

City of Tarpon Springs, Florida STAFF REPORT

May 19, 2016

TO: PLANNING AND ZONING BOARD

FROM: PLANNING AND ZONING DEPARTMENT

HEARING DATES: MAY 15, 2016 (PLANNING & ZONING BOARD)
JUNE 7, 2016 (BOARD OF COMMISSIONERS)

SUBJECT: APP-16-36 BOAT & TRAILER ORDINANCE AMENDMENT
ORDINANCE 2016-06: AN ORDINANCE OF THE CITY OF
TARPON SPRINGS, FLORIDA, AMENDING CHAPTER 5:
BOATS, DOCKS AND WATERWAYS, SECTION 5-26 BOAT
LAUNCH PERMITS, AND CHAPTER 18: TRAFFIC,
SECTION 18-14 PARKING OF LARGE VEHICLES AND
TRAILERS IN RESIDENTIAL DISTRICTS; PROVIDING
FOR REPEAL OF ORDINANCES OR PARTS OF
ORDINANCES IN CONFLICT HEREWITH; PROVIDING
FOR SEVERABILITY; PROVIDING FOR INCLUSION IN
THE CODE OF ORDINANCES OF THE CITY OF TARPON
SPRINGS, FLORIDA; AND PROVIDING FOR THE
EFFECTIVE DATE OF THIS ORDINANCE.

I. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2016-06 to amend the Tarpon Spring Code of Ordinances.

II. PLANNING AND ZONING BOARD RECOMMENDATION

The Planning and Zoning Board held a public hearing on Application 16-36 Ordinance 2016-06 on May 16, 2016. The Planning and Zoning Board had some question about parking of boats and trailers on public rights of way. The City Attorney explained that the proposed revisions will not change the provisions of the Code that restrict the parking of boats and trailers in public rights of way. The Planning and Zoning Board vote 4-0 to recommend approval of the Ordinance amendments.

List of Exhibits:

- 1) Memo from City Attorney
- 2) Ordinance 2016-06



T R A S K
D A I G N E A U L T
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A T T O R N E Y S

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MEMORANDUM

TO: Mayor Chris Alahouzos
Vice Mayor Townsend Tarapani
Commissioner David Banther
Commissioner Rea Sieber
Commissioner Susan Slattery

FROM: Jay Daigneault, Esq., City Attorney

CC: Mark LeCouris, City Manager

DATE: May 9, 2016

RE: Boat Parking Ordinances

Dear Mayor, Vice Mayor, Commissioners:

Under the Tarpon Springs Code of Ordinances, there are three separate provisions dealing with the parking of boats or boat trailers which, at best, may create an ambiguity of what is permitted and what is prohibited.

The first provision appears in Chapter 5, which specifically deals with boats, docks and waterways. Under Section 5-26, a boat trailer may only park on public property if it has a valid boat launch permit, and in no event may a boat or boat trailer be parked on city property for more than 48 hours. *Tarpon Springs Code* § 5-26 (a). Read by itself, this provision seems straightforward. However, under the zoning regulations, no recreational vehicles are permitted to be parked on a sidewalk, street, or public right-of-way, and the Code specifically includes boats, boat trailers, and house boats in the definition of recreational vehicles. *Tarpon Springs Code, Appendix A Comprehensive Zoning and Land Development Regulations* § 42.00(A), (L). Finally, Chapter 18, Traffic, provides specific regulations on parking vehicles with attached trailers on public streets or right-of-way. *Tarpon Springs Code* § 18-14. This section also references a “Craig Park boat launch permit,” but no other section of the Code provides any regulations for a boat launch permit for Craig Park only.

Under the rules of statutory interpretation applicable to the reading of these ordinances, related provisions must be read together (*in pari materia*) and effect must be given to every provision therein. Deen v. Wilson, 1 So.3d 1179, 1182 (Fla. 5th DCA 2009) (statutes on the same or similar subjects should be construed together to harmonize the statutes and to give effect to the Legislature’s intent). While on the one hand there is a provision which provides that no boats may

be parked on public streets, another provision appears to provide an exception to the rule. This may create ambiguities in these code sections and render them unenforceable for failure to put a person of reasonable and ordinary intelligence on notice of what conduct is prohibited. State v. Hagan, 387 So.2d 943, 945 (Fla. 1980) (“The test employed by the Courts for a void for vagueness constitutional challenge is whether or not the language conveys a sufficiently definite warning as to the prohibited conduct when measured by common understanding and practice”).

In order to provide for consistency, the attached proposed Ordinance contains cross-references and deletes language that could be construed as ambiguous or unharmonious with other provisions in the Code of Ordinances. In the proposed amended Section 5-26, I included references to the parts of the Code that prohibit the parking of recreational vehicles in residential areas, specifically on the rights-of-way, public streets, and sidewalks of residential districts. The intent of the Ordinances, when read together, appears to be to prohibit the parking of boats and boat trailers on public streets and right-of-ways in residential neighborhoods, and to only allow the parking of permitted trailers in municipal boat launch parking areas. I believe that the proposed language effectuates this intent. In this section, I also clarified the language regarding acceptable forms of identification and registration requirements required to get a boat launch permit by specifying that government issued photo identification was required in addition to the most recent utility bill in order to verify residency within the City, as well as proof of a valid registration for the trailer being permitted. I also specified that the registration was required for the trailer and not the boat because the trailer is the vehicle being permitted for parking. The registration will go on the trailer and not the boat.

Similarly, in Section 18-14, I deleted specific references to the Craig Park permit so that these provisions will clearly apply to any boat ramp located within the City. I deleted the provision which provided that boats and boat trailers may be parked on streets adjacent to the boat ramp as this is inconsistent with the regulations which prohibit the parking of recreational vehicles on public streets and rights-of-way in the companion sections of the Code. Additionally, I added language making it clear that there was a prohibition on storing a boat or boat trailer at any municipal boat ramp, and such vehicles may only be there for forty-eight (48) hours or less. Under this section, I also added language to sub-paragraph (b) which only allows for the exceptions provided within this section of the Ordinance, specifically due to the reference which prohibited the parking of detached trailers in municipal parking areas. Without clearly identifying that there were exceptions, this paragraph would appear to create an inconsistency for the parking of permitted trailers in municipal boat launch parking areas.

I did not make any changes to the definition of “Recreational Vehicle” that is contained in the City’s *Comprehensive Zoning and Land Development Code* under the assumption that the City desires that the parking and storage provisions contained in *Appendix A* to be applicable to boats and boat trailers. Although the definition of “recreation vehicle” in the Florida Statutes does not typically include boats, the City’s inclusion of boats and similar vessels and watercraft under the umbrella of recreational vehicles for the purposes of parking and storage regulations in the Zoning Code does not create any problems once there is consistency among the other regulations. *Florida Statutes* §§ 320.01(1)(b), 681.102(20). However, for enforcement purposes, it should be noted that this is the only context where boats are considered recreational vehicles, and the City’s inclusion of boats in this term does abrogate any statutory regulations.

Respectfully,

/s/ Jay Daigneault, Esq.
City Attorney

JD/jd

ORDINANCE 2016-06

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING CHAPTER 5: BOATS, DOCKS AND WATERWAYS, SECTION 5-26 BOAT LAUNCH PERMITS, AND CHAPTER 18: TRAFFIC, SECTION 18-14 PARKING OF LARGE VEHICLES AND TRAILERS IN RESIDENTIAL DISTRICTS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF THE CITY OF TARPON SPRINGS, FLORIDA; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Board of Commissioners of the City of Tarpon Springs desires to provide citizens, residents, and visitors with clear and consistent guidelines for the parking and use of boat trailers; and

WHEREAS, the City of Tarpon Springs desires to provide applicants for permits with a clear and efficient process under the applicable regulations; and

WHEREAS, the Board of Commissioners of the City of Tarpon Springs finds these amendments to be in the best interest of the health, safety and welfare of the citizens by providing for clarity and consistency in the regulation of boat trailer parking and utilization of the City's boat launch areas; and

WHEREAS, the passage of this ordinance complies with all other laws and regulations of the State of Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF TARPON SPRINGS THAT:

SECTION 1. Chapter 5: Boats, Docks and Waterways, Section 5-26. – Boat Launch Permit, shall hereinafter be amended to read as follows:

§ 5-26. - BOAT LAUNCH PERMIT.

- (a) No person shall park a boat trailer on public property without a valid boat launch permit affixed conspicuously to the drivers' side of the trailer. Residents shall purchase such permits for \$25 for a 12-month period; Non-residents shall purchase such permits for \$100 for a 12-month period or \$25 for a 30-day period. No boat or boat trailer may be parked on city property for more than 48 consecutive hours. Nothing contained herein alters or amends the provisions of §18-14. – Parking of Large Vehicles and Trailers in Residential Districts, or Appendix A, §42.00.- Parking of Recreational Vehicles in Residential Areas.
- (b) Definitions of terms herein shall be those of F.S. § 316.003, unless the context otherwise required, and liability for payment of violations hereof shall be determined by F.S. § 316.1967.
- (c) Proof of City of Tarpon Springs residency requirements will include ~~a valid Florida Drivers License, which shows the address of the individual as a resident (this does not include a Florida State Identification Card) or a Voters Identification Card, which identifies the individual as a resident of Tarpon Springs and a Photo ID. (The photo ID is required since there is no photo on a Voters Registration Card)~~ any government issued photo identification, including but not limited to, driver's licenses and passports, as well as the most recent utility bill

at the subject address. Residents must also provide a current registration proving licensure and ownership of the boat trailer they are being permitteded.

- (d) The City Manager or "designee" is authorized to issue regulations to enforce the provisions hereof, including the revocation of the decal permit of any trailer or boat owner who violates the provisions of this section.
- (e) Violations of this section shall be punished according to § 1-8 of the code of ordinances and F.S. Ch. 316.

SECTION 2. Chapter 18: Traffic, Section 18-14. – Parking of Large Vehicles and Trailers in Residential Districts, shall hereinafter be amended to read as follows:

§ 18-14. - PARKING OF LARGE VEHICLES AND TRAILERS IN RESIDENTIAL DISTRICTS.

- (a) No vehicle or vehicle and attached trailer or semi-trailer in excess of twenty-two feet in length shall park or stand on any public street or right-of-way or municipal parking area in any residentially zoned district except that vehicles with attached boat trailers displaying a valid ~~Craig Park~~ boat launch permit may park in ~~the Craig Park~~ a designated boat ramp parking area ~~and on streets adjacent to the Craig Park boat ramp~~ but only for the purpose of actively using the ~~Craig Park~~ boat ramp to launch and recover boats and vessels. In no event may a vehicle or trailer be parked at a public boat ramp for more than 48 hours, nor may the boat ramp be used for storage of vessels, vehicles, or trailers. Nothing contained herein alters or amends the provisions of §5-26. – Boat Launch Permit, or Appendix A, §42.00.- Parking of Recreational Vehicles in Residential Areas.
- (b) No detached trailer or semi-trailer, regardless of length, shall park or stand on any public street or right-of-way or municipal parking area in any residentially zoned district except as provided herein.
- (c) For the purpose of this section, a vehicle includes, but is not limited to, motorized and nonmotorized tractors, vans, trucks, open bed or flat bed pickups, mobile equipment, and machinery.
- (d) This section does not prohibit the parking or standing of a vehicle or vehicle and attached trailer or semi-trailer in excess or twenty-two feet in length or a detached trailer or semi-trailer if actively engaged in any of the following activities:
 - (1) Loading or unloading of persons or property;
 - (2) Parked or left standing in connection with or in the aid of the immediate performance of a service to or on a property in the immediate proximity of where the vehicle is parked or left standing; or
 - (3) Parked or left standing as the result of a mechanical breakdown so as to allow for the performance of emergency repairs on the vehicle, or while waiting for a tow operator for period not to exceed six hours.
- (e) This section does not apply to authorized emergency vehicles.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. In the event a court of competent jurisdiction finds any part or provision of this Ordinance unconstitutional or unenforceable as a matter of law, the same shall be stricken and the remainder of the Ordinance shall continue in full force and effect.

SECTION 5. The keeper of Code of Ordinances for the City of Tarpon Springs is directed to include this Ordinance in the Code of Ordinances and may renumber and reclassify the same as may be required for inclusion in the Code of Ordinances of the City of Tarpon Spring.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and adoption in the manner provided by law.