

ORDINANCE 2021-04

AN ORDINANCE OF THE CITY OF MARY ESTHER, FLORIDA, PROVIDING FOR AMENDMENT OF THE LAND DEVELOPMENT CODE ARTICLE 3 SECTION 3.00.00 DEFINITIONS; ARTICLE 11 SECTION 11.05.01 PURPOSE; ARTICLE 11 SECTION 11.05.02 PERMITTING PROCEDURES; ARTICLE 11 SECTION 11.05.05 LIVEBOARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City is committed to a fair and uniform application of its codes and ordinances;

WHEREAS, the City is committed to regulations intended to protect coastal resources;

WHEREAS, the City Council promotes the adoption of uniform construction and development standards;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARY ESTHER, FLORIDA THAT:

NOTE: Language contained within this ordinance that is ~~struck-through~~ is proposed to be deleted, language which is underlined is proposed to be added, and **** denotes a section or sections of the existing Code that have been omitted and are to remain unchanged.

SECTION I - AMENDING

3.00.00 - DEFINITIONS

Derelict Vessel: A vessel as defined in Florida Statute 327.02, that is left, stored, docked, grounded, beached, or abandoned in a wrecked, junked, inoperable or substantially damaged or dismantled condition upon any public waters of the state or private or public property.

Riparian Rights Lines: Lines incident to land bordering upon navigable waters that convey rights of ingress, egress, boating, bathing and fishing and such others as may be or have been defined by Florida Statute 253.141, Florida Administrative Code Chapter 18-21, and all future amendments thereto.

11.05.00 - PROTECTING/IMPROVING WATER QUALITY OF SANTA ROSA SOUND

11.05.01 Purpose: This Article establishes regulations, procedures and standards by which the City shall control and regulate development, construction and activities on, within and contiguous to Santa Rosa Sound. The following regulations and prohibitions shall apply to the Sound and contiguous lands:

I. No dock shall be constructed which ~~permits~~ allows the docking of a liveaboard ~~unless such vessel has an operable holding tank.~~

Q. No dock, structure, piling, breakwater, jetty, groin, activity or vessel shall be placed within the twenty-five (25) foot side setback of a side yard property line the property owner's riparian rights lines. This section does not include seawalls or retaining walls.

X. No seawall, retaining wall, marine structure, pier or dock must shall lose its structural and or aesthetic appearance due to age, damage or use. If more than thirty five (35) percent of the materials of which the structure is composed has become broken, torn, loose, or otherwise deteriorated structurally or aesthetically, the structure must be repaired in such manner as to assure it is uniform in appearance and is structurally sound.

Y. No person shall anchor, moor or otherwise keep their vessel attached to any City dock or property except while engaged in launching, recovering or loading said vessel or unless otherwise authorized by the City.

Z. No person shall store or keep any vessel which is derelict, inoperable, in a state of disrepair, or may not legally be operated upon the waters of the State, moored or anchored to a dock, upon any private or public property, or upon the waters of the State.

11.05.02 Permitting Procedures

A. Persons desiring to construct a new, substantially renovate, or increase more than thirty (30) percent in size, a dock, seawall, retaining wall, or any other marine structure or substantially renovating an existing dock to the extent of reconstructing more than 50 percent of the existing structure or constructing an addition that would increase the structure by more than thirty (30) percent shall apply for and obtain a permit and other written authorization from the City prior to construction. Structural repairs regardless of the percent of the structure damaged may require a permit at the discretion of the City.

C. Application shall be made by filing with the City, any City Permit Application form and a copy of the Joint Application form used by the United States Army Corps of Engineers, the Florida Department of Environmental Regulation, and the Florida Department of Natural Resources, the requirements of which are expressly adopted herein as they existed on the effective date of this Code, and as they are hereafter amended by said respective agencies. Such applications shall contain:

1. A sealed plat map survey showing the location of the proposed construction and/or renovation, all dimensions, setbacks, distances, riparian lines, uplands and lot width.
2. A scaled drawing of the proposed construction and/or renovation specifying the general dimensions, means of attachment and types of materials to be used.

F. The City Council/LPA shall take final action on the application within thirty (30) days of receipt of all required documentation.

G. All dock and seawall approvals marine permits issued by the City shall be valid for a period of one (1) year six (6) months from the date such approval is granted. Existing approvals expire one (1) year from the date of issuance.

11.05.05 Liveaboards: Liveaboard vessels are prohibited. No person shall use any vessel for the purpose of his or her residence. For the purpose of determining whether a particular vessel,

boat or watercraft is a liveaboard vessel within the purview of this chapter, consideration shall be given to the Florida Attorney General's Opinion Number 85-45. Except in an emergency, no person(s) shall live aboard any boat in the Sound for a period exceeding forty eight (48) hours without notifying the Mary Esther City Manager. In cases of an emergency, such notification shall be given to the City Manager within twenty four (24) hours after the immediate emergency situation ceases. Proof that each liveaboard boat has an operable holding tank must be furnished to the City Manager at time of notification.

SECTION II - SEVERABILITY

Should any part of this ordinance be declared unconstitutional or void by a court of competent jurisdiction, the remaining parts shall remain in full force and effect.

SECTION III - CONFLICT

This Ordinance shall prevail over all prior Ordinances or Resolutions or parts thereof in conflict herewith. Where any part of the City Code conflicts with the Florida Building Code, the more restrictive code shall be enforced.

SECTION IV - EFFECTIVE DATE

This ordinance shall become effective upon adoption according to law.

SO DONE THIS 4th day of OCT 2021.

By:

Margaret McLemore
Margaret McLemore, Mayor

ATTEST:

Dana L.S. Williams
Dana L.S. Williams, MMC
City Clerk

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