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The 2021 Florida Statutes

[Title XVIII](#)

PUBLIC LANDS AND PROPERTY

[Chapter 258](#)

STATE PARKS AND PRESERVES

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258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(1)(a) No further sale, lease, or transfer of sovereignty submerged lands shall be approved or consummated by the trustees except when such sale, lease, or transfer is in the public interest.

(b) For purposes of this subsection, aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves pursuant to the provisions in ss. [253.68-253.75](#). By March 1, 1997, the Department of Environmental Protection is further directed to establish rules for freshwater aquatic preserves and urban aquatic preserves.

(2) The trustees shall not approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve except when public road and bridge construction projects have no reasonable alternative and it is shown to be not contrary to the public interest.

(3)(a) No further dredging or filling of submerged lands shall be approved by the trustees except the following activities may be authorized pursuant to a permit:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects.
2. Such minimum dredging and spoiling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels.
3. Such other alteration of physical conditions as may, in the opinion of the trustees, be necessary to enhance the quality or utility of the preserve or the public health generally.
4. Such other maintenance dredging as may be required for existing navigation channels.
5. Such reasonable improvements as may be necessary for public utility installation or expansion.
6. Installation and maintenance of oil and gas transportation facilities, provided such facilities are properly marked with marine aids to navigation as prescribed by federal law.

(b) There shall, in no case, be any dredging seaward of a bulkhead line for the sole or primary purpose of providing fill for any area landward of a bulkhead line.

(c) There shall be no drilling of gas or oil wells. However, this will not prohibit the state from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the board.

(d) There shall be no excavation of minerals, except the dredging of dead oyster shells as approved by the Department of Environmental Protection.

(e) Structures may not be erected within the preserve, except:

1. Private residential docks may be approved for reasonable ingress or egress of riparian owners. Slips at private residential single-family docks which contain boat lifts or davits that do not float in the water when loaded may not, in whole or in part, be enclosed by walls, but may be roofed if the roof does not overhang more than 1 foot beyond the footprint of the lift and the boat stored at the lift. Such roofs are not included in the square-footage calculation of a terminal platform.

2. Private residential multislip docks may be approved if located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine

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resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on the depth of the water, nature and condition of bottom, and presence of manatees.

3. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve may be approved if the facilities are located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on the depth of the water, nature and condition of bottom, and presence of manatees.

4. Structures for shore protection, including restoration of seawalls at their previous location or upland of or within 18 inches waterward of their previous location, approved navigational aids, or public utility crossings authorized under paragraph (a) may be approved.

A structure under this paragraph or chapter 253 may not be prohibited solely because the local government fails to adopt a marina plan or other policies dealing with the siting of such structures in its local comprehensive plan.

(f) No wastes or effluents shall be discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

(g) No nonpermitted wastes or effluents shall be directly discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

(4) Notwithstanding any other provisions of this part, a riparian owner may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective trimming or alteration is in compliance with the requirements of ¹ss. 403.93-403.938, including any required permit under ¹ss. 403.93-403.938.

History.—ss. 1, 2, 4, ch. 75-172; s. 1, ch. 77-174; ss. 7, 73, ch. 86-186; s. 4, ch. 88-207; s. 1, ch. 88-377; s. 1, ch. 88-414; s. 6, ch. 91-187; s. 4, ch. 93-34; s. 99, ch. 94-356; s. 84, ch. 95-143; s. 7, ch. 96-247; s. 1, ch. 2010-208.

¹**Note.**—Some sections within this range have been repealed; ss. 403.93, 403.931, 403.9311, 403.932, 403.933, 403.935, and 403.936 were repealed by s. 13, ch. 95-299. Section 403.938 was amended and transferred to s. 403.9333 by s. 12, ch. 95-299.