

Captain Tom Shipp
Division of Boating and Waterways
Florida Fish & Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399-1600

Re: St. Augustine Anchoring & Mooring Ordinance

Dear Captain Shipp,

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to provide comments on the City of St. Augustine's draft anchoring and mooring pilot program ordinance.

As you know, NMMA has been involved in anchorage issues in the State of Florida for well over a decade. For years, cruisers visiting Florida have been confronted with a patchwork of inconsistent anchorage ordinances. Local government length of stay restrictions ranged from disallowing overnight anchorages to three day limits to ten day limits to an absence of restrictions. Confusion reigned for visiting boaters. Unfortunately, Florida began developing a reputation as a state that was hostile to boating.

Finally, in 2009, NMMA, boating advocates, FWC, and local governments agreed to a comprehensive legislative solution to the problem. House Bill 1423 clarified the limited authority of local governments to regulate the anchoring and mooring of vessels. First, it redefined "live-aboard vessels" to clearly exclude cruisers. § 327.02(17), F.S. (defining a live-aboard vessel in part as "any vessel used solely as a residence and not for navigation"). The bill then added language stating that "a county or municipality shall not enact, continue in effect, or enforce any ordinance or local regulation...[r]egulating the anchoring of vessels other than live-aboard vessels outside the marked boundaries of mooring fields permitted as provide in s. 327.40." § 327.60(2), F.S. Later, in section 327.60(3), Florida Statutes, the bill revised existing prohibitory language, stating that while local governments can

prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions or of any vessels within the marked boundaries of mooring fields permitted as provided in s. 327.40_[,]...local government authorities are prohibited from regulating the anchoring outside of such mooring fields of vessels other live-aboard vessels as defined in s. 327.02.

(Emphasis added). In accordance with these changes to Florida law, some communities either amended their ordinances or stopped enforcing noncompliant ordinances. NMMA, however, regularly receives complaints from cruisers that some local governments are enforcing ordinances that conflict with this state anchorage law.

In addition to promoting statewide consistency in anchorage ordinances, House Bill 1423 also directed FWC to establish a temporary anchoring and mooring pilot program "to explore

potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields.” § 327.4105, F.S. The goals of the pilot program include:

- promoting the establishment of public mooring fields;
- promoting public access to the waters of the state;
- enhancing navigational safety;
- protecting maritime infrastructure;
- protecting the marine environment; and
- deterring the improper storage and abandonment of vessels. Id.

Notably, the pilot program, including ordinances promulgated there under, expires on July 1, 2014, and the lessons learned from the pilot program will be communicated to the 2015 Florida Legislature.

Five local governments were selected to participate in the pilot program, and the City of St. Augustine is the first to produce a draft anchorage and mooring ordinance for review and approval by the FWC. In many respects, St. Augustine should be commended for developing anchorage requirements that reflect the unique characteristics of its waterways, as the pilot program was required to do. The restrictions and allowances in its proposed ordinance were written to address specific concerns. Regardless of its final wording, the St. Augustine ordinance should not direct the development of future pilot program ordinances, which should be tailored to address local conditions and promote the goals of the pilot program for those specific communities.

We recognize the good-faith effort of state and St. Augustine officials to implement restrictions that encourage boaters to visit their city, protect marine infrastructure and deter the improper storage or abandonment of vessels. Also, NMMA appreciates St. Augustine’s responsiveness to early concerns expressed by us regarding the vagueness of earlier drafts of the ordinance. In particular, NMMA believes that the medallion requirement for demonstrating that a stored vessel is not becoming derelict is a novel and promising concept.

However, the accommodation for the needs of long-term anchorage is significantly more streamlined and predictable than the limitations placed upon those boaters who anchor occupied vessels for the short-term. NMMA is very concerned that the ten consecutive day anchorage restriction will unduly burden boaters in or visiting the St. Augustine area. NMMA does not believe that this limitation promotes any of the goals of the pilot program and strongly recommends that the ten day limitation should be expanded to thirty days. This expansion would be consistent with the pilot program’s goal of promoting public access to waters of the state.

Additionally, other features of the draft ordinance concerning the storage of vessels, as well as Florida’s comprehensive program for derelict and semi-derelict vessels,¹ ensure that a 30 day limitation would in no way create any derelict vessel problems in Florida. While we recognize that boaters frequently stay a short period of time in St. Augustine’s waters, an express 10 day limitation will neither benefit the public good nor achieve any of the pilot program’s goals. The

¹ The FWC derelict vessel program is described at <http://myfwc.com/boating/waterway/derelict-vessels/> and <http://myfwc.com/boating/boating-grant-programs/derelict-vessel/>.

city's support for long-term anchorage of unoccupied vessels would indicate that occupied boats can anchor safely in city waters, thus a 30-day anchorage limit for occupied vessels would appear to meet the pilot program's goal of enhancing navigational safety, protecting maritime infrastructure and protecting the marine environment. Because St. Augustine has an established, managed mooring field, the city already has met the program's goal of encouraging the establishment of a mooring field. The proposed 10-day allowance for the anchorage of occupied vessels would seem to be an effort to cause boaters to use this mooring field, which from NMMA's perspective was not an intended goal of the pilot program and also would not meet the goal of promoting public access to the waters of the state.

Based on our understanding of St. Augustine's anchorage areas, as described by city and FWC officials, we believe the establishment of a thirty day limitation would not impact the other four goals of the pilot program. We request that FWC and the City of St. Augustine support our request that the limitation for the anchorage of occupied vessels be expanded to 30 days.

Kind Regards,

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