

# Anchoring and Mooring Pilot Program/ Derelict Vessel Update



Staff Report - February 20, 2020



Florida Fish and Wildlife Conservation Commission

Left Photo by Venture Minimalist (Boot Key Harbor mooring field, Marathon, Florida)  
Right Photo by FWC (Bay County, Hurricane Michael Damage)

Presentation by Major Rob Rowe, Boating and Waterways  
February 12, 2020

# Florida the Boating Capital

- \$23.3 billion impact to Florida
  - 92,000 + jobs in the industry
- 961,266 registered vessels (CY 2019)
  - 87% are less than 26 feet
- 30,000 lakes
- 8,436 miles of coastline
- Over 700 springs\*\*
  - (more than anywhere else in the world)



\*\*Number of springs documented in the 2001 Florida Geological Survey

Photo by FWC : Sneads Smokehouse Lake, Michael Hill

# Challenges in Waterway Management



Being the boating capital of the United States brings its own challenges. Multi-use and congested waterways throughout the state are highlighting waterway management issues such as:

- User separation for areas where multiple users are competing for use of the waterway
- Accumulation of stored vessels and their impacts
  - Marine Sanitation
  - Noise pollution
  - Hazardous living conditions
  - Impacts to sensitive habitats such as seagrass beds
- Proliferation of derelict vessels statewide

FWC Photos: Left Billy Bowlegs festival, Center Wacissa River Kayaking and Right South Florida Boating Accident

# Anchoring & Mooring Pilot Program

Stakeholder conflict prompted the FWC to explore potential options for regulating the anchoring or mooring of vessels on state waters.

FWC Goals were to:

- Promote the establishment and use of public mooring fields
- Promote public access to waters of the state
- Enhance navigational safety
- Protect maritime infrastructure
- Protect the marine environment
- Deter improperly stored, abandoned or derelict vessels



After obtaining input from the Florida Boating Advisory Council as well as approval from the Commission, staff petitioned the legislature for authority to establish an Anchoring and Mooring pilot program.

In 2009, Section 327.4105, F.S., was enacted by Florida's Legislature, creating the Anchoring and Mooring Pilot Program in response to stakeholder concerns associated with issues surrounding the anchoring and mooring of vessels within their jurisdictions.. Except for those participating in this program, local governments are prohibited from enacting, continuing in effect, or enforcing any regulation of the anchoring of vessels other than live-aboard vessels outside the marked boundaries of permitted mooring fields (Section 327.60(2)(f), F.S.).

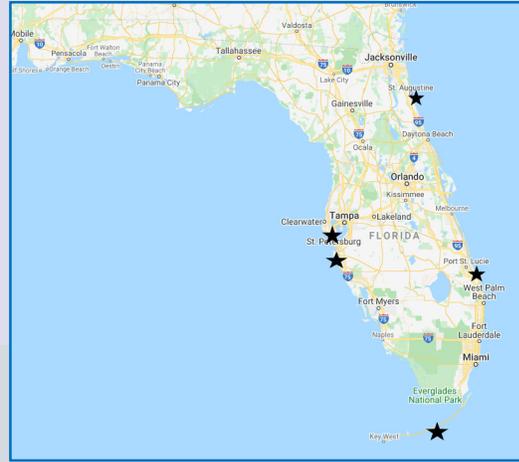
The Program was initially intended to sunset in 2014, but circumstances required the FWC to request an extension. A three-year extension was granted during the 2014 session

FWC Photo: St. Petersburg, Vinoy Basin

# Pilot Program Locations

5 Communities were selected by the FWC Commission to Participate

- St. Augustine
- Martin County/City of Stuart
- St. Petersburg
- Sarasota
- Monroe County/Cities of Marathon and Key West



The Commission selected five local governments to participate in the pilot program, approved their ordinances and monitored their findings. The five communities selected included, two on the east coast, two on the west coast, and Monroe County. Specifically they were: St. Augustine, Martin County/City of Stuart, St. Petersburg, Sarasota (city), and Monroe County/cities of Marathon and Key West. This decision was based upon geographical diversity and each community's usage of the waters of the state.

# Anchoring & Mooring Pilot Program

Innovative waterway management approaches:

- St. Augustine
  - Medallion Program
  - Setbacks
- St. Petersburg
  - Prohibition of Hazardous Vessels
  - Setbacks
- Sarasota
  - Setbacks



Each participant, through consultation with Boating and Waterways staff, developed local ordinances to implement their anchoring and mooring program. These ordinances were then approved by the Commission at public meetings. Each program had unique features and approaches. Some of these were:

## St. Augustine:

- Medallion Program: Aimed at derelict vessel prevention. Required vessel owners storing vessels upon the waters located within the City's jurisdiction to get underway twice a year. City Marina employees would confirm the vessel was operating under its own power, record the owners contact information and provide a validation sticker to those who passed. This was the origins of the Effective Means of Propulsion for Safe Navigation provision of the at-risk vessel law.
- Setbacks: Established a 50 foot setback from navigation channels in the San Sebastian River and marine infrastructure including private docks, public docks, ramps, seawalls, etc.
  - 100 foot buffer away from the city mooring field
  - 500 foot buffer from shellfish areas in case of a sewage spill (done in coordination with FDACS input)

## St. Petersburg:

- Prohibition on hazardous vessels: Prohibited vessels that by definition within their ordinance displayed signs of being at-risk of becoming derelict, these included
  - Unable to operate
  - Excessive marine growth
  - Interior exposed to the elements
  - Taking on water without a means to dewater
  - Leaking contaminants into the water
  - Violations of MSD law, ss. 327.53 F.S.
  - In danger of breaking loose from its anchor
- Setbacks: No anchoring within 200 feet of private or public marinas and public boat ramps

FWC Photo: St. Augustine mooring field

# Anchoring & Mooring Pilot Program

Innovative waterway management approaches:

- Monroe County/Marathon and Key West
  - Proof of pump-out program
  - Managed Anchoring Zones
    - Boca Chica Basin
    - Key West Harbor
    - Cow Key Channel
    - Boot Key Harbor
- Martin County/City of Stewart
  - Proof of pump-out program
  - Setbacks
  - Operability demonstrations



Monroe County and the Cities of Marathon and Key West coined the term managed anchoring zones. These were areas where the County and Cities could regulate anchoring activity in traditionally unmanaged anchoring areas. This limited the impact of the pilot program within the Keys while at the same time provided a manageable number of anchorages in which to draw data from for the analysis of the pilot program.

Proof of pump-out program: Required all vessels at anchor or moored within the program's managed anchoring zones for 10 consecutive days or more to show proof that their vessel sewage was pumped out if they were required by law to have a marine sanitation device installed on their vessel.

Proofs of pump-out included registration stickers issued by the County and Cities of Marathon and Key West or a receipt from a pump-out facility (included portable toilet dump stations).

Pump-out services were provided free of charge to recreational vessels within anchoring zones.

FWC Photos: Top, Key West Harbor and Bottom, Boot Key Harbor

## Anchoring & Mooring Pilot Program

- Report of findings and recommendations submitted 2017 included:
  - Public mooring fields
  - Promotion of access, navigational safety, and protection of maritime infrastructure
  - Derelict vessel prevention
  - Protecting the marine environment
  - Unresolved issues



Statute required the Commission to generate and submit a report of findings and recommendations. This report was intended to document the best practices of the pilot program and recommend solutions to the problems addressed in the pilot program.

# Unresolved Issues

- Stored vessels
- Inoperable vessels being used as residences
- Marine sanitation issues
- Setbacks from shorelines and private docks



There were some issues that remained unresolved from the Pilot Program.

Stored vessels – unattended vessels that are stored for extended periods of time on waters of the State – are at increased risk of becoming derelict. The pilot program participants attempted to solve issues related to these boats in a variety of ways. Although the recommendations do not address all concerns related to stored boats, several of the recommendations, if implemented together and used collectively, are likely to resolve many issues related to stored boats. Those recommendations include the following: Further protect safety of mooring fields users/300 foot buffer around mooring fields, create statewide anchoring limited areas/150 foot setback from maritime infrastructure, increase penalties for repeat violations of vessel registrations; additional condition for vessels at risk of becoming derelict; and prohibiting vessels or floating structures from being moored to unauthorized moorings.

Inoperable vessels used as residences - some local governments are very concerned about boats being used as long-term residences. When these boats are incapable of effective navigation, and are considered “live-aboard” vessels, local governments are already authorized to regulate their use on waters of the State. It may be unclear, however, if some of these vessels fall within the statutory definition of “live-aboard”. There is no consensus on a potential solution to this issue.

Marine sanitation - two participating local governments tested regulations aimed at protecting the marine environment by requiring mandatory holding tank pump-outs. There are numerous challenges to effectively mandating pump-outs on a statewide basis. There is no consensus on a potential solution to this issue.

Setbacks from shorelines and private docks - providing relief to private waterfront landowners from vessels anchoring adjacent to their property has been a concern in some portions of the State. Limiting the public use of waters kept in trust for the public for this purpose on a statewide basis remains a challenge. The State has maintained sole authority for any such anchoring limitations, although there has been pressure to authorize local governments some authority to regulate such anchoring within their jurisdiction. There is no consensus on a potential solution to this issue.

# HB 7043 Vessels

2017 Legislative Session established:

- ss. 327.02 F.S. - Definitions
- ss. 327.4107 F.S. - Vessels at risk of becoming derelict on waters of the state
- ss. 327.4109 F.S. - Anchoring or mooring prohibited; exemptions; penalties
- ss. 327.60 F.S. - Local regulations; limitations
- ss. 328.09 F.S. - Refusal to issue and authority to cancel a certificate of title or registration
- ss. 328.72 F.S. - Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers
- ss. 705.103 F.S. - Procedure for abandoned or lost property



Following the submittal of the Report, the Legislature made a number of changes including:

## New definitions

- Barge, commercial fishing vessels, commercial vessels, effective means of propulsion and live-aboard vessel

## New at-risk provision

- Effective means of propulsion for safe navigation anchoring and mooring set backs and prohibitions
- 100 feet outward from the boundary of a public mooring field
- 150 feet from any marina, boat ramp, boatyard, or other vessel launching or landing facility
- 300 feet from a superyacht repair facility
- No vessel or floating structure may anchor or moor within the marked boundary of a public mooring field unless they have a contractual agreement to do so
- No vessel or floating structure may anchor, moor, tie or otherwise affix to an unpermitted object attached to the sea floor

Provided authority for local government to establish a proof-of-pump-out program for vessels at anchor for 10 consecutive days or more in a public mooring field

Authority to freeze a title for a vessel declared to be derelict, preventing the lawful sale of these vessels while they are derelict

Expired registrations beyond 6 months have enhanced penalties and a mandatory court appearance for the second and subsequent violation of expired registration beyond 6 months

- First offense beyond 6 months = up to \$250.00
- Second or subsequent offense beyond 6 months = up to \$500.00 and a mandatory court appearance

Updated Derelict Vessel notification requirements to allow for actual notification when a citation is

issued to the owner. This eliminated the certified mail requirement for these situations.

# The Life of a Derelict Vessel



Living the Dream

At-Risk



Derelict Vessel

Photos by FWC

# At-risk Vessels

A vessel is at-risk of becoming derelict if:

- Taking on water
- Spaces open to the elements
- Broken loose from anchor
- Aground
- Effective means of propulsion



ss. 327.4107 F.S., Vessels at risk of becoming derelict on waters of the state:

1. Taking on water or has taken on water without an effective means to dewater
2. Spaces designed to be closed are open to the environment without the capability to be sealed
3. Has broken loose or in danger of breaking loose from anchor
4. Vessel left or stored aground in a state that would prevent it from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
5. Does not have an effective means of propulsion for safe navigation

At-risk UBCs:

2016 = 94  
2017 = 155  
2018 = 236  
**2019 = 564**

Warnings:

2016 = 10  
2017 = 27  
2018 = 43  
**2019 = 104**

Photo by FWC

# What is a Derelict Vessel (DV)?

State Statute 823.11 F. S. defines a derelict vessel as:

A vessel that is left, stored or abandoned in a...

- Wrecked
- Junked or
- Substantially Dismantled condition



Photo by FWC

## Wrecked

- Wreckage from a boating accident or marine casualty
- Grounded in such a way that the vessel cannot extricate itself without assistance



Photos by FWC

# Junked

- Stripped for parts or scrap
- Discarded as useless or worthless



Photo by FWC

## Substantially Dismantled

- Dismantled to a considerable degree
- The condition has become the characteristic nature of the object



Taken apart or degraded to a considerable degree (more than just “partially”).

Taken apart to such a degree that this state has become the characteristic nature of the object.

Three areas of consideration in determining “Substantially Dismantled:”

1. Hull integrity
2. Propulsion
3. Steering

If the vessel is missing any two of these three areas, it is considered substantially dismantled.

Photo by FWC: Substantially Dismantled DV in Monroe County, Marathon FL

- No mast/sails or rigging
- No helm to steer with
- Engine inoperative due to saltwater intrusion and corrosion

## DV Process

- Can be investigated by FWC or local law enforcement agencies
- Derelict vessels are reported to dispatch or discovered by an officer on patrol
- Officer initiates DV investigation
  - Vessel is determined to either be DV or At-Risk
  - If derelict, the investigation continues
  - If at-risk, a citation/warning is issued to address vessel condition



Photo by FWC

# DV Process

- DV investigations are conducted utilizing the FWC Standard Operating Procedure for DV Investigation:
  - Diligent search for the owner
  - Notification of Rights
  - Posting of the vessel
  - 21-day hold period
  - Authorization to remove

A red notice form with the following text:

**NOTICE**  
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION  
DIVISION OF LAW ENFORCEMENT  
TO THE OWNER AND ALL INTERESTED IN THE ATTACHED PROPERTY

THIS PROPERTY \_\_\_\_\_  
IS UNLAWFULLY UPON PUBLIC PROPERTY KNOWN AS \_\_\_\_\_  
AND MUST BE REMOVED. OTHERWISE, THE FISH AND WILDLIFE CONSERVATION COMMISSION (FWC) WILL TAKE STEPS TO HAVE THE PROPERTY REMOVED AND DESTROYED PURSUANT TO CHAPTER 705, FLORIDA STATUTES. THE OWNER WILL BE LIABLE FOR THE COSTS OF REMOVAL, STORAGE, AND DESTRUCTION OF THE PROPERTY AS PROVIDED BY LAW.

INCIDENT/SUMMARY NUMBER \_\_\_\_\_ DIVISION OF LAW ENFORCEMENT OFFICER \_\_\_\_\_  
DATE OF POSTING \_\_\_\_\_ NEAREST FWC OFFICE \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_  
TELEPHONE \_\_\_\_\_

THIS ACTION MAY AFFECT YOUR INTERESTS. YOU MAY HAVE A RIGHT TO AN ADMINISTRATIVE HEARING ON THESE ISSUES. PLEASE CONTACT THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION LEGAL OFFICE AT (850) 487-1764 IMMEDIATELY.  
**URGENT ACTION REQUIRED**

FWC/LE 079 (01/17)

# DV Removal

Once the DV is approved for removal:

- Use local funds
- Apply for DV removal grant



Photo by FWC

## DV Grant Process

- Open application period
- Grants applications received are vetted and awarded on first-come, first-served basis
- Removal contract drafted
- Contract executed
- Removal work is done
- Removals confirmed
- Funds reimbursed



Photo by FWC Removal of a 26 foot Pearson Sailboat in Brevard County, Indian River north of SR 520

# DV Grant Process

New rule changes, became effective November 29, 2019:

- Incorporated an open application period
- Zero percent applicant match
- Proof of commitment to seek legal action



No one applicant may apply for more than 25 % of the total amount on their first application. An applicant may apply for more funds after the 3<sup>rd</sup> quarter of the fiscal year.

Proof of commitment to seek legal action includes a requirement in the grant guidelines for the applicant to show that, when possible, the owner or responsible party was charged and had the opportunity to appear before a criminal court to dispute the vessel's derelict condition. Applicants that routinely fail to charge derelict vessel owners will be denied use of state funding in the removal process. This requirement to seek legal action is found in ss. 376.15 F.S.

<b>Fiscal Year</b>	<b>Total Vessels Removed</b>	<b>Total Funds Spent</b>
<b>2017/18</b>	<b>34</b>	<b>\$335,537.55</b>
<b>2018/19</b>	<b>61</b>	<b>\$693,699.76</b>
<b>2019/20</b>	<b>Contracts being processed</b>	<b>\$0</b>

Out reach to local governments is being well received with high attendance from partner agencies.

We have had meetings with:

- City of Jacksonville
- Brevard County
- Palm Beach County
- Miami Beach
- St. Petersburg
- City of Crystal River
- Bay County and the City of Panama City

Photo by FWC

# Rapid Removal Process

No application window

- Use of Purchase Order to expedite funding
- Granted on an individual basis

DVs with an urgent need of removal:

- Imminent danger to the public or environment
- Imminent threat of sinking or breaking apart where removal cost will otherwise be increased exponentially (Caroline C)



Photo by FWC: Caroline C. in Manatee County

Initial estimated cost of removal under the rapid removal program was \$160,000.00; final cost \$101,812.50. The cost to remove this vessel if it were to sink completely can reach as high as double the amount of the rapid removal costs.

# Discussion



Photo by FWC