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6 **MONROE COUNTY, FLORIDA**
7 **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**
8 **RESOLUTION NO. 225 - 2021**
9

10 **A RESOLUTION OF THE MONROE COUNTY BOARD OF COUNTY**
11 **COMMISSIONERS (“BOCC”) ESTABLISHING THE MARINA PUMP**
12 **OUT OUTFITTING PROGRAM (“MPOOP”) TO PROVIDE ASSISTANCE**
13 **TO MARINE FACILITIES AND MARINAS IN COMPLYING WITH THE**
14 **PROVISIONS OF THE MONROE COUNTY COMPREHENSIVE PLAN**
15 **AND MONROE COUNTY LAND DEVELOPMENT CODE REGULATING**
16 **AND REQUIRING PUMP OUT EQUIPMENT TO REDUCE POLLUTANT**
17 **DISCHARGES AND IMPROVE WATER QUALITY.**
18

19 **WHEREAS**, the Florida Keys are designated as an Area of Critical State Concern to
20 protect the many significant resources, including the protection and improvement of nearshore
21 water quality; and

22 **WHEREAS**, all state and federal waters of the Florida Keys are federally-designated as a
23 No Discharge Zone (“NDZ”) which prohibits the discharge of both treated and untreated waste
24 into Keys waters; and

25 **WHEREAS**, the Florida Keys National Marine Sanctuary (“FKNMS”) established a
26 Water Quality Protection Program in 1994 to maintain and restore the ideal water quality needed
27 for the marine ecosystem in the Florida Keys and the sanctuary waters of the FKNMS; and

28 **WHEREAS**, the FKNMS Management Plan recommends strategies to eliminate vessel
29 wastewater discharges by requiring that marinas provide pump-out facilities to increase the total
30 number and availability of pump out opportunities for both shoreside and anchored vessels; and

31 **WHEREAS**, the BOCC supports and requests continued prioritization and technical
32 assistance from the FKNMS Water Quality Protection Program to ensure water quality protection
33 and monitoring of the influences of discharges from vessels; and

34 **WHEREAS**, Monroe County policies and regulations adopted in the Monroe County
35 Comprehensive Plan and Land Development Code are to maintain public health, safety, and
36 welfare of the citizens of the Florida Keys, enhance the quality of life, ensure the safety of County
37 residents and visitors, and protect valuable natural resources; and

38 **WHEREAS**, 2030 Monroe County Comprehensive Plan Objective 202.3 and associated
39 policies attached as Exhibit “A.” hereto specify that Monroe County shall encourage use and

40 expansion of sewage pump-out facilities throughout Monroe County to reduce pollutant discharges
41 into nearshore surface waters from live-aboard vessels; and

42 **WHEREAS**, Monroe County Comprehensive Plan Policy 202.3.1 authorizes living on
43 board a vessel at a shoreside location only if the vessel is at a marine facility, including a marina,
44 or within commercial fishing areas and commercial fishing special districts, that provide fixed
45 pump-out facilities; and

46 **WHEREAS**, Monroe County Comprehensive Plan Policy 202.3.1 and Section 118-16 of
47 the Monroe County Land Development Code require new and existing marine facilities, including
48 marinas, with ten (10) slips or more, or one live-aboard slip, provide a fixed pump-out station and
49 require all marinas, regardless of size, to provide signage conspicuously posted at dockage sites
50 educating the live-aboard public about the importance of pumping out and give clear directions to
51 the nearest pump-out stations; and

52 **WHEREAS**, Monroe County Comprehensive Plan Policy 202.3.2 and Section 118-16 of
53 the Monroe County Land Development Code provide that existing marine facilities, including
54 marinas, as identified through the Monroe County Marine Facility Survey or other best available
55 data sources, which do not have an on-site pumpout station, be notified of the requirements for on-
56 site pumpout facilities, signage, and any available funding assistance, such as the Florida
57 Department of Environmental Protection (“FDEP”) Clean Vessel Act (“CVA”) grant program;
58 and

59 **WHEREAS**, Monroe County Comprehensive Plan Policy 202.3.2 and Section 118-16 of
60 the Monroe County Land Development Code require that all marine facilities and marinas which
61 must provide on-site pumpout stations shall keep those pumpout stations operational, and ensure
62 that pumpout service is available to the patrons of those marine facilities and marinas; and

63 **WHEREAS**, there are an estimated 489 marine facilities throughout Monroe County with
64 an estimated 500-1,000 live-aboard vessels at these shoreside locations; and

65 **WHEREAS**, data indicates that only 29% of these facilities have pumpout equipment; and

66 **WHEREAS**, Monroe County desires to expand the number of vessel sewage pump-out
67 facilities throughout Monroe County to reduce pollutant discharges into nearshore surface waters;
68 and

69 **WHEREAS**, the County desires to establish and implement a *Marina Pump Out*
70 *Outfitting Program* (“MPOOP”) to provide technical and educational assistance to marine
71 facilities and marinas including, but not limited to, assistance with County and State permitting
72 requirements and funding opportunities from the FDEP CVA grant program for the purchase,
73 installation, operation and maintenance of on-site pumpout equipment; and

74 **WHEREAS**, the FDEP CVA grant program can fund up to 75% of costs associated with
75 the purchase, installation, operation and maintenance of pumpout equipment; and

76 **WHEREAS**, facilities receiving CVA funding must provide public access to the pumpout
77 equipment which will expand the availability of shoreside pumpout facilities for use by the boating
78 public; and

79 **WHEREAS**, the FDEP CVA Program also provides resources, tools and technical support
80 to facilities wishing to install a sewage pumpout system including assistance with implementation
81 of a Clean Marina Program; and

82 **WHEREAS**, “marine facility” is defined in Section 101-1 of the Land Development Code
83 as a docking facility with ten slips or more, or one live-aboard slip; and

84 **WHEREAS**, “marina” is defined in Section 101-1 of the Land Development Code as a
85 facility for the storage, launching and securing of vessels and/or live-aboard vessels, together with
86 accessory retail and/or service uses, including but not limited to commercial retail, restaurants,
87 vessel rentals, charter vessels, vessel repair, sport diving operations and the provision of fuel. The
88 term marina does not include docks accessory to a land-based dwelling unit limited to the use of
89 owners or occupants of the dwelling unit; and

90 **WHEREAS**, in determining whether a docking facility has ten slips or more for the
91 purpose of defining the facility as a “marine facility” under Section 101-1 of the Land
92 Development Code, Monroe County staff will utilize best available data such as the Monroe
93 County Marine Facility Survey, information received from the facility, historic aerial imagery,
94 permitting records and other available data sources; and

95 **WHEREAS**, only wet storage of vessels will be considered in the total number of slips in
96 determining whether a facility is considered a “marine facility;” and

97 **WHEREAS**, for implementation of the MPOOP program, the terms “on-site pumpout
98 station,” “on-site pumpout facilities,” “fixed pump-out facilities” or “fixed pump-out station”
99 identified in the Monroe County Comprehensive Plan Policy and Land Development Code shall
100 herein be referred to as a “fixed pumpout system” which shall mean any type of permanently
101 installed pumpout equipment along with all necessary plumbing, such as a vacuum-based
102 centralized system containing single or multiple pump stations and/or point-of-service station(s),
103 capable of handling all vessel sewage generated at the marine facility or marina; and

104 **WHEREAS**, for implementation of the MPOOP program, portable pumpout equipment
105 designed to manually transport waste, such as a mobile pumpout vessel or a mobile pumpout cart
106 with a temporary waste holding tank, shall not constitute a fixed pumpout system due to the lack
107 of State permitting requirements that ensure the treatment system receiving the waste is capable of
108 handling and tracking this concentrated effluent; and

109 **WHEREAS**, research suggests that live-aboard slips should be individually plumbed to
110 provide the most suitable means for waste collection to avoid the necessity of frequent vessel
111 relocation which has been identified as a significant hurdle in boater compliance; and

112 **WHEREAS**, the fixed pumpout system should be designed to consider the current and
113 future usage, type, and size of vessels at the facility; and

114 **WHEREAS**, the Monroe County MPOOP program furthers the goals and objectives of
115 the Monroe County Comprehensive Plan for water quality improvements in our nearshore waters
116 as well as the Florida Keys Area of Critical State Concern designation.

117 **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY**
 118 **COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**

- 119 **Section 1.** Recitals and Legislative Intent. The foregoing recitals are true and correct,
 120 and are hereby incorporated as if fully stated herein.
- 121 **Section 2.** The BOCC does hereby establish the *Marina Pump Out Outfitting Program*
 122 (“MPOOP”) and supports the implementation of the MPOOP program to
 123 assist marine facilities and marinas by providing technical and educational
 124 assistance including, but not limited to, assistance with County and State
 125 permitting requirements and grant funding opportunities for the purchase,
 126 installation, operation and maintenance of on-site pumpout equipment.
- 127 **Section 3.** In determining whether a docking facility has ten slips or more for the
 128 purpose of defining the facility as a “marine facility” under Section 101-1 of
 129 the Land Development Code, Monroe County staff will utilize best available
 130 data such as the Monroe County Marine Facility Survey, information
 131 received from the facility, historic aerial imagery, permitting records and
 132 other available data sources.
- 133 **Section 4.** Only wet storage of vessels will be considered in the total number of slips in
 134 determining whether a facility is considered a “marine facility.”
- 135 **Section 5.** The terms “on-site pumpout station,” “on-site pumpout facilities,” “fixed
 136 pump-out facilities” or “fixed pump-out station” identified in the Monroe
 137 County Comprehensive Plan Policy and Land Development Code shall
 138 herein be referred to as a “fixed pumpout system” which shall mean any
 139 type of permanently installed pumpout equipment along with all necessary
 140 plumbing, such as a vacuum-based centralized system containing single or
 141 multiple pump stations and/or point-of-service station(s), capable of
 142 handling all vessel sewage generated at the marine facility or marina.
- 143 **Section 6.** Portable pumpout equipment designed to manually transport waste, such as
 144 a mobile pumpout vessel or a mobile pumpout cart with a temporary waste
 145 holding tank, shall not constitute a fixed pumpout system due to the lack of
 146 State permitting requirements that ensure the treatment system receiving the
 147 waste is capable of handling and tracking this concentrated effluent.
- 148 **Section 7.** The BOCC directs staff to launch an educational marketing campaign for the
 149 MPOOP program.
- 150 **Section 8.** The BOCC directs staff to collaborate with the FDEP on permitting
 151 guidance, CVA funding opportunities and educational outreach to marine
 152 facilities and marinas.
- 153 **Section 9.** Construction and Interpretation. This resolution and its interpretation
 154 shall be liberally construed and enforced in favor of Monroe County to
 155 effectuate its public purpose(s) and policy(ies) of the County. The
 156 construction and interpretation of this resolution and all Monroe County

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Comprehensive Plan provision(s), Monroe County Code of Ordinances and Monroe County Land Development Code provisions, Florida Building Code, Florida Statutes, and Monroe County Resolution provision(s) whose interpretation arises out of, relates to, or is interpreted in connection with this resolution shall be liberally construed and enforced in favor of Monroe County to effectuate its public purpose(s) and policy(ies) of the County, and shall be construed in favor of the BOCC and such construction and interpretation shall be entitled to great weight in adversarial administrative proceedings, at trial, in bankruptcy, and on appeal.

Section 10. No Liability. Monroe County expressly reserves and in no way shall be deemed to have waived, for itself or for its officer(s), employee(s), or agent(s), any sovereign, governmental, and any other similar defense, immunity, exemption, or protection against any 31 suit, cause-of-action, demand, or liability.

Section 11. Severability. If any provision of this resolution, or any part or portion thereof, is held to be invalid or unenforceable by any administrative hearing officer or court of competent jurisdiction, the invalidity or unenforceability of such provision, or any part or portion thereof, shall neither limit nor impair the operation, enforceability, or validity of any other provision of this resolution, or any remaining part(s) or portion(s) thereof. All other provisions of this resolution, and remaining part(s) or portion(s) thereof, shall continue unimpaired in full force and effect.

Section 12. Conflicting Provisions. All resolutions in conflict with this resolution are hereby repealed to the extent of said conflict. The repeal of a resolution herein shall not repeal the repealing clause of such resolution or revive any resolution which has been repealed thereby.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 16th day of June, 2021.

Mayor Michelle Coldiron	<u>Yes</u>
Mayor Pro Tem David Rice	<u>Yes</u>
Commissioner Craig Cates	<u>Absent</u>
Commissioner Eddie Martinez	<u>Yes</u>
Commissioner Mike Forster	<u>Yes</u>

RECORDED
2021 JUN 21 PM 3:55
CLERK OF COUNTY FL

(SEAL)
Attest: KEVIN MADOK, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA



By: Peter Morris
Deputy Clerk

By: Michelle Coldiron
Mayor Michelle Coldiron
MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

5 of 5
PETER MORRIS
ASSISTANT COUNTY ATTORNEY
Date: 6/1/21

Objective 202.3

Monroe County shall support existing vessel discharge regulations, including the No Discharge Zone regulations of the Florida Keys National Marine Sanctuary, and encourage use and expansion of sewage pump-out facilities throughout Monroe County to reduce pollutant discharges into nearshore surface waters from live-aboard vessels. [§163.3177(6)d.2].b., F.S; §163.3177(6)d.2.e., F.S.]

Policy 202.3.1

Within one (1) year after the adoption of the 2030 Comprehensive Plan, Monroe County shall adopt and maintain regulations pertaining to docked or moored to land live-aboard vessels which:

1. prohibit living on board vessels and floating structures of any type except at marine facilities, including marinas, and within commercial fishing areas and commercial fishing special districts, with fixed pump-out facilities; and
2. require that new and existing marine facilities, including marinas, with ten slips or more, or one live-aboard slip, provide a fixed pump-out station; and
3. require all marinas, regardless of size, to provide signage conspicuously posted at dockage sites educating the live-aboard public about the importance of pumping out and giving clear directions to the nearest pump-out stations. [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]

Policy 202.3.2

Existing marine facilities, including marinas, which do not have an on-site pumpout station, as identified through the Monroe County Marine Facility Survey or other best available data sources, shall be notified in writing of the requirements for on-site pumpout facilities and signage (and any available funding assistance, such as the DEP Clean Vessel Act grant program) within 18 months after the adoption of the 2030 Comprehensive Plan. Such marine facilities and marinas shall have 12 months from the written notification to provide an on-site pumpout station and associated signage. All marine facilities and marinas which are required to provide on-site pumpout stations are required to keep those pumpout stations operational, and ensure that pumpout service is available to the patrons of those marine facilities and marinas.

Policy 202.3.3

Development of the management recommendations for live-aboard vessels shall be coordinated with NOAA to ensure consistency with recommendations of the Florida Keys National Marine Sanctuary Revised Management Plan. [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]