

Anchoring and Mooring Pilot Program: Stuart/Martin County Ordinance



Florida Fish and Wildlife Conservation Commission
December 5, 2012
Division of Law Enforcement

This presentation is a review of the local ordinance prepared by the City of Stuart/Martin County in response to s. 327.4105, Florida Statutes, which allows a specific number of local governments to adopt regulations on anchoring and mooring of vessels within their jurisdiction.

These will be considered "Pilot Programs" and will provide an opportunity for the Commission and Legislature to evaluate this subject more fully.

No local ordinance can become effective without approval from the Commission.

Stuart/Martin County Ordinance

- Definitions
- Pilot Program Areas
- No-Anchoring Buffer Zones
- Operability Demonstration
- Proof of Pump Out Requirement
- Enforcement and Penalties



This ordinance regulates the mooring of vessels outside of the designated mooring fields. The Stuart/Martin ordinance can be broken down into general segments.

Definitions

Pilot Program Areas

No-Anchoring Buffer Zones

Operability Demonstration

Proof of Pump Out Requirement

Enforcement and Penalties

This presentation will touch on each of these briefly.

Definitions

- Maritime infrastructure
- Occupied
- Stored vessel



Section 8.11. Definitions

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.

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.

Pilot Program Areas

- St. Lucie River within the City of Stuart and Martin County
- Manatee Pocket-Martin County
- Indian River in the Jensen Beach area-Martin County



Rather than write anchoring ordinances that were county wide the participants chose to identify Pilot Program Areas in which the ordinances would be effective. There are 4 Pilot Program areas. The maps on this slide represent the two program areas side by side in the St. Lucie River. The Manatee Pocket and Indian River maps appear in later slides.

Section 8.12 Pilot Program Area Within the City of Stuart

The City of Stuart Pilot Program Area is depicted on Exhibit A, City of Stuart Pilot Program Area.

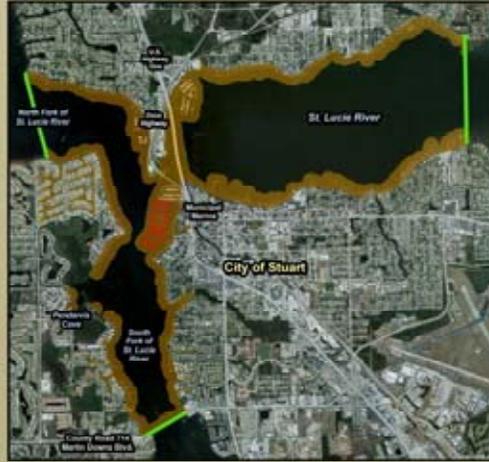
Section 8.13 Pilot Program Areas Within Unincorporated Martin County

The St. Lucie River Pilot Program Area is depicted on Exhibit B, St. Lucie River Pilot Program Area.

The Indian River Pilot Program Area includes a portion of the Indian River and is depicted on Exhibit C, Indian River Pilot Program Area.

The Manatee Pocket Pilot Program Area includes the area depicted on Exhibit D, Manatee Pocket Pilot Program Area.

No Anchoring Buffer Zones St. Lucie River



- Applicable to occupied or stored vessels
- 300 feet around mooring field and from maritime infrastructure



The provisions of Section 8.12.C through 8.12.G shall apply only within the City of Stuart Pilot Program Area.

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.

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.

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.

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.

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.

No Anchoring Buffer Zones Indian River Program Area



- Applicable to occupied or stored vessels
- 300 feet around mooring field and from maritime infrastructure
- 1000 feet from western shoreline

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.

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.

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.

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.

No Anchoring Buffer Zones Manatee Pocket



- Applicable to occupied or stored vessels
- No anchoring except within provided anchoring areas



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.

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 the Manatee Pocket Pilot Program Area, 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).

Safe Harbor within No Anchoring Buffer Zones

- Safe harbor provision for vessels due to severe weather conditions or temporary mechanical issues



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.

Operability Demonstration

- All vessels
- After 10 consecutive days in the program areas.
- Document navigation under their own power to designated locations
- After first documentation of operability, demonstrate compliance every six months



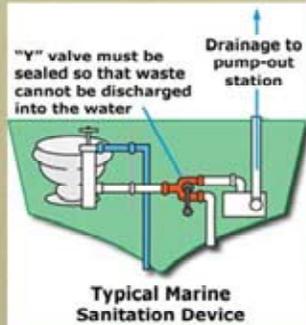
The provisions of Section 8.12.C through 8.12.G shall apply only within the City of Stuart Pilot Program Area.

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.

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.

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.

Proof of Pump Out Requirement



- All occupied vessels
- After 10 consecutive days in the program areas
- Only those vessels equipped with Type III MSDs
- A receipt from pump out boat or proof of pump out from authorized facility documenting service from within previous ten days



The provisions of Section 8.12.C through 8.12.G shall apply only within the City of Stuart Pilot Program Area.

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.

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.

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.

Enforcement and Penalties

- Enforcement by the City of Stuart and Martin County or officers of the FWC and any federal law enforcement officer
- Prior to enforcement a reasonable effort will be made to provide educational materials to the owners of noncompliant vessels to allow time to achieve compliance



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.

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.

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.

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.

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.

Enforcement and Penalties

- Enforcement shall first be accomplished through a civil code enforcement process
- If compliance is not achieved through the code process violations may be prosecuted in other manners that could include misdemeanor charges.



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.

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:

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

Violations may be prosecuted and punished as misdemeanors pursuant to Section 125.69, Florida Statutes and Section 166.021, Florida Statutes.

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.

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:

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

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

Public Input

- Public was notified of the proposed ordinance through the local government process
- Ordinance published on FWC website which generated 32 public comments



Stuart/Martin County held 2 public meetings specifically for A&M discussion on October 4, 2011. There was a afternoon meeting with 79 attendees and an evening meeting with 28 attendees on the same day.

In compliance with the statute, 327.4105, we coordinated the review of the Stuart/Martin Ordinance by reaching out to the Department of Environmental Protection, United States Coast Guard, West Coast Inland Navigation District, BOATUS, 7 Seas Cruising Association, Marine Industries Association of Florida, and National Marine Manufacturers Association

The ordinance was also posted online to gather public input for two weeks. The public comments were almost exclusively negative towards the Pilot Program, the proposed ordinance in general, and specific parts of the ordinance as well.

The specific areas of concern primarily dealt with the size of the buffer areas (both the 300 feet and the 1,000 feet), no alternative anchoring in the Indian River area, and the penalty options for non-compliance.

Staff Recommendation



Approval of Stuart/Martin County Ordinance contingent upon removing the Indian River Program Area from consideration until the associated mooring field is constructed



Staff recognizes the challenges of reaching consensus on an ordinance such as that proposed by Stuart/Martin County, and their proposal is not based on full consensus of the interested parties. Anchoring ordinances have historically been contentious and it is this lack of “common ground” that led to the creation of the Pilot Program

We believe Stuart/Martin County has met the requirements for public input and involvement, has given proper consideration to the input received, and their proposed ordinance is a reasonable attempt to meet the statutory standards for the Pilot Program within their specific geographic location.

The staff recommendation considers a variety of factors, one of which is public input. Currently it is unclear whether the construction of the proposed mooring field in Indian River could be completed during the Pilot Program’s current lifespan. Staff recommends removing the Indian River Program Area from the proposed ordinance. This area could be resubmitted as an amendment for consideration by the FWC Commission as the construction of the mooring field is nearing completion. It should also be noted that the Boating and Waterways staff has concerns about the size and need of a 1000 ft buffer in this program area.

Staff Recommendation

Approval of Stuart/Martin County Ordinance contingent upon altering the buffer distances in the St. Lucie River Program Areas to 150 feet and also restricting anchoring between the mooring field and shoreline



Staff also recommends that the buffer distance be reduced for the St. Lucie River Program areas. This is due to public input and discussions between boater groups and the participants. Their original intent was to protect marine infrastructure and enhance navigational safety immediately surrounding the Stuart Mooring field. The 300 ft buffer chosen to protect those areas and was also used as the buffer distance around all maritime infrastructure for consistency and clarity. Staff's recommendation is for the buffer distance around the mooring field and maritime infrastructure to be set at 150 ft with the addition of language that would prohibit anchoring between the Stuart mooring field and the shoreline.

This recommendation is made in order to meet our statutory mandate to "...explore potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields."

Staff Recommendation

Approval of Stuart/Martin County Ordinance
contingent upon:

1. Removing the Indian River Program Area from consideration until the associated mooring field is constructed
2. Altering the buffer distances in the St. Lucie River Program Areas to 150 feet and restricting anchoring between the mooring field and shoreline



The Commission has several options:

Approve the ordinance as submitted

Not Approve the ordinance

Delay the decision until a later date

Approve the ordinance contingent upon the specified changes (Staff recommendation)