ORDINANCE NO. 2022-410

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 86 OF THE CODE OF ORDINANCES RELATING TO WATERWAYS AND VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. The Index for Chapter 86 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Article I. In General

Secs. 86-1--86-30. Reserved.

Article II. Boating and Related Activities; Dumping Waste

Division 1.

Sec. 86-31. Application.
Sec. 86-32. Regulation of boats.
Sec. 86-33. Dumping waste in waters.
Sec. 86-34. Restricted areas.
Sec. 86-35. Regulation within restricted areas.

Division 2.

Sec. 86-36. Purpose and Authority
Sec. 86-37. Definitions
Sec. 86-38. Unlicensed rental of vessels prohibited.
Sec. 86-39. VVL application; regulatory fee.
Sec. 86-40. Annual VVL.
Sec. 86-41. VVL renewal.
Sec. 86-42. Display of VVL.
Sec. 86-43. Conditions of VVL use.
Sec. 86-44. Transferability of VVL; grandfather clause.
Sec. 86-45. Insurance.
Sec. 86-46. Regulatory penalties.
Sec. 86-47. Area of enforcement.
Sec. 86-48. Means of enforcement.
Sec. 86-49--86-70. Reserved.

Article III. Structures in City Waters

Sec. 86-71. Permit required.
Sec. 86-72. Application for permit; plans; fee.
Sec. 86-73. Processing the application.
Sec. 86-74. Revocation of permit.
Sec. 86-75. Structure maintained without permit.
Sec. 86-76. Penalty for violation.

Section 2. Section 86-36 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-36. Purpose and authority.

(a) The purpose of this division shall be to regulate vessel rental vendors in order to promote safety in the waters of the city and to preserve and protect our natural resources.

(b) The city does hereby declare that the public health, safety and welfare of the citizens of the city and others requires regulation of vessel rentals.

(c) The city is hereby authorized to regulate powered vessel rentals in the interest of safety; thus, requiring certain conditions of those renting vessels.

Section 3. Section 86-37 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-37. Definitions.

For the purposes of this division, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.

(a) *Business:* Any vessel rental business, including any commercial activity engaged in the rental, leasing, or bailment for consideration of vessels.

(b) *Idle speed:* The lowest speed at which a vessel can operate and maintain steering control. The actual speed will depend upon the design of the vessel, the vessel's load, wind direction and speed, and the sea conditions. Generally, it shall mean the minimum speed required for vessel to effectively traverse breaking water.

(c) *Operate:* To navigate or otherwise use any vessel in, on or under the water.

(d) *Powered vessel*: A vessel powered by a motor or engine.

(e) *VVL:* Vessel Vendor's License.

Section 4. Section 86-38 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-38. Unlicensed rental of vessels prohibited.

(a) No person shall offer for rent, lease, or bailment for consideration a vessel within the city except from a business which fully complies with the regulations set forth in the Land Development Regulations and this article.

(b) No person shall conduct any vessel rental business within the city, except from a business holding a valid VVL and which fully conforms to the terms of this division.

(c) No person shall offer for rent, lease, or bailment for consideration a powered vessel which is not registered in the name of the business and which does not have a valid Florida vessel registration number affixed thereon.

Section 5. Section 86-39 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-39. VVL application; regulatory fee.

(a) Application for a VVL shall be made to the City Clerk on a form provided by the city.

(b) Information to be provided by the applicant shall include, at a minimum:

1. *Business location:*

a. The street address from which the vessels will operate;

b. If the applicant is not the owner of the property from which the vessels will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.

2. Ownership information:

a. Business owner's name, home address, local address, telephone number;

b. Manager's name, home address, local address, telephone number;

c. Mailing address at which notice of any city information pertinent to any VVL shall be considered received and binding upon the applicant or VVL holder on the fifth day after first class mail is posted to said address; and

d. State sales tax number.

3. Business equipment information:

a. The number of, and a description of, the vessels to be used by the business, including model, year, manufacturer, color and Florida vessel registration number(s).

b. A description of any chase vessel(s) to be kept at the place of business as well as the Florida vessel registration number.

4. Proof of insurance. Proof of insurance required by section 86-45.

Applicants who misrepresent information provided under this section shall not be issued a VVL, or if issued, may suffer suspension or revocation of the VVL.

(c) The applicant for a VVL shall pay annual fees of sixty dollars ($60.00) for city administrative processing costs, thirty dollars ($30.00) for the right to offer for business, as herein provided, a rental of vessels, and eighty dollars ($80.00) for city enforcement costs.

Section 6. Section 86-40 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-40. Annual VVL.

VVL's shall be issued on an annual basis coinciding with the city's fiscal year, October 1 through September 30.

Section 7. Section 86-41 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-41. VVL renewal.

(a) Except as provided in subsection (c), upon application the City Clerk may renew the VVL of any applicant who:

1. Held a valid VVL and operated the vessel rental business for at least nine (9) months out of the previous year;

2. Has provided the city with new or updated information, documents, and fees listed in section 86-39 and continues to meet the regulations set forth in the Land Development Regulations, unless otherwise provided for in subsections 86-44(b) and (c) of this article; and

(b) Pays a late processing fee of twenty-five dollars ($25.00) for any renewal application filed after October 1.

(c) Upon application, the City Clerk may renew any VVL suspended under section 86-44 hereof, but any remaining term of suspension shall be applied to the renewed license, and during said term the VVL confers no rights to offer the rental of any vessel.

(d) Any VVL not renewed by October 15th shall be void and of no further use or effect whatsoever. No business deemed to be a nonconforming use in accordance with subsection 86-44(c) of this article, which fails to renew its license in a timely manner, shall again be issued a license except in conformity with the regulations then in effect.

Section 8. Section 86-42 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-42. Display of VVL.

Any business offering the rental of vessels shall display the VVL in plain sight at the location from which the rental of vessels are offered.

Section 9. Section 86-43 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-43. Conditions of VVL use.

(a) Except as provided in subsections 86-44(b) and (c) of this article, businesses holding a valid VVL shall be situated together with their vessels upon a site authorized by the Land Development Regulations and this division to have such business and shall not:

1. For a powered vessel rental business, be located within two hundred fifty (250) feet of any other business offering vessels for rent.

2. For a powered vessel rental business, have more than four (4) powered vessels that may be rented from that location.

3. Allow their watercraft to be used above idle speed within five hundred (500) feet of swimmers, waders, or people floating in/on the water.

4. Lease, hire or rent a powered vessel to any person who is under sixteen (16) years of age.

(b) A business shall have and maintain a telephone and an operable marine radio at its land-based operations office.

(c) Vessel rental businesses shall have a motorized chase vessel with an operational marine radio in good running condition that meets all United States Coast Guard safety requirements kept at the vessel launching site during all hours of the business operation. The chase vessel may be a vessel reserved for this purpose.

(d) A business must have and maintain comprehensive third party liability insurance in accordance with section 86-45.

(e) Each powered vessel must be registered in the name of the business and have a Florida vessel registration number affixed thereon.

(f) Identification markings shall be placed on each personal flotation device worn by operators of the vessel which distinguishes the business from other businesses engaged in the rental of vessels. Said marking shall also be located where the vessel are launched. The identification marking, which will be assigned to the business by the city upon issuance of the VVL, shall be not less than nine inches by five inches (9" × 5") in size and of a contrasting color to the personal flotation device.

(g) Vessels may be moored in the water during the operating hours of the business, but under no circumstances may

a person place or arrange any vessel or associated equipment in any manner which blocks pedestrian traffic on the waterfront.

(h) In order to adequately monitor the operation of the vessels, one employee per four (4) vessel actually rented must be located so as to observe the operation of the vessels by the party renting the vessels.

(i) Fuel tanks may not be stored may only be stored or located at the business location, provided all applicable federal, state and local fire, safety, and environmental regulations are met.

(j) Fueling of powered vessels in the water shall require a spill-proof nozzle or other acceptable device designed for prevention of fuel overflow.

(k) No billboards or freestanding signs advertising the rental of vessels are permitted seaward of the mean high water line.

(l) The powered vessel vendor must instruct each powered vessel operator:

1. To maintain a distance of not less than two hundred fifty (250) feet from the shoreline while operating the powered vessel above idle speed; and

2. To travel at idle speed when returning to the shore.

Section 10. Section 86-44 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-44. Transferability of VVL; grandfather clause.

(a) The VVL is transferable, provided that:

1. The location of the business complies with the minimum separation requirements or is a "grandfathered in" accordance under subsection (c) below; and

2. The new business owner files an amended application with the city providing the information required in section 86-39.

(b) Powered vessel vendors that have established or commenced business at their existing locations on or before the effective date of this division, may continue to operate for six (6) months after the effective date of this article, unless terminated earlier for failure to obtain the VVL as required by this division, voluntary discontinuation of business for a period of thirty (30) days or more, or revocation of the VVL permit.

(c) Powered vessel vendors that have established or commenced business at their existing locations on or before the effective date of this division, but which may or may not comply with the locational requirements set forth in subsections 86-43 (a)(1) and (2) of this division, may continue to operate as a nonconforming use after the effective date of this division, unless terminated for failure to obtain the VVL as required by this article, voluntary discontinuation of business for a period of thirty (30) days or more, or revocation of the VVL permit.

Section 11. Section 86-45 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-45. Insurance.

(a) No person shall operate a rented vessel unless covered by a comprehensive general liability insurance policy insuring the public against bodily injury or property damage resulting from or incidental to the operation, use, or rental of the vessel. At a minimum, the policy shall provide coverage of not less than five hundred thousand dollars ($500,000.00) per occurrence and one million dollars ($1,000,000.00) per aggregate. The policy shall list the city as an additional insured, shall provide that coverage shall not be canceled or materially altered except after thirty (30) days' written notice has been received by the city, and shall

be written through insurers licensed and authorized to do business in the State of Florida.

(b) Evidence of said coverage is subject to acceptance and approval by the city clerk prior to issuance of VVL.

(c) Coverage shall remain in full force during the entire time that the VVL is valid and outstanding. Failure to provide such proof shall render the VVL null and void and of no further use and effect. The holder's subsequent application for a new VVL shall be subject to the regulations for a new business and shall lose the nonconforming status afforded under subsections 86-44(c) of this division.

Section 12. Section 86-46 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows

Sec. 86-46. Regulatory penalties.

(a) Violation of the provisions of this article, or failure to comply with any of its requirements, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any provisions shall upon conviction thereof be fined or imprisoned, or both, as provided by law, and in addition shall pay all costs and expenses involved in the case. In the alternative, a citation may be issued pursuant to the procedures set forth in sections 327.73 and 327.72, Florida Statutes, or part II of chapter 162, Florida Statutes, should they be applicable.

(b) The City Clerk shall have the authority to exempt persons from the terms of this article for a period of up to forty-eight (48) consecutive hours during special programs. No person shall receive more than one such exemption for any 48-hour period. The city council may exempt the terms of these provisions from persons offering rental from public property by permission of persons having a leasehold interest in the property.

Section 13. Section 86-47 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-47. Area of enforcement.

The area of enforcement of these provisions shall include all of the area located within the city, including all public waters within the jurisdiction of the city in which the tide ebbs and flows. This article does not apply to the Florida Intracoastal Waterway.

Section 14. Section 86-48 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 86-48. - Means of enforcement.

(a) The provisions of this division shall be enforced by duly authorized law enforcement officers and the code enforcement officer(s) of the city.

(b) In addition to the regulations of this article, any operator of a vessel is subject to Florida Statutes, chapter 327, as amended or superseded.

Section 15. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance. If any penalty of this section is deemed inconsistent with any Florida statute, the provisions of the Florida Statute shall prevail.

Section 16. Scrivener's Errors.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 17. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 18. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 19. Repeal of Conflicting Codes, Ordinances, and Resolutions.

All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 20. Effective Date.

This Ordinance shall take effect immediately upon its passage.

PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida, as the 1ST day of November, 2022.

CITY OF PARKER

Andrew Kelly, Mayor

ATTEST:

Jami Hinrichs, City Clerk

Examined and approved by me, this 1ST day of November, 2022.

Andrew Kelly, Mayor