



MEMORANDUM

TO: Hon. Mayor and Board of Commissioners  
THROUGH: Robert Daniels, City Manager  
FROM: Planning Commission  
Linda Portal, Community Development Director  
Jerry Murphy, Consulting Planner

DATE: September 14, 2019

RE: **Second Reading of Ordinance 2019-21, Amendment to Code of Ordinances, CHAPTER 78 WATERWAYS; ARTICLE II. –BOATS; DIVISION 2.-LIVE ABOARD VESSELS; SEC. 78-61.- GENERAL REGULATIONS; SEC. 78-62. –PERMIT REQUIREMENTS; SEC. 78-63.- MARINAS.**

**Background**

Live-aboard vessels are a growing issue in City waters and pose a threat to public health and safety. Additionally, commercial activities on vessels violates the City’s business licensing requirements. The City is working with Pinellas County to regulate live-aboard vessels and was advised to amend the Code of Ordinances. The City is also collaborating with surrounding communities to develop a shared set of principles for the regulation of this use.

**Fiscal Impact**

Enforcement of the ordinance would be provided by the Sheriff’s Office marine units. Licensing and fines will need to be set and codified in order to cover the additional administrative cost related to this amendment.

**Recommendation**

Planning Commission and City Staff recommend approval of Ordinance 2019-21.

Attachment(s): Ordinance 2019-21

Revised – July, 2019



**ORDINANCE NO. 2019-21**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING THE CITY OF MADEIRA BEACH CODE OF ORDINANCES CHAPTER 78 WATERWAYS; ARTICLE II. –BOATS; DIVISION 2.-LIVE-ABOARD VESSELS; SEC. 78-61.- GENERAL REGULATIONS; SEC. 78-62. –PERMIT REQUIREMENTS; SEC. 78-63.- MARINAS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the City Commission finds that the proliferation of unregulated residential use of live-aboard vessels, and commercial use of live-aboard vessels as transient rental units, including advertised rentals of live-aboards (including online at transient rental sites such as Airbnb and VRBO) in Madeira Beach waters poses dangers to the environment, public safety and can cause damage to public and private property and;

**WHEREAS**, the City has a municipal marina with available sewage pump out facilities to prevent pollution of waters, and numerous private marinas also exist in the City that can berth, moor or store vessels on a temporary, transient or permanent basis in the C-4 commercial zoning district;

**WHEREAS**, Chapters 327 and 328 Florida Statutes contain a limited preemptions of some vessel regulation by the Florida Legislature, Section 327.60(2)(f) Florida Statutes (2019) expressly allows municipalities to regulate the following types of vessels as defined in Chapter 327, Florida Statutes, (and does not preempt municipalities from regulating):

1. Live-aboard vessels; and
2. Commercial vessels, (excluding commercial fishing vessels)

**WHEREAS**, On August 12, 2019, the Planning Commission conducted the required hearing of the proposed amendment and upon receiving public input recommends approval of the amendment; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AS FOLLOWS:**

**Section 1.** The City of Madeira Beach, Florida, Code of Ordinances shall be amended as follows:

Chapter 78 - WATERWAYS

ARTICLE II. - BOATS

DIVISION 2. – **LIVE-ABOARD VESSELS**

**Sec. 78-61. - General regulations for live-aboard vessels.**

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Any person or owner of a boat vessel may use the boat or permit it the vessel to be used for living quarters as a “live-aboard” vessel as defined in Florida Statute 327.02; only as provided for in this section.

- (1) All live-aboard vessels must be docked in a licensed marina facility located within Zoning District C-4, except as provided for in subsection (3) of this section.
- (2) ~~The~~ All live-aboard vessels must contain a Coast Guard approved operable marine sanitation device. Discharge of sewage from all vessels ~~will be in compliance~~ must comply with section 78-37 of this chapter.
- (3) ~~Live-aboard vessels may~~ must not be used for permanent living purposes in other than zoning district C-4. ~~However,~~ Transient, temporary, live-aboard vessels docking in other zoning districts must obtain a 72-hour ten-day no fee nonrenewable permit in accordance with section 78-62 of this chapter.
- (4) Live-aboard vessels anchored in the intercostal waterway or vessels temporarily anchored due to emergency conditions or situations are exempt from this section during the temporary emergency.

(Code 1983, § 5-104(A)); (Ord. 2019-21 October 8, 2019)

**Sec. 78-62. –Permit requirements.**

~~(a) Live-aboard vessels, used for living purposes, desiring to stay in the city ten days or less must obtain within 72 hours of arrival, a ten-day no fee nonrenewable permit from the city manager or his designated representative. The applicant will certify the vessel contains a Coast Guard approved operable sanitation device. This permit may only be acquired once on a quarterly (any contiguous three-month period) basis.~~

~~(b) Live-aboard vessels desiring to stay beyond the ten-day limit must obtain an annual permit from the city manager or his designated representative and pay a vessel inspection fee as prescribed in section 2-260.~~

**(a) Definitions.**

“Anchoring or mooring” means the use of a heavy object—including a mooring buoy—attached to a vessel, placed overboard to keep the vessel from drifting by weight or by gripping the bottom.

“Boat slip” means a portion of a pier, main pier, finger pier, or float where a vessel is berthed or moored, or used for embarking or disembarking.

“Live-aboard vessel” or “live-aboard” shall be defined by Section 327.02(22) Florida Statutes, as may be amended from time to time, which currently means: (a) A vessel used solely as a residence and not for navigation; or (b) A vessel for which a declaration of domicile has been filed pursuant to s. 222.17; or (c) A vessel used as a residence that does not have an effective means of propulsion for safe navigation. A commercial fishing vessel is expressly excluded from the term “live-aboard vessel” pursuant to Section 327.02(22) Florida Statutes (2019) as may be amended from time to time.

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**(b) Permit Requirements.** Except for live-aboard vessels lawfully docked at private facilities or properties, anchoring or mooring any unattended live-aboard vessel in any of the waterways within the city for a continuous period of eight (8) hours or more, or for any overnight period is prohibited unless a temporary live-aboard permit is obtained.

(c) A temporary permit is required to be obtained from the City marina office prior to anchoring or mooring any live-aboard vessel in any of the waterways within the city for eight (8) hours or more. The temporary permit period for anchoring or mooring a live-aboard vessel must not exceed 72 hours. Only one (1) temporary permit may be issued for a lawfully registered or properly documented live-aboard vessel or to a person within a 30-day period. A fee to cover the costs associated with administering this requirement is provided in the city’s schedule of fees. The city marina, or city manager, may establish and post reasonable rules and regulations for live-aboard anchoring or mooring and pump-out schedules to ensure the public health, safety, and welfare of persons and property within the city.

(d) Anchoring or mooring a live-aboard vessel in any city waterway within 200 feet of any seawall is prohibited.

(e) All live-aboard vessels, including temporarily permitted, live-aboard vessels must be removed, or evacuated, from city waterways within eight (8) hours of a declared weather emergency.

(Code 1983, § 5-104(B)); (Ord. 2019-21 October 8, 2019)

**Sec. 78-63. - Marinas.**

- All marinas ~~will must~~ have ~~appropriate~~ all required licenses and ~~will be~~ in compliance with the requirements of chapter 110, article VII, of this code for ~~regarding~~ off-street parking and loading ~~requirements of the city.~~
- All marinas ~~will must~~ have a working/operable pump-out station on premises ~~which that~~ is readily available to all vessel owners.
- All marinas providing live-aboard ~~vessel~~ accommodations for periods exceeding ~~ten days~~ 72 hours must provide direct sewage hook-ups for each live-aboard vessel.
- Marina operators ~~shall must~~ determine that each vessel using their docking facilities has obtained the ~~necessary required~~ city permits.
- Marinas providing live-aboard accommodations ~~will must~~ have indoor bathroom facilities ~~in compliance with the Standard Plumbing Code.~~ All other marinas must have a minimum of one (1) public restroom with a water closet and lavatory. All bathroom and restroom facilities must be in compliance with the Florida Building Code—Plumbing.
- Marina operators ~~will have must maintain, on the marina premises,~~ a list of all live-aboard vessels, ~~on premises,~~ for city review and inspection.

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- The number of live-aboard vessels in a marina ~~will must~~ not exceed 15 percent of the total authorized boat ~~slips~~ berths.

(Code 1983, § 5-104(C)); (Ord. 2019-21 October 8, 2019)

**Section 2:** **The provisions of this ordinance shall be deemed severable. If any part of the ordinance is deemed unconstitutional, it shall not affect the constitutionality of the other portions of the ordinance.**

**Section 3:** **All Ordinance or parts of ordinances in conflict with the provision of this ordinance be hereby repealed insofar as the same affect this Ordinance.**

**Section 4:** **This ordinance shall be in full force and effect upon adoption in the manner provided by law.**

**PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019.**

ATTEST:

CLARA VANBLARGAN, City Clerk

MAGGI BLACK, Mayor

PUBLISHED:

FIRST READING:

PUBLISHED:

PASSED ON SECOND READING:

Approved as to legal sufficiency:

City Attorney

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