

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2008-_____

AN ORDINANCE AMENDING CITY CODE CHAPTER 86, ENTITLED "WATERWAYS", DIVISION 2, ENTITLED "ANCHORING, MOORING, ETC."; IN PARTICULAR, SECTION 86-59, ENTITLED "TO ABUTTING PROPERTY", BY RESTRICTING THE PLACEMENT AND PROJECTION OF BOATS OR WATERCRAFT WHEN ANCHORED, MOORED, OR TIED UP TO WATERFRONT PROPERTY; SECTION 86-60, ENTITLED "OTHER THAN ABUTTING PROPERTY" BY ALLOWING ANCHORING OR MOORING OF BOATS OR WATERCRAFT TO OTHERS DURING DOCK CONSTRUCTION OR IMPROVEMENTS, SUBJECT TO SUFFICIENT ACCESS FOR SAFE NAVIGATION; SECTION 86-61, ENTITLED "ENFORCEMENT BY CHIEF OF POLICE" BY FURTHER AUTHORIZING CODE ENFORCEMENT OFFICERS TO ENFORCE CERTAIN PROVISIONS OF THE CODE; ADDING SECTION 86-62, ENTITLED "DEFINITIONS"; DIVISION 3, ENTITLED "OCEAN AND WATERWAY REGULATIONS", MODIFYING THE TITLE OF SECTION 86-84, TO "WATERCRAFT AS HAZARDS; UNOBSTRUCTED WATERWAYS", IN ADDITION WITHIN THE SAME SECTION, DECLARING IT UNLAWFUL TO POSITION A BOAT OR WATERCRAFT IN SUCH A WAY TO INTERFERE WITH THE NAVIGATION THROUGH THE CITY WATERWAYS; AND FURTHER AMENDING SECTION 86-86, ENTITLED "HURRICANE PROCEDURE- REGULATIONS", BY DECLARING IT UNLAWFUL TO MOOR A BOAT OR WATERCRAFT TO PRIVATE PROPERTY WITHOUT CONSENT; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the City of Coral Gables Commission finds that there is an alarming increase of large boats and commercial watercraft which are being anchored, moored or tied up to waterfront properties within the city limits which have had a deleterious effect upon the City's residents, marine life, and the navigability of the city waterways; and

WHEREAS, the Florida Statutes Section 253.141 provides that riparian rights are those incident to land bordering upon navigable waters and include the rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been defined by law (Also see, *Thiesen v. Gulf, F. & A., Ry. Co.* 78 So.2d 491 (Fla. 1918)); and

WHEREAS, the waterways of the City of Coral Gables provide a unique ecological environment for marine life for the South Florida area and the City desires to continue to protect and foster such marine life activity; and

WHEREAS, the City wishes to adopt regulations to maintain a balance between the rights of property owners and the protection of marine life, while allowing the navigability of the waterways; and

WHEREAS, in order to protect adjoining property owners from boats or watercraft encroaching unto their property line, the City of Coral Gables Commission desires to regulate the mooring and anchoring of boats and other watercrafts on, upon the waterways under its jurisdiction; and

WHEREAS, the City of Coral Gables Commission wishes to regulate the occasions for mooring or anchoring a boat or watercraft in order to avoid a position that endangers, interferes, or impedes with the navigation of other boats or watercraft through the city waterways; and

WHEREAS, the City Commission wishes to provide for setbacks in those cases involving waterfront properties exceeding a certain length, which may result in the mooring of potentially larger boats, requiring a setback to maintain an unobstructed visual path to the waterway and further enhancing the maneuverability for ingress and egress of such a boat; and

WHEREAS, the State and Federal regulations exist governing waterways and these regulations supplement those State and Federal regulations.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA THAT:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The City Code of the City of Coral Gables, Florida is hereby amended to provide additional restrictions and prohibitions under Chapter 86, entitled "Waterways", Division 2, entitled "Anchoring, mooring, etc." amending Section 86-59, entitled "To abutting property" to read as follows:

DIVISION 2. ANCHORING, MOORING, ETC.

Sec. 86-59. To abutting property.

(1) It shall be unlawful for any person to anchor, moor or tie up any boat or watercraft of any and every nature whatsoever to any waterfront property abutting the waterways and canals within the city, unless he is the owner of the property to which the boat or watercraft is anchored, moored or tied up or is the lessee of improved property having a dwelling structure thereon, under a written lease from the owner of the fee simple title to such property or is the guest in the house of the owner of improved property having a dwelling structure thereon, except in an emergency.

(2) It shall be unlawful for any person to anchor, moor or tie up any boat or watercraft of any and every nature whatsoever to any waterfront property abutting the waterways and canals within the city in such a position that the length of the boat or watercraft extends beyond the side property lines of the property or is of such a length that when docked or anchored adjacent to such property it extends beyond such side property lines, unless the adjoining property

owner(s) agrees to such an extension, in a form acceptable to the City. Lot lines shall be extended into the waterway for purposes of the measurement.

(3) It shall be unlawful to moor, anchor or tie up a commercial boat or watercraft in residential districts to conduct any commercial activity.

Sec. 86-60. Other than abutting property.

(1) It shall be unlawful for any person to anchor or moor any boat or watercraft in the waterways and canals within the city other than to property abutting on the waterways, such as, but not limited to, any other boat or watercraft, except during dock construction, or improvements and only when there is sufficient access for safe navigation of a boat or watercraft through the waterway. When requesting to moor or anchor a boat or watercraft to another such vessel during any construction or improvement, the abutting property owner shall first have obtained a permit for the construction or improvement and such permit shall be displayed on the property.

Sec. 86-61. Enforcement by chief of police.

The chief of police or designee is hereby authorized and designated to receive such information, keep records and details provided for in sections 86-59 and 86-60 and the police department and any code enforcement official is hereby authorized to enforce and carry out the provisions of this division.

Sec. 86-62. Definitions.

Boat or watercraft means any human, motor, wind, non-powered or artificially propelled water conveyance and every other description of boat or watercraft used or capable of being used as a means of transportation in the water and used for pleasure by the owner or others.

Boat mooring space means any place where a boat or watercraft can be anchored, moored, or tied up, and the entire portion of boat lifts, personal watercraft lifts, davits, mooring piles, wharfs, or other similar structures or equipment used in the anchoring, mooring, or tying up of boats or watercraft.

Commercial activity means any and all activities involving a boat or watercraft that includes, but is not limited to, conducting excursions, sightseeing, drift fishing, charter boat services, renting or leasing dock space to others for compensation.

Commercial boat or watercraft means a boat or watercraft that is used in any and all activities and services in exchange for compensation. Services may include, but is not limited to, conducting excursions, sightseeing, drift fishing, or other charter boat services.

Length means the measurement from the tip of the bow in a straight line to the stern, including rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions.

Mooring means when a boat or watercraft is fastened to a fixed object.

DIVISION 3. OCEAN AND WATERWAY REGULATIONS

Sec. 86-84. Watercrafts as hazards; unobstructed waterways

- (a) Whenever, in the opinion of the police chief, or designee the condition of any watercraft in the city waterway is such as to constitute a hazard, either to the safe passage of other water craft or due to the unsanitary conditions created thereby, or because of due to the dilapidation or unsightliness thereof, the owner of such watercraft shall, within three days after receiving notice from the police chief, or designee, remove such watercraft from the city waterway, and for failure to do so shall be guilty of an offense and the owner of the watercraft shall be responsible to the city for any cost or expense undertaken by the city for the purpose of removing the watercraft.
- (b) It shall be unlawful to moor, anchor or tie up a boat or watercraft in a position that endanger, interferes, or impedes with the free and unobstructed navigation of other boats or watercrafts through the waterways, except as provided for in Section 86-86, entitled "Hurricane procedure-Regulations.

Sec. 86-86. Hurricane procedure- Regulations.

- (a) Owners of boats or other watercrafts residing in the city are responsible to take precautionary measures to protect and secure their property in preparation of an event of a hurricane, or other natural disaster.
- (b) In view of the proficiency of the National Hurricane Center in predicting a hurricane, the following shall obtain:
 - (1) Boats or watercraft using the city waterway for refuge will be securely moored not later than 24 hours prior to the officially predicted approach of a hurricane.
 - (2) Such boats or watercraft will be moored only with adequate equipment and safeguards and in a manner so as to eliminate or minimize damage to other vessels boats, watercrafts, property or persons in the city. However, no such mooring will constitute an official approval thereof by the city, and no resultant damages or liability will accrue against the city.
 - (3) It should be clearly understood that any damages to boats, watercrafts, property or persons flowing from any hurricane moorings in the city waterway would be the personal responsibility and liability of the vessel boat or watercraft owner, including removal or salvage of the boat or watercraft.
- (c) It shall be unlawful to moor or tie a boat or watercraft at a dock, piling or seawall of a property without the consent of the property owner or person in control of the premises.

Section 3. Severability.

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

Section 4. Repealer.

All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed.

Section 5. Codification.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Effective Date.

This ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED AND ADOPTED this _____ day of _____ 2008.

ATTEST:

WALTER FOEMAN
CITY CLERK

DONALD D. SLESNICK II, MAYOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY