

ORDINANCE NO. 2021-396

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 86 OF THE CODE OF ORDINANCES RELATED TO VESSELS INCLUDING BUT NOT LIMITED TO PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. Section 86-31 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 86-31. - Application.

This article shall have application upon all waters lying within the limits of the city. The provisions of F.S. ch. 327, as may be amended or superseded, except where the context requires otherwise or as noted below, are hereby adopted by reference. In the event of a violation of this article, the vessel or floating structure involved shall constitute a nuisance and will subject its owner and/or operator to be punished as provided by section 86-41 below. Any person found guilty of operating a vessel or of manipulating any water skis, aquaplane, or similar device in violation of the provisions of F.S. ch. 327, as may be amended or superseded, or this article will also be punished as provided by section 86-41 below.

Section 2. Section 86-32 of the Code of Ordinances of the City of Parker, Florida, is hereby amended to read as follows:

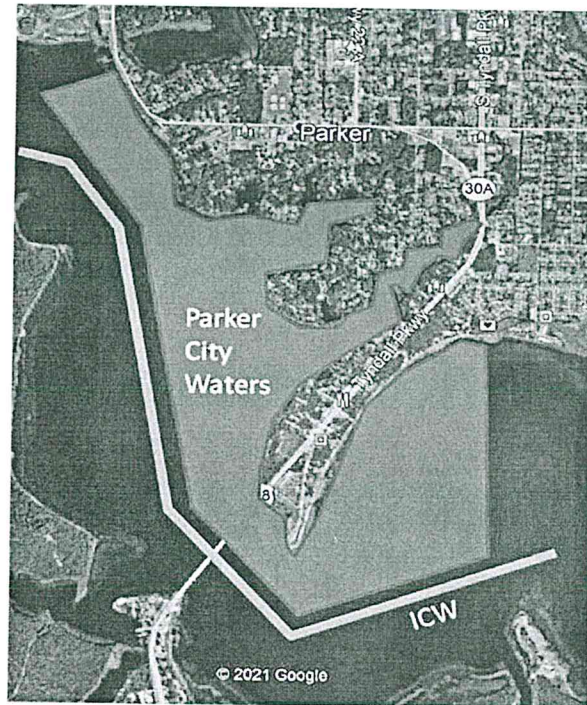
Sec. 86-32. Definitions.

In addition to the terms defined elsewhere in this Code, the following words, terms and phrases, when used in this article shall

have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

Anchoring means the act of securing a vessel or dinghy in city waters by means of an anchor or other device and associated tackle that is carried on board the vessel and cast or dropped overboard.

City waters means State of Florida waters adjacent to the City of Parker from the Mean High Tide Line out to, but not including the Intracoastal Waterway or its extent and fairways as is generally depicted on the picture set forth below. The extent of city waters includes but is not limited to the shoreline running South from Lake Martin Dam beginning approximately N30°08'07" W85°35'56" to and including all shoreline within Parker Bayou, the shoreline of Donalson Point to and including all shoreline within Pitts Bayou and the shoreline of Long Point ending approximately N30°07'05" W85°35'19" at the Parker City limits, then South to the Northern limit of the Intercoastal Waterway then West along the Northern limit of the Intercoastal Waterway to approximately N30°07'50" W85°37'18" closing at the start point South of Lake Martin. (Ref NOAA Chart 11391).



Commercial marina means a licensed and permitted commercial facility that provides secured public moorings or dry storage for vessels on a leased basis.

Commercial vessel means a vessel (other than a vessel primarily used for commercial fishing purposes) used as a place of business or a professional or other commercial enterprise and any vessel defined in F.S. §327.02(8), as may be amended or superseded.

Derelict vessel is as defined in F.S. §823.11.

Dinghy means any vessel not exceeding twelve (12) feet designed for and used primarily to serve a larger vessel by transporting persons and/or property to and from the larger vessel, from or to other vessels, piers, docks, or landing facilities.

Dock means a structure supported by pilings with decking that extends over city water and provides ready foot access to the adjacent upland. A floating structure may be considered a dock provided it is held in place by permanent pilings and has no structure above the level of the deck. Pilings without decking, pilings with associated decking that does not extend to and provide foot access to adjacent upland and pilings placed with city waters without a valid permit or without being exempt from permitting under state or local regulations are not docks.

Floating structure means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term "floating structure" includes, but is not limited to, those structures defined in F.S. §327.02(14), as may be amended or superseded, and each entity used as a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term "vessel" provided in this section. Floating docks that are permanently affixed to a dock permitted under F.S. §403.813(1)(b) and §403.813(1)(i) are expressly excluded from this definition. Incidental movement upon water or resting partially or entirely on the bottom shall not, in and of itself, preclude a structure from classification as a floating structure if the movement is in the same area.

In the same area means that a vessel is considered to be in the same area if it is within a radius of four (4) miles of any location where the vessel was previously moored or anchored.

Live-aboard vessel means a vessel as defined in F.S. §327.02(23), as may be amended or superseded. For the purposes of this article, a vessel used as a residence for any amount of time, which has not moved from its anchorage or mooring under its own propulsive power, for fourteen (14) days, shall not be considered engaged in navigation.

Mooring means the act of securing a vessel in city waters by means of a permanent or semi-permanent mooring system affixed to the bottom.

Mooring system means any weight, chain, rope, floating object, structure or appliance used for the purpose of holding a vessel in a particular place and which is not carried on board such vessel as regular equipment when the vessel is underway.

Operator means every person who shall own, physically operate, navigate or control any vessel.

Vessel is as defined in F.S. §327.02, as may be amended or superseded.

Section 3. Section 86-36 of the Code of Ordinances, City of Parker, Florida, is hereby amended by adding a section to be numbered 86-36, which said section reads as follows:

Sec. 86-36. Specific provisions for live-aboard vessels and commercial vessels.

(a) No vessel may anchor or moor within city waters that is not lawfully registered with a state authority and displaying registration numbers, hailing port and vessel registration decals required by that state. Notwithstanding the foregoing, United States Coast Guard ("USCG") documented vessels are not required to display registration numbers but must have hailing port markings and vessel registration decals required by their home port state.

(b) Live-aboard vessels are prohibited from mooring or anchoring in all city waters for more than ten (10) days. At the end of the ten (10) day period, a live-aboard vessel must be moved

from city waters and cannot be moored or anchored in city waters again for the next thirty (30) days. This section does not apply to live-aboard vessels engaged in the exercise of rights of navigation or secured at a dock or marina.

- (1) Exception: owners of upland real property with not less than 65 feet of shoreline abutting city waters and with a residence thereon or a valid permit to construct a residence thereon may apply for permit to anchor or moor one (1) live-aboard vessel directly off that property for a period of one (1) year. All registrations, markings, lighting and marine sanitation rules described in this section shall apply. The registered owner of the vessel must match the registered owner of the property in Bay County, Florida official records.

- (c) No vessel may anchor or moor within city waters for any amount of time without following 33 C.F.R. §83.30 USCG lighting requirements for vessels at anchor or marine sanitation requirements of F.S. §327.53, as may be amended or superseded.

- (d) No live-aboard vessel within city waters may affix any line to any property abutting city waters unless falling under the exception set forth in (b) above.

- (e) All live-aboard vessels anchored or moored within city waters must be removed or evacuated from city waters within twelve (12) hours of a weather emergency declaration issued by the Governor of this state, the Board of County Commissioners of the county, or the Mayor of the city.

- (f) A commercial vessel may only anchor or moor within city waters for the purpose of conducting business and must hold a valid city license as required by ch. 18 of this Code. In this instance, each period of conducting business operations shall not exceed forty-eight (48) consecutive hours. The provisions of subsections (a) and (c) above shall also apply.

Section 4. Section 86-37 of the Code of Ordinances, City of Parker, Florida, is hereby amended by adding a section to be numbered 86-37, which said section reads as follows:

Sec. 86-37. Floating structures prohibited.

Floating structures are prohibited from anchoring, docking or mooring in any city waters, except at the following:

(a) Commercial marina by permission of the owner of the facility.

(b) Any city marina or dock with the written permission of the mayor or designee.

Section 5. Section 86-38 of the Code of Ordinances, City of Parker, Florida, is hereby amended by adding a section to be numbered 86-38, which said section reads as follows:

Sec. 86-38. Obstructing channels; unlawful anchoring, mooring or docking.

It shall be unlawful: (1) for any vessel within the city waters to tie up to any navigational aid within the city waters except in an emergency; (2) for any vessel to obstruct any channel marked by the USCG except in an emergency; or (3) for any vessel to anchor, moor or dock without permission within the marked boundaries of any marina.

Section 6. Section 86-39 of the Code of Ordinances, City of Parker, Florida, is hereby amended by adding a section to be numbered 86-39, which said section reads as follows:

Sec. 86-39. Vessel cleaning.

Cleaning or washing vessels with detergents containing phosphates, chlorine, or petroleum distillates is prohibited within city waters.

Section 7. Section 86-40 of the Code of Ordinances, City of Parker, Florida, is hereby amended by adding a section to be numbered 86-40, which said section reads as follows:

Sec. 86-40. - Misuse of amenities.

The misuse, vandalism, or destruction of any amenities at city owned or operated docks or mooring facilities is grounds for ejection. If anyone damages any property or equipment of a city facility or its amenities due to neglect, misuse, failure to follow stated directions, or vandalism, they shall be held responsible for the cost of repair and replacement, as well as any criminal or civil charges for the activity.

Section 8. Section 86-41 of the Code of Ordinances, City of Parker, Florida, is hereby amended by adding a section to be numbered 86-41, which said section reads as follows:

Sec. 86-41. Penalties.

The provisions of this article shall be enforced as provided in chapter 1 of this Code, and by such other means as are specified herein below:

(a) Code enforcement: The code inspector may enforce the terms of this article by bringing a case to the special magistrate as provided in chapter 26 of the Code.

- (1) In addition to any other remedy of or recourse of the city to enforce the terms of this article or to cause the cessation of a nuisance, the following shall apply:

- a. If the owner or other party in interest fails to correct a nuisance within the time permitted by the notice of civil violation issued pursuant to article II of chapter 26 within the time set forth therein or after a final determination is made by a special master and upheld in any appeal finding a nuisance and requiring correction thereof pursuant to chapter 26 of this Code, the city is authorized to vacate, demolish or remove or otherwise abate the nuisance, using city employees or an independent contractor submitting the lowest and best bid.

- b. The city clerk, after proceeding under this section shall, as often as may be convenient, report the action taken by the city to abate the nuisance

and the city shall assess the entire cost of such action against the real property, which assessment, when made, shall constitute a lien upon the vessel in favor of the city.

b. The city clerk shall record or file such lien in or with the appropriate county, state or federal office(s)/agency(ies), showing the nature of such lien, the amount thereof, and an accurate description of the vessel, which lien shall have its priority as of the time and date of recording/filing.

c. The lien of the city shall encompass, in addition to the abatement cost for the vacation or removal of the facility, all administrative, legal, postal and publication expenses, as well as rodent extermination when employed, and all other direct or indirect costs associated therewith.

d. The lien shall recite the names of the owner of the vessel and all persons notified or interested parties.

e. Such lien shall bear interest from the date of recording at the same rate as judgments obtained within the state and shall be enforceable in accordance with the laws of the state on the enforcement of liens pursuant to F.S. ch. 713.

(b) Civil citation: The code inspector or other duly authorized officer or authority including but not limited to any law enforcement officer may enforce the terms of this article through issuance of civil citation as provided in chapter 26 of the Code.

(c) Any alleged violation of this article may be prosecuted and punished as provided in F.S. §§ 327.70 through 327.74, as may be amended or superseded.

(d) Criminal penalties: A violation of this article shall be punishable as a misdemeanor by a fine of up to five hundred dollars (\$500.00) per violation and a definite term of imprisonment of not more than sixty (60) days as provided in F.S. § 162.22, as may be amended or superseded.

It is the legislative intent of the city council in enacting the provisions herein to provide an additional or supplemental means of obtaining compliance with the requirements stated herein. Nothing contained in this article shall be deemed to prohibit the city from seeking enforcement by any other means provided by law, including, but not limited to, filing an action for declaratory and injunctive relief in a court of competent jurisdiction.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance. If any penalty of this section is deemed inconsistent with any Florida Statute, the provisions of the Florida Statute shall prevail.

Section 10. Scrivener's Error.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 11. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 12. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 13. Repeal of Conflicting Codes, Ordinances, and Resolutions.

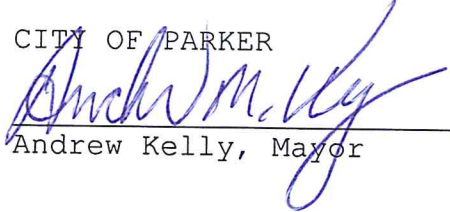
All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 14. Effective Date.

This Ordinance shall take effect immediately upon its passage.

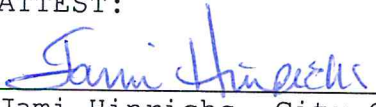
PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 5th day of October, 2021.

CITY OF PARKER



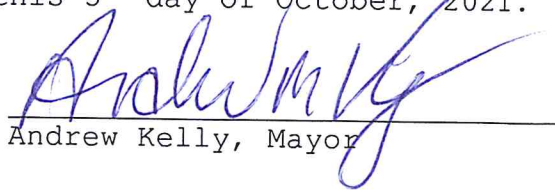
Andrew Kelly, Mayor

ATTEST:



Jami Hinrichs, City Clerk

Examined and approved by me, this 5th day of October, 2021.



Andrew Kelly, Mayor