

A Guide for Local Communities that are Considering Creating a Managed Mooring Field

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Introductory Principles

- * Two sets of introductory principles are useful to keep in mind throughout the process of creating a mooring field.
 - * Principles of Anchoring
 - * Principles of Harbor Management
- * See Thomas Ankersen, Richard Hamann and Byron Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, Sea Grant (March 2011).

Principles of Anchoring

- * In the absence of a compelling federal interest, federal law defers to states to regulate anchoring incidental to navigation
 - * Restrictions include:
 - * Ensure unobstructed and safe navigation
 - * Prevent degradation of the environment
- * The State of Florida prohibits local regulation of vessels “in navigation,” which likely includes incidental anchoring
 - * Exception
 - * Local governments participating in the pilot program with an FWC-approved ordinance

Principles of Anchoring

1. Boats must anchor so that they are not harming any other vessels, damaging property or injuring people, or preventing access to boats or property.
2. Boats should not anchor in sea grass or coral areas because of the damage that the anchors can do to these habitats.
3. Boats should be able to get underway within a reasonable amount of time.
4. Safety of the crew and boat is a primary concern.

Anchorage

- * Provides protection from winds and waves, good sediment holding, shore access/amenities, aesthetics
- * Referenced in cruising guides, forums, etc.
- * A Guide to Anchorages in Southwest Florida
- * Special anchorage areas are designated by the U.S. Coast Guard and provide certain navigational and regulatory benefits.
 - * They become marked on nautical charts
 - * They eliminate the need to display an anchor light at night
 - * Provides some protection from competing uses

Anchorage Issues & Options

Issues

- * Vessel Storage
- * Abandoned / Derelict Vessel
- * Marine Sanitation
- * Anchor Drags / Sea grass Impacts
- * Anchor Light

Options

- * Not defined by statute
- * Vessel at Risk Program
- * Abandonment of property
- * County Derelict Vessel Program
- * Education & Enforcement
- * Pump-out boat
- * Education & Enforcement
- * Education & Enforcement
- * Special Anchorage Area
- * Education & Enforcement

Managed Mooring Field Considerations

2009 amendments to Chapter 327

1. Definitions: Live-aboard vessel means – any vessel used solely as a residence **and not for navigation** (emphasis added); or 2, 3
2. F.S. 327.60 – prohibits a county or municipality from enacting, continuing in effect, or enforcing any ordinance or local regulation:
 1. Regulating the anchoring of vessels other than live-aboard vessels outside the marked boundaries of mooring fields permitted as provided in 327.40;

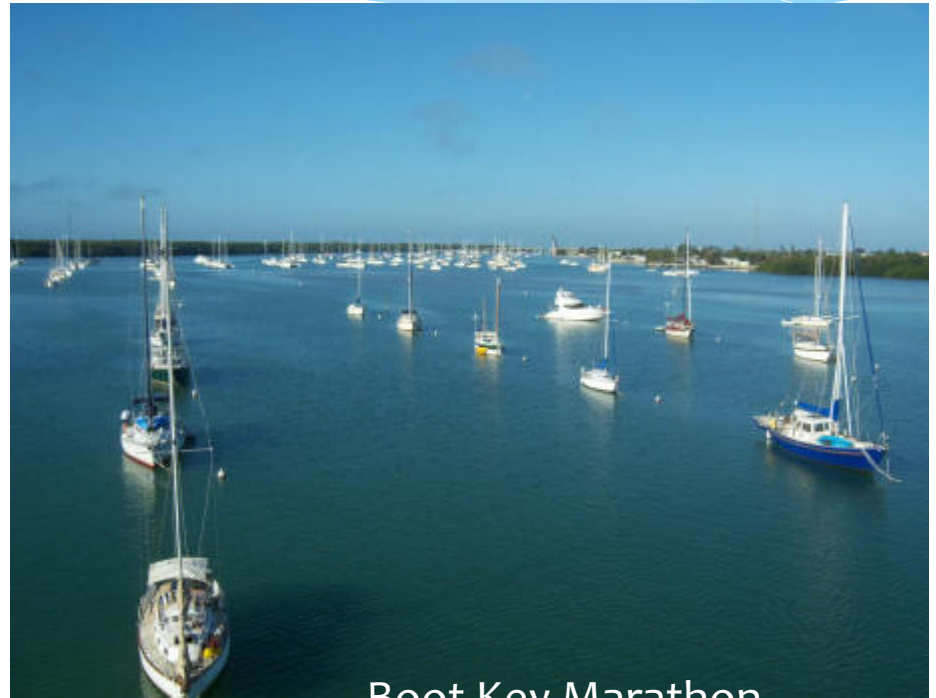
FWC Pilot Mooring Program

1. Promote the establishment and use of public mooring fields.
2. Promote public access to the waters of this state.
3. Enhance navigational safety.
4. Protect maritime infrastructure.
5. Protect the marine environment.
6. Deter improperly stored, abandoned or derelict vessels.
7. Allows local regulation of anchoring outside the mooring field (if approved by FWC).

FWC Pilot Program

- * City of St. Augustine
- * City of Ft. Pierce
- * City of St. Petersburg
- * City of Sarasota
- * Monroe Co. (Key West/Marathon)

- * Expires July 1st, 2017

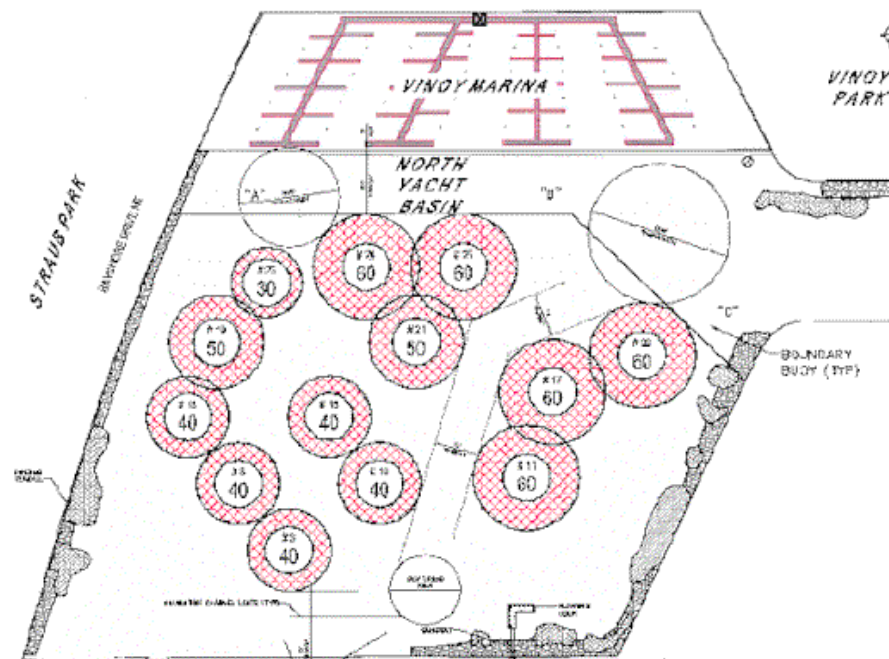


Boat Key Marathon

Overview

* 2 Step Process in creating a Managed Mooring Field

- * Project Initiation
 - * Technical
 - * Legal
 - * Public (Educational)
- * Project Development
 - * Legal
 - * Technical
 - * Public (Legal)



Mooring Field Goals

- * Provide public access to Florida waters
- * Be ecologically and habitat friendly
- * Promote tourism and provide economic benefit to merchants with minimal infrastructure requirements
- * Be a self sustaining, user-funded amenity
- * Provide proprietary moorings more secure than normal anchors
- * Enable higher density of vessels for space available
- * Not accommodate or allow derelict or abandoned vessels
- * Enhance oversight of the water resource
- * Enhance real estate values

Some Existing & Proposed Florida MMFs

* Fort Myers	49 moorings
* Fort Myers Beach	70 moorings
* Key West	149 moorings
* Marathon Boot Key	64 moorings
* Punta Gorda	32 moorings
* Sarasota	35 moorings
* Sarasota Sailing Squadron	seeking approval
* Stuart	69 moorings
* Vero Beach	57 moorings

MMF Administration

Vero Beach – municipal

Fort Myers Beach – concessioned

Sarasota City Island – not for profit



Vero Beach Mooring Field

Vero Beach Municipal

- * Mooring Field offers long-term and transient moorings.
- * Anchoring limited outside mooring field by city ordinance (Length of Stay Regulation - **FWC Pilot Program).
- * Fees support facilities including fueling facility, pump-out facility and restrooms.
- * Employees include harbormaster, assistant harbor master and part time employees.
- * Harbormaster resides at the anchorage.
- * There is also an advisory board to the anchorage.
- * Establishes Enterprise Fund – money that it earns goes back to support the MMF.

Fort Myers Beach Concession



- * 70 moorings
- * Fees depend on length of stay – vary between \$9 - \$15 per day (\$90 per week and \$270 per month).
- * Pump-out services and facilities included in fees.
- * Facilities include dinghy docks, restrooms, laundry room and garbage disposal.
- * Private Marina manages mooring field under concession from city.

Sarasota City Island Not for Profit

- * Sarasota Sailing Squadron seeking to formalize its historic anchorage
- * Membership based
- * Permit denied in 2012 – current status unknown

Principles of Harbor Management

1. A harbor management plan should be developed.
2. The plan should be based on objective data obtained by inventories of natural and cultural resources.
3. The plan should be based on consensus.
4. A local board should be created that includes boaters in order to create the local harbor management plan.
5. A Harbormaster should be identified.
6. The management plan should focus on providing adequate space via moorings both for transient boaters and for safe shelter during storm events.

Principles of Harbor Management

7. The management plan should provide for a dinghy dock and on-shore facilities for boaters.
8. The management plan should provide for signage.
9. The board should inquire into funding mechanisms for signs, moorings, improvements and amenities (dinghy dock, showers, laundry facilities, etc.).
10. *Try to get Special Anchorage Designation.*
11. Create a dispute resolution mechanism.
12. Obtain the right to use the submerged lands.

Permitting of Mooring Fields

- * **DEP and U.S. Army Corps of Engineers** - have permitting authority over submerged lands and overlying waters
- * **Aquatic Preserve designation** presents an additional regulatory overlay
- * **U.S. Coast Guard** – has authority over navigation safety and signage
- * **US FWS & FL FWCC** have authority over protected species (e.g. Manatees)

The Lease is the Law

- * The State regulates the MMF through the Submerged Lands Lease, the DEP Environmental Resource Permit and the establishment of boating restricted areas by FWC
- * The lease and the DEP permit are obtained through a joint application process that includes the Corps of Engineers federal permit
- * The Lease incorporates the DEP Permit, and all local government governance documents
- * These include:
 - The authorizing ordinance
 - The Harbor Management Plan
- The MMF will likely require FWC approval to create a boating restricted area and associated signage.

The Lease is the Law

- Key lease & permit provisions encountered in MMF's surveyed
 - Nearly all moorings must be made available to public on a first-come first-serve basis (90% Sarasota & FMB)
 - Commercial activities generally prohibited
 - Use of revenue may be restricted
 - Manatee education plan must be put in effect

Establish Parameters of Mooring Management Plan

- * Use principles of harbor management
- * Determine whether mooring field will be municipal, concession or non-profit
- * Solicit public input

Technical Process of establishing a mooring field:

- * Develop permit(s) application information
 - * Navigational
 - * Biological
 - * Water quality
 - * Hydrology
- * This may require a coastal engineering consultant

Technical Process: Signs

- * Establish signage needs and permit requirements.
- * Federal Permits
 - * Rivers and Harbors Act, Section 10, USACOE
- * State Permits
 - * “Uniform waterway markers” Fla. Stat. 327.40
- * See Thomas Ankersen, Richard Hamann, Melissa Gross-Arnold, Regulatory Requirements for Private Aids to Navigation (Aug. 1998).

Legal Steps in establishing a managed mooring field

1. Confirm the ownership of submerged lands.
2. Confirm relevant political jurisdiction.
3. Review Local Government Comprehensive Plans to determine whether a MMF will be consistent with the plan.
4. Initiate Drafting of Proposed Ordinance or Resolution
see Thomas Ankersen, Christopher H. Pearce, An Annotated Model Municipal Harbor Management Ordinance (Aug. 2001).
5. Select administration option.
 1. Governmental - Municipal
 2. Concession - Draft agreement between local government and concessionaire.
 3. Not-For Profit Organization

Legal Steps in establishing a managed mooring

6. Obtain authorizations
 1. Submerged lands lease
 2. Environmental Resource Permit – DEP
 3. Boating restricted area - FWC
 4. Obstructions to Navigation – section 10 – Rivers and Harbor Act (USACOE)
 5. *Special Anchorage Area Designation – U.S. Coast Guard*
7. Resource Agency Consultations
 1. Fish and Wildlife Service
 2. Fish and Wildlife Conservation Commission
 3. Other
8. County should consult with its own attorney

Legal: Prepare Rules for Boaters that would be appended to use agreement

- * **Examples from Fort Myers Beach**
 - * Comply with U. S. Coast Guard regulations and safety standards and Chapter 327 of the Florida Statutes
 - * Be in good operational condition, capable of maneuvering under its own power
 - * Have current registration or acceptable documentation otherwise
 - * Have Liability Insurance coverage
 - * Contain a U. S. Coast Guard approved marine sanitation device, that complies with the U. S. Coast Guard requirements governing the installation and use of such devices upon that particular vessel

Public Input

- * Provide two or three different opportunities for public input prior to establishing a MMF.
- * The public should be provided the opportunity to sit down with the planners with the maps and the Harbor Management Plan created in the baseline step and determine:
 - * Any information that is missing from the maps such as other environmental constraints or user conflicts
 - * Location of amenities, e.g., dinghy dock, bathrooms, pump out station etc.

Public: Potential Issues

- * Length of stay
- * Live aboards
 - * You may want to encourage some live aboards in order to foster a sense of community and increase security (campground host)
- * Fee structure
 - * Tiered fees – graduated downward according to length of stay
- * Relationship between harbormaster and boaters.

LIVE-ABOARDS

(& length of stay within the MMF)

- A MMF may consider restricting & varying length of stay within the mooring field
- The State generally discourage live-aboards but they are allowed in some instances (e.g. Ft. Myers Beach)
- Pursuant to the FMB Lease a Live-Aboard is:
 - “A vessel docked at the facility and inhabited by a person for any 5 consecutive days or a total of 10 within a 30 day period.”
 - If allowed, “live-aboard status cannot exceed 6 months within any 12 month period”
- There can be significant benefits to at least some live-boards

Fee Schedule Considerations

- * Different Transient vs. Live-Aboard fees
- * Reduced rate for off-peak season
- * Monthly facility fee for amenities not included in base rate
Ex.: Vero Beach fees support facilities including fueling facility, pump-out facility and restrooms.
- * Reduced rate or tiered fees, graduated down for long-term stay
Ex: vary between \$10.00 and \$15.00 per day.

Amenity & Service Considerations

- * Included Services
 - * Are they covered in the basic fee structure?
- * Services Provided at Additional Cost
 - * Will boaters expect the service to be at an additional cost?
- * Consider a monthly flat fee

Regulating Activities Within the MMF

- * Reference local noise ordinance in MMF Ordinance
- * Reference Fla. Stat. Chapter 327 regarding vessel operational requirements in MMF ordinance
- * Prohibit other nuisance-like activities in MMF Ordinance (VB)
 - * Rowdy Conduct (VB, FM)
 - * Hanging laundry (VB, FM, S)

Regulating Activities Within the MMF

- * Hours for Repairs, or Not Allow Repairs (VB, FM, S, M)
 - * Consider Major or Refitting Vessels vs. Minor
- * Limit For Sale Signage (FM, S)
- * No Advertising or Soliciting (FM, S)
- * Leashed pets only (VB, FM, S)
- * Operational Hours for Noise & Machinery (FM, S, M)
- * Prohibit grills on the dock (FM, S)
- * Fishing in designated areas, or not at all (S)
- * Swimming Prohibited (S)
- * Feeding Wildlife Prohibited (S)

Other Important Considerations In Establishing a MMF

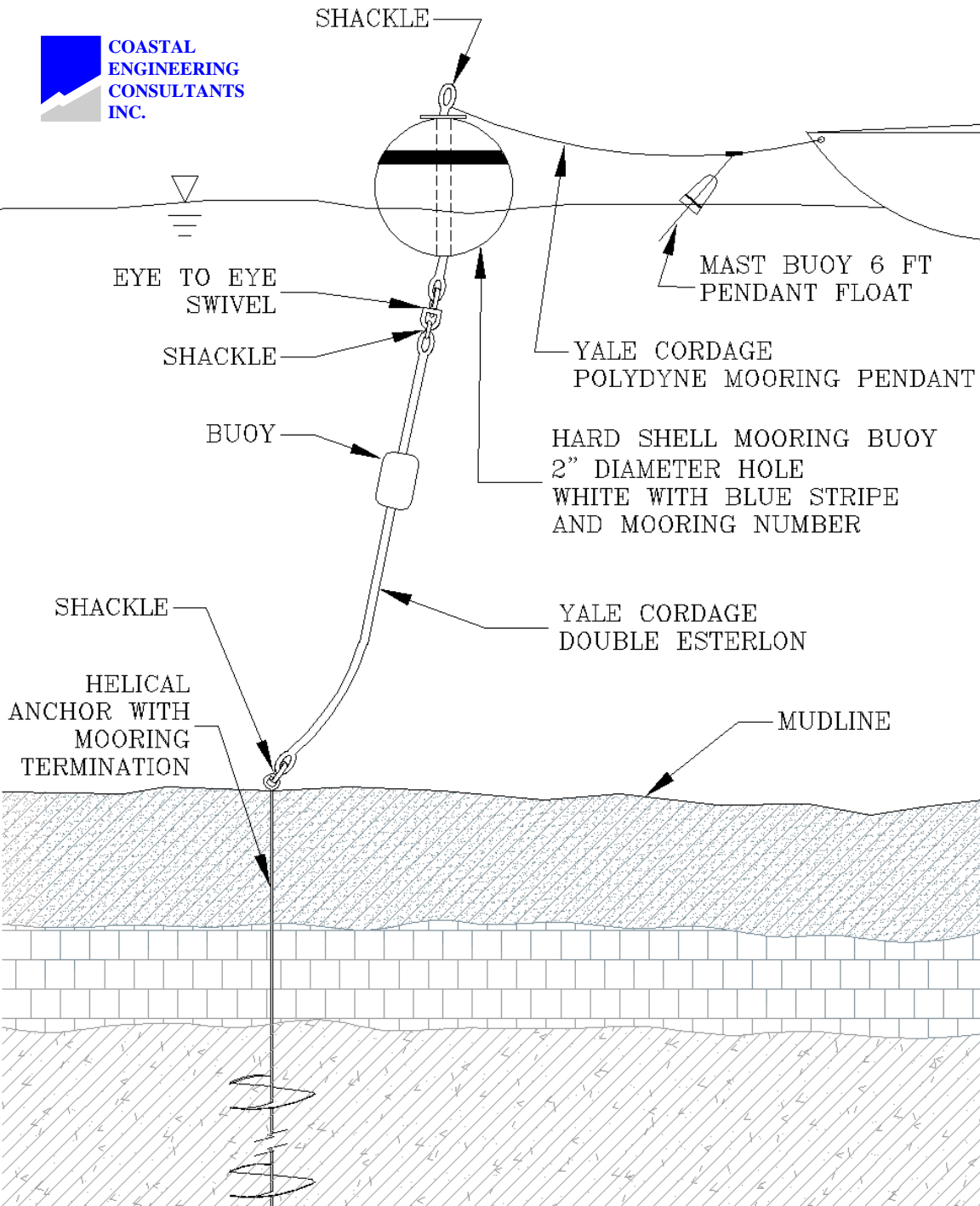
1. Insurance Requirements
 - Proof of Insurance (M, S, FMB)
2. Clear Dispute Resolution Processes
3. Schedule Inspections & Maintenance During Off-Peak Season (ie, September for VB)

Technical Considerations



1. Vessel Types & Sizes
2. Subsurface Conditions
3. Tidal Parameters
4. Wind Exposure & Fetch
5. Mooring Radius Overlap

1. Anchors
2. Down Lines
3. Buoys
4. Pendants
5. Hardware



MOORING COMPONENTS

**Town of Ft.
Myers Beach**

**City of
Sarasota**

MOORING FIELD POSSIBILITIES IN CHADWICK COVE

- * Study Area and access channel have sufficient water depths to support mooring field for vessels ranging in size from 20 to 40 feet
- * Sufficient area exists within the Study Area to install mooring systems and avoid sea grasses and environmentally protected species. Depths should be considered during low tidal months.
- * Possible strategy of 10 moorings for up to 40 foot long (total length) vessels.
- * Possible 11 moorings for up to 20 foot long vessels, 8 moorings for up to 30 foot long vessels, and 5 moorings for up to 40 foot long vessels for a total of 24

PROS and CONS:

- * Future facilities could be required by FDEP permitting process to include restrooms, showers, garbage disposal, and sewage pump-out at Chadwick Park (beach park and peninsula) is potential County-owned site for management and operations. This can also include ongoing maintenance of pump out apparatus and annual reporting to various regulatory agencies. This is a substantial investment that needs to be evaluated on a return on investment business value equation/business plan. Also, ACOE, Aquatic Preserve staff consultation, FWC and the State Health Department would need to be part of the permitting process. This is multi-year permitting process.

PROS and CONS:

- * Alternative opportunity - contract with third party entity to oversee/manage all mooring operations. At some point, this could be a viable economic alternative.
- * Funding constraints – state and WCIND –specific criteria would have to be met for possible funding for a pump out station or pump out vessel.
- * Permitting considerations - site within Lemon Bay Aquatic Preserve, an Outstanding Florida Water, and
 - * Sea grasses present in study area. This is also a consideration from a permitting perspective that may involve future mitigation for potential impacts.
 - * FWC will likely need be consulted on essential fish habitat for possible habitat impacts.

PROS and CONS:

- * Proposed mooring fields located in Florida Aquatic Preserves will be subject to the Florida Aquatic Preserve Act and DEP regulations.
 - * This will impose separate criteria for obtaining a permit.
 - * For approval of the project it must be found in the public interest.
 - * Public interest is determination is based on balancing of legal factors as outlined in 18.20.004 (2) of the Florida Administrative Code.
 - * Projects in more pristine and less developed Aquatic Preserves are subject to even higher standards in the public interest analysis.

Technical and Financial Resources

- * Technical Assistance Team (FDEP)
- * Waterfronts Florida
- * Office of Boating and Waterways (FWC)
- * Florida Boating Improvements Trust Fund
- * Florida Inland Navigation District
- * Clean Vessel Act grant program (FDEP)
- * Florida Sea Grant (technical)

