

**Background Report  
Agenda Item 6A  
December 2012 Commission Meeting**

***DRAFT DRAFT DRAFT***  
**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**ORDINANCE NUMBER XXXX**

**AN ORDINANCE OF MARTIN COUNTY, FLORIDA,  
REGARDING ANCHORING AND MOORING; CREATING  
ARTICLE 2, ANCHORING AND MOORING PILOT  
PROGRAM, CHAPTER 8, ANCHORING AND MOORING,  
GENERAL ORDINANCES, MARTIN COUNTY CODE TO  
PROVIDE REGULATIONS REGARDING THE ANCHORING  
OF VESSELS OUTSIDE OF MOORING FIELDS; REPEALING  
SECTION 159.4 SAME – MOORING RESTRICTIONS;  
SPECIAL RESTRICTIONS IN THE MANATEE POCKET;  
EXEMPTIONS, CHAPTER 159, WATERS AND SEWERS,  
GENERAL ORDINANCES, MARTIN COUNTY CODE;  
PROVIDING FOR APPLICABILITY, CONFLICTING  
PROVISIONS, AND SEVERABILITY; PROVIDING FOR  
FILING WITH THE DEPARTMENT OF STATE,  
CODIFICATION AND AN EFFECTIVE DATE.**

WHEREAS, pursuant to Section 327.4105, Florida Statutes, Martin County in partnership with the City of Stuart was selected as a participant in the Florida Fish and Wildlife Conservation Commission (FFWCC) anchoring and mooring pilot program; and

WHEREAS, the goals of the pilot program are to develop and test policies and regulatory regimes that: promote the establishment and use of properly permitted mooring fields; promote public access to the waters of this state; enhance navigational safety; protect maritime infrastructure; protect the marine environment; and deter improperly stored, abandoned, or derelict vessels; and

WHEREAS, notwithstanding the provisions of Section 327.60, Florida Statutes, a participant in the pilot program may regulate by ordinance the anchoring of vessels outside of a properly permitted mooring field; and

WHEREAS, any ordinance enacted under the pilot program shall take effect and become enforceable only after approval by the FFWCC; and

WHEREAS, pursuant to Section 327.4105(3), Florida Statutes, the FFWCC shall not approve any ordinance not consistent with the goals of the pilot program; and

WHEREAS, the pilot program shall expire on July 1, 2014, unless reenacted by the Florida Legislature; and

WHEREAS, all ordinances enacted pursuant to the pilot program shall expire concurrently with the expiration of the pilot program and shall be inoperative and unenforceable thereafter; and

WHEREAS, Martin County and the City of Stuart conducted community meetings to seek input from the public regarding the implementation of a pilot program ordinance.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, MARTIN COUNTY, FLORIDA, THAT:**

**PART 1: CREATION OF ARTICLE 2, ANCHORING AND MOORING PILOT PROGRAM OF CHAPTER 8, ANCHORING AND MOORING, GENERAL ORDINANCES, MARTIN COUNTY CODE**

Article 2, Anchoring and Mooring Pilot Program of Chapter 8, Anchoring and Mooring is hereby created as follows:

**Chapter 8 Anchoring and Mooring**

**Article 2. Anchoring and Mooring Pilot Program**

**Section 8.10 Intent and Purpose**

The purpose of this article is to implement the provisions of Section 327.4105, Florida Statutes, by developing and testing policies and regulatory regimes that: promote the establishment and use of properly permitted mooring fields; promote public access to the waters of this state; enhance navigational safety; protect maritime infrastructure; protect the marine environment; and deter improperly stored, abandoned, or derelict vessels

**Section 8.11. Definitions**

For the purpose of this Article, the following words, terms and phrases shall have the meaning set forth herein. Words used or defined in one tense or form shall include other tenses or derivative forms. Words in the singular shall include the plural and words in the plural shall include the singular. The words “must” and “shall” and “will” are mandatory. The words “may” and “should” are permissive. Words not defined shall be given their common and ordinary meaning.

*Maritime infrastructure* means seawalls, docks, and piers.

*Occupied* means boarding and remaining on a vessel for recreational activities consuming twelve (12) or more consecutive hours in any twenty-four (24) consecutive hour period of time; for the preparation, service and consumption of meals or for sleeping; for a period of

time in excess of that required for the completion of maintenance or repair activities; or for securing or protecting the vessel in a time of emergency or severe weather.

Properly permitted mooring field means that certain area designated for the mooring of vessels that has been approved as such and permitted by all applicable state and federal agencies.

Stored vessel shall mean any vessel not under the direct supervision and control of person capable of operating the vessel and promptly moving the vessel.

Vessel is synonymous with boat as referenced in Section 1(b), Article VII of the State Constitution and includes every description of watercraft, barge and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

### **Section 8.12 Pilot Program Area Within the City of Stuart**

- A. The City of Stuart Pilot Program Area is depicted on Exhibit A, City of Stuart Pilot Program Area, attached hereto, which is part of the following described area:

All waters of the St. Lucie River including the North and South Fork, from shoreline to shoreline, including creeks and tributaries:

bounded on the east by a line drawn from the north shoreline at 27 13.070 N, 80 13.240 W to the southern shoreline at 27 12.335 N, 80 13.240 W of the St. Lucie River

bounded on the south by the Palm City Bridge in the South Fork of the St. Lucie River

and bounded on the northwest by a line drawn from the north shoreline at 27 12.925 N, 80 16.690 W to the southern shoreline at 27 12.330 N, 80 16.538 W of the North Fork of the St. Lucie River.

- B. The provisions of Section 8.12.C through 8.12.G shall apply only within the City of Stuart Pilot Program Area.
- C. In order to promote the establishment and use of properly permitted mooring fields and protect maritime infrastructure, anchoring and mooring of occupied or stored vessels is prohibited within three hundred (300) feet outside of the marked boundary of any properly permitted mooring field.
- D. In order to protect maritime infrastructure, promote public access to the water and enhance navigational safety, anchoring and mooring of occupied or stored vessels is prohibited within three hundred (300) feet of any maritime infrastructure.

- E. Notwithstanding Sections 8.12.C and 8.12.D, vessels may anchor or moor in areas otherwise prohibited in the event of a temporary mechanical breakdown or when imminent or existing extreme weather conditions would impose an unreasonable risk of harm to persons or property, in which case vessels may remain anchored or moored until the vessel is repaired, which shall occur within five (5) days, or in the event of extreme weather, until weather conditions improve.
- F. In order to deter improperly stored, abandoned or derelict vessels, any vessel which remains within the City of Stuart Pilot Program Area for more than ten (10) consecutive days shall demonstrate compliance with operability and safety requirements by documenting that once every six months the vessel has navigated, under its own power, to one of the designated locations. Martin County, in coordination with the City of Stuart, shall establish several locations in close proximity to the City of Stuart Pilot Program Area to insure the maximum vessel accessibility possible. Information about the locations shall be disseminated utilizing all available media.
- G. In order to protect the marine environment, all occupied vessels within the City of Stuart Pilot Program Area shall be in compliance with Section 327.53, Florida Statutes. All occupied vessels which remain within the City of Stuart Pilot Program Area for more than ten consecutive (10) days that are equipped with a Type III marine sanitation device shall demonstrate compliance with marine sanitation requirements by 1) providing a receipt documenting service within the previous ten (10) days from the Martin County mobile pump out boat or 2) providing proof of pump out within the previous ten (10) days from another authorized pump out facility.
- H. Enforcement of Section 8.12 shall be the responsibility of the City of Stuart. However, sworn law enforcement officers of the FFWCC and the Sheriff of Martin County, and any federal law enforcement officer shall have concurrent jurisdiction.
1. Initially these regulations shall be implemented through the development by Martin County and the City of Stuart of an outreach and educational program to inform boaters of the regulations and the benefits of compliance.
  2. Prior to exercising other enforcement options, a reasonable effort shall be made to provide educational information to the owner of the non-compliant vessel and give the owner a reasonable time to achieve compliance. If compliance is not achieved, enforcement shall proceed as set forth below.
  3. Violations shall first be enforced in accordance with Chapter 162, Fla. Stat. and Chapter 26, Article 2, of the Stuart Code of Ordinances. If compliance is not achieved, then:

4. Violations may be enforced by actions at law or in equity for damages and injunctive relief. In the event the City prevails in any such action, the City may be entitled to an award of costs and attorney's fees; or
5. Violations may be prosecuted and punished as misdemeanors pursuant to Section 125.69, Florida Statutes and Section 166.021, Florida Statutes.

### **Section 8.13 Pilot Program Areas Within Unincorporated Martin County**

- A. The St. Lucie River Pilot Program Area is depicted on Exhibit B, St. Lucie River Pilot Program Area, attached hereto, which is part of the following described area:

*All waters of the St. Lucie River including the North and South Fork, from shoreline to shoreline, including creeks and tributaries:  
bounded on the east by a line drawn from the north shoreline at 27 13.070 N, 80 13.240 W to the southern shoreline at 27 12.335 N, 80 13.240 W of the St. Lucie River  
bounded on the south by the Palm City Bridge in the South Fork of the St. Lucie River  
and bounded on the northwest by a line drawn from the north shoreline at 27 12.925 N, 80 16.690 W to the southern shoreline at 27 12.330 N, 80 16.538 W of the North Fork of the St. Lucie River.*

- B. The Indian River Pilot Program Area includes a portion of the Indian River described below and is depicted on Exhibit C, Indian River Pilot Program Area, attached hereto:

*Waters of the Indian River Lagoon:  
bounded on the east by the western edge of the Intracoastal Waterway,  
bounded on the west by the western shoreline of the Indian River Lagoon  
bounded on the north by a line drawn parallel to the Jensen Beach Causeway (State Road 732) from 27 15.361 N, 80 13.453 W  
bonded on the south by a line drawn parallel to the Jensen Beach Causeway (State Road 732) at the north side of the Sundance Marina,*

- C. The Manatee Pocket Pilot Program Area includes the area described below and is depicted on Exhibit D, Manatee Pocket Pilot Program Area, attached hereto:

*From shoreline to shoreline, including all creeks and tributaries within Manatee Pocket south of a line drawn*

perpendicular to the channel at Red Channel Marker 6 (27 9.767 N, 80 11.575 W), excluding:  
all waters west of SE St. Lucie Blvd in Willoughby Creek.

- D. The provisions of Section 8.13.E through 8.13.J shall apply only within the St. Lucie River, Indian River and Manatee Pocket Pilot Program Areas.
- E. In order to promote the establishment and use of properly permitted mooring fields and protect maritime infrastructure, anchoring and mooring of occupied or stored vessels is prohibited within three hundred (300) feet outside of the marked boundary of any properly permitted mooring field after the buoys and associated information/regulatory uniform waterway markers depicting the boundaries are in place.
- F. In order to protect maritime infrastructure, promote public access to the water and enhance navigational safety, anchoring and mooring of occupied or stored vessels is prohibited within three hundred (300) feet of any maritime infrastructure. However, within the Manatee Pocket Pilot Program Area, anchoring and mooring of occupied or stored vessels is prohibited except pursuant to a mooring permit issued by the Florida Department of Environmental Protection or within the two Anchor Areas described below and depicted on Exhibit D, Manatee Pilot Program Area, attached hereto.

The north anchoring area encompassed by Red Green Channel Marker A (27 9.291 N, 80 11.691 W), Red Green Channel Marker B (27 9.131 N, 80 11.694 W), Green Channel Marker 5 (27 9.206 N, 80 11.833 W) and Green Channel Marker 3 (27 9.240 N, 80 11.835 W) and  
the south anchoring area encompassed by Green Red Channel Marker B (27 8.923 N, 80 11.655 W), Red Channel Marker 2 (27 8.878 N, 80 11.618 W) and Green Channel Marker 23 (27 8.855 N, 80 11.706 W).

- G. In order to protect the marine environment, anchoring and mooring of vessels is prohibited within one thousand (1000) feet of the western shoreline in the Indian River Pilot Program Area.
- H. Notwithstanding Sections 8.13.E, 8.13.F and 8.13.G, vessels may anchor or moor in areas otherwise prohibited in the event of a temporary mechanical breakdown or when imminent or existing extreme weather conditions would impose an unreasonable risk of harm to persons or property, in which case vessels may remain anchored or moored until the vessel is repaired, which shall occur within five (5) days, or in the event of extreme weather, until weather conditions improve.

- I. In order to deter improperly stored, abandoned or derelict vessels, any vessel which remains within the St. Lucie River, Indian River and/or Manatee Pocket Pilot Program Areas for more than ten (10) consecutive days shall demonstrate compliance with operability and safety requirements by documenting that once every six months the vessel has navigated under its own power, to one of the designated locations Martin County, in coordination with the City of Stuart, shall establish several locations in close proximity to the Martin County Pilot Program Areas to insure the maximum vessel accessibility possible. Information about the locations shall be disseminated utilizing all available media.
- J. In order to protect the marine environment, all occupied vessels within the St. Lucie River, Indian River and/or Manatee Pocket Program Areas shall be in compliance with Section 327.53, Florida Statutes. All occupied vessels which remain within the St. Lucie River, Indian River and/or Manatee Pocket Pilot Program Areas for more than ten consecutive (10) days that are equipped with a Type III marine sanitation device shall demonstrate compliance with marine sanitation requirements by 1) providing a receipt documenting service within the previous ten (10) days from the Martin County mobile pump out boat or 2) providing proof of pump out within the previous ten (10) days from another authorized pump out facility.
- K. Enforcement of Section 8.13 shall be the responsibility of Martin County. However, sworn law enforcement officers of the FFWCC and the Sheriff of Martin County, and any federal law enforcement officer shall have concurrent jurisdiction. In addition, within the St. Lucie River Pilot Program Area, the City of Stuart Police Department shall have concurrent jurisdiction with sworn law enforcement officers of the FFWCC and the Sheriff of Martin County, and any federal law enforcement officer.
1. Initially these regulations shall be implemented through the development by Martin County and the City of Stuart of an outreach and educational program to inform boaters of the regulations and the benefits of compliance.
  2. Prior to exercising other enforcement options, a reasonable effort shall be made to provide educational information to the owner of the non-compliant vessel and give the owner a reasonable time to achieve compliance. If compliance is not achieved, enforcement shall proceed as set forth below.
  3. Violations shall first be enforced in accordance with Chapter 162, Fla. Stat. and Chapter 1, Article 4, of the Martin County Code of Ordinances. If compliance is not achieved, then:
  4. Violations may be enforced by actions at law or in equity for damages and injunctive relief. In the event the County prevails in any such action, the County may be entitled to an award of costs and attorney's fees; or

5. Violations may be prosecuted and punished as misdemeanors pursuant to Section 125.69, Florida Statutes.

**PART 2: REPEAL OF SECTION 159.4, SAME – MOORING RESTRICTIONS; SPECIAL RESTRICTIONS IN THE MANATEE POCKET; EXEMPTIONS, CHAPTER 159, WATER AND SEWERS, GENERAL ORDINANCES, MARTIN COUNTY CODE**

Section 159.4 is hereby repealed in its entirety.

**Sec. 159.4. – Same—Mooring restrictions; special restrictions in the Manatee Pocket; exemptions.**

**159.4.A.**

It shall be unlawful for any person to live aboard any boat in the waters of Martin County for a period of time exceeding 72 hours within any 30-day period unless such boat is using an approved discharge device or is moored at a marina which complies with section 159.5 of this chapter.

159.4.B. 1. In addition to the restrictions imposed in part A of this section, it shall be unlawful for any boat or other floating structure to moor to the bottomlands of the Manatee Pocket for a period of time exceeding 72 hours within any 30-day period, unless an extension permit has been issued by Martin County for the mooring of such boat. An extension permit shall be issued by the manager of Sandsprit Park to any person who shows reasonable cause why a permit should be issued. Emergency conditions which preclude leaving the waters of the Manatee Pocket, including but not limited to the need for boat repairs or medical treatment, shall constitute reasonable cause. The permit shall be issued for the period of time required by such emergency conditions but shall not exceed ten days. Additional permits shall be issued upon proof that the emergency conditions could not be alleviated during the term of the preceding permit.

**2.**

Ten-day extension permits shall also be issued by the manager of Sandsprit Park, without cause, to any person who applies for such permit, providing the number of such permits outstanding at any one time does not exceed the maximum number established by the Board of County Commissioners. The Board of County Commissioners, by resolution, shall limit the number of extension permits issued without cause, which shall be outstanding at any one time. The maximum number shall be that number which the board, after investigation, determines is necessary to prevent excessive noise, overcrowding or obstruction of boat traffic in the waters of the Manatee Pocket. Extension permits issued without cause shall require the payment of a fee as determined by the Board of County Commissioners by resolution, and shall not be renewable. Every extension permit shall state the date of expiration and shall be posted in a prominent and conspicuous place upon the boat to which it applies. It shall be unlawful for any boat or other floating structure, for which an extension permit has been issued, to be moored to the bottomlands of the Manatee Pocket beyond the expiration date stated on the face of the extension permit.

**3.**

All revenues received from the sale of extension permits shall be placed in a separate fund, to be used solely for providing services relating to the regulation of marine sanitation and traffic in Martin County waters.

**159.4.C.**

The restrictions imposed by part B of this section shall not apply to any person who, as of the date of the adoption of part B, is then living aboard a boat moored to the bottomlands of the Manatee Pocket and who has lived aboard such boat in the waters of the Manatee Pocket for three or more continuous years immediately preceding the adoption date of part B, provided such person registers with the Martin County Code Enforcement Administrator, in the manner determined by the Code Enforcement Administrator, within 90 days of the adoption date of this section. A certificate of exemption shall be issued by the Code Enforcement Administrator to qualifying persons and shall be permanently posted in a prominent and conspicuous place upon the boat on which the exempt person is living.

**159.4.D.**

Notice of the restrictions imposed by part B of this section, applicable to the Manatee Pocket, shall be posted by Martin County at all points of entry where the public has access to the waters of the Manatee Pocket by boat.

*(Code 1974, § 31-4; Ord. No. 187, pt. 1, 1-26-1982; Ord. No. 251, pt. 1, 12-18-1984; Ord. No. 594, pt. 1, § 31-4, 8-14-2001)*

**PART 3: APPLICABILITY OF ORDINANCE.**

This ordinance shall apply to the unincorporated areas of Martin County, and to the incorporated areas of Martin County to the extent permitted by Article VIII, Section 1 (f), of the Constitution of the State of Florida.

**PART 4: CONFLICTING PROVISIONS.**

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, Martin County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict except for ordinances concerning the adoption or amendment of the Comprehensive Plan, pursuant to Chapter 163, Part II, Florida Statutes.

**PART 5: SEVERABILITY.**

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

**PART 6: FILING WITH THE DEPARTMENT OF STATE.**

The clerk shall be and is hereby directed to forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code, Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street, Tallahassee, Florida 32399-0250.

**PART 7: CODIFICATION.**

Provisions of this ordinance shall be incorporated into the Martin County General Ordinances, except that parts 3 through 8 shall not be codified. The word “ordinance” may be changed to “article,” “section,” or other word, and the sections of this ordinance may be renumbered or re-lettered.

**PART 8: EFFECTIVE DATE**

This ordinance shall take effect upon XXX and shall expire on July 1, 2014, unless the Anchoring and Mooring Pilot Program authorize by Section 327.4105, Florida Statutes, is reenacted by the Florida Legislature.

**PASSED AND DULY ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, XXXX.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

\_\_\_\_\_  
MARSHA EWING, CLERK

\_\_\_\_\_  
XXXXXXXXXX, CHAIRMAN

APPROVED AS TO FORM AND  
CORRECTNESS:

\_\_\_\_\_  
KRISTA A. STOREY  
SENIOR ASSISTANT COUNTY ATTORNEY