

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRs); PROVIDING FOR AMENDMENTS TO CHAPTER 932, COASTAL MANAGEMENT; BY AMENDING SUBSECTION 932.07(3)(A), UNWALLED SHELTERS, OF SECTION 932.07, PIERS, DOCKS AND BOAT SLIPS; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT THE INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTER 932, COASTAL MANAGEMENT, BE AMENDED AS FOLLOWS:

SECTION #1:

Amend LDR Section 932.07, Piers, docks and boatslips, as follows:

Section 932.07. Piers, docks and boatslips.

- (1) *Restrictions upon regularly moored watercraft; maintenance.* Watercraft shall not be regularly moored along any shore without consent of the riparian land owner. Regularly moored watercraft shall not be used as live-aboard vessels, offices or commercial enterprises except in commercial marinas with approval and facilities for that purpose. Regularly moored watercraft shall be kept in seaworthy condition when not in a permitted repair area. The mooring of live-aboard vessels (as defined in Chapter 901) in commercial marinas shall be limited to those boat slips designated for live-aboard vessels use on an approved site plan meeting the provisions described in section 971.35(3).
- (2) *Location of boatslips.* Boatslips shall be permitted only as a wet storage area adjacent to a dock, marina, boat livery, or boat yard. Boat slips shall not encroach upon a riparian side yard setback as determined by the applicable zoning side yard setback of the zoning district in which the project is located, as extended waterward from the adjacent upland. No portion of a watercraft moored at such boatslip shall project into the extended riparian side yard setback, unless necessary to allow the utilization of riparian rights.
- (3) *Projection of waterfront structures.*
 - (a) *Unwalled shelters.* Unwalled shelters may be erected over boatslips associated with docks or over the terminal platform associated with private observation/fishing piers and public piers; however, no part of such shelter may be erected **beyond waterward of the mean high water line (MHWL) shoreline** unless the following conditions are met:
 1. The applicant shall provide a detailed inventory of sea grasses and submerged aquatic vegetation in the area to reviewing county staff;
 2. The applicant must demonstrate that the unwalled shelter does not adversely impact light-sensitive aquatic resources such as sea grasses;
 3. The combined total surface area of the unwalled shelter, **walkway,** and ~~the~~ terminal platform of the associated dock, private observation/fishing pier, or public pier shall not exceed Florida Department of Environmental Protection (FDEP) size limitations where such structures are located in an aquatic preserve, ~~provided that in no case, however, shall t~~The surface area covered by an unwalled shelter **shall not** exceed four hundred (400) square feet on a dock, **except that the surface area coverage of the unwalled shelter may be greater than 400 square feet up to 1,000 square feet if the coverage does not exceed fifty percent (50%) of the combined total surface area of the entire waterfront structure located waterward of the MHWL. The roof of the unwalled shelter shall not extend more than one foot beyond the footprint of the boat stored at the boatslip. Such shelters**

are not included in the square footage calculation of a terminal platform. Unwalled shelters on a private observation/fishing pier shall not exceed ~~or~~ one hundred sixty (160) square feet ~~on a private observation/fishing pier~~; and

4. The height of the unwalled shelter shall not exceed twenty (20) feet above the mean high water line.
- (b) *Extension of docks, public piers, and private observation/fishing piers in waterways; generally.*
1. Docks, including tie-off piles, mooring or dolphin poles, and public piers shall not project outward from the shore more than twenty-five (25) percent of the width of the waterway at a point where they are located. The outward projection of a dock and associated structures shall be measured from the water's edge at mean low tide. The location, dimensions, and structural character of all structures shall be in conformity with applicable federal and state jurisdictional agency regulations.
 2. Private observation/fishing piers shall not project outward from the shore more twenty-five (25) percent of the width of the waterway at a point where the fishing pier is located, or 35' beyond the shoreline, whichever is less. The outward projection of an observation/fishing pier shall be measured from the water's edge at mean low tide. The location, dimensions, and structural character of all structures shall be in conformity with applicable federal and state jurisdictional agency regulations.
- (c) *[Exceptions.]* Application of paragraphs in "b" above shall not result in a unobstructed waterway of less than twenty-five (25) feet in width (twelve and one-half (12 ½) feet either side of the waterway centerline).
- (4) *Riparian side yard setback encroachment prohibited.* No dock, pier, boat shelter or other waterfront structure may encroach on a required riparian side yard setback as extended waterward for the zoning district in which the project is located, unless such an encroachment is necessary for the utilization of riparian rights. Notwithstanding, an applicant shall have an opportunity to apply for an administrative approval to construct a water front structure within a riparian side yard setback, under the following circumstances.
- (a) *Shared facilities.* Adjoining property owners desiring to share dock/boat slip facilities may apply for administrative approval pursuant to the provisions of Chapter 914. The applicants shall provide a detailed plan showing the dock location and configuration and all aquatic and shoreline vegetation. If approved, shared facilities may allow for up to four (4) or less boat slips without being considered multi-slip facilities. The applicant(s) shall also provide written confirmation of a recorded access easement which verifies joint access to the proposed structure. Adjoining property owners sharing dock boat/slip facilities shall not be permitted to construct additional, separate dock/boat slip facilities prior to the removal of the existing structure. Encroachment of the shared facility may only occur with regards to the adjoining property owner's shared lot lines.
 - (b) *Hardships.* In cases where lot configurations may create a hardship as applied to riparian side yard setback encroachment of single-family dock/boat slips, the applicant may apply for administrative approval pursuant to the provisions of Chapter 914. The applicant shall provide a detailed plan indicating the nature of the hardship as well as the proposed dock location, specifications and any aquatic or shoreline vegetation. County staff shall notify any affected adjacent property owner, as applicable, of the pending application. In all cases, the proposed encroachment shall be the minimum necessary to allow for the desired use.
 - (c) *Environmental constraints.* In cases where environmental conditional on a subject property are such that the location of a dock or other waterfront structure within a riparian side yard setback would afford the best protection of on-site natural resources, an applicant may apply for and be granted an administrative approval pursuant to the provisions of Chapter 914. Natural resources

that warrant riparian side yard setback encroachment consideration for protection purposes include mangroves and submerged aquatic vegetation.

- (5) *Environmental impact considerations.* Piers, docks, boat shelters, and other waterfront structures shall be located in order to minimize negative impacts on shoreline vegetation and marine grassbeds, as applicable. On riparian property where the location of a waterfront structure over or in the vicinity of light-sensitive aquatic vegetation (such as sea grasses) is unavoidable, such structure (or portion thereof) shall be constructed a minimum of five (5) feet above the mean high water level where said aquatic vegetation exists or could potentially exist, as determined by county environmental planning staff. Said determination shall be based on staff review of seagrass inventory information and site specific conditions.
- (6) *Design and construction characteristics of private observation/fishing piers.* All private observation/fishing piers shall be constructed to the following design characteristics:
 - (a) The main access pier shall not exceed four (4) feet in width.
 - (b) The terminal platform shall not exceed 160 square feet in area and shall not be used for docking a boat.
 - (c) The water depth at the outermost projection of the private observation/fishing pier shall not exceed two feet mean high water (MHW).
 - (d) Handrailing, built to Southern Building Code standards, shall be installed around that portion of the perimeter, of the observation/fishing pier, that extends waterward of the mean high water line.
 - (e) That portion of the fishing pier that extends waterward of the mean high water line shall be elevated at least five feet above the mean high water line, as measured from the top of the decking material. This elevation shall apply to both the main access pier as well as the terminal platform. The purpose of the elevation is to reduce or eliminate the potential for mooring of boats at the observation/fishing pier.
 - (f) "No Mooring" signs shall be installed on opposite sides of the main access pier and on the end of the terminal platform facing waterward (i.e., three signs in total). Lettering shall be no less than four (4) inches high and no greater than six (6) inches high.
- (7) *Prohibition of private observation/fishing piers in the Pelican Island National Wildlife Refuge.* No private fishing pier shall be permitted, authorized, or built within the Pelican Island National Wildlife Refuge.

SECTION #2: SEVERABILITY

If any clause, section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Ordinance and the remaining portion of this Ordinance shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

SECTION #4: REPEAL OF CONFLICTING ORDINANCES

The provisions of any other Indian River County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION #5: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Indian River County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION #6: EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Department of State.

This ordinance was advertised in the Press-Journal on the ____ day of _____, 2019, for a public hearing to be held on the ____ day of _____, 2019, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

- Chairman Bob Solari _____
- Vice Chairman Susan Adams _____
- Commissioner Joseph E. Flescher _____
- Commissioner Tim Zorc _____
- Commissioner Peter D. O'Bryan _____

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

The Chairman there upon declared the ordinance duly passed and adopted this _____ day of _____, 2019.

BY: _____
Bob Solari, Chairman

ATTEST: Jeffrey R. Smith, Clerk of Court and Comptroller

BY: _____
Deputy Clerk

This ordinance was filed with the Department of State on the following date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Dylan Reingold, County Attorney

APPROVED AS TO PLANNING MATTERS

Roland M. DeBlois, AICP; Interim Community Development Director