

Sponsored by: Near-Shore Waters Advisory Committee

Introduction Date: January 11, 2005

Public Hearing Dates: January 11, 2005
January 25, 2005

Enactment Date: January 25, 2005

**CITY OF MARATHON, FLORIDA
ORDINANCE 2005-05**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,
CREATING A NEW CHAPTER OF THE CITY CODE PROHIBITING
ANCHORING, MOORING OR OPERATION OF VESSELS IN CERTAIN
AREAS**

WHEREAS, Chapter 2000-408, Laws of Florida, authorizes the City of Marathon, (the "City"), to exercise its police powers 1,200 feet into the tidal waters adjacent to its corporate limits to regulate "the abatement of nuisances, the enforcement of sanitary laws and regulations, the regulation of zoning, and the suppression of crime;" and

WHEREAS, Section 327.60, Florida Statutes, provides the City with the authority to enact an ordinance creating restricted areas relating to the operation of vessels which imposes the restriction for reasons of vessel traffic safety or public safety; and

WHEREAS, based upon the authority provided in both Chapter 2000-408 and Section 327.60, Florida Statutes, the City Council finds that vessels anchoring, mooring or operating within a vessel exclusion zone constitutes a nuisance and create a dangerous condition to life, limb, vessel traffic safety and maritime property as described in Section 68D-23.101, Florida Administrative Code.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF MARATHON, FLORIDA:**

Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Chapter ____ of the City Code is created to read as follows:

Chapter ____

Operation of Vessels in Restricted Areas.

Section ____. **Intent and Purpose.**

The intent and purpose of this Chapter is to protect human life in an area in which life would be endangered by the anchoring, mooring or operation of vessels.

Section ____. **Definitions.**

For the purposes of this article, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in plural number include the singular number, and words in the singular number include the plural number. If any definition is inconsistent with the definitions in Section 327.02 *Florida Statutes*, the definition in Section 327.02, *Florida Statutes* shall take precedence.

- (1) *Marker* shall mean any channel mark or other aid to navigation, information or regulatory mark, isolated danger mark, safe water mark, special mark, inland waters obstruction mark, or mooring buoy in, on, or over the City controlled waters or the shores thereof.
- (2) *Operate* shall mean to be in charge of or in command of or in actual physical control of a vessel upon the City controlled waters, or to exercise control over or to have responsibility for a vessel's navigation or safety while the vessel is underway upon City controlled waters, or to control or steer a vessel being towed by a vessel upon City controlled waters.
- (3) *Person* shall mean an individual, partnership, firm, corporation, association or other-entity.
- (4) *Vessel* shall mean every description of watercraft, barge, and airboat, used or capable of being used as a means of transportation on water.
- (5) *Vessel Exclusion Zone* shall mean an area from which all vessels or certain classes of vessels are excluded.

Section ____. **Establishment of Vessel Exclusion Zone.** The City Council may, by resolution, establish Vessel Exclusion Zones.

Section ____. **Prohibition.** It shall be prohibited for any individual to anchor, moor or operate a vessel within a Vessel Exclusion Zone.

Section ____. **Emergencies.** A vessel operating under emergency conditions during an emergency shall be exempt from the regulations contained in this section.

Section ____. **Penalties.**

- (a) A violation of Section ____ of this Chapter may be enforced by issuance of a uniform boating citation by a duly authorized law enforcement officer pursuant to the procedures set forth in Section 327.73, *Florida Statutes*.
- (b) The civil penalty for a violation of Section ____ of this Chapter shall be \$50.00 as provided in Section 327.73, *Florida Statutes*, or such other amount as may be

authorized by the Florida Legislature should Section 327.73, *Florida Statutes*, be amended.

- (c) Nothing contained herein, however, shall prohibit the City from enforcing this Chapter by any other lawful means.

Section 3. City officials are authorized to prepare, execute and file the necessary documents with the appropriate federal and state agencies to obtain permits, to advertise and hold any necessary hearings and, in accordance with Sections 327.40 and 327.41, *Florida Statutes*, properly mark the Vessel Exclusion Zone contemplated in this ordinance.

Section 4. Any provision of the Code that conflicts with this Ordinance is hereby repealed.

Section 5. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become a part of the City of Marathon, Florida Code of Ordinances; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. This Ordinance shall be effective immediately upon its adoption on second reading.

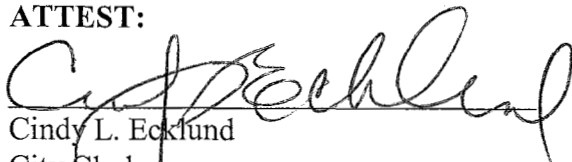
ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 25th day of January 2005.

THE CITY OF MARATHON, FLORIDA


Jeffrey M. Pinkus, Mayor

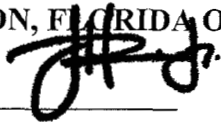
AYES: Mearns, Miller, Bull, Bartus, Pinkus
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Cindy L. Ecklund
City Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE
CITY OF MARATHON, FLORIDA ONLY:



City Attorney