

ORDINANCE #: 2016-2066

**AN ORDINANCE OF THE CITY OF NEW PORT RICHEY,
FLORIDA, AMENDING CHAPTER 5, BOATS AND
WATERWAYS, SECTION 5-44(5)(B) DOCKS ATTACHED
TO CITY-OWNED PROPERTY OR PUBLIC PARK
PROPERTY; PROVIDING FOR SEVERABILITY, AND AN
EFFECTIVE DATE.**

WHEREAS, the New Port Richey Code of Ordinances has been amended from time to time, as necessary, to serve the needs of the citizens of New Port Richey, Florida; and

WHEREAS, it is in the interest of public safety and welfare that New Port Richey, amend Section Chapter 5, Boat and Waterways, Section 5-44(5)(b) to be amended.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, that:

SECTION 1. Amending Chapter 5, Boats and Waterways, Section 5-44(5)(b), Docks attached to City-owned property or public park property, of the Code of the City of New Port Richey, Florida be, and the same is hereby, amended to read as follows:

• **Sec. 5-44. - Docks attached to City-owned property or public park property.**

(a) Except as expressly set forth in this section, no person, firm or corporation shall erect or construct a dock of any type which must be affixed or located immediately adjacent to property owned by the City or other property which has been dedicated or designated for the use and benefit of the public. Except as expressly set forth in this section, any docks attached or located immediately adjacent to City-owned property or such public property as of the effective date of this article may be repaired or replaced unless fifty (50) percent or more of the structure is to be replaced or repaired, in which case the owner shall, within ninety (90) days, comply with the requirements of this section or remove the structure. The determination of whether a proposed repair or replacement activity shall exceed fifty (50) percent or more of the structure shall be made by the City, in the reasonable exercise of its discretion.

(b) Notwithstanding the foregoing, private docks, as defined in Section 5-50 below, may be constructed along and adjacent to the following City-owned property: That certain strip of land lying between the Pithlachascotee River and Grand Boulevard, located south of Massachusetts Avenue and north of Virginia Avenue and lying west of Blocks 10, 11, 36 and 37 in accordance with plat recorded in Book 2, page 21, public records of Pasco County, Florida, and that certain strip of land lying between the Pithlachascotee River and

Grand Boulevard, being located west of the intersection of Orange Grove Avenue and Grand Boulevard and lying west of Lots 1 and 2 of Block 4, Orange Grove Park and lying west of Lot 1 of Block 3, Orange Grove Park.

(c) Construction of such private docks shall be subject to the following conditions and limitations:

(1) Only the owner of a lot fronting Grand Boulevard and lying south of Massachusetts Avenue and north of Virginia Avenue, or the owner of a lot adjacent to Lots 1 and 2 of Block 4 or Lot 1 of Block 3, Orange Grove Park, shall have the right to construct docks that are adjacent to the seawall located along or adjacent to the City property described above. The submerged area upon which each lot owner may construct a dock shall be defined as set forth in Section 5-52(2)(c) which area shall be determined by extending each lot owner's lot line across the Boulevard and the City property.

(2) All docks constructed pursuant to this section shall comply with the general requirements of this article relating to docks constructed on or adjacent to private property along the Pithlachascotee River.

(3) The construction of docks pursuant to this section shall be subject to all permitting requirements set forth in this article or as may otherwise be required by any other local state or federal agency.

(4) All docks constructed pursuant to this section, including any docks located upon the property described above that are repaired or replaced, which repair or replacement involves fifty (50) percent or more of such existing structure, shall comply with the following special conditions:

a. No gate or other barrier to entry onto the dock shall be permitted.

b. Each dock shall be clearly posted with a sign that shall state: "Private Property—No Trespassing".

c. Each dock shall be constructed in a manner to minimize any adverse effect upon the seawall or its components. No dock shall be affixed to the seawall or to City property without the prior written consent of the building official. To the extent that any dock is affixed to the seawall or to City property, the owner thereof shall be responsible for any damage to the seawall or City property including, but not limited to, any damage or excessive wear or excessive stress resulting from the construction of said dock or attachment thereof to the seawall or to City property. The owner of each dock shall maintain said owner's dock to prevent damage to the seawall or to City property. The City shall encourage the use of floating docks and similar structures.

d. Owners of docks constructed pursuant to this section shall not place or maintain personal property on the seawall or on City property including, but not limited to, davits, boat lifts or similar devices, cabanas, shelters, picnic tables or furniture, whether affixed to said seawall or free-standing. In addition, owners of docks constructed pursuant to this section shall not place or maintain davits, boat lifts or similar devices on the dock itself.

(5) Prior to the construction of any dock pursuant to this section or prior to the repair or replacement of any dock located adjacent to the property described

above, which repair or replacement involves more than fifty (50) percent of the structure, the owner of said lot shall deliver to the City:

~~a.~~

A fully executed license agreement which shall include a covenant to hold the City harmless from and to indemnify the City against any damage, injury claim, demand, suit, cause of action or cost in any way arising out of or related to the construction, use or existence of such dock. The form of such license agreement shall be acceptable to the City's attorney.

~~b.~~

~~Written evidence, in form acceptable to the City, that the dock owner has obtained and prepaid for a policy of public liability insurance in the minimum amount of \$100,000.00 per person/\$300,000.00 per occurrence/\$100,000.00 property. Said policy shall have a minimum term of one year unless otherwise approved by the City. Such policy shall name the City as an additional insured. The policy shall contain a requirement that any termination of the policy, including termination due to non-renewal of the policy, shall not be effective until thirty (30) days following receipt of written notice to the insured and the City. Each lot owner shall provide to the City written evidence of the renewal of each insurance policy or the replacement thereof at least thirty (30) days prior to the expiration thereof. In the event any dock owner shall fail to maintain the insurance coverage required thereby, said owner shall be in violation of this article. Further, in the event any dock owner shall fail to maintain such insurance coverage for a consecutive period of more than ninety (90) days, the City shall have the right, in its sole and unfettered discretion, to declare said dock to be a public nuisance and shall be entitled to an immediate injunction to prohibit the use of such dock and may take any action as may be permitted under this article or any other provision of this Code.~~

(6) Every dock constructed or maintained pursuant to this section shall be owned by and used only by the owner of the lot to which said dock is appurtenant, and said lot owner's family and guests. A lot owner shall have no right to assign, transfer or convey any right (including the right of use) or interest in said owner's dock except that said owner shall assign, transfer and convey all of said owner's right, title and interest in and to said dock to any subsequent grantee of the appurtenant lot.

(7) The existence or extension of electric, water, sewer or other utility service to any dock constructed or maintained pursuant to this section is expressly prohibited and unlawful.

(8) As deemed necessary in the reasonable exercise of its discretion, the City may require an owner to maintain, repair or replace any dock attached or adjacent to City-owned or public property, whether such dock be existing as of the date of this article or constructed thereafter. Should such maintenance or repair exceed fifty (50) percent of the structure, then the owner shall, within ninety (90) days, comply with all requirements of this section or remove the structure.

SECTION 2. CONFLICTS.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

SECTION 3. SEVERABILITY.

The provisions of this ordinance are severable, and it is the intention of the City Council of the City of New Port Richey, Florida to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the City Council that this ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION 4. INCLUSION IN CODE.

It is the intention of the City Council that the provisions of this ordinance shall become and be made a part of New Port Richey Code; and that the sections of this ordinance may be

renumbered or re-lettered and the word “Ordinance” may be changed to “Section”, “Article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. This Ordinance shall take effect upon its passage and adoption.

The above and foregoing Ordinance was read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 6th day of October, 2015 and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this _____ day of _____, 2015.

ATTEST:

By: _____
Doreen M. Summers CAP-OM, CMC
City Clerk

By: _____
Robert Marlowe
Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY
FOR THE SOLE USE AND RELIANCE OF THE
CITY OF NEW PORT RICHEY, FLORIDA:

City Attorney, Joseph A. Poblick