

ORDINANCE NO. 2021-14

**AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA,
AMENDING § 5-30 OF THE TOWN CODE (LIVE-ABOARD
WATERCRAFT) TO INCORPORATE STATE STATUTORY
STANDARDS; MAKING RELATED FINDINGS; AND PROVIDING FOR
CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

WHEREAS, unless preempted by Florida law, the Town has home rule jurisdiction over certain waters off its shores which lie within its jurisdictional boundaries; and

WHEREAS, Florida Statutes § 327.60, entitled *Local regulations; limitations*, prohibits local governments from adopting ordinances or regulations which, among other things, regulating the anchoring of vessels outside the marked boundaries of city or county mooring fields; and

WHEREAS, notwithstanding that preemption, subsection (2)(f) of the statute does allow local governments to regulate the anchoring of vessels outside the marked boundaries of mooring fields if the vessel is a live-aboard vessel or a commercial vessel (excluding commercial fishing vessels); and

WHEREAS, subsection (3) of the statute provides, “does not prohibit local governmental authorities from the enactment or enforcement of regulations that prohibit or restrict the mooring or anchoring of floating structures, live-aboard vessels, or commercial vessels, excluding commercial fishing vessels, within their jurisdictions”; and

WHEREAS, based on that authority, on November 20th 2019, the Town Commission adopted Ordinance 19-11 which created § 5-30 of the Town Code, entitled *live-aboard watercraft*; and

WHEREAS, subsection (b) of that new section provided, in relevant part, “It shall be unlawful for any person to live aboard any watercraft within or upon the waterways of the Town”; and

WHEREAS, subsection (b) went on to provide a definition of what live-aboard meant; and

WHEREAS, the Town, seeking to ensure the live-aboard prohibition was enforceable, requested an opinion from the Florida Attorney General; and

WHEREAS, the Florida Attorney General’s opinion was that, to be enforceable, the Town needs to use the exact definition of live-aboard found in Florida Statutes § 327.02(23); and

WHEREAS, the Town Commission desires to ensure that should persons attempt to moor or anchor a live-aboard vessel within the Town’s jurisdictional waters that it will be able to enforce § 5-30(b) and so desires to amend the code to incorporate the statutory definition; and

WHEREAS, the Town Commission determines that it is in the interest of the public health, safety, and welfare of the Town’s residents and property owners to adopt this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Redington Beach, Florida, that:

Section 1. Section 5-30 of the Town Code of the Town of Redington Beach is hereby amended to read as follows:

Sec. 13-32. – Operation of vehicles on beaches.

- (a) For purposes of this section, a watercraft shall mean a ship, vessel, boat, yacht, raft, barge, houseboat, live-aboard, or other floating structure. A commercial fishing vessel is expressly excluded from this definition. In the event any definition of any word or term in this chapter 5 differs from the definition provided in Florida Statutes § 327.02, the statutory definition shall prevail and be applied to the relevant code section.
- (b) It shall be unlawful for any person to anchor or moor a live aboard ~~vessel~~any watercraft within or upon the jurisdictional watersways of the tTown. For the purposes of this section, live aboard vessel means a vessel used solely as a residence and not for navigation, a vessel for which a declaration of domicile has been filed pursuant to Florida Statutes § 222.17, or 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. to use any watercraft principally as a residence, or to represent any vessel as a place of business, a professional or other commercial enterprise, or a legal residence, and provide or serve, on a short term or long term basis, the essential services or functions typically associated with a structure or other improvement to real property, and, if used as a means of transportation, this use is a secondary or subsidiary use.
- (c) It shall be unlawful for any unattended watercraft to be anchored or moored to any public sign, marker, or buoy within the jurisdictional, ~~or beside waters of the tTown~~ unless expressly allowed in this cChapter.
- (d) Nothing in this section shall be construed so as to keep an owner or operator of any boat or watercraft from temporarily leaving such boat or watercraft at the waters edge during daylight hours while the boat or watercraft is in use by the owner or operator. Nothing in this section shall be deemed to invalidate the mooring of watercraft as described in §See. 5-26 of the Town Code.
- (e) Any person who violates any of the provisions of this section shall be subject to the penalties provided in Sec. 1-14 of the Town Code.

Section 2. For purposes of codification of any existing section of the Redington Beach Code herein amended, words underlined represent additions to original text, words ~~stricken~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Redington Beach Town Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

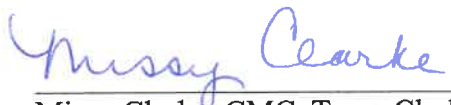
Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the 17th day of November, 2021, by the Board of Commissioners of the Town of Redington Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the 5th day of January, 2022, by the Board of Commissioners of the Town of Redington Beach, Florida.

Attest:


David Will, Mayor


Missy Clarke, CMC, Town Clerk

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello		X	X		
Commissioner Kornijtschuk	X		X		
Commissioner Skjoldager					X
Vice Mayor Dorgan			X		
Mayor Will			X		