

Anchoring and Mooring Pilot Program: St. Petersburg Ordinance



Florida Fish and Wildlife Conservation
Commission

May 2, 2012

Division of Law Enforcement

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

Overview of Presentation

- Update on the Pilot Project Work Statewide
- Discussion of St. Petersburg's Ordinance



Since the November Commission meeting, where the city of St. Augustine's ordinance was approved with contingencies, the city made the required changes and adopted the ordinance. It is currently in effect within that pilot program area.

The Boating and Waterways Section (B&W) has provided consultation and technical assistance to Monroe County, Stuart/Martin County, and City of St. Petersburg while they worked on their proposed ordinances. The city of Sarasota has not submitted a draft ordinance for B&W staff to begin it's internal review.

The City of St. Petersburg has advanced to the draft ordinance stage and is ready for presentation to the Commission.

St. Petersburg's Ordinance

- ✓ Definitions
- ✓ Anchoring Restrictions
- ✓ Anchoring Prohibitions
- ✓ Steps for Enforcement and Penalties



The City currently has 13 mooring spaces in the Vinoy Basin with a possibility of some expansion. The ordinance the City has proposed does not, therefore, mandate all vessels must move to the mooring field after a designated amount of time. Rather this ordinance regulates the mooring of vessels outside of the designated field.

The St. Petersburg ordinance can be broken down into 4 general segments.

Definitions

Anchoring Restrictions

Anchoring Prohibitions

Steps for Enforcement and Penalties

This presentation will touch on each of these briefly.

Definitions



- Created to define or clarify
- Avoid unintended consequences
- Applicable to ordinance only



Person Officially Designated (POD) is used in the definitions below and means any person lawfully appointed by the City to assist in enforcement of the ordinance.

Sec. 7-216. Definitions

The definitions in F.S. ch. 327, including the definitions of live-aboard vessel and floating structure, shall apply to this article. As used in this article the following terms shall have the meaning ascribed to them:

Anchoring means the use of a heavy device fastened to a line or chain to hold a vessel in a particular place for a limited period of time.

Hazardous vessel means a vessel in danger of becoming derelict because the vessel displays one or more of the following indicators: (1) is unable to operate or navigate without the assistance of another vessel; (2) displays excessive marine growth (e.g., prevents proper use of vessel, visible barnacles); (3) has its interior exposed to the weather; (4) is taking on water without the ability to dewater; (5) is leaking contaminants into the water; (6) is in violation of section 327.53, F.S.; or (7) is in danger of breaking loose from its anchor due to an inadequate anchor or due to rotted or chaffing anchor lines (e.g., anchor too small for boat size, wrong type of anchor for boat).

Mooring field means the properly permitted area in the North Yacht Basin where the City has placed permanently mooring buoy systems in accordance with a mooring field management plan.

Safe harbor means a designation by the POD, after consultation with the captain, operator, or other authorized representative of a vessel, to allow temporary anchoring of a vessel in a designated location due to a mechanical issue or severe weather.

Special event means a designation by the POD to allow temporary anchoring of a vessel in a designated location due to a City special event.

Hazardous vessel

A vessel displaying one or more indicators that it is in danger of becoming a derelict vessel



Staff has found this definition to be of particular interest to the boaters and boating interest groups so far.

Hazardous vessel means a vessel in danger of becoming derelict because the vessel displays one or more of the following indicators: (1) is unable to operate or navigate without the assistance of another vessel; (2) displays excessive marine growth (e.g., prevents proper use of vessel, visible barnacles); (3) has its interior exposed to the weather; (4) is taking on water without the ability to dewater; (5) is leaking contaminants into the water; (6) is in violation of section 327.53, F.S.; or (7) is in danger of breaking loose from its anchor due to an inadequate anchor or due to rotted or chaffing anchor lines (e.g., anchor too small for boat size, wrong type of anchor for boat).

Anchoring restricted



- Set Backs
 - 200 feet from public/private marina
 - 200 feet from public boat ramp



Within the section of the Ordinance dealing with restrictions on Anchoring, the Ordinance only protects limited areas.

DIVISION 1 –ANCHORING OF VESSELS OUTSIDE MOORING FIELD

Sec. 7-219. Applicability

This division shall apply to all vessels, except live-aboard vessels and floating structures, anchoring in the waterways of St. Petersburg outside the mooring field.

Sec. 7-220. Hazardous vessels.

Hazardous vessels are prohibited from anchoring in the waterways of St. Petersburg.

Sec. 7-221. Anchoring Restricted.

Except for safe harbor or a special event, anchoring a vessel outside the mooring field is subject to the following prohibitions:

- (1) No vessel shall anchor within two hundred (200) feet of any publicly owned or privately owned marina.
- (2) No vessel shall anchor within two hundred (200) feet of any publicly owned boat ramp. This subsection shall not apply to any governmentally owned vessel or to any construction vessel holding a current, unexpired permit.

(cont. on next slide)

Anchoring restricted

- Time Restriction
 - No anchoring in excess of 72 hours in Bayboro Harbor within 30 day period



Of particular note in the section on restrictions on Anchoring, is a restriction in Bayboro Harbor. We will speak about staff's recommendation on this part of the ordinance at the end of the presentation

DIVISION 1 –ANCHORING OF VESSELS OUTSIDE MOORING FIELD

Sec. 7-221. Anchoring Restricted.

Except for safe harbor or a special event, anchoring a vessel outside the mooring field is subject to the following prohibitions:

- (1) No vessel shall anchor within two hundred (200) feet of any publicly owned or privately owned marina.
- (2) No vessel shall anchor within two hundred (200) feet of any publicly owned boat ramp. This subsection shall not apply to any governmentally owned vessel or to any construction vessel holding a current, unexpired permit.
- (3) No vessel shall anchor in Bayboro Harbor for more than seventy-two (72) hours during any thirty day time period.

Anchoring prohibited

- Anchoring which constitutes navigational hazard or interferes with another vessel
- No anchoring of hazardous vessels



These two prohibitions on anchoring apply within all waterways of the City.

DIVISION 1 –ANCHORING OF VESSELS OUTSIDE MOORING FIELD

Sec. 7-219. Applicability

This division shall apply to all vessels, except live-aboard vessels and floating structures, anchoring in the waterways of St. Petersburg outside the mooring field.

Sec. 7-220. Hazardous vessels.

Hazardous vessels are prohibited from anchoring in the waterways of St. Petersburg.

Sec. 7-222. Anchoring Prohibited.

Except for safe harbor or a special event, anchoring a vessel outside the mooring field is prohibited in the following areas:

- (1) No vessel shall anchor in any area which shall unreasonably or unnecessarily constitute a navigational hazard or interfere with another vessel.

(cont) on next slide

Anchoring prohibited



- No anchoring in
 - Port of St. Petersburg
 - South Yacht Basin
 - Central Yacht Basin



DIVISION 1 –ANCHORING OF VESSELS OUTSIDE MOORING FIELD (CONT)

Sec. 7-222. Anchoring Prohibited.

Except for safe harbor or a special event, anchoring a vessel outside the mooring field is prohibited in the following areas:

- (1) No vessel shall anchor in any area which shall unreasonably or unnecessarily constitute a navigational hazard or interfere with another vessel.
- (2) No vessel shall anchor in the Port of St. Petersburg.
- (3) No vessel shall anchor in the South Yacht Basin.
- (4) No vessel shall anchor in the Central Yacht Basin.

Steps for Enforcement and Penalties

- Enforcement by St. Petersburg Person Officially Designated (POD)
- Notice of Violation --- a warning that provides a reasonable time to correct the problem. Reasonable time shall be not less than three days or more than thirty days.



DIVISION 3 – ENFORCEMENT

Sec. 7-229. Enforcement procedure.

Except where the POD has reason to believe that a vessel presents a serious threat to the public health, safety or welfare, the enforcement procedure under this article shall be as follows:

- (1) It shall be the duty of the POD to initiate enforcement proceedings.
- (2) Where the POD finds or is made aware of a vessel in violation of any section of this article, the POD shall notify the owner of the vessel and such notice of violation shall provide a reasonable time within which to correct the violation. The term “reasonable time” shall be set forth in the notice and shall not be less than three days and not more than thirty days. Notice of violation shall be provided by certified mail, return receipt requested, and first class mail or hand delivery to the owner of the vessel. Notice of violation shall also be posted on the vessel. Should the violation continue beyond the correction time specified in the notice of violation, the POD shall have the authority to pursue legal action in accordance with this division.

Steps for Enforcement and Penalties-continued

- Notice to Appear --- given if a vessel owner doesn't correct the violation.
 - Penalties
 - » First violation: \$150.00
 - » Second violation: \$250.00
 - » Third or subsequent violation: \$500.00



Sec. 7-230. Violations and Fines.

(a) Whoever violates any provision of this article shall be subject to the penalties and procedures set forth in F.S. ch. 327, section 1-7 of this Code (e.g., notice to appear to county court) and this article.

The amount of the fine for violation of this article is as follows:

- (1) For a first violation of this article..... \$150.00
- (2) For a second violation of this article \$250.00
- (3) For a third and all subsequent violations of this article\$500.00

Steps for Enforcement and Penalties-continued

- Impoundment

- Immediately if a vessel unreasonably or unnecessarily constitutes navigation hazard or interferes with another vessel
- Hazardous vessel that does not correct the problem within time frame, anywhere from 3-30 days, as provided in the notice of violation
- When a vessel owner continues to be in violation after being issued multiple notices to appear



Sec. 7-231. Authority to impound vessels.

- (a) The POD is authorized to immediately remove and impound, without warning and at the owner's expense, a vessel to an area designated or maintained by the City, for the following reasons:
 - (1) When a vessel is anchored in any area which shall unreasonably or unnecessarily constitute a navigational hazard or interfere with another vessel.
 - (2) When a hazardous vessel remains in the waterways of St. Petersburg after a notice of violation was sent to the owner and the owner has not corrected the violation within the time frame set forth in the notice of violation.
 - (3) When a vessel continues to be in violation of Section 7-221 after the owner has been issued at least three notices to appear to county court. (ANCHORING REST. 200FT/72HRS)
 - (4) When a vessel continues to be in violation of Section 7-222 after the owner has been issued at least two notices to appear to county court. (ANCHORING PROHIBITED BASIN/PORT/HAZARD)
 - (5) When a vessel continue to be in violation of Section 7-226 after the owner has been issued at least three notices to appear to county court. (FLOATING STRUCTURE/LIVEABOARD)
- (b) No impounded vessel shall be released until the charges for towing the vessel and storage charges have been paid.

Sec. 7-232. Procedure for appeal and recovery of vessel.

Procedures for the appeal and recovery of a vessel shall follow those procedures for vehicles for vehicle impoundment in Chapter 26 (currently 26-49). The term "vehicle" used therein, shall for the purposes of this division, mean "vessel." Vessels shall include live-aboard vessels and floating structures.

Public Input

- Public was notified of the proposed ordinance through the local government process
- Ordinance published on FWC website which generated 35 public comments



St. Petersburg held two public input meetings (October 2011/January 2012) and presented the ordinance at a city council meeting (March 2012) 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.

The ordinance was then posted online to gather public input for two weeks. From this process Boating and Waterways staff received approximately 35 public comments and 5 responses from agencies/organizations directed towards the St. Petersburg ordinance.

Of the 35 public comments received;

3 of the comments were not in support of the Pilot Program in general.

12 were not in support of the St. Petersburg ordinance as a whole.

6 were directed towards not supporting the 72 hour time restriction, 3 suggested moving the time to 7 days, 1 suggested 30 days, 1 wanted free moorings.

2 were against anchoring restriction or prohibitions in the ordinance.

1 was negatively towards the mooring field itself.

3 of comments were supportive of the Pilot Program and the ordinances developed.

7 were comments that couldn't be categorized. Generally they were questions.

1 was not in favor of the portion of the ordinance that addressed live aboard and floating structures, which does not require approval of the Commission.

Staff Recommendation

- Approval of St. Petersburg Ordinance **contingent upon** the time restriction being changed in Bayboro Harbor to 10 days out of 30 days



Staff recognizes the challenges of reaching consensus on an ordinance such as that proposed by the City of St Petersburg, 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 St Petersburg 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. Currently, the ordinance reads in part:

“ Except for safe harbor or a special event, anchoring a vessel outside the mooring field is subject to the following prohibitions:

....

- (3) No vessel shall anchor in Bayboro Harbor for more than seventy-two (72) hours during any thirty day time period.

Staff recommends the approval of the ordinance, **contingent upon** changing the time restriction in Bayboro Harbor to anchoring no more than 10 days out of any thirty (30) day time period. This recommended change 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.”