

## M E M O R A N D U M

**To:** Tom Harmer, Town Manager

**From:** Allen Parsons, AICP  
Director, Planning, Zoning and Building Department

**Report date:** October 23, 2020

**Meeting date:** November 2, 2020

**Subject:** Ordinance 2020-15, Amending Chapter 93, Vessels, Waterways and Water Activities

### **Recommended Action**

Adopt Ordinance 2020-15.

### **Background**

The Florida Legislature has adopted extensive regulations governing vessel anchoring and mooring in Chapters 327 and 328 of the Florida Statutes; and pre-empted much of the vessel anchoring and mooring regulations to the State. In recent years, as a result of live-aboard vessel complaints throughout the State, the Legislature has clarified and expanded the Statutory definition of “live-aboard” and expands a local government’s authority to prohibit such qualifying live-aboard vessels within their jurisdictions.<sup>1</sup>

Ordinance 2020-15 provides language that brings the Town Code into compliance with revisions to Florida Statutes, including the definition of “live-aboard vessels”. The Ordinance deletes the Town Code language that regulates vessel motor noise as it is now pre-empted by State law, which only authorizes a county to regulate such noise following the county’s adoption of certain specified sound regulations. (See FL Statutes §§ 327.60 and 327.65.)

Staff worked with the Town Attorney, the Town Police Department, and Florida Fish & Wildlife Commission representatives to develop the amendments in Ordinance 2020-15. This amendment consists primarily of updating the definitions Section of Chapter 93, but also provides updates to Sections of this Vessels, Waterways and Water Activities in the Town Code regarding Disturbing the Peace from Vessels, Mooring Regulations, Placing of Obstructions, Abandonment of Vessels, cleanup amendment wording of the Ordinance, and to provide for consistency with Florida Statutes.

The amendments, presented at the October 5, 2020 Regular Meeting, are intended to update Chapter 93 of the Town Code regarding the regulation of Vessels, Waterways

---

<sup>1</sup> Fla. Stat. 327.02(22) defines a “live-aboard vessel” as: (a) a vessel used solely as a residence and not for navigation; (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.”

and Water Activities in and on the waters of the Town of Longboat Key. The intent is to achieve consistency with applicable general law, provide cleanup of existing Ordinance text and definitions, and provide sound basis for any future required Code enforcement of Chapter 93.

At the October 5<sup>th</sup> Regular Meeting, the Commission requested that the Ordinance be revised to address existing code language that was identified as confusing to a reader. Sec. 93.10(E), has been modified to address the concern. The Commission also requested that the staff remove the word “manmade” as an unnecessary qualifier for a type of canal from the Disturbing the Peace from Vessels, Section 93.09.

The Section describes that it is unlawful to moor a vessel in excess of 12 hours when there is not (mooring) signage posted. It appears that the 12 hour mooring time limit is the requirement being regulated by this provision, unless the mooring area has been otherwise prohibited by posted signage. Florida Statutes gives the Town the right to prohibit mooring to certain types of unauthorized objects (Ord. 2020-15 clarifies what it means to be “unlawful” in newly added (C) and (D)); but the Statute is silent on the ability to control the duration (time) of a mooring unless the Town were to have an established mooring field. To minimize unnecessary complication, staff recommends that Sec. 93.10(E) be struck in its entirety. This change is highlighted in the attached updated draft of Ord. 2020-15.

The Town Commission held first reading of Ordinance 2020-15 at their October 5, 2020 Regular Meeting, directed staff to clarify certain provisions of the Ordinance, and forward to the November 2, 2020 Regular Meeting.

### **Staff Recommendation**

Adopt Ordinance 2020-15.

### **Attachments**

- A. Ordinance 2020-15 (Available in Town Clerk’s Office)
- B. PowerPoint Presentation (Available in Town Clerk’s Office)

**End of Agenda Item**