

ORDINANCE NO. 2011-10

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING SECTION 7-93 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR REGULATION OF THE ANCHORAGE OF VESSELS; AMENDING DEFINITIONS; PROVIDING FOR REGULATION OF ANCHORAGE OF VESSELS ON WATERWAYS LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REGULATION OF ANCHORAGE IN BOTTOMLANDS OWNED BY THE CITY OF ST. AUGUSTINE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; PROVIDING FOR SUNSET OF THE PROVISIONS OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by the enactment of Ordinance 2009-38 as codified in Section 7-93 of the Code of the City of St. Augustine, the City Commission of the City of St. Augustine, Florida addressed the public safety concerns associated with the unregulated anchorage of vessels located within the corporate boundaries of the City and specifically addressed threats related to the discharge of materials detrimental to water quality and public health and threats to protected flora and fauna located in and on the water and on the bottomlands within the anchorage areas; and

WHEREAS, Ordinance 2009-38 created and provided for the creation and regulation of vessel mooring fields located within the municipal boundaries of the City and established and provided for additional regulation of live-aboard vessels, as defined by Section 327.02, Florida Statutes, located outside of a mooring field; and

WHEREAS, Section 327.4105, Florida Statutes, grants authority to the Florida Fish and Wildlife Commission, in consultation with the Florida Department of Environmental Protection, to establish a pilot program for exploring options for regulating the anchorage and mooring of non-live-aboard vessels outside the marked boundaries of an established mooring field; and

WHEREAS, the pilot program goals and objectives include the development and testing of policies and regulatory regimes which promote the establishment and use of public mooring fields, promote public access to waters of the state, enhance navigational safety, protect maritime infrastructure, protect the marine environment and deter abandoned, derelict and improperly stored vessels; and

WHEREAS, the City Commission of the City of St. Augustine finds that, in addition to the policies and regulations provided in Ordinance 2009-38, the protection of the marine environment, the protection of marine infrastructure such as docks, piers, bridges and seawalls and the protection and enhancement of navigational safety call for additional policies and regulations specifically tailored to meet the described public safety and health needs; and

WHEREAS, the City Commission finds that specific modifications to Section 7-93 of the Code of the City of St. Augustine will promote the pilot program goals and objectives, as follows: 1) prohibiting anchorage of stored or occupied vessels or any portion of a stored or occupied anchored vessel at any location closer than fifty (50) feet from the defined boundaries of the San Sebastian River will promote the protection of marine infrastructure and will enhance navigational safety; 2) prohibiting anchorage of

stored or occupied vessels or any portion of a stored or occupied anchored vessel at any location closer than one hundred (100) feet from the boundaries of an established mooring field will promote the protection of marine infrastructure and will enhance navigational safety; 3) prohibiting anchorage of a stored or occupied vessel or any portion of a stored or occupied anchored vessel within five hundred (500) feet from the marked boundaries of shell fish harvesting areas will promote the protection of marine environment; 4) prohibiting anchorage of a stored or occupied vessel or any portion of a stored or occupied anchored vessel closer than fifty (50) feet from marine structures will promote protection of marine infrastructure and enhancement of navigational safety; 5) prohibiting anchorage of occupied vessels outside of a designated mooring field for more than thirty (30) consecutive days in any period of forty-five (45) consecutive days will promote the establishment and use of public mooring fields; and 6) prohibiting anchorage of unoccupied vessels outside of a designated public mooring field unless the vessel is able to get underway using its own propulsion system will promote deterrence of improperly stored, abandoned or derelict vessels; and

WHEREAS, the harbor of the City of St. Augustine holds a unique distinction as the nation's oldest port and the City of St. Augustine owns a substantial portion of the submerged bottomlands located within and adjacent to the municipal boundaries of the City; and

WHEREAS, the currents in the harbor of the City of St. Augustine pose significant navigational challenges;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR
THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amending Section 7-93 of the City Code. Section 7-93 of the
Code of the City of St. Augustine is hereby amended to read, as follows:

**"Sec. 7-93. Regulation of mooring fields for anchorage of
vessels.**

(a) *Definitions.* The following words, terms and
phrases, when used in this article, shall have the meanings
ascribed to them in this section, except where the context
clearly indicates a different meaning:

...

Mooring field means a lawfully permitted location defined
and described in the survey map and any amendments thereto,
contained in the City of St. Augustine Harbor Management
Plan dated December 14, 2009 for the mooring of vessels.

Occupied means boarding and remaining on a vessel for
recreational activities consuming twelve (12) or more
consecutive hours in any twenty-four (24) consecutive hour
period of time; for the preparation, service and consumption of
meals or for sleeping; for a period of time in excess of that
required for the completion of maintenance or repair activities;
or for securing or protecting the vessel in a time of emergency
or severe weather.

...

Person means an individual, partnership, firm,
corporation, association or other legal entity.

Safe Harbor means the allowance of reasonable
temporary emergency anchorage due to mechanical events or
severe weather prohibiting a vessel from departing after the
thirtieth (30th) consecutive day as otherwise required by
subsection (j)(6), herein.

~~Seaworthy means a vessel which has available an operational means of navigation and propulsion which is capable of staying fully afloat without external assistance.~~

Stored vessel shall mean any vessel not under the direct supervision and control of a person capable of operating the vessel and promptly moving the vessel from the locations designated in subsections (j)(2)(3)(4) and (5) herein.

...

~~(j) Anchorage areas. Nonlive aboard vessels Persons may anchor vessels in anchorage areas located outside designated mooring fields subject to the following regulations: The vessel operator must remove all ground tackle upon leaving the anchorage.~~

- (1) The vessel operator must make a reasonable effort to remove all ground tackle upon leaving the anchorage.
- (2) No person shall allow a stored or occupied vessel to anchor at any location which allows the vessel or any portion of the vessel to be closer than fifty (50) feet from the defined boundaries of the channel located in the San Sebastian River.
- (3) No person shall allow a stored or occupied vessel to anchor at any location which allows the vessel or any portion of the vessel to be closer than one hundred (100) feet from the marked boundaries of an established mooring field.
- (4) No person shall allow a stored or occupied vessel to anchor at any location which allows the vessel or any portion of the vessel to be closer than five hundred (500) feet from the marked boundaries of the shell fish harvesting area located in the southern end of Salt Run between dusk and dawn. Dusk and dawn are defined respectively to include the times beginning thirty (30) minutes after the official time of sunset and ending thirty (30) minutes prior to the official time of sunrise.
- (5) No person shall allow a stored or occupied vessel to anchor at any location which allows the vessel or

any portion of the vessel to be closer than fifty (50) feet from any marine structure such as public docks, private docks, public seawalls, private seawalls, boat ramps and dolphins. This prohibition does not include mooring balls and crab traps.

(6) No person shall allow a vessel occupied by persons to anchor at any location within the municipal boundaries of the City but outside of a designated mooring field for more than thirty (30) consecutive days in any forty-five (45) consecutive day period. After midnight of the thirtieth consecutive day, the person shall relocate the vessel to a mooring field or to a location outside the municipal boundaries of the City, unless the Safe Harbor condition is invoked by the City Manager or his or her designee. The City Manager or his or her designee may consult with the captain, operator or other authorized representative of a vessel with regard to determining the need for a Safe Harbor designation. The City Manager or his or her designee shall exercise final authority for making a Safe Harbor designation.

(7) No person shall allow a vessel unoccupied by persons to anchor at any location within the municipal boundaries of the City but outside of a designated mooring field unless the vessel gets underway on at least two (2) occasions during each calendar year, once during the month of February and once during the month of August, using its own propulsion system and travels to the City marina.

a. At the marina, marina staff will verify the ability of the vessel to get underway and may collect and verify contact information for the owner and/or authorized representative of the owner of the vessel for use in emergency and storm events. This information may include the name, current address and phone number of the owner and/or operator of the vessel, and the vessel's registered name and state identification number. This information may be subject to disclosure as a public record

pursuant to Chapter 119, Florida Statutes, unless otherwise legally exempt.

b. Upon satisfactory completion of the biannual demonstration of the ability to get underway and of the collection of the required contact information, the marina staff shall issue and apply to the vessel at no cost a medallion certifying completion.

c. The issuance of a medallion shall not be considered proof that between the biannual dates of issuance the vessel remains able to get underway.

...

(r) Enforcement. The provisions of this Section 7-93 shall be enforced by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers, the Sheriff of St. Johns County and his or her deputies and the Chief of Police of the City of St. Augustine and his or her officers.

(s) Procedures for prosecution of violations.

(1) The law enforcement agency issuing a citation for violation of this article shall present the completed violation to the owner or occupant of the subject vessel or, in the alternative shall mail the citation to the owner of the vessel at the mailing address included on the title or registration of the vessel by U.S. Mail, certified, return receipt requested.

(2) The City may prosecute the violation in any manner allowed by law, including but not limited to, municipal code enforcement procedures.

(t) Penalties. Offenses under this section shall be punishable as provided in section 1-8 of this Code by the imposition of fines as established below:

- a. First offense: \$100.00.
- b. Second offense: \$250.00.
- c. Third or subsequent offense:
\$500.00.”

Section 2. Inclusion in Code. The provisions of this ordinance shall become and be made part of the Code of the City of St. Augustine, and the sections of this ordinance may be renumbered or relettered and the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such inclusion.

Section 3. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.


Section 5. Expiration of Ordinance. Pursuant to the requirements of Section 327.4105, Florida Statutes, this ordinance shall expire concurrently with the statutory pilot program on July 1, 2014 unless Section 327.4105, Florida Statutes, is reenacted by the Florida legislature.

Section 6. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to s. 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this


12th day of December, 2011.

ATTEST:


Alison Ratkovic, City Clerk

(SEAL)




Joe Bole, Jr., Mayor-Commissioner

Coding: Words ~~stricken~~ are deletions; words underlined are additions.