ORDINANCE NO. 015 - 2017

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS, AMENDING CHAPTER 26 OF THE MONROE COUNTY CODE OF ORDINANCES; DELETING LANGUAGE REFERENCING THE PILOT PROGRAM FOR ANCHORING AND MOORING; ADDING LANGUAGE ESTABLISHING PROOF OF PUMPOUT KEYS-WIDE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR FILING AND AN EFFECTIVE DATE; PROVIDING FOR CODIFICATION.

WHEREAS, on February 20, 2013, the Board of County Commissioners (BOCC) adopted Ordinance No. 009-2013 establishing boating restricted areas and accompanying regulations, including proof of pumpout within Managed Anchoring Zones, which was approved by the Florida Fish and Wildlife Conservation Commission (FWC) in compliance with the Pilot Program for Anchoring and Mooring (Pilot Program), established by the FWC under the authority provided by F.S. 327.4105; and

WHEREAS, The FWC Pilot Program expired July 1, 2017 in accordance with F.S. 327.4105; and

WHEREAS, County Ordinance No. 009-2013 expired concurrently with the expiration of the FWC Pilot Program; and

WHEREAS, F.S. 327.60(4), effective July 1, 2017, provides authority for a local government to enact and enforce proof of pumpout regulations, for vessels or floating structures anchored or moored for more than ten consecutive days within a federally established No Discharge Zone (NDZ), based on sufficient availability of sewage pumpout services and facilities; and

WHEREAS, all of the waters within the Florida Keys National Marine Sanctuary are within the NDZ for the Florida Keys; and

WHEREAS, Monroe County (County) operates a free and convenient mobile vessel pumpout program throughout the Florida Keys within the County; and

WHEREAS, the County’s mobile vessel pumpout program is recognized by the Florida Department of Environmental Protection (DEP) as providing a service to the boating public, and has been funded by the DEP Clean Vessel Act Fund continuously since the beginning of operation of the pumpout program in 2013; and

WHEREAS, the County desires to continue the proof of pumpout regulation, initially established under the Pilot Program, and expand the geographic area within which the proof of
pumpout regulation may be applied, to include the entirety of the No Discharge Zone for State waters within the boundaries of the Florida Keys National Marine Sanctuary; and

WHEREAS, the adopted ordinance cannot take effect until it is reviewed and approved by the FWC; and

WHEREAS, upon adoption by the BOCC the ordinance will be submitted to FWC for review and approval;

NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Article V of Chapter 26 of the Monroe County Code is amended as follows:

Chapter 26 – WATERWAYS

ARTICLE V. - PROOF OF PUMPOUT

Sec. 26-100. - Purpose.

It is the purpose of this Section of this Code to establish a requirement, based on the authority provided under F.S.327.60(4), for vessels and floating structures subject to the marine sanitation requirements of F.S. 327.53 to provide proof of proper sewage disposal by means of an approved mobile sewage pumpout service, an approved sewage pumpout facility, or an approved waste reception facility when anchored or moored for more than ten (10) consecutive calendar days within the federally-established No-Discharge Zone in the Florida Keys.

Sec. 26-101. - Definitions.

Sec. 26-102. - Proof of Pumpout Required

Proof of pumpout required. Vessels and floating structures anchored or moored for more than ten consecutive days, and which are required to have a marine sanitation device in accordance with F.S. § 327.53, must provide proof of pumpout. Vessel or floating structure owners may utilize a pumpout service which may be provided by the Monroe County pumpout program, or other approved vessel pumpout facility or vendor. The County pumpout service is structured to provide ongoing pumpouts for anchored vessels and floating structures, and may provide a registration process by which vessel and floating structure owners sign up for regular pumpouts at a frequency based on anticipated need, with a maximum of one pumpout per week. A monthly, color coded, registration sticker or tag may be provided which vessel and floating structure owners may display on their vessel or floating structure, indicating participation in the County pumpout program, and which will be considered proof of pumpout. The County pumpout program shall maintain registration documentation and pumpout logs, which shall be available for review by any law enforcement officer. If a vessel or floating structure owner utilizes another approved vessel pumpout provider the vessel or floating structure owner is required to maintain documentation and pumpout logs to demonstrate use of pumpout to FWC, the Monroe County Sheriff’s Office or other law enforcement officers. Proof of pumpout, regardless of the type of proof, must indicate that the vessel or floating structure was
pumped out within the last thirty (30) days. Monroe County encourages utilization of the County’s pumpout service to ensure availability of routine pumpouts as may be needed.

Sec. 26-103. - Enforcement.

Regulations described in this article may be enforced by Law Enforcement Officers of Monroe County, FWC or any other law enforcement officer.

Sec. 26-104. - Penalties.

(a) Any person cited for a violation of this article shall be charged with a noncriminal infraction. A Uniform Boating Citation may be issued for violations of this ordinance pursuant to F.S. § 327.74 by any law enforcement agency authorized to issue such citations. Vessel and floating structure owners will be provided 30 days between issuance of citations. Fines associated with citations are established as follows:

1. First offense: $50.00.
2. Second offense: $100.00.
3. Third offense: $250.00.
4. Fourth or subsequent offenses: $250.00.

(b) Any person who fails to properly respond to a Uniform Boating Citation issued for a violation of this article shall, in addition to the charge relating to the violation of the boating laws of this County, be charged with the offense of failing to respond to such citation and upon conviction be guilty of a misdemeanor of the second degree punishable as provided in F.S. § 775.082 and F.S. § 775.083.

Sec. 26-105. - Exemptions.

The following exemptions are provided:

(a) Vessels or floating structures equipped with only incinerating or composting toilets are not required to provide proof of pumpout, as those types of toilets are not designed to be pumped out. However, effluent from those toilets is not allowed to be disposed of in the waters of the no discharge zone within the Florida Keys.
(b) Stored vessels and floating structures are not required to provide proof of pumpout.

Section 2. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Repeal of Inconsistent Provisions. All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

Section 4. Filing and Effective Date. This ordinance shall be filed in the Office of the Secretary of the State of Florida and shall become effective as provided by law.
Section 5. Codification. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of Monroe County, Florida and shall be numbered to conform with the uniform numbering system of the Code.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 16th day of August, 2017.

Mayor George Neugent
Mayor pro tem David Rice
Commissioner Danny Kolhage
Commissioner Heather Carruthers
Commissioner Sylvia Murphy

Yes
Yes
Yes
Absent
Yes

By

By

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

KEVIN MADOK, CLERK

Deputy Clerk

Mayor George Neugent

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

STEVEN T. WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 8/21/17

FED FOR RECORD

2017 AUG 28 AM 8:45