

ORDINANCE NO. 16-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AMENDING ARTICLE II "BOATS", OF CHAPTER 62 "WATERWAYS", BY ADOPTING A NEW SECTION 62-32 "WATER SKIS, PARASAILS, AND AQUAPLANES", A NEW SECTION 62-33 "PERSONAL WATERCRAFT", A NEW SECTION 62-34 "BOATING SAFETY IDENTIFICATION CARDS", A NEW SECTION 62-35 "VESSEL SAFETY REGULATIONS, EQUIPMENT AND LIGHTING REQUIREMENTS", A NEW SECTION 62-36 "REGISTRATION OF VESSELS", A NEW SECTION 62-37 "CARELESS OPERATION OF VESSEL/PERSONAL WATERCRAFT", A NEW SECTION 62-38 "MINIMUM REQUIRED SAFETY EQUIPMENT", A NEW SECTION 62-39 "PENALTIES FOR VIOLATIONS OF ARTICLE II. BOATS"; AMENDING SECTION 62-51 "DEFINITIONS"; AMENDING SECTION 62-76 (4) "OBLIGATIONS OF PERMITTEE" TO ALLOW INSPECTION BY OTHERS; AMENDING SECTION 62-133 (b) (3) "BULKHEADS, DOCKS, PLATFORMS OR OTHER WATER RELATED STRUCTURES—ADDITIONAL REQUIREMENTS" TO CLARIFY CURRENT REGISTRATION IS REQUIRED; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE AND OTHER PURPOSES.

WHEREAS, Chapter 327, section 327.60, Florida Statutes, authorizes the Town of Lake Clarke Shores to adopt ordinances or local regulations relating to the operation of vessels with some limitations; and

WHEREAS, the Town of Lake Clarke Shores finds it to be in the best interest of the public health, safety and welfare of the citizens of the Town to adopt provisions related to boat safety on its navigable water;

WHEREAS, it is necessary for the Town of Lake Clarke Shores to enforce boat safety ordinances on its navigable water through the issuance of citations pursuant to Chapter 162, Part II, ss. 162.21 through 162.30, Florida Statutes, known as the "Supplemental County or Municipal Code or Ordinance Enforcement Procedures" by amending the Code of Ordinances' civil penalty schedule; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, as follows:

SECTION 1. Article II “Boats”, of Chapter 62 “Waterways”, of the Code of Ordinances of the Town of Lake Clarke Shores is hereby amended by adopting a new Section 62-32, “Water skis, parasails, and aquaplanes”, a new Section 62-33 “Personal watercraft”, a new Section 62-34 “Boating safety identification cards”, a new Section 62-35 “Vessel safety regulations, equipment and lighting requirements”, a new Section 62-36 “Registration of vessels”, a new Section 62-37 “Careless operation of vessel”, a new Section 62-38 “Minimum required safety equipment” and a new Section 62-39 “Penalties for violations of Article II. Boats” as follows:

Sec. 62-32. Water skis, parasails and aquaplanes.

- (a) A person may not operate a vessel on any waters within the Town towing a person on water skis, or an aquaplane, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person being towed, or the vessel is equipped with a wide-angle rear view mirror mounted in such manner as to permit the operator of the vessel to observe the progress of the person being towed.
- (b) A person may not engage in water skiing, parasailing, aquaplaning, or any similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise.
- (c) A person may not engage in water skiing, parasailing, aquaplaning, or any similar activity unless such person is wearing a non-inflatable personal flotation device currently approved by the United States Coast Guard and used in accordance with the United States Coast Guard approval label.

Sec. 62-33 Personal watercraft.

- (a) A person may not operate a personal watercraft unless each person riding on or being towed behind such vessel is wearing a personal flotation device, other than an inflatable device, currently approved by the United States Coast Guard and used in accordance with the United States Coast Guard approval label.
- (b) A person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cutoff switch must attach such lanyard to his or her person, clothing, or personal flotation device as is appropriate for the specific vessel.
- (c) A person may not operate a personal watercraft at any time between the hours from one-half hour after sunset to one-half hour before sunrise. However, an agent or employee of a fire or emergency rescue service is exempt from this subsection while performing his or her official duties.
- (d) A personal watercraft must at all times be operated in a reasonable and prudent manner. Maneuvers which unreasonably or unnecessarily endanger life, limb, or property, including, but not limited to, weaving through congested vessel traffic, jumping the wake of another vessel unreasonably or unnecessarily close to such other vessel or

when visibility around such other vessel is obstructed, and swerving at the last possible moment to avoid collision shall constitute reckless operation of a vessel.

- (e) No person under the age of fourteen (14) shall operate any personal watercraft on the waters of the Town. It is unlawful for anyone with knowledge to allow a person under the age of fourteen (14) to operate any personal watercraft on the waters of the Town.

Sec. 62-34 Boating Safety Identification Cards.

- (a) A person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the Fish and Wildlife Conservation Commission which shows that he or she has:
- (1) Completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;
 - (2) Passed a course equivalency examination approved by the commission; or
 - (3) Passed a temporary certificate examination developed or approved by the commission.
- (b) Any person may obtain a boater safety identification card by complying with the requirements of this section.

Sec. 62-35 Vessel safety regulations; equipment and lighting requirements.

- (a) The owner and operator of every vessel on the waters of this Town shall carry, store, maintain, and use safety equipment in accordance with current United States Coast Guard safety equipment requirements as specified in the Code of Federal Regulations.
- (b) A person may not operate a vessel less than 26 feet in length on the waters of this Town unless every person under 6 years of age on board the vessel is wearing a personal flotation device currently approved by the United States Coast Guard and used in accordance with the United States Coast Guard approval label while such vessel is underway. For the purpose of this section, "underway" means at all times except when a vessel is anchored, moored, made fast to the shore, or aground.
- (c) No person shall operate a vessel on the waters of this Town unless said vessel is equipped with properly serviceable lights and shapes required by the navigation rules.

Sec. 62-36 Registration of vessels.

The Town hereby adopts F.S.S. Chapter 328 and any subsequent amendments made from time to time, by reference as if the provisions of such Statute were fully set forth herein. These codes and amendments shall be on file and available to the public in the office of the Town's Police Department.

Sec. 62-37 Careless operation of vessel/Personal watercraft.

Any person operating a vessel upon the waters of this Town shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in a manner described in this subsection constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates the provisions of this subsection commits a noncriminal violation.

Sec. 62-38 Minimum required safety equipment.

(a) For Class A Recreational Vessels (less than 16 feet/4.9 meter or canoe or kayak):

- (1) Personal Flotation Devices (PFDs): One approved Type I, II or III for each person on board or being towed on water skis etc. Must be USCG-approved. Must be in serviceable condition. Must be properly stored. NOTE: A Type V hybrid may substituted for any Type I, II, or III device, but must be worn whenever the vessel is underway and the person is not in the cabin or other enclosed area. Class A: Every person on board under the age of 6 must wear an approved Type I, II, or III while the vessel is underway. Personal Watercraft (PWC): Everyone on or operating a PWC must wear an approved Type I, II, III or V PFD. Inflatable PFDs are prohibited. Water Skier: Every person skiing or aquaplaning must wear an approved Type I, II or III PFD. Inflatable PFDs are prohibited.
- (2) Fire Extinguisher: Must be USCG-approved - Must be in serviceable condition. One USCG-approved B-1 type fire extinguisher is required for all recreational motorboats except outboard-powered motorboats less than 26 feet long if constructed in a manner that will not allow gas fumes to accumulate. If your boat has a built-in fuel tank, an inboard engine, compartments where portable fuel tanks may be stored, or open areas between the hull and deck where flammable or explosive gases could accumulate, you must carry a fire extinguisher. Non-motorized boats are exempt from the fire extinguisher requirements. NOTE: When an approved fixed fire extinguishing system is installed in the machinery space(s), it may be counted in the place of one B-I type hand-held portable fire extinguisher. Some fire extinguishers require specific mounting brackets for approval. Read the label on your fire extinguisher for this information.

- (3) Visual Distress Signal: Required on the high sea and coastal waters only. Must carry visual distress signals for nighttime use. NOTE: Coastal waters means the Atlantic Ocean, Gulf of Mexico and all bays, sounds, harbors, rivers, inlets, etc. where any entrance is over 2 miles wide to the first point where the distance between shorelines narrows to 2 miles.
- (4) Sound-producing Device (bell, horn, whistle etc.): Every vessel less than 12 meters (39.4 ft.) in length must carry an efficient sound-producing device. The sound-producing device need not meet any particular specifications, as long as the vessel can produce signals required by the navigational rules.
- (5) Backfire Flame Control: An effective means of controlling backfire flame of all gasoline engines installed after April 25, 1940, except outboard motors. Backfire flame arrestors must be USCG approved.
- (6) Ventilation: For Boats built prior to Aug. 1, 1980 at least two ventilator ducts fitted with cowls or their equivalent, for the purpose of properly and efficiently ventilating the bilges of every closed engine and fuel-tank compartment on boats constructed or decked over after April 25, 1940, using gasoline as fuel or other fuels having a flash point of 110 degrees or less. For Boats built after Aug. 1, 1980, at least two ventilator ducts for the purpose of efficiently ventilating every closed compartment that contains a gasoline engine and every closed compartment containing a gasoline tank, except for those having permanently installed tanks which vent outside the boat and contain no unprotected electrical devices. Also, engine compartments containing a gasoline engine having a cranking motor must contain power operated exhaust blowers which can be controlled from the instrument panel.
- (7) Vessel Lighting: Recreational vessels are required to display navigation lights between sunset and sunrise and during periods of reduced visibility (fog, rain, haze, etc.). The U.S. Coast Guard Navigation Rules specify lighting requirements for every description of watercraft. The information provided in the attached link is for vessels less than 65.5 feet/20 meters in length. We further suggest that you equip your vessel with an anchor and a sufficient amount of anchor line; a de-watering device, such as a bilge pump in the event of flooding; and an oar, paddle or other alternative means of propulsion in case your engine fails. If the above equipment requirements and suggestions are met, you may be eligible to display an FWC or Coast Guard Auxiliary safety decal.

(b) For Class 1 Recreation Vessels (16 to less than 26 feet/4.9 to less than 7.9 meter):

- (1) Personal Flotation Devices (PFDs): One approved Type I, II or III for each person on board or being towed on water skis etc., in addition, one throwable Type IV device. Must be USCG-approved. Must be in serviceable condition. Must be

properly stored. NOTE: A Type V hybrid may substituted for any Type I, II or III device, but it must actually be worn whenever the vessel is underway and the person is not in the cabin or other enclosed area. Class I: Every person on board under the age of 6 must wear an approved Type I, II or III while the vessel is underway. Water Skier: Every person skiing or aquaplaning must wear an approved Type I, II or III PFD. Inflatable PFDs are prohibited.

- (2) Fire Extinguisher: One USCG-approved B-1 type fire extinguisher is required for all recreational motorboats except outboard-powered motorboats less than 26 feet long if constructed in a manner that will not allow gas fumes to accumulate. If your boat has a built-in fuel tank, an inboard engine, compartments where portable fuel tanks may be stored, or open areas between the hull and deck where flammable or explosive gases could accumulate, you must carry a fire extinguisher. Non-motorized boats are exempt from the fire extinguisher requirements. The fire extinguisher must be USCG-approved and must be in serviceable condition. NOTE: When an approved fixed fire extinguishing system is installed in the machinery space(s), it may be counted in the place of one B-I type hand-held portable fire extinguisher. Some fire extinguishers require specific mounting brackets for approval. Read the label on your fire extinguisher for this information.
- (3) Visual Distress Signal: Required on the high sea and coastal waters only. Must carry visual distress signal for both day and nighttime use. NOTE: Coastal waters means the Atlantic Ocean, Gulf of Mexico, and all bays, sounds, harbors, rivers, inlets, etc. where any entrance is over 2 miles wide to the first point where the distance between shorelines narrows to 2 miles.
- (4) Sound-Producing Device (bell, horn, whistle, etc.): Every vessel less than 12 meters (39.4 feet) in length must carry an efficient sound-producing device. The sound-producing device need not meet any particular specifications, as long as the vessel can produce signals required by the navigational rules.
- (5) Backfire Flame Control: An effective means of controlling backfire flame of all gasoline engines installed after April 25, 1940, except outboard motors. Backfire flame arrestors must be USCG approved.
- (6) Ventilation: For boats built prior to Aug. 1, 1980, at least two ventilator ducts fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilges of every closed engine and fuel -tank compartment of boats constructed or decked over after April 25, 1940, using gasoline as fuel or other fuels having a flash point of 110 degrees or less. For boats built after Aug. 1, 1980, at least two ventilator ducts for the purpose of efficiently ventilating every closed compartment that contains a gasoline engine and every closed compartment containing a gasoline tank, except for those having permanently installed tanks which vent outside the boat and contain no unprotected electrical devices. Also, engine compartments

containing a gasoline engine having a cranking motor must contain power operated exhaust blowers which can be controlled from the instrument panel.

- (7) Vessel Lighting: Recreational vessels are required to display navigation lights between sunset and sunrise and during periods of reduced visibility (fog, rain, haze, etc.). The U.S. Coast Guard Navigation Rules specify lighting requirements for every description of watercraft. The information provided is for vessels less than 65.5 feet/20 meters in length.

Section 62-39. Penalties for violations of Article II. Boats.

Anyone that violates any section of this article shall be subject to enforcement under Chapter 2 "Administration", Section 2-148 "Civil penalty schedule" of the Town Code of Ordinances.

Sections 62-40 – 62-50 – Reserved.

SECTION 2. Article III "Bulkheads, Docks, Piers and Other Water Related Structures" of Division 1 "Generally" of Chapter 62 "Waterways", of the Code of Ordinances of the Town of Lake Clarke Shores is hereby amended as follows:

Sec. 62-51. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Related water~~ Water related structure means a structure used in water related activities considered to be permanent in nature, such as a launching ramp, sluice opening in a seawall or bulkhead, a fender system and tie poles.

SECTION 3. Article III "Bulkheads, Docks, Piers and other Water Related Structures" of Division 2 "Permits" of Chapter 62 "Waterways", of the Code of Ordinances of the Town of Lake Clarke Shores is hereby amended as follows:

Section 62-76. Obligations of Permittee.

- (4) Allow inspection at any reasonable time by the building official, code officer or their designee to ensure that the permitted bulkhead, dock, pier or other water related structure is maintained in safe condition at all times;

SECTION 4. Article III “Bulkheads, Docks, Piers and other Water Related Structures” of Division 5 “Miscellaneous Requirements” of Chapter 62 “Waterways”, of the Code of Ordinances of the Town of Lake Clarke Shores is hereby amended as follows:

Section 62-133. Bulkheads, docks, platforms or other water related structures—Additional requirements.

(b) *Other requirements.*

(3) A maximum of three watercraft shall be moored at any one private dock or pier. Watercraft ~~must be owned by persons residing on the property.~~ registration must be current.

(5) Unsightly or badly deteriorated bulkheads, docks, piers, boatlifting devices or ~~related water~~ other water related structures shall be repaired or removed within one month of written notice. Failure of the owner to repair or remove same after expiration of written notice shall subject the owner to the penalties as outlined in section 62-53.

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SECTION 5. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the Town of Lake Clarke Shores, Florida. The sections of this Ordinance may be renumbered or lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION 6. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of the Ordinance.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8. This ordinance will take effect immediately upon adoption.

PASSED AND ADOPTED the 12th day of April, 2016, on first reading.

PUBLISHED the 21st day of April, 2016, in the Lake Worth Herald/Coastal Observer.

PASSED AND ADOPTED this 10th day of May, 2016, on second and final reading.

	FOR	AGAINST
By: <u>[Signature]</u> Robert M. W. Shalhoub, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Thomas C. Mayes, Jr., Vice Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Valentin Rodriguez, Jr., President Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Malcolm K. Lewis, Council Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Gregory Freebold, Council Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ATTESTED:

[Signature]
Mary Pinkerman, Town Clerk