

ORDINANCE 24-15-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO LIVERY VESSELS; AMENDING SECTIONS 13-141 "DEFINITIONS" AND 13-144 "APPLICATION FOR PERMIT" OF THE CITY CODE OF ORDINANCES; PROVIDING FOR FINDINGS OF FACT; CLARIFYING THE DEFINITION OF LIVERY VESSEL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 386, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the tranquility, environmentally sound, and orderly and safe use of City waterways is of prime importance to the city, its citizens and visitors; and

WHEREAS, the City Council of the City of Destin recognizes that the unregulated rental of livery vessels by the public impacts the welfare of the historic working waterfront, and jeopardizes the health, safety and welfare of the city's residents, property owners, and visitors; and

WHEREAS, it is therefore necessary and in the interest of the public health, safety and welfare to monitor and provide reasonable means to ensure adherence to state laws and insure safe and responsible operation of such livery vessels; and

WHEREAS, the unregulated rental of livery vessels has led to increased instances of unlicensed businesses renting livery vessels to inexperienced operators, which has led to unsafe conditions in the waters of the city during many times of the year; and

WHEREAS, the requirement of a permit for each livery vessel, that shall be rented out within the city, and the permit fees collected and used to support the code enforcement division in enforcing this ordinance, will allow the city to effectively regulate and monitor livery vessels being rented by businesses within the city, which is reasonably related to protecting the public health, safety, and welfare of the city's residents and visitors, and is also reasonably related to preserving the historic working waterfront of the city; and

WHEREAS, the City Code of Ordinances, Article VIII requires permitting and regulations of livery vessels; and

WHEREAS, section 327.02(24) provides that "Livery vessel" means a vessel leased, rented, or chartered to another for consideration; and

WHEREAS, section 327.02(47) provides that "Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

WHEREAS, the City Council endeavors to be consistent with State Laws and further address the specific needs of the City and its waterways; and

WHEREAS, the City Council desires to clarify that bareboat charters are not exempt from the definition of “livery vessel” unless they pre-existed the moratorium;

WHEREAS, the City Council recognizes that notwithstanding that all bareboats are livery vessels, certain bareboat yacht rental businesses received business tax receipts from the City and have been operating and expending substantial funds on their business without complying with existing regulations applicable to livery vessels; and

WHEREAS, these bareboat yacht rental operations occurred due to the fact that such yacht bareboats regularly operated with a U.S. Coast Guard licensed captain in control of the vessel at all times, and the entities thus reasonably believed that they were therefore exempt from City livery regulations; and

WHEREAS, the City Council desires to treat such bareboat yacht rental operators as legal non-conforming uses provided that certain criteria are met, and provided that they come into compliance with applicable City Codes within one year; and

WHEREAS, the City Council finds that this Ordinance serves the public interest and is necessary and appropriate to protect public health, safety, and welfare of its citizens and visitors.

WHEREAS, the City Council has determined that this ordinance is in the best interests of the City and its citizens; and

WHEREAS, two public hearings have been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Code of Ordinances that have been skipped and remain unchanged.

SECTION 3. AMENDING ARTICLE VIII OF THE CODE OF ORDINANCES, SECTION 13-141, “DEFINITIONS” AND SECTION 13-144 “APPLICATION FOR PERMIT.”

Article VIII of the Code of Ordinances is hereby amended as follows:

ARTICLE VIII. - PERMITTING OF LIVERY VESSEL RENTALS

Sec. 13-141. - Definitions.

For the purpose of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present

tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their meaning as provided in section 1-2, Definitions and rules of construction, of the City of Destin Code of Ordinances.

13-141. - Definitions.

Livery vessel is as defined in F.S. & 327.02, and any motorized vessel that is rented, leased and/or chartered by the owner to another party for a designated period of time, and that during such designated period of time the vessel is under control of that party, but does not mean, (1) a vessel under the control at all times by a United States Coast Guard licensed Captain; or (2) paddleboards, kayaks, canoes, and sailboats or any other vessel not powered by an internal combustion or an electrical engine or a sail (sailboards excluded).

a. A "bareboat charter" is a livery vessel. Notwithstanding that all bareboats are livery vessels, the City Council recognizes that certain bareboat yacht rental businesses received business tax receipts from the City and have been operating and expending substantial funds on their business without complying with existing regulations applicable to livery vessels. These operations occurred due to the fact that such yacht bareboats regularly operated with a U.S. Coast Guard licensed captain in control of the vessel at all times, and the entities thus reasonably believed that they were therefore exempt from City livery regulations. Such entities shall be considered legal non-conforming uses that are allowed to continue operating, provided that they may not expand their business and further provided that they must come into compliance with all applicable City codes within one year of the date of this Ordinance. Such yacht rental businesses must demonstrate to the City Manager or City Manager's designee that (1) the business has been in existence and in receipt of a business tax receipt from the City of Destin prior to the January 1, 2024 and (2) the business is able to demonstrate a Substantial Hardship, as the term is defined herein. "Substantial hardship" means a demonstrable, direct, financial detriment in excess of \$50,000.00 suffered by a Vendor as a result of capital investments purchased with a reasonable belief that such vessel was not a livery vessel at the time of such investment; and (3) the vessel is certified as a yacht by the National Marine Manufacturers Association.

b. Each vessel that is included within the fleet of a boat club is a livery vessel.

Sec. 13-144. - Application for permit.

(18) Any person or entity that rents, leases or charters one or more vessels to another but claims their vessel or vessels are excluded from the definition of a livery vessel because the vessel or vessels are under the control of a United States Coast Guard licensed Captain at all times must provide satisfactory evidence to the City of such claim by providing to the City one valid, current copy of the Captain's license assigned at all times to each excluded vessel.


SECTION 4. INCORPORATION INTO CITY CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.


SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED this 18th day of February, 2025.


Bobby Wagner, Mayor

ATTEST:


Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Attorney, for the City of Destin, only.


Kimberly Romano Kopp, City Attorney

First Reading: October 7, 2024

Second Reading: February 18, 2025