

TOWN OF FORT MYERS BEACH MUNICIPAL ANCHORAGE  
ORDINANCE 02-05

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH ANCHORAGE MANAGEMENT ORDINANCE; PROVIDING AUTHORITY; AMENDING NAME; PURPOSE; DEFINITIONS; ANCHORAGE ADVISORY COMMITTEE; COMPOSITION AND APPOINTMENT; QUALIFICATIONS OF MEMBERS; PURPOSE AND SCOPE; DUTIES OF THE ANCHORAGE ADVISORY COMMITTEE; MEMBER'S TERM AND VACANCIES; FORFEITURE OF OFFICE; COMPENSATION OF MEMBERS; ELECTION OF OFFICERS; DUTIES OF OFFICERS; CLERK; RULE AND PROCEDURES; EMPLOYMENT OF STAFF AND EXPERTS; REIMBURSED EXPENSES; SUPERVISION OF STAFF; FUNCTIONS, POWERS AND DUTIES; COOPERATION WITH ANCHORAGE ADVISORY COMMITTEE; APPOINTMENT OF THE HARBORMASTER; DUTIES OF THE HARBORMASTER; DUTIES OF THE TOWN COUNCIL; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

SECTION 1. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Name. This Ordinance may be referred to as The Town of Fort Myers Beach Municipal Anchorage Management Ordinance.

SECTION 3. Purpose. It is the purpose of this Ordinance to provide the Town of Fort Myers Beach Municipal Anchorage (hereinafter called "Anchorage") and shoreside Amenities to accommodate the needs of as many responsible, considerate boaters as possible, while protecting our environmental resources, navigational access, and the property of others. The Town desires to provide safe, environmentally sound mooring areas, provide for clear navigational fairways, improve compliance with the Clean Vessel Act thereby improving water quality and ecosystem health of Matanzas Harbor and Estero Bay, and provide boating safety and environmental awareness education to our resident and visitor boaters.

The ~~Town of Fort Myers Beach~~ Municipal Anchorage has committed itself to providing high quality facilities, customer satisfaction, and productive use of its resources. The creation and maintenance of a clean and safe work environment must be regarded as essential to good boating and good boating experiences are essential to our success. To protect our waters, marine life, fish, and waterfowl from possible boat and marina pollutants is a major goal of the ~~Town of Fort Myers Beach~~ Municipal Anchorage.

This Ordinance grants authority to the Harbormaster for enforcing the provisions of the Matanzas Harbor Management Plan, (hereinafter called "Plan") and all State of Florida Department of Environmental Protection (DEP) and U.S. Army Corps of Engineers (COE) Authorizations, Sovereign Submerged Lands Lease and Permits (hereinafter called "Permits"). Should a dispute arise regarding enforcement by the Harbormaster, the Lessee may bring the issue(s) before the Town's Anchorage Advisory Committee.

SECTION 4. Definitions. As used in this Ordinance, the following words and terms shall have the meaning respectively ascribed to them in this section:

Amenities. Sewage pump-out, other utilities, and services required by the Plan and Permits.

~~Anchorage. Area that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not.~~

Anchoring. Practice of seeking and utilizing safe harbor, accomplished by using an anchor and associated tackle carried on the vessel, or through the use of permanent moorings affixed to the bottom.

Emergency. An unforeseen circumstance or combination of circumstances, or the resulting state that calls for immediate action.

Matanzas Harbor Management Plan. A Plan addressing issues and needs pursuant to the future ~~Management Agreement~~ Authorities and Sovereign Submerged Lands Lease with the ~~State of Florida Department of Environmental Protection-DEP and COE~~ and as deemed necessary by the Town in order to appropriately manage ~~A harbor~~ the Anchorage. Elements of the Plan shall include the Intent, Rules and Regulations, Fees, ~~Harbor~~ Anchorage Facilities, Communications and Emergency Procedures, Environment, Contacts, Harbormaster and Lease Requirements.

Harbormaster. A person or agency under contract with the Town responsible for the daily operations of the ~~municipal~~ Anchorage area.

Live- aboard Vessel. A vessel moored at the ~~facility~~ Anchorage that is inhabited by a person or persons for any five consecutive days or a total of ten days within a 30 day period or any vessel used solely as a residence.

Mooring. Practice of seeking and utilizing safe harbor, accomplished through the use of a permanent mooring system affixed to the bottom of the waterbody.

Mooring Area. ~~Area that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not.~~

Mooring Fields/Facilities. That area described in the Lease between the Town of Fort Myers Beach and the State of Florida, Department of ~~Natural Resources~~ Environmental Protection, dated, \_\_\_\_\_, 200 \_.

Mooring System. A device affixed to the bottom of the waterbody used for mooring a vessel, components of which typically include an anchoring device, chain and other associated tackle, rope and mooring buoy.

Per foot of boat. Boat measurement shall cover the extreme length of the boat, including outboard motor trimmed up, bow sprits, dinghies hung on transoms, swim platforms, pulpits, or any other outboard fixture or structure.

Regular or permanent berths. Any dockage space or facility provided for the mooring of uninhabited vessels for an indefinite period of time usually exceeding 12 weeks.

Regular or permanent live-aboard berths. Any dockage space or facility provided for the mooring of inhabited vessels for an indefinite period of time usually exceeding 12 weeks.

Resident. Any person who owns real property located within the Town of Fort Myers Beach or is a registered voter qualified to vote in the Town elections for at least the previous 6 months prior to filing for the waiting list.

Transient berth. Any dockage space or facility provided at the ~~Municipal Marina~~ Anchorage for the mooring of any vessel for short periods of time usually less than ~~12 weeks~~ one week.

Stored Vessel. A vessel which is not inhabited.

Vessel. Every description of self-propelled watercraft used or capable of being used as means of transportation on water, including all types of boats and all uses thereof. As used herein, the terms "boats" or "vessel" are synonymous with watercraft.

Waters of the Town. Areas below the mean high water line of Estero Island within a corporate limits of the Town, waters lying offshore 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of Estero Island, Lee County, Florida.

SECTION 5. Anchorage Advisory Committee. Established. A Town agency to be known as the Town of Fort Myers Beach "Anchorage Advisory Committee" is hereby established.

SECTION 6. Composition and appointment. The Anchorage Advisory Committee shall consist of seven (7) members appointed by the Town Council. The Harbormaster shall be a non-voting, ex-officio member.

SECTION 7. Qualifications of members. No members of the Anchorage Advisory Committee shall be salaried officials of the Town. Two (2) members shall be environmentalists, two (2) members shall be boat owners, two (2) members shall be ~~bay~~ Harbor front property owners and one (1) member shall represent the marine industry.

SECTION 8. Purpose and scope. The Anchorage Advisory Committee shall advise the Town Council concerning all matters relevant to the management and use of the waters of the Town for mooring and anchoring.

SECTION 9. Duties of the Anchorage Advisory Committee.

- a. Prepare and submit the ~~Harbor Management~~ Plan and any amendments thereto for review and approval by the Town Council.
- b. Make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts.
- c. ~~Recommend the Harbormaster to the Town and shall~~ Review the performance of the Harbormaster on an annual basis.
- d. Serve as the forum for resolving disputes arising out of activities in the waters of the Town related to mooring and anchoring.
- e. Hear any dispute arising out of the conduct or actions of the Harbormaster brought by any citizen of the Town or Anchorage user. Develop protocols for addressing appeals of an Anchorage user.
- f. ~~Manage, operate, and maintain the Municipal Anchorage property in an efficient and satisfactory manner.~~
- f. Submit to Town Council a proposed operating budget and a proposed capital budget setting forth in detail an estimated profit-and-loss statement for the next four quarterly periods including a schedule of revenues. Each such budget shall also include a detailed management and marketing plan.
- g. Perform any other duties which lawfully may be assigned to it by resolution of the Town Council, such as, but not limited to, the review, holding of public hearings and making recommendations to the Town, on regulations, codes and other documents, as may be necessary to promote the public safety.

SECTION 10. Member's term and vacancies. The term of office of a member of the Anchorage Advisory Committee shall be one year or until a successor has been appointed and has qualified. Appointments shall be made annually at the first meeting of the council in January. Vacancies in the Anchorage Advisory Committee shall, within thirty days, be filled by the council for the remainder of the term created by such vacancy.

SECTION 11. Forfeiture of office. An Anchorage Advisory Committee member shall forfeit office if the member:

- a. Lacks at any time during the term of office any qualification for the office prescribed by town ordinance or state law;
- b. Violates any standard of conduct or code of ethics established by law for public officials; or
- c. Is absent from three (3) consecutive regular Anchorage Advisory Committee meetings without being excused by the Anchorage Advisory Committee.

SECTION 12. Compensation of members. The members of the Anchorage Advisory Committee shall serve without compensation.

SECTION 13. Election of officers. The Anchorage Advisory Committee shall each year at the first meeting of the newly appointed members elect one of its members as Presiding Officer and elect an alternate.

SECTION 14. Duties of officers. It shall be the duty of the Presiding Officer to preside over all meetings of the Anchorage Advisory Committee. In the absence of the Presiding Officer, the alternate may preside.

SECTION 15. Clerk. The Town Manager or a designee shall be the clerk of the Anchorage Advisory Committee. It shall be the duty of the Clerk to keep a record of all proceedings of the Anchorage Advisory Committee, transmit its recommendations when directed by the Presiding Officer, maintain an updated complete file of all its proceedings in the Town hall, and perform such other duties as are usually performed by the clerk of a deliberative body.

SECTION 16. Rule and procedures. The Anchorage Advisory Committee shall meet at least quarterly or more frequently at regular intervals to be determined by it, and at such other times as the Presiding Officer or it may determine. It shall adopt rules for the transaction of its business. The rules may be amended from time to time, but only upon notice to all members that said proposed amendments shall be acted upon at a specified meeting. A majority vote of the Anchorage Advisory Committee shall be required for the approval of the proposed amendment. It shall keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the Anchorage Advisory Committee shall be public meetings.

SECTION 17. Employment of staff and experts. The Anchorage Advisory Committee may, subject to the approval of the Town Council and within the financial limitations set by appropriations made or other funds available, recommend the Town Manager employ such experts, consultants, technicians and staff as may be deemed necessary to carry out the functions of the Anchorage Advisory Committee.

SECTION 18. Reimbursed expenses. Anchorage Advisory Committee members may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the Town Council.

SECTION 19. Supervision of staff. Staff personnel of the Anchorage Advisory Committee shall be under the day-to-day supervision of the Town Manager.

SECTION 20. Functions, powers and duties. See Section 9. of this Ordinance.

SECTION 21. Cooperation with Anchorage Advisory Committee. Each officer and employee of the Town is hereby directed to give all reasonable aid, cooperation and information to the Anchorage Advisory Committee or to the authorized assistants of such agency when so requested.

SECTION 22. Appointment of the Harbormaster. The Harbormaster shall be a contractor with the Town, upon the recommendation of the Anchorage Advisory Committee.

~~SECTION 23. Duties of the Harbormaster. The Harbor Master shall be responsible for:~~

- ~~a. Implementing the Harbor Management Plan, and all other applicable federal, state and local law, as permitted by law.~~
- ~~b. In consultation with the Chair, the Harbormaster shall prepare the agenda and a status report for each meeting of the Anchorage Advisory Committee.~~
- ~~c. Hear disputes arising under the Harbor Management Plan that do not involve the conduct or actions of the Harbormaster, and refer any disputes that cannot be resolved to the Anchorage Advisory Committee.~~

SECTION 23. Duties and responsibilities of the Harbormaster.

- a. Enforce provisions of the Plans and Permits.
- b. Provides administration for the operation, maintenance, and security of the Anchorage and Amenities.
- c. Assigns mooring spaces in the Anchorage, to include maintaining records and the collection and disposition of applicable fees and corrective actions for delinquent accounts.
- d. Monitors and controls Anchorage traffic to ensure adherence to the Anchorage Rules and Regulations as well as safe boating practices.
- e. Supervises personnel engaged in providing for the security, care and safety of boats, moorings, and facilities.
- f. Provides overall assistance to the general public regarding the waterways in Matanzas Harbor, i.e. water and weather conditions, Anchorage Rules and Regulations, mooring fees, transient mooring, and safe boating practices.
- g. Prepares and maintains various records or reports concerning Anchorage activities; i.e. revenues and fees collected, maintenance and repair activities, materials/supplies purchases, operating budgets, transient registrations.
- h. Inspects boats, moorings, dinghy docks, and adjacent facilities for adherence to established safety regulations, and for the purpose of preventing accident or injury to personnel and patrons.
- i. Observes mooring systems and physical condition of vessels in mooring. Reports to Town any deficiencies observed in mooring systems.
- j. Cooperates with Town for scheduled improvements to mooring fields.
- k. Oversees operations of the harbor sales office; ensures accurate accounting and balancing of all monies processed; prepares and submits bank deposits.
- l. Operates Anchorage boat as needed, and VHF radio equipment in communicating and responding to public docking/boating needs.
- m. Reports oil and hazardous materials spills; cooperates with local and state authorities for containment according to established regulations.
- n. Coordinate and oversee cleanup efforts after a storm with all towing, salvage, and cleanup crews from a central office.

o. Coordinate the Hurricane Preparation and Recovery Plan with the Town to ensure it is updated as needed and put in to action when necessary.

p. Responsible for ensuring all signage in the Anchorage is proper and readable. Reports all discrepancies to the proper authorities. Coordinate with the Town Manager's Office.

SECTION 24. Duties of the Town Council. Except in the case of emergencies, the Town Council shall consult with the Anchorage Advisory Committee concerning all matters within the jurisdiction of the Anchorage Advisory Committee, prior to initiating final action on such matters. The Town Council shall:

a. Approve the ~~Harbor Management~~ Plan and any amendments thereto, on an annual basis subject to DEP and COE approval.

b. Hear appeals from disputes brought before the Anchorage Advisory Committee in accordance with procedures set forth in the ~~Harbor Management~~ Plan.

SECTION 25. Severability. If any one of the provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this Ordinance, and in no way affect the validity of all other provisions of this Ordinance.

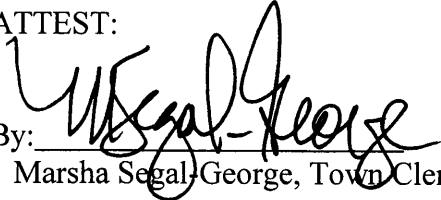
SECTION 26. Effective Date. This Ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Van Duzer and seconded by Council Member Cain and, upon being put to a vote, the result was as follows:


Howard Rynearson	<u>aye</u>
Daniel Hughes	<u>aye</u>
Bill Thomas	<u>aye</u>
W. H. "Bill" Van Duzer	<u>aye</u>
Terry Cain	<u>aye</u>

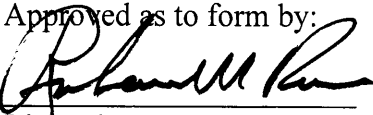
DULY PASSED AND ENACTED this 24<sup>th</sup> day of June, 2002.

ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Daniel Hughes, Mayor

Approved as to form by:  
  
Richard V.S. Roosa, Town Attorney