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Attorney

# MEMORANDUM

Shepard, Smith & Cassady, P.A.  
2300 Maitland Center Parkway, Suite 100  
Telephone (407) 622-1772  
Facsimile (407) 622-1884  
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**To:** Mayor and City Commission, City of Flagler Beach  
**From:** Virginia Cassady, Attorney  
**Date:** June 16, 2010  
**Re:** Request for another review of ordinance regulating recreational vehicles prior to consideration by Planning and Architectural Review Board

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Attached for your further review is a new draft of the proposed ordinance regulating recreational vehicles (RV's) and boats. Also attached is a memo from Ms. Cowart, Code Enforcement Officer.

**Background.** As the Commission probably remembers, a citizen came before you in January asking for clarification of Section 2.06.08.4.1 of the Land Development Code as that Section pertained to his recreational vehicle parked at his residence. After a lengthy discussion, the Commission requested that this office prepare a draft ordinance to correct any ambiguities in the Section. We prepared a draft, which was considered by the Commission at subsequent meetings, and the ordinance was placed on PAR Board's May 4<sup>th</sup> agenda.

Staff reviewed the proposed ordinance immediately prior to the PAR Board meeting, as is the practice of the City. Ms. Cowart and Mr. Sikorski reviewed the proposed ordinance and provided meaningful input. They raised the question of whether the Commission intended to regulate boats in the ordinance. After reviewing the minutes of the Commission meetings and discussions with Drew Smith and Mr. Murphy, the ordinance was pulled from PAR Board's agenda until staff could gather facts and until we could get further clarification from the Commission.

**Fact-gathering.** To assist the Commission in setting policies regarding recreational equipment, Ms. Cowart "inventoried" RV's, boats, and utility trailers parked at residences in the entire City. Her findings are attached.<sup>1</sup> Included in her memo is information regarding standard sizes of boats. This information is being offered to assist Commission in deciding how it wants to regulate recreational equipment which is stored at residences.

**Regulating boats.** In the last draft considered by the Commission, not only were the ambiguities of Sec. 2.06.08.4.1 corrected, but regulations of RV's were specifically included. Regulations of

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<sup>1</sup> Since regulation of utility trailers has never been raised by the Commission, the attached ordinance does not address them.

boats were minimal: the draft simply prohibited boats from projecting into required yards, easements, or parking areas. In addition, boats were to have current license tags and were to be in good working order and well maintained. Boats were not regulated insofar as where they could be parked on residential lots, and the draft was silent on how many boats could be stored on a lot.

Left unregulated, boats potentially can be parked in setbacks, the front lawn, or in the rear yard even if they occupy more than 30% of the required rear yard. They can be parked in such a way as obstruct the view of traffic, and owners could potentially store boats belonging to others on their properties. In summary, under the former draft, boats are treated differently than RV's. We were uncertain about whether that was the Commission's intention, especially since there are more than 6 times more boats than RV's parked at residences in the City.

**Changes in ordinance.** Changes in the attached draft ordinance are shaded. Following is a summary of the changes in the ordinance. The most obvious change is that boats and boat trailers would be regulated in the same way as RV's. One RV and one boat can be stored outside of a garage or carport, or, alternatively, two boats can be parked outside of a garage or carport. Other changes are:

- A "Whereas" clause is added to include a legislative finding that the Ordinance, which amends the City's Land Development Code, is not inconsistent with the Comprehensive Plan. Comprehensive plan consistency is required under the Growth Management Act whenever the City's Land Development Code is amended.
- References to motor vehicles in Sec. 2.06.08.4.1 have been deleted. Motor vehicles are regulated in Chapter 13 and elsewhere in the Code of Ordinances.
- A definition of "boat trailer" is included to avoid the use of trailers, homemade or otherwise, which do not fit, and are not made for, boats.
- The ordinance offers a regulation when covers for boats are used. Covers must fit the boat. Tarps and ill-fitting covers could not be used.<sup>2</sup>
- Sec. 2.06.08.4.1 requires that boats be stored on trailers, except canoes "and the like that are normally hand carried." Due to practical difficulties in enforcement, and the fact that it is easier to gauge the length of a boat, a change is being offered to allow canoes and small boats less than 12 feet in length to be on properties without boat trailers.<sup>3</sup>
- The proposed requirement in Sec. 2.06.08.4.1(2) that RV's (and boats) be in a "neat and orderly condition" has been removed due to practical difficulties in enforcement.
- Under the proposed ordinance, an owner can seek a permit for RV's or boats under certain circumstances. If a permit is issued, the recreational equipment can be parked on the driveway. Staff advises that a number of older homes, some which have recreational equipment, do not have designated driveways. A definition for "driveway" is therefore offered in Sec. 2.06.08.4.1(3)g to allow owners the opportunity to construct a driveway

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<sup>2</sup> We borrowed this regulation from Lauderdale-By-The-Sea's code.

<sup>3</sup> We borrowed this regulation from Lauderdale-By-The-Sea's code.

on their property for storage of their recreational equipment, assuming they otherwise meet the criteria for a permit.<sup>4</sup>

- Fees for permits would be set by resolution, a better and more common practice than setting by ordinance.
- Other clarifications and changes were made which are self-explanatory.

**Conclusion.** Commission direction is desirable before this matter is placed on the PAR Board's agenda.

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<sup>4</sup> We borrowed this definition from City of Winter Springs, which has detailed regulations regarding trailers, commercial vehicles, which it passed after much debate.

DRAFT 06/16/10  
ORDINANCE NO. 2010-XXXX

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING SECTION 2.06.08.4.1 OF THE LAND DEVELOPMENT REGULATIONS REGARDING PLACEMENT OF TEMPORARY STRUCTURES AND PARKING AND STORAGE OF **BOATS, BOAT TRAILERS,** AND RECREATIONAL VEHICLES; AMENDING SECTIONS 2.02.00 AND 5.02.01 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE DEFINITIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAL OF CONFLICT ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS,** the City Commission of Flagler Beach hereby finds it desirable and necessary to amend Sections 2.06.08.4.1 of the Land Development Regulations to clarify regulations regarding placement of temporary structures and parking and storage of **boats, boat trailers, and** recreational vehicles on private property and to amend Sections 2.02.00 and 5.02.01 to define temporary structures, **boat trailers,** and recreational vehicles; and

**WHEREAS,** the City Commission is mindful that the City is a retirement community with approximately ninety (90) percent of its residential lots platted to 50' X 100' in size **and with narrow side and rear yards;** and

**WHEREAS,** many of the residents of the City of Flagler Beach own boats and recreational vehicles; and

**WHEREAS,** **boats and** recreational vehicles are owned by many residents who desire that their **boats and** recreational vehicles be readily available to them; and

**WHEREAS,** based on the recommendation of the Planning and Architectural Review Board, sitting as the City's local planning agency, the Commission finds and determines that this Ordinance is not inconsistent with the City's Comprehensive Plan; and

**WHEREAS,** the City Commission finds it necessary and desirable to allow owners of **boats and** recreational vehicles to park or store their recreational equipment on their residential lots under certain conditions and circumstances to ensure safety and health and to preserve aesthetics of the City's residential neighborhoods.

(NOTE: underline text denotes additions, ~~strikethrough~~ text denotes deletions and asterisks " \* \* " denote sections of the existing Ordinance which remain unaltered and not reprinted herein).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA:



46       **SECTION 1. Legislative findings and intent.** The findings set forth in the recitals  
47 above are hereby adopted as legislative findings pertaining to this Ordinance.

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49       **SECTION 2.** Section 2.02.00, "Definitions," of the Land Development Regulations  
50 shall be amended as follows:

51 Boat trailer means a trailer specifically manufactured and designed to carry a boat.

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54 Recreational vehicle, except as otherwise defined in these land development regulations, is a  
55 vehicle primarily used as temporary living quarters for recreational, camping, or travel use,  
56 which either has its own motive power or is mounted on or drawn by another vehicle.  
57 Recreational vehicle units are those defined in Section 320.01, Florida Statutes, as amended from  
58 time to time.

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61 Structure, temporary means a structure without any foundation or footings, designed,  
62 constructed, and intended to be used on a short term basis, and which is removed when the  
63 designated time period, activity, or use for which the temporary structure was erected has  
64 ceased.

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68 ~~Travel trailer or recreational vehicle — A vehicle less than forty (40) feet in length and used for~~  
69 ~~temporary or recreational living or sleeping purposes, and standing on wheels, whether self-~~  
70 ~~propelled or requiring a separate vehicle for power.~~

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74       **SECTION 3.** Section 2.06.08.4.1 of the Land Development Regulations shall be  
75 amended as follows:

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77 Section 2.06.08.4.1 ~~Accessory and Temporary structures, boats, motor vehicles, and recreational~~  
78 ~~vehicles regulations.~~

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80 ~~Except as hereinafter provided, nNo accessory or temporary structure, boat, or~~  
81 ~~recreational vehicle shall project into the required yard or encroach into easements, parking~~  
82 ~~areas, or other required areas except as hereinafter provided.~~

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84 (1) Unless temporary structures are prohibited in any district or subdivision, Tents,  
85 cabanas, outdoor shelters, sheds, tool houses, and other enclosed and temporary structures may  
86 be constructed in a required rear yard provided that such accessory structures buildings do not  
87 occupy more than thirty (30) percent of the required rear yard and provided it is not located  
88 closer than five (5) feet to a side or rear lot line.

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90 (2) Recreational vehicles, motor vehicles, Travel trailers, campers, and boats shall have a  
91 current license tags or validation stickers, and shall be in good working order, and well



maintained. All Bboats, other than canoes and small boats less than 12 feet in length, and the like that are normally hand-carried, shall be stored on a-trailers with a current tags or validation stickers., and Boat trailers shall also be in good working order, well maintained, and in good working order. , and in a neat and orderly condition. For purposes of this section, "well maintained" shall mean that the body, tires, windows, and bumpers are maintained. "Good working order" shall mean that the recreational vehicle, boat, or boat trailer or motor vehicle is functional, usable and in such a state as it may be used without further repair or alteration for the purpose for which is was intended.

(3) To protect and promote the public health, safety and welfare, to provide light, safety from fire, safety from other damages and to protect property owners from certain general nuisances associated with unregulated parking, storage, or maintenance of boats, boat trailers, and recreational vehicles, the parking, storage, and maintenance of boats, boat trailers, and recreational vehicles shall be allowed on private property subject to the following:

a. No boat or recreational vehicle shall be occupied as temporary living quarters while such boat or recreational vehicle is parked or stored within a residentially zoned district in the City except as otherwise provided in the Code of Ordinances. No boat trailer or recreational vehicle parked or stored in the City shall have its wheels removed for a period greater than 72 consecutive hours, except for repair or maintenance. No boat or recreational vehicle parked or stored in the City shall run a gas-powered generator for any purpose other than maintenance and testing purposes. A rebuttable presumption shall exist that a gas-powered generator was run for purposes other than maintenance and testing if such generator is run for more than fifteen minutes in any twenty-four hour period.

b. No boat, boat trailer, or recreational vehicle shall be parked in such a way that it encroaches onto a street or in any location which visually obstructs vehicle egress from nearby properties or the view or vision of vehicular traffic. or impede the vision of vehicular traffic.

c. Boats, boat trailers, and recreational vehicles more than forty (40) feet in overall length may not be parked or stored on residential parcels unless stored in fully enclosed garages or stored entirely within carports.

d. A boat, boat trailer, or recreational vehicle parked or stored at a residence on residential property must be owned by the owner or tenant of the parcel of property upon which the recreational vehicle is parked or stored. However, visitors of the owner or tenant may temporarily park their boat, boat trailer, or recreational vehicle on the property for no more than 72 consecutive hours within a six-month consecutive period so long as the provisions of this or any other code section is not violated.

e. No more than one (1) recreational vehicle and one (1) boat with or without boat trailers each shall be parked outside of a fully enclosed garage or stored entirely within a carport on an owner's property at any one time. As an alternative, no more than two (2) boats with or without boat trailers shall be stored outside of a fully enclosed garage or stored entirely within a carpet on an owner's residential property at any one time.



f. A boat, boat trailer, or recreational vehicle may be kept:

- (i) in a fully enclosed garage or stored entirely within a carport;
- (ii) in a rear yard not closer than five (5) feet to a rear lot line so long as the recreational vehicle does not occupy more than thirty (30) percent of the required rear yard; or
- (iii) in a side yard not fronting any street, so long as the boat, boat trailer, or recreational vehicle is not within the side yard setback.

g. If, due to the size or particular characteristics of a dwelling unit and parcel, the owner of a boat, boat trailer, or recreational vehicle cannot comply with subsection f. above, the boat, boat trailer, or recreational vehicle may be exempted from the requirements of subsection f., provided that the owner shall have first acquired from the City a parking permit which shall be clearly affixed upon the rear window or rear panel of the exempted boat, trailer, or recreational vehicle. The parking permit may be issued only if the boat, trailer, or recreational vehicle is in compliance with subsections a., b., c., d., and e. above. Such exemption shall allow the owner to park or store the boat, trailer, or recreational vehicle on the residence driveway, so long as parking on the driveway does not result in any motor vehicles of the residents being parked on the front lawn, the side yard setback, the street, sidewalk, or on adjacent property. For purposes of this section, "driveway" shall mean a path permitted by the City or designed for vehicles that connects a residential unit or garage with a public or private street. If a driveway is constructed of gravel, geo-web, crushed rock, mulch, or bark, the area shall be defined by an impervious border which is intended to reduce the migration of the materials used to construct said area.

1. A permit for parking may be transferred to a similar boat, trailer, or recreational vehicle provided that a new permit is acquired from the City and the original permit is returned to the City. ~~Recreational~~ Such parking permits may be purchased from the City for a fees as set by resolution of the City Commission of \$50. Transferred or replacement parking permits may be purchased from the City for a fees as set by resolution of the City Commission. of \$50.

(3) h. Resident owned boat, trailers, or recreational vehicles ~~might~~ may be temporarily parked in the residence driveway for the purpose of loading, unloading, minor repairs, or general maintenance ~~or being repaired for use~~. However, such temporary parking shall not occur continuously for more than ~~seventy-two~~ (72) hours in any consecutive seven-day period.

i. All covers used in connection with the storage of boats must be manufactured and designed to closely fit the body style and contours of the boat. No tarps or other covers which do not fit the body style and contours of the boat may be used.

j. When concrete pads have been issued permits by the City prior to the effective date of this Ordinance for parking and storage of boats, trailers, or recreational vehicles but are not in compliance with this section, parking and storage of such boats, trailers, or recreational vehicles on the concrete pads are hereby grandfathered in and not subject to Section 2.06.08.5 regarding nonconforming uses.



k. Owners of boats, trailer, or recreational vehicles parked or stored in violation of this section prior to the effective date of this Ordinance shall have 90 days to come into compliance with this section.

**SECTION 4.** Section 5.02.01 of the Land Development Regulations shall be amended as follows:

**Sec. 5.02.01. Definitions.**

The terms used in this article shall, unless otherwise specified, be defined as set forth in F.S. Chapters 316 and 320.01, as amended from time to time.

**SECTION 5. Codification.** It is the intent of the City Commission of the City of Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance and renumbering subsections consistent with this Ordinance.

**SECTION 6. Severability.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 7. Repeal of conflicting ordinances.** In any case where a provision of this Ordinance is found to be in conflict with provisions of any other ordinance of this City, the conflicting provisions of the previous ordinance shall be repealed by this Ordinance.

**SECTION 8. Effective date.** This Ordinance shall take effect immediately upon adoption as provided by the Charter of the City of Flagler Beach.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.  
PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION

\_\_\_\_\_  
Alice M. Baker, Mayor

ATTEST:

\_\_\_\_\_  
Penny Overstreet, City Clerk



## MEMO

TO: Virginia Cassady and Drew Smith  
FROM: Elaine Cowart, Code Enforcement Officer  
DATE: June 15, 2010  
RE: Recreational vehicles, boats, and utility trailers

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On May 20, 2010, I drove down all streets in the City of Flagler Beach, except the alleys, and counted how many recreational vehicles, boats, and utility trailers were parked at residences. The following were my findings:

Boats:

83 North End of Town

47 South End of Town

**Total Boats: 130** - Included in this total is approximately 10 Jet Skis

RV's:

16 North End of Town

4 South End of Town

**Total RV's: 20**

Utility Trailers:

70 North End of Town

23 South End of Town

**Total Trailers: 93** – This did not include utility trailers temporarily parked at residences and which were associated with lawn maintenance, construction, or other temporary service activities at the residences.

The following are facts gathered from various sources online regarding standard sizes of boats:

Canoes:

10'-16' for one person

14'-18' for two people

18' – 36' for three or more people

Kayaks:

8' – 26', with an average size of 10' – 13'

Jet skis:

9' – 12', with average size of 10'

Jon boats:

10' – 16'

Boats suitable for water skiing:

17' – 23'

Speed boats:

18' – 19'

All-day cruisers:

24' minimum

Boats suitable for the Atlantic Ocean:

21' or greater

Maximum size boat for storage in standard sized garage:

22'

Boats requiring a large towing vehicle:

25' or greater