

46 regulating the anchoring or mooring of non-liveaboard vessels outside the marked
47 boundaries of public mooring fields (327.4105 F.S.); and

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49 **WHEREAS**, the goals of the Pilot Program are to encourage the establishment of
50 additional public mooring fields and to develop and test policies and regulatory regimes
51 that: promote the establishment and use of mooring fields, promote public access to
52 waters of the state, enhance navigational safety, protect maritime infrastructure, protect
53 marine environment, and deter improperly stored, abandoned or derelict vessels; and

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55 **WHEREAS**, in November 2009 Monroe County sent a Letter of Interest to FWC to
56 participate in the Pilot Program in partnership with the Cities of Marathon and Key West,
57 each of which operate public mooring fields; and

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59 **WHEREAS**, the Monroe County Board of County Commissioners entered into Inter-
60 local Agreements with the Cities of Marathon and Key West on February 17, 2010
61 providing for coordinated partnerships in the FWC Pilot Program; and

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63 **WHEREAS**, the Monroe County Marine Resources Office retained consultants to
64 complete vessel surveys inside and outside of public mooring fields at Key West and
65 Marathon and in the anchorage at Boca Chica basin, and conducted stakeholder
66 workshops to take public input on anchoring and mooring issues and potential regulatory
67 regimes, in accordance with the criteria of the FWC Pilot Program; and

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69 **WHEREAS**, during the stakeholder workshops residents in the Sunset Cove area
70 requested that the adjacent anchorage area be included in any potential regulations; and

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72 **WHEREAS**, FWC staff evaluated Monroe County's vessel surveys, considered public
73 input provided at stakeholder workshops, and provided a recommendation to the FWC to
74 approve Monroe County for participation in the Pilot Program; and

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76 **WHEREAS**, at its February 2011 meeting the FWC approved Monroe County as one of
77 five local governments in the state to participate in the Pilot Program, including St.
78 Petersburg, Sarasota, St. Augustine and Martin County; and

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80 **WHEREAS**, the Monroe County Marine and Port Advisory Committee and the Monroe
81 County Board of County Commissioners held numerous public meetings from 2009 to
82 the present to discuss, and take public input on FWC Pilot Program objectives, anchoring
83 impacts in unmanaged Keys anchorages, and viable solutions to address those anchoring
84 impacts; and

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86 **WHEREAS**, the Monroe County Board of County Commissioners provided direction at
87 its September 21, 2011 meeting for staff to draft an anchoring ordinance to provide for
88 managed anchoring zones with accompanying regulations, and to coordinate with the
89 Cities of Marathon and Key West for the inclusion of ordinance language providing for
90 anchoring regulations in association with their respective mooring fields; and

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92 **WHEREAS**, at the September 21, 2011 Monroe County Board of County
93 Commissioners meeting the Board received a request from a representative of Wisteria
94 Island to have Key West harbor included as a managed anchoring zone, and the Board
95 approved the inclusion of that area as a managed anchoring zone; and

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97 **WHEREAS**, the Monroe County Board of County Commissioners provided additional
98 direction at its January 19, 2012 meeting for the anchoring ordinance to provide for four
99 managed anchoring zones, and revised the regulations for development to be applied
100 within those zones; and

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102 **WHEREAS**, the Monroe County Board of County Commissioners at its April 18, 2012
103 meeting accepted a request by the City of Marathon to include the greater Boot Key
104 Harbor area as a fifth managed anchoring zone, heard concerns from the Navy, and
105 directed staff to include a prohibition on vessels within managed anchoring zones that
106 exhibit conditions known to precede a derelict vessel condition, eliminate floating
107 structures language and eliminate USCG Auxiliary Vessel Safety Check language
108 pending a recommendation from the USCG; and

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110 **WHEREAS**, the Monroe County Board of County Commissioners at its May 16, 2012
111 meeting accepted a request by Naval Air Station Key West to make areas of Boca Chica
112 basin, encompassed by the Navy Accident Potential Zone and baybottom, a no anchoring
113 zone to ensure the safety and security of the public; and

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115 **WHEREAS**, the Monroe County Board of County Commissioners has indicated that the
116 anchoring ordinance should not be over-reaching and not overburden transient boaters;
117 and

118
119 **WHEREAS**, it is the intention of the Monroe County Board of County Commissioners to
120 optimize the incentive for vessel owners, who contribute to Boating Improvement Funds
121 through vessel registration fees and contribute to DEP Clean Vessel Act Program funds
122 through marine fuel taxes, to properly pumpout and comply with existing sewage
123 discharge regulations within the federal No Discharge Zone in the Keys, by providing
124 free pumpout service to vessels located in managed anchoring zones and which are
125 served by the County pumpout program; and

126
127 **WHEREAS**, Monroe County staff is negotiating a contract with the National Marine
128 Waste Foundation to provide free pumpout service to vessels anchored in unincorporated
129 areas of the Florida Keys and to provide for a registration process, with accompanying
130 participation stickers or tags to be displayed on vessels indicating proof of regular
131 pumpouts; and

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133 **WHEREAS**, because the anchoring ordinance is a test program the Monroe County
134 Board of County Commissioners desires that vessel owners be provided warnings by
135 enforcement officers prior to the issuance of citations, to allow every opportunity for the
136 vessel owner to comply with the described regulations; and

137

138 **WHEREAS**, the anchoring ordinance shall provide for the regulation of both liveaboard
139 and non-liveaboard vessels; and

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141 **WHEREAS**, the Monroe County Board of County Commissioners encourages FWC to
142 fully implement the agency’s At Risk Program in designated managed anchoring zones as
143 a tool to identify vessels which exhibit conditions known to precede a derelict vessel
144 condition; and

145
146 **WHEREAS**, the regulations established in the anchoring ordinance are consistent with
147 the municipal codes of the City of Marathon and the City of Key West; and

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149 **WHEREAS**, the Monroe County Board of County Commissioners will transmit the
150 approved anchoring ordinance to FWC for consideration and approval prior to adoption
151 of the ordinance by the Board of County Commissioners;

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155 **NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD**
156 **OF COUNTY COMMISSIONERS:**

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158 **Section 1.** Chapter 26 of the Monroe County Code is amended as follows:

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160 Chapter 26
161 WATERWAYS

162
163 ARTICLE V
164 ANCHORING AND MOORING RESTRICTED AREAS

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166 Sec. 26-100. Purpose. It is the purpose of this section of this Code to provide for
167 anchoring and mooring restricted areas where unmanaged anchoring and/or mooring and
168 associated environmental and navigational impacts exist. These areas and restrictions are
169 created in accordance with F.S. § 327.4105, and by approval of the Florida Fish and
170 Wildlife Conservation Commission which has been directed by the Florida State
171 Legislature to establish a Pilot Program to explore potential options for regulating the
172 anchoring or mooring of non-liveaboard vessels outside the marked boundaries of public
173 mooring fields. These restrictions are deemed to be necessary to protect the public
174 health, safety and welfare. These restrictions also include the regulation of liveaboard
175 vessels and floating structures, as provided for in F.S. § 327.60(3).

176
177 Sec. 26-101. Definitions.

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179 *Proof of pumpout* means an acceptable form of proof that a vessel has had its vessel
180 sewage legally pumped out, or disposed of (in the case of a Porta-Potti or other portable
181 toilet). Acceptable forms of proof include a pumpout registration sticker or tag issued by
182 the City of Key West, City of Marathon or Monroe County pumpout programs indicating
183 that the vessel receives routine pumpouts, or a pumpout receipt from a pumpout facility
184 (including portable toilet dump stations) or pumpout vessel within the past ten (10) days.

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Derelict Vessel means any vessel, as defined in F.S. § 327.02, that is left, stored, or abandoned:

- (a) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.
- (b) At any port in this state without the consent of the agency having jurisdiction thereof.
- (c) Docked or grounded at or beached upon the property of another without the consent of the owner of the property

Sec. 26-102. Anchoring and Mooring Restricted Areas.

(a) Managed Anchoring Zones. Managed Anchoring Zones are established for the purpose of protecting the marine environment, enhancing navigational safety, and deterring improperly stored, abandoned, or derelict vessels. Managed Anchoring Zones are created as a tool to regulate anchoring activity in currently unmanaged anchorages.

(1) Managed Anchoring Zones shall be established in the following described geographic areas. Maps delineating the Managed Anchoring Zones are attached hereto as Attachment A, and are incorporated herein by reference and will be made available in the Marine Resources Office.

- a. Boca Chica Basin: To include the body of water occurring between Stock Island and Boca Chica Key (excluding the Navy Accident Potential Zone (APZ), restricted areas, and bay bottom) south of U.S. Highway 1, west of the western edge of the arc of the NAS Key West Accident Potential Zone (APZ), west of a line intersecting the APZ at 24° 34.10' N 81° 43.35' W and running south to 24° 33.63' N 81° 43.35' W, south of a line running east-west from 24° 33.63' N 81° 43.35' W to 24° 33.63' N 81° 43.15' W, west of the western edge of Boca Chica Channel running southwest from 24° 33.63' N 81° 43.15' W to 24° 33.45' N 81° 43.24' W, north of latitude 24° 33.45' N (approximately at the location of Boca Chica Channel marker 7), east of a line running north-northwest from 24° 33.45' N 81° 43.38' W to 24° 33.82' N 81° 43.46' W and continuing along the Stock Island shoreline.
- b. Sunset Cove: To include the body of water in Buttonwood Sound occurring southeast of the Intracoastal waterway and bounded by the Key Largo shoreline.
- c. Key West Harbor: To include the body of water occurring west of Fleming Key and Key West (excluding Navy restricted areas), south of a line running east-west at latitude 24 ° 35.19' N, east of a line running from the northwest tip of Pearl Bank to the north side of Tank Island (Sunset Key), and north of a line running east-west at latitude 24° 33.84' N.
- d. Cow Key Channel: To include the body of water occurring between Key West and Stock Island, south of U.S. Highway 1, and north of a line

231 running east-west at latitude 24° 33.44' N (approximately at the location
232 of Cow Key Channel marker 5).
233 e. Boot Key Harbor: To include the area of Boot Key Harbor (excluding the
234 permitted public mooring field and No-Anchoring Buffer Zone) occurring
235 south of the Vaca Key shoreline, east of Boot Key Harbor main channel
236 entrance marker 7 located at position 24° 42.13' N 81° 06.84' W, north of
237 the Boot Key shoreline, and west of the far eastern side of Boot Key
238 Harbor at position 24° 42.54' N 81° 04.99' W, and including the entirety
239 of Sisters Creek south to marker 4 at the entrance of Sisters Creek, and
240 including the area occurring from Sisters Creek marker 4 at position 24°
241 41.35' N 81° 05.26' W running east to the shoreline of Vaca Key at
242 position 24° 41.43' N 81° 04.93' W and running north along the shoreline
243 of Vaca Key and continuing to the west along the shoreline of Sombrero
244 Beach.

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246 (2) The following regulations shall apply within Managed Anchoring Zones:
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- 248 a. Prohibition of vessels exhibiting pre-derelict vessel conditions. Vessels
249 determined to exhibit conditions known to precede a derelict vessel
250 condition are prohibited, including:
251 1) Vessel is not able to be used for navigation.
252 2) Vessel is listing.
253 3) Vessel is aground.
254 4) Vessel is in danger of breaking its mooring.
255 5) Vessel is sinking.
256 6) Vessel is dragging anchor.
257 7) Vessel has broken its mooring and has been secured for the protection
258 of the health, safety and welfare of the citizens.
259 b. Prohibition of derelict vessels. Vessels determined to be derelict in
260 accordance with F.S. § 823.11 are prohibited.
261 c. Proof of pumpout required. Vessels anchored or moored for more than ten
262 (10) consecutive days, and which are required to have a marine sanitation
263 device in accordance with F.S. § 327.53, must provide proof of pumpout.
264 Vessel owners may utilize a pumpout service which may be provided by
265 the City of Key West, City of Marathon, Monroe County pumpout
266 programs, or other authorized vessel pumpout facility or vendor. The
267 municipal and County pumpout services are structured to provide ongoing
268 pumpouts for vessels located within managed anchoring zones, and may
269 provide a registration process by which vessel owners sign up for regular
270 pumpouts at a frequency based on anticipated need, with a minimum of
271 one pumpout per month. A monthly, color coded, registration sticker or
272 tag may be provided which vessel owners may display on their vessel,
273 indicating participation in the municipal or County pumpout program, and
274 which will be considered proof of pumpout. The municipal and/or County
275 pumpout programs shall maintain registration documentation and pumpout
276 logs throughout the duration of the Pilot Program, which shall be available
277 for review by any law enforcement officer. If a vessel owner utilizes

278 another vessel pumpout provider the vessel owner is required to maintain
279 documentation and pumpout logs to demonstrate use of pumpout to FWC,
280 MCSO or other law enforcement officers.

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282 (b) No-Anchoring Buffer Zones. No-Anchoring Buffer Zones are established outside
283 of, and immediately adjacent to, permitted public mooring fields for the purpose
284 of protecting maritime infrastructure, enhancing navigational safety and
285 promoting public access and the use of public mooring fields.
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287 (1) No-Anchoring Buffer Zones shall be established in the following described
288 geographic areas. Maps delineating the No Anchoring Zones are attached
289 hereto as Attachment B, and are incorporated herein by reference and will be
290 made available in the Marine Resources Office.
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292 a. Boot Key Harbor: To include a fifty foot (50') wide area immediately
293 adjacent to, and outside of, the perimeter of the east and west mooring
294 fields and the leased anchoring area.

295 b. Seaplane Basin: To include the area of Garrison Bight known as the
296 Seaplane Basin occurring north of the Key West shoreline, east of the
297 Fleming Key shoreline, south of a line running east-west 50' north of the
298 Garrison Bight mooring field boundary markers C and D, and west of
299 Sigsbee Park.

300 c. Boca Chica Basin: To include the body of water occurring between Stock
301 Island and Boca Chica Key (excluding Navy restricted areas) south of
302 U.S. Highway 1, east of the western edge of the arc of the NAS Key West
303 APZ, east of a line intersecting the Navy APZ at 24° 34.10' N 81° 43.35'
304 W and running south to 24° 33.63' N 81° 43.35' W, north of a line
305 running east-west from 24° 33.63' N 81° 43.35' W to 24° 33.63' N 81°
306 43.15' W, and west of the western edge of Boca Chica Channel and the
307 Navy restricted area (which includes Boca Chica Channel and the Navy
308 mooring field basin).
309

310 (2) The following regulations shall apply within No-Anchoring Buffer Zones:
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312 No anchoring or mooring of any kind (vessels or floating structures) except
313 for vessels mooring within established permitted public mooring fields by
314 permission of the mooring field owner or manager, vessels within a leased
315 anchoring area associated with a mooring field, commercial vessels (e.g.
316 barges) engaged in marine related work, military operations, vessels anchored
317 for the purpose of fishing or other recreational activities (but not overnight),
318 or in the case of an emergency (e.g. weather, mechanical, medical) causing the
319 need for a vessel to temporarily anchor.
320

321 Sec. 26-103. Enforcement. Regulations described in this Article may be enforced by law
322 enforcement officers of the City of Marathon or City of Key West (within their areas of
323 jurisdiction), Monroe County, or FWC or any other law enforcement officer.
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325 Sec. 26-104. Penalties.

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- (a) Any person cited for a violation of this article shall be charged with a noncriminal infraction. A written warning shall be issued to provide the vessel owner 30 days for corrective action or removal of the vessel. If corrective action or removal is not accomplished, a Uniform Boating Citation may be issued for violations of this ordinance pursuant to F.S. § 327.74 by any law enforcement agency authorized to issue such citations. Vessel owners will be provided thirty (30) days between issuance of citations. Fines associated with citations are established as follows:
 - (1) First offense- \$50
 - (2) Second offense- \$100
 - (3) Third offense- \$250
 - (4) Fourth or subsequent offenses- \$250 and FWC will request that the owner remove the vessel from the Managed Anchoring Zone or No-Anchoring Buffer Zone
- (b) Any person who fails to properly respond to a Uniform Boating Citation issued for a violation of this article shall, in addition to the charge relating to the violation of the boating laws of this County, be charged with the offense of failing to respond to such citation and upon conviction be guilty of a misdemeanor of the second degree punishable as provided in F.S. § 775.082 and F.S. § 775.083.
- (c) If a law enforcement officer determines that a vessel is derelict, the violation shall be processed in accordance with F.S. § 823.11
- (d) Allowance shall be provided for vessels in need of safe harbor due to severe weather conditions or temporary mechanical issues which may otherwise prohibit a vessel from safely departing a managed anchoring zone.

Sec. 26-105. Exemptions. The following exemptions are provided:

- (a) Vessels equipped with only incinerating or composting toilets are not required to provide proof of pumpout, as those types of toilets are not designed to be pumped out. However, effluent from those toilets is not allowed to be disposed of in the waters of the No Discharge Zone within the Florida Keys.
- (b) Stored vessels are not required to provide proof of pumpout.

Section 2. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Repeal of Inconsistent Provisions. All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal

373 of an ordinance herein shall not repeal the repealing clause of such ordinance or revive
374 any ordinance which has been repealed thereby.

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376 **Section 4.** Filing and Effective Date. This ordinance shall be filed in the Office of
377 the Secretary of the State of Florida and shall become effective as provided by law.

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379 **Section 5.** Codification. The provisions of this ordinance shall be included and
380 incorporated into the Code of Ordinances of Monroe County, Florida and shall be
381 numbered to conform with the uniform numbering system of the Code.

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383 **Section 6.** Expiration Date. The FWC Pilot Program is scheduled to expire on July
384 1, 2014, unless extended by the Florida State Legislature. This ordinance shall expire or
385 be extended concurrently with the FWC Pilot Program.

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391 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,
392 Florida at a regular meeting held on the ____ day of _____, 2012.

393
394 Mayor _____
395 Mayor *pro tem* _____
396 Commissioner _____
397 Commissioner _____
398 Commissioner _____
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401 **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**
402

403 Attest: DANNY L. KOLHAGE, CLERK
404

405 By _____ By _____
406 Deputy Clerk