

Anchoring and Mooring Pilot Program: Sarasota Ordinance



Florida Fish and Wildlife Conservation Commission
June 28, 2012
Division of Law Enforcement

This presentation is a review of the local ordinance prepared by the City of Sarasota 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.

Sarasota's Ordinance



- Anchoring Restrictions
- Exemptions
- Enforcement/ Penalties

This ordinance regulates the mooring of vessels outside of the designated field. The Sarasota ordinance can be broken down into general segments.

Anchoring Restrictions

Exemptions

Steps for Enforcement and Penalties

This presentation will touch on each of these briefly.

Anchoring Restrictions

- Time Restriction

- Applicable to all vessels
- Applicable after 90 consecutive days
- Relocate to mooring field or outside city boundaries



Division 3. MOORING and ANCHORING

Sec. 10-50. Anchorage and mooring outside mooring fields.

No person shall allow a vessel (as defined in Section 10-20(o) of this code) to anchor or moor at any location outside of a properly permitted mooring field for more than ninety (90) consecutive days. After midnight of the 90th consecutive day, the owner, operator, occupants or person in custody of the vessel shall relocate the vessel to a properly permitted mooring field or to a location outside the municipal boundaries of the City.

For purposes of this Division 3, the term "properly permitted mooring field" shall mean an area designated for the mooring of vessels that has been approved and permitted for such purpose by all state and federal agencies with jurisdictional authority.

It shall not be relevant to a determination of a violation of this section that the vessel was temporarily moved from a site or location and then later returned to that same site or location or in close proximity thereto, unless the vessel shall have been absent from the site or location for a period of seventy two (72) hours between each anchoring or mooring. Nothing in this section shall be construed to limit or restrict a vessel from being tied up to a properly permitted dock or restrict a vessel from being moored pursuant to a mooring permit issued by the Florida Department of Environmental Protection anywhere in the jurisdictional waters of the City.

(All of this is proposed new language. Underlined language highlighted for emphasis purposes only)

Anchoring Restrictions

–Anchoring and mooring on City Property

- Applicable to all vessels
- Unlawful to anchor, moor, or tie off to any dock, seawall, piers or any real property or beaches owned by the city
- Exception for
 - Active loading/unloading, unless otherwise posted or permitted.
 - Tenders in active service. Tenders are limited to 12 continuous hours within any 24 hour period



Sec. 10-51. Anchoring and mooring on City property

It shall be unlawful for any person to anchor, moor or tie off a vessel at, to or on any dock, seawall, piers or any real property or beaches owned by the city, except for active loading or unloading and except for tenders (such as dinghies, row boats and similar vessels) in active service to their properly anchored or moored mother vessel. The foregoing exception for tenders in active service is limited to 12 continuous hours within any 24 hour period.

(all proposed language is NEW)

Anchoring Restrictions



- Set Backs

- Applicable to all vessels after 12 hours
- 150 feet from mooring field boundaries
- 150 feet from mean high water mark of real waterfront property (measurement from the waterline not from the infrastructure)

Sec. 10-52. Anchoring and mooring within 150 feet of shoreline or sea wall.

In order to protect marine infrastructure, such as but not necessarily limited to docks, wharves, sea walls, marine railways and boat ramps, it shall be unlawful for any person to anchor or moor a vessel for a period of time in excess of twelve (12) hours in a manner which allows the vessel or any part of the vessel to be within one hundred fifty (150) feet of waterfront real property as measured from the natural shoreline or sea wall. However, the owner of privately owned submerged lands may anchor or moor a single vessel on his or her property in excess of twelve (12) hours, subject to the limitation in Section 10-50. The preceding sentence shall not be construed to limit or restrict a vessel from being tied up to a properly permitted dock or restrict a vessel from being moored pursuant to a mooring permit issued by the Florida Department of Environmental Protection anywhere in the jurisdictional waters of the City.

Sec. 10-53. Anchoring and mooring in close proximity to properly permitted mooring fields.

It shall be unlawful for any person to anchor or moor a vessel for a period of time in excess of twelve (12) hours in a manner which allows the vessel or any part of the vessel to be within one hundred fifty (150) feet from the marked boundaries of a properly permitted mooring field.

(ALL NEW language)

Anchoring Example

150 feet from seawall



This is a visual example of what the 150 feet buffer would look like from the water and land side.

Ordinance Exceptions

- Safe harbor clause for mechanical or weather related issues
- If mooring fields are full, the 90 day time restriction and 12 hour set back around the mooring field is suspended until space is available
- Time and Set Back restrictions can be suspended for boat show, race, parade, or other public event, so long as the vessel owner complies with resolutions or agreements governing the public event.



Sec. 10-54. Exceptions to anchoring and mooring prohibitions.

Notwithstanding Sections 10-50 through 10-53 above, vessels may remain anchored or moored for longer periods of time than provided therein 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.

Notwithstanding Sections 10-50 and 10-53 above, vessels may remain anchored or moored for longer periods of time than provided therein when all properly permitted mooring fields in the City are full and have no space for new occupants. However, the preceding sentence shall only be construed to allow a vessel that remains anchored or moored for a longer period of time than provided in Section 10-50 to do so until space becomes available in a properly permitted mooring field. It shall not be construed to allow a vessel to anchor or moor at any location outside of a properly permitted mooring field for a second consecutive ninety (90) day period .

Notwithstanding Sections 10-50 through 10-53 above, the City Commission may allow or permit vessels that are participants in a boat show, race, parade or other public event to anchor or moor in a location that would otherwise be prohibited by those sections, so long as the vessel owner complies with resolutions or agreements governing the public event.

Sections 10-50 through 10-53 shall not apply within the Florida Intracoastal Waterway, as that term is defined by state statutes.

(All proposed language is NEW)

Enforcement and Penalties

- Enforcement by Sarasota Police Department, Sarasota County Sheriff's Department, or FWC.
- Multiple visual observations required for enforcement of time restriction and set backs
- Citation shall be presented to owner/occupant of vessel or mailed to registered owner
- Non-criminal violation with a fine
 - » not to exceed \$250 for a first offense
 - » not to exceed \$500.00 for subsequent offenses



Sec. 10-55. Determination of a violation and enforcement.

For the purpose of determining whether or not the time limitation of Section 10-50 has been violated, the initial physical observation of a vessel at a particular location outside a properly permitted mooring field shall be documented in writing and a final observation of the vessel at the same location or approximate location more than ninety (90) days later shall also be documented in writing. The initial and the final observation as described in the preceding sentence plus the physical observation of the vessel at the same location or approximate location, a minimum of two (2) times, with a minimum of thirty (30) days between each observation, during the allowed ninety (90) day time period shall be deemed prima facie evidence of a violation of Section 10-50. The required observations may be made by officers, employees, agents of the city, private citizens or both. In the case of observation by private citizens, such citizen shall be required to make affidavit as to the observation.

For the purpose of determining whether or not the time limitations of Sections 10-52 or 10-53 have been violated, the physical observation of a vessel at the same location or approximate location, a minimum of two (2) times during an allowed time period and one (1) time beyond the maximum authorized time period shall be deemed prima facie evidence of a violation of the aforementioned sections. The required observations may be made by officers, employees or agents of the city, private citizens or both. In the case of observation by private citizens, such citizen shall be required to make affidavit as to the observation.

The provisions of this Chapter 10, Article II, Division 3 of the City Code shall be enforced by the City Police Department. However, Sarasota County Sheriff's Department and the Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission shall have concurrent jurisdiction to enforce said provisions. The law enforcement agency issuing a citation for violation of this Division shall present the completed citation to the owner or occupant of the subject vessel or, in the alternative, shall mail the citation to the owner of the vessel at the mailing address shown on the title or registration of the vessel, by U.S. Mail, certified, return receipt requested.

The City may prosecute a violation of this Division in any manner allowed by law, specifically including but not limited to prosecution for a municipal ordinance violation in County Court and an action for mandatory injunctive relief ordering that a vessel be moved from a particular location. A violation of this ordinance shall be considered a non-criminal violation and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00), except for a first time violation which shall be punished by a fine not exceeding Two Hundred Fifty Dollars (\$250.00).

(All proposed language is NEW)

Public Input

- Public was notified of the proposed ordinance through the local government process
- Ordinance published on FWC website which generated 10 public comments



Sarasota held a public input meeting (November 3, 2011) and presented the ordinance at a city commission meeting (December 5, 2011) open to the public.

In compliance with the statute, 327.4105, we coordinated the review of the St Petersburg 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. Boating and Waterways staff held a public meeting (May 10th) with representatives from the City to answer any questions from the reviewers and the public.

The ordinance was then posted online to gather public input for two weeks. From this process Boating and Waterways staff received approximately 10 public comments and 2 responses from agencies/organizations directed towards the St. Petersburg ordinance.

Of the 10 public comments received;

1 of the comments was not in support of the Pilot Program in general.

2 were not in support of the buffers or distance proposed.

2 were against the enforcement process for the 90 day time restriction in the ordinance.

1 was negative towards the mooring field itself.

2 comments were supportive of the ordinance developed, particularly the 150 buffer and movement of vessels preventing derelicts.

1 was a suggestion to include a pump out requirement.

1 couldn't be categorized. The comment appeared to be a misreading of the ordinance language.

It should be noted that several of the comments were directed towards allowing the use of city property for dinghy use. Those comments were prior to the change made by the city to allow dinghies the use of that property for 12 hours out of 24.

Boating and Waterways staff recognizes that the city has taken on the difficult task of trying to articulate how to enforce the 90 day time restriction. We anticipate a monitoring and evaluation period of this enforcement method, with the possibility of adjustments as needed.

Staff Recommendation

Approval of Sarasota Ordinance contingent upon the opening of the mooring field for use by the public



Staff recognizes the challenges of reaching consensus on an ordinance such as that proposed by the City of Sarasota, 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 do note the 90 day time restriction is an example of exploring the regulatory options allowed by the statute.

We believe Sarasota 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 mooring field is going to be installed in phases, the first phase build out is 35 mooring balls. Staff recommends the approval of the ordinance contingent upon the opening of the City of Sarasota’s mooring field when the first phase is completed and open for public use. 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.”

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)