

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

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Meeting Date: August 18, 2015       Consent       Regular  
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to adopt: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE “CINDY DEFILIPPO FLOATING STRUCTURE ORDINANCE”; PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE PROHIBITION OF FLOATING STRUCTURES; PROVIDING FOR ENFORCEMENT; PENALTIES; PROVIDING FOR INCLUSION IN THE CODE ENFORCEMENT CITATION ORDINANCE OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING CAPTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**Summary:** This Ordinance will prohibit the anchoring or mooring of floating structures in waters within the jurisdiction of the County or on County-owned property unless anchored or moored at a marina, dock or on privately owned property. The Ordinance will not encompass waters within the jurisdiction of a municipality unless the County owns the submerged land. The Ordinance will primarily be enforced by Palm Beach County Code Enforcement or the Palm Beach County Sheriff’s Office. Unincorporated County (SF)

**Background and Policy Issues:** The County has recently experienced an increase in the anchoring and mooring of floating structures in the waters of the County. These structures generally serve purposes and provide services typically associated with land based activities and are more appropriately located on land or directly connected thereto where they can more easily connect to water, sewer and waste disposal. These floating structures pose navigational and safety hazards since they are not self propelled and cannot quickly relocate during an emergency or weather event. This Ordinance will not regulate the anchoring or mooring of any vessel in the Florida Intracoastal Waterway as such regulation is preempted to the state.

**Attachments:**

1. Proposed Ordinance & Exhibit 1
2. Map generally depicting unincorporated waters under PBC jurisdiction

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Recommended by:       7-7-15  
Department Director      Date

Approved by: N/A  
County Administrator      Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget?      Yes \_\_\_\_\_ No \_\_\_\_\_

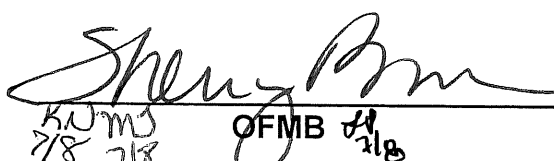

Budget Account No.:      Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

 _____ K. Williams      OFMB 7/8 7/8 7/8	 _____ A. J. Jacobson      7/9/15 Contract Development and Control 7-8-15      Wheeler
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**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**

ORDINANCE NO. 2015-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS “THE CINDY DEFILIPPO FLOATING STRUCTURE ORDINANCE”; PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE PROHIBITION OF FLOATING STRUCTURES; PROVIDING FOR ENFORCEMENT; PENALTIES; PROVIDING FOR INCLUSION IN THE CODE ENFORCEMENT CITATION ORDINANCE OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING CAPTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County has recently seen a rise in the anchoring and mooring of now water dependent floating structures in the waters of the County; and

WHEREAS, in 2014, one such floating structure broke free from its moorings during a storm and caused property damage to adjacent property; and

WHEREAS, anchoring or mooring of floating structures within the waters of Palm Beach County poses a special risk to persons and property as these structures are usually not self propelled and cannot be quickly relocated during weather events; and

WHEREAS, floating structures pose navigational hazards above and beyond those caused by vessels whose primary purpose is navigation; and

WHEREAS, floating structures generally serve purposes and provide services typically associated with land based structures and are more appropriately located on land or directly connected thereto where they can more easily connect to water, sewer and waste disposal facilities; and

WHEREAS, unregulated floating structures may preempt the customary water dependent uses and riparian rights of surface waters including but not limited to ingress, egress, boating, bathing and fishing, as provided Section 253.141, Florida Statutes; and

WHEREAS, prohibiting the anchoring or mooring of floating structures outside of privately owned property, marinas and docks is in accord with the policy of the state to limit activities on sovereign submerged lands to water dependent activities.

WHEREAS, the Board of County Commissioners of Palm Beach County finds that floating structures, other than those anchored or moored at privately owned property, a marina or dock, should be prohibited from anchoring or mooring in the waters within the jurisdiction of the County or on property owned by the County.

1           **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
2 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

3

4 **Section 1. TITLE.**

5 This Ordinance shall be titled the Cindy DeFilippo Floating Structure Ordinance.

6

7 **Section 2. APPLICABILITY.**

8 This Ordinance shall be applicable within the unincorporated areas of the County and on all  
9 property owned by the County, including all submerged lands.

10 **Section 3. DEFINITIONS.**

11           “Anchor” means the act of temporarily securing a floating structure in the water by  
12 means of an anchor or other device and associated tackle that is carried on the floating structure  
13 and cast or dropped overboard.

14           “Floating structure” means a floating entity, with or without accommodations built  
15 thereon, which is not primarily used as a means of transportation on water but which serves  
16 purposes or provides services typically associated with a structure or other improvement to real  
17 property. The term includes, but is not limited to, an entity used as a residence, place of  
18 business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a  
19 meeting facility; a storage or parking facility; or similar facility or entity represented as such.  
20 Floating structures are expressly excluded from the definition of the term “vessel” as defined in  
21 Section 327.02, Florida Statutes. Incidental movement upon water or resting partially or  
22 entirely on the bottom does not, in and of itself, preclude an entity from classification as a  
23 floating structure. Registration of the entity as a vessel in accordance with Chapter 327,  
24 Florida Statutes, shall not preclude an entity from classification as a floating structure.

25           “Moor” means the act of securing a floating structure in the water by means of a  
26 permanent or semi-permanent mooring system affixed to the bottom of the water body.

27

28 **Section 4. PROHIBITION OF FLOATING STRUCTURES.**

29 No floating structure shall be anchored or moored in the waters lying within the jurisdiction of  
30 the County or on any property owned by the County, including any submerged lands.  
31 Notwithstanding the foregoing, nothing in this Ordinance shall prohibit a floating structure  
32 from anchoring or mooring at a public or private marina within a berth or slip, a public or

1 private dock with permission from the property owner or on privately owned property,  
2 including submerged lands.

3

4 **Section 5. ENFORCEMENT; PENALTIES.**

5 (a) Any law enforcement officer acting within his/her jurisdiction or Palm Beach County Code  
6 Enforcement Officer is authorized to enforce this Ordinance.

7 (b) The violation of any provision of this Ordinance may be enforced pursuant to F.S. § 125.69  
8 and shall be punishable by a fine not to exceed five hundred dollars (\$500.00), by  
9 imprisonment in the county jail not to exceed sixty (60) days or by both such fine and  
10 imprisonment.

11 (c) The violation of any provision of this Ordinance may be enforced pursuant to the  
12 procedures and penalties of F.S. § 162.01 et seq. and Article 10 of the Palm Beach County  
13 Unified Land Development Code.

14 (d) The provisions of this Ordinance may be enforced pursuant to Chapter 8.5, Article II, of the  
15 Palm Beach County Code (the “Code Enforcement Citation Ordinance of Palm Beach County,  
16 Florida”) and shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

17 (e) In addition to the sanctions contained herein, the County shall be authorized to take any  
18 other appropriate legal action, including, but not limited to, seeking cease and desist orders,  
19 instituting other administrative actions, and requesting temporary and permanent injunctions to  
20 enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide  
21 additional and cumulative remedies.

22 (f) Each day a violation of this Ordinance occurs shall constitute a separate offense and be  
23 punishable as such.

24

25 **Section 6. INCLUSION IN THE CODE ENFORCEMENT CITATION ORDINANCE OF**  
26 **PALM BEACH COUNTY, FLORIDA.**

27 Schedule “A” of Chapter 8.5, Article II, of the Palm Beach County Code (the “Code  
28 Enforcement Citation Ordinance of Palm Beach County, Florida”) is hereby amended to  
29 include the list of infractions attached hereto as Exhibit 1.

30

1 **Section 7. REPEAL OF LAWS IN CONFLICT:**

2 All local laws and ordinances in conflict with any provisions of this Ordinance are  
3 hereby repealed to the extent of such conflict.

4  
5 **Section 8. SEVERABILITY:**

6 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any  
7 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,  
8 such holding shall not affect the remainder of this Ordinance.

9  
10 **Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

11 The provisions of this Ordinance shall become and be made a part of the Palm Beach  
12 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish  
13 such, and the word ordinance may be changed to section, article, or other appropriate word.

14  
15 **Section 10. CAPTIONS:**

16 The captions, section headings, and section designations used in this Ordinance are for  
17 convenience only and shall have no effect on the interpretation of the provisions of this  
18 Ordinance.

19  
20 **Section 11. EFFECTIVE DATE:**

21 The provisions of this Ordinance shall become effective upon filing with the  
22 Department of State.

23  
24 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach  
25 County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2015.

26 **SHARON R. BOCK, CLERK**

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

27  
28  
29  
30 By: \_\_\_\_\_  
31 Deputy Clerk

By: \_\_\_\_\_  
Shelley Vana, Mayor

32  
33 **APPROVED AS TO FORM AND  
34 LEGAL SUFFICIENCY**

35  
36  
37 By:   
38 County Attorney

1           **EFFECTIVE DATE:** Filed with the Department of State on the \_\_\_\_ day of  
2           \_\_\_\_\_, 2015.

3

**EXHIBIT 1**

<b><u>Code Provision</u></b>	<b><u>Description</u></b>	<b><u>Class</u></b>	<b><u>Fine Amount</u></b>
Ordinance No. 2015-_____, Section 4, Palm Beach County Floating Structure Ordinance	Anchoring or mooring floating structure in county waters or on county property other than on privately owned property, at a marina or at a dock.	IV	\$250.00



