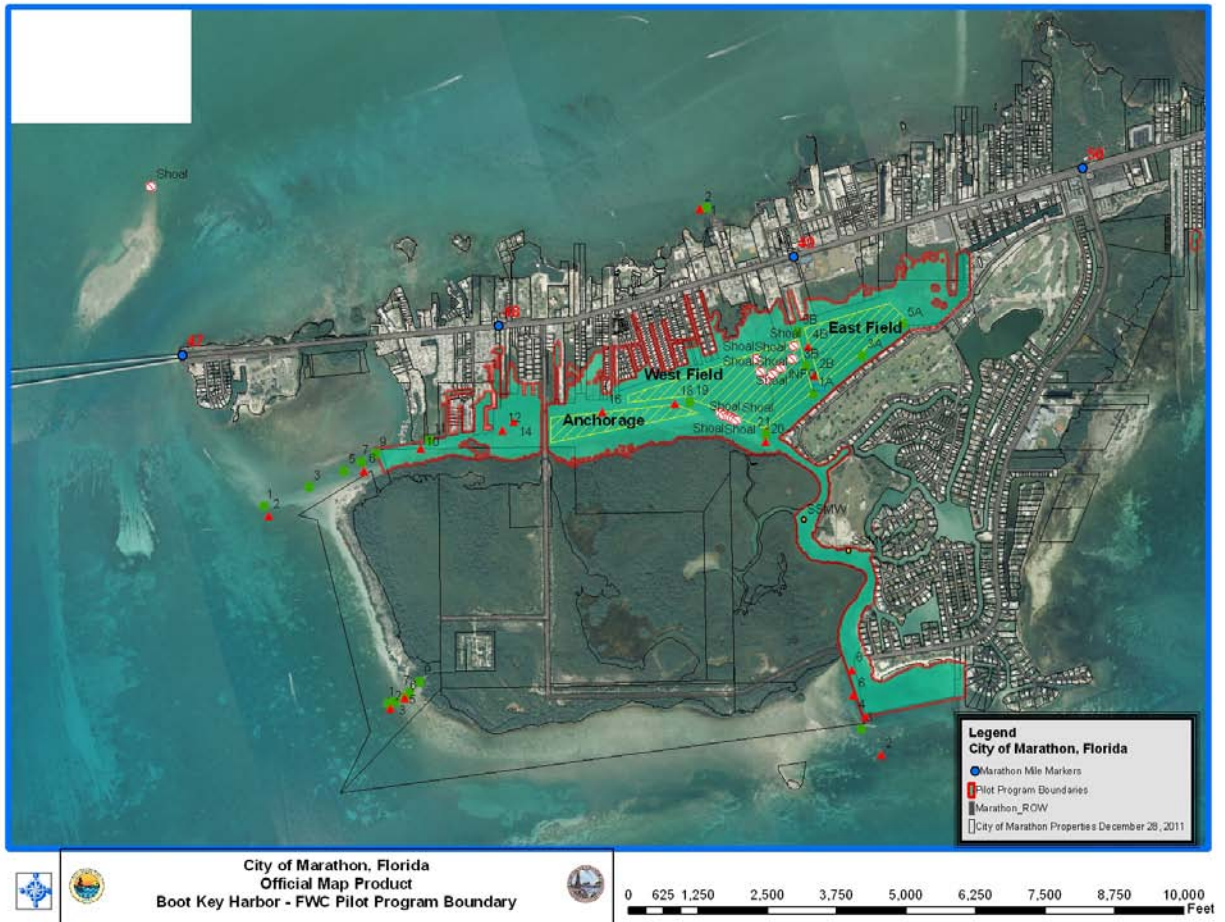


Cow Key Channel



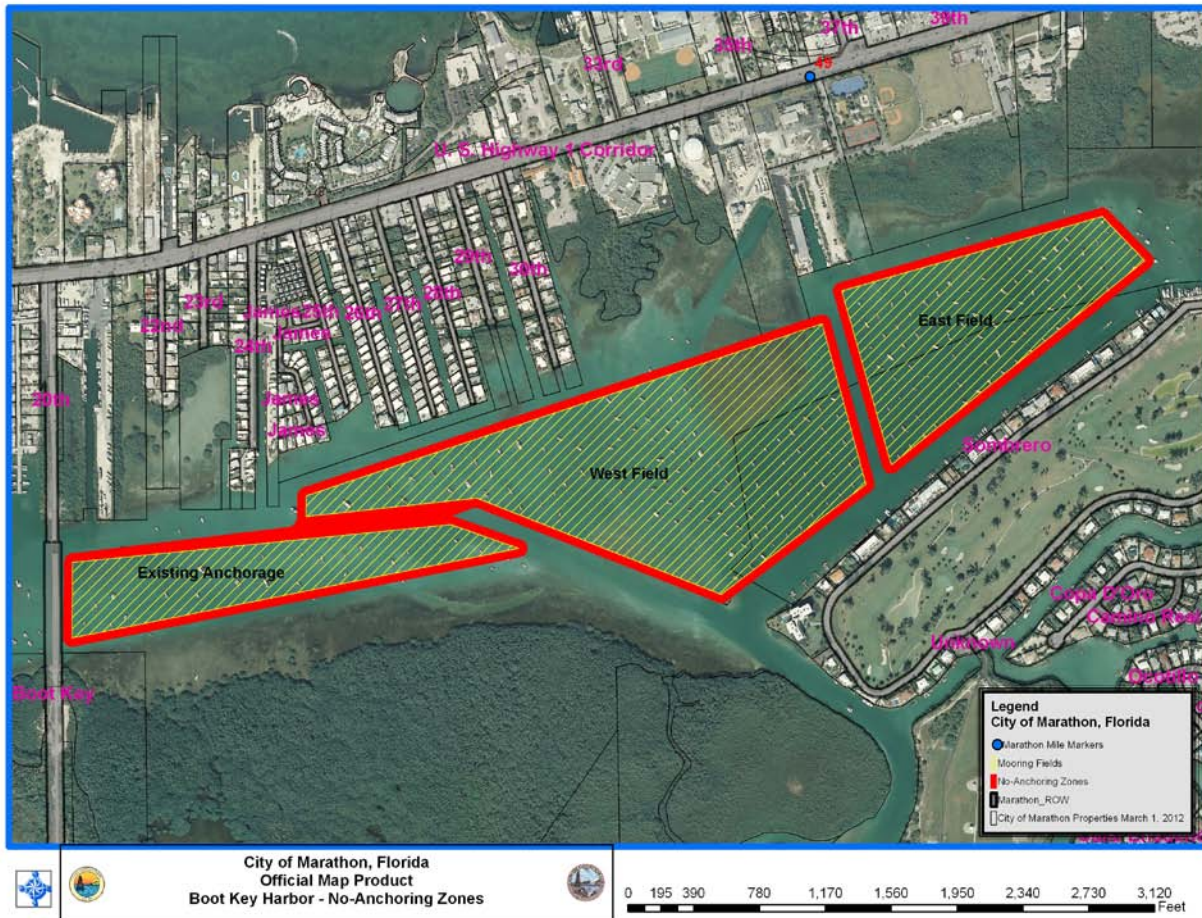


## Boot Key Harbor



## Attachment B- Maps of No Anchoring Buffer Zones

### Boot Key Harbor





Key West Mooring Field/Seaplane Basin





Boca Chica Basin

