

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.

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 intracoastal 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.

(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 any 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.

- (a) 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.~~
- (b) All marinas ~~will~~ must have a working/operable pump-out station on premises ~~which~~ that is readily available to all vessel owners.
- (c) 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.
- (d) Marina operators ~~shall~~ must determine that each vessel using their docking facilities has obtained the ~~necessary~~ required city permits.
- (e) 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.
- (f) Marina operators ~~will have~~ must maintain, on the marina premises, a list of all live-aboard vessels, ~~on premises,~~ for city review and inspection.

(g) 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 8th day of October, 2019.

ATTEST:


CLARA VANBLARGAN, City Clerk


MAGGI BLACK, Mayor

PUBLISHED:

FIRST READING:

PUBLISHED:

PASSED ON SECOND READING:

Approved as to legal sufficiency:


City Attorney



Tampa Bay Times Published Daily

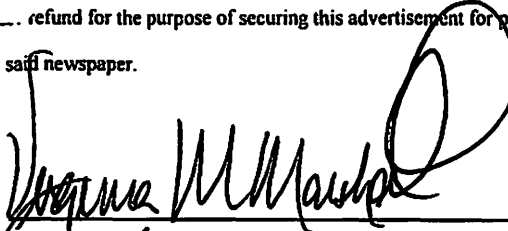
STATE OF FLORIDA
COUNTY OF Pinellas

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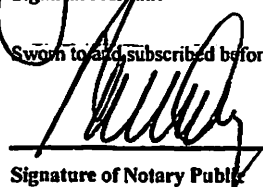
Before the undersigned authority personally appeared Virginia Marshall who on oath says that he/she is Legal Advertising Representative of the Tampa Bay Times a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter RE: Ordinance 2019-07, 17, 20 & 21 was published in Tampa Bay Times: 9/20/19 in said newspaper in the issues of Tampa Bay Times\Community Newspapers\Beaches

Affiant further says the said Tampa Bay Times is a newspaper published in Pinellas County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas County, Florida each day and has been entered as a second class mail matter at the post office in said Pinellas County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he/she neither paid

nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



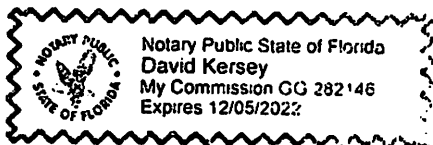
Signature Affiant



Signature of Notary Public

Personally known X or produced identification

Type of identification produced _____



NOTICE OF PUBLIC HEARING CITY OF MADEIRA BEACH

In accordance with the City of Madeira Beach Code of Ordinances, the City of Madeira Beach City Charter, and Florida Statutes §166.041(3)(a):

NOTICE IS HEREBY GIVEN, the Board of Commissioners of the City of Madeira Beach will conduct a Second Reading and Public Hearing for the adoption of proposed Ordinance 2019-07, Ordinance 2019-17, Ordinance 2019-20 and Ordinance 2019-21 on Tuesday, October 8, 2019 at 6:00 p.m. The meeting will be held in the Patricia Shontz Commission Chambers located at 300 Municipal Drive, Madeira Beach, FL 33708. The title of said Ordinance is as follows:

ORDINANCE 2019-07

AN ORDINANCE OF THE CITY OF MADEIRA BEACH AMENDING DIVISION 10. - PLANNED DEVELOPMENT, SEC. 110-388. - PURPOSE OF PLANNED DEVELOPMENT (PD) DISTRICT, STRENGTHENING PURPOSE AND INTENT; SEC. 110-387. - USES PERMITTED, ADDRESSING COMPATIBILITY AND SETTING STANDARDS FOR MIXED-USES; SEC. 110-388 - APPLICATION FOR PD ZONING, SPECIFYING SUBMISSION REQUIREMENTS AND DESIGN CRITERIA; SEC. 110-389. - PROCEDURE FOR APPROVAL OF PD ZONING, ADDING SPECIFIC PROCEDURES FOR REVIEW; SEC. 110-391. - REVIEW BY LOCAL PLANNING AGENCY, SPECIFYING RESPONSIBILITIES AND SPECIFYING REVIEW CRITERIA; SEC. 110-392. - NEIGHBORHOOD INFORMATION MEETING, REQUIRING MEETING TO BE HELD BEFORE LOCAL PLANNING AGENCY MEETING AND BE REPORTED AS AN ELEMENT OF APPLICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE

ORDINANCE NO. 2019-17

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING CHAPTER 110 - ZONING, ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION III. - WALLS, FENCES, HEDGES, AND SAND FENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE RECOGNITION OF STATE FREEMPTION; AND PROVIDING FOR AN EFFECTIVE DATE. FIRST READING.

ORDINANCE NO. 2019-20

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING LAND DEVELOPMENT REGULATIONS; ARTICLE VII. - OFF-STREET PARKING AND LOADING, SEC. 110-953 - MAINTENANCE; SEC. 110-955. - METHODS OF PROVIDING REQUIRED PARKING; SEC. 110-956. - SHARED PARKING FACILITIES; DIVISION 2. - OFF-STREET PARKING SPACES, SEC. 110-971 - NUMBER OF SPACES; SEC. 110-973. - OFF-STREET PARKING SPACE STANDARDS, REGULAR CAR OFF-STREET PARKING LAYOUT; ADDING SEC. 110-974. VALET PARKING; PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY AND; PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

ORDINANCE NO. 2019-21

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, AMENDING CHAPTER 78 WATERWAYS; ARTICLE I; SEC. 78-1 CONTAINERS AND/OR BOTTLES PROHIBITED ON PUBLIC BEACHES; SEC. 78-2-FISHING PROHIBITED; SEC 78-3.- SWIMMING AND SPEARFISHING; PROHIBITED IN CERTAIN AREAS; SEC. 78-4.-RESTRICTED SWIMMING AREAS ESTABLISHED; ARTICLE II. -BOATS; DIVISION 1-GENERALLY; SEC. 78-31.-ADOPTION OF STATE BOATING REGULATIONS; SEC. 78-32.-DEFINITIONS; SEC. 78-33.-SPEED RESTRICTIONS ON WATERCRAFT IN SPECIFIC AREAS; SEC. 78-34.- CONGESTED MARINE AREAS; SEC. 78-35.- WATERSKIING REGULATIONS GENERALLY; SEC. 78-36.- DOCKING LIMITATIONS; SEC. 78-37.- DISCHARGE OF SEWAGE FROM VESSELS INTO CITY WATERS; SEC. 78-38.- SLOW SPEED-MINIMUM WAKE AND IDLE SPEED-NO WAKE ZONES AND INFORMATIONAL MARKERS; SEC. 78-39.- AIRBOATS DECLARED A NUISANCE; OPERATION PROHIBITED; SEC. 78-40.- RESTRICTIONS ON USE OF PUBLIC PROPERTY; 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.

A copy of the proposed Ordinances is available for inspection in the City Clerk's Office between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. If you would like more information regarding the proposed Ordinances, please contact Linda Portal, Community Development Director, at 727-391-9951, ext. 255.

Interested parties may appear at the meeting and be heard with respect to the proposed ordinance. All persons are hereby advised that any presentation they make to the Board of Commissioners will be encouraged to be as precise as possible and will be limited to three minutes per speaker to permit maximum participation by the public at large.

Persons who wish to appeal any decision made by the Board of Commissioners with respect to any matter considered during a public hearing at this meeting will need a record of the proceedings, and for such purpose may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. It is the responsibility of the person making the appeal to bear the cost of hiring a private reporter or private recording firm to make the verbatim record.

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk's office no later than 4:00 p.m. on the day prior to the meeting; (727) 391-9951, Ext. 231 or 223 or fax a written request to (727) 399-1131.

Clara VanBlargan, MMC, MSM, City Clerk