

**CITY OF SANIBEL
ORDINANCE 23-XXX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCES TO UPDATE CONDITIONAL USE PERMIT STANDARDS FOR DOCKS, BOAT DAVITS, BOAT LIFTS, AND MOORING PILINGS IN THE BAY BEACH ZONE BY AMENDING SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126, ZONING, ARTICLE IV, CONDITIONAL USES, SECTION 126-96, DOCKS, BOAT DAVITS, BOAT LIFTS, AND MOORING PILINGS; AND TO MARINE ACCESSORY STRUCTURES STANDARDS BY AMENDING CHAPTER 126, ZONING, ARTICLE XIV, SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 2, ACCESSORY STRUCTURES, SUBDIVISION II, ACCESSORY MARINE STRUCTURES, SECTION 126-875, WATERWARD EXTENSION, SECTION 126-882, DECK PLANKING, AND SECTION 126-888, LIGHTING; FOR THE PURPOSE OF AMENDING THE LAND DEVELOPMENT CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Sanibel Plan, in all its elements, establishes policies and regulations necessary to assure orderly and balanced use and preservation consistent with sound conservation principles, of all living and nonliving coastal resources; and

WHEREAS, the Sanibel Plan identifies the value of mangrove vegetation in protecting public health, safety and welfare by buffering storm winds and flood tides, by stabilizing the shoreline, by maintaining and improving water quality, and by providing food, shelter and nesting areas for wildlife; and

WHEREAS, elevating boats out of the water is a best management practice to reduce impacts to the water quality from leaching anti-fouling paint, impeding natural flow of water, and blocking light; and

WHEREAS, the Planning Commission held a legally and properly advertised public hearing on August 8, 2023, on specific proposed amendments to the Land Development Code; and

WHEREAS, the Planning Commission heard and considered comments and recommendations from the Planning Department Staff and public; and

WHEREAS, the Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code, in accordance with the standards set forth in LDC Section 82-241; and

WHEREAS, the Planning Commission found the proposed amendments to the Land Development Code as indicated below are consistent with the Sanibel Plan and meet the requirements of LDC Section 82-241, and recommended by a vote of 6 to 0 that the City Council adopt said amendments in the form of an ordinance, the substance of which follows below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances, Subpart B. Land Development Code, are hereby amended with ~~strike through~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 126 – ZONING

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ARTICLE IV. – CONDITINAL USES

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Sec.126-96. - Docks, boat davits, boat lifts, and mooring pilings.

Docks, boat davits, boat lifts, and mooring pilings shall be permitted as a conditional use in the bay beach zone, except in the portion of this zone extending from the west boundary of Lighthouse Park to the west right-of-way boundary of Dixie Beach Boulevard at Woodring's Point. In the portions of this zone where such use is permitted as a conditional use, such structures shall be permitted only upon a finding by the planning commission that all of the following conditions are met:

- (1) Such use shall be an accessory use to a permitted residential use in the adjacent ecological zone.
- (2) The structures shall be located on the same lot as the permitted residential use.
- (3) No lot or parcel used for single-family or duplex dwelling units, or zoned only for such residential uses, may have more than one dock, with facilities for no more than two boats.
- (4) For all docks, boat davits, and boat lifts, permanent double berthing is permitted only when such docking system is specifically identified in an application clearly demonstrating compliance with all the standards of this section, and specifically approved by the conditional use permit.
- (5) Roofing and enclosures shall not be permitted on docks, boat davits, or boat lift structures, including mooring pilings.
- (6) Boat davits and boat lifts shall only be permitted where attached to, or adjacent to, a dock.
- (7) The structures can be placed in the tidal flow in such a manner as to minimize adverse environmental impacts.
- (8) The structures shall be extended seaward, from the mean high water line, no greater distance than is necessary to provide reasonable use of the facility and to provide boat docking or mooring only where the mean low water level is at least 3½ feet above bottom surface, but in no event shall such structure extend seaward more than 150 feet from the mean high water line.
- (9) The dock, boat davit, or boat lift shall not intrude into navigation channels or otherwise obstruct navigation.
- (10) The size of the surface area of the dock platform, not including the walkway to the dock, shall not exceed 200 square feet.
- (11) The dock platform and walkway to the dock shall have a maximum width of four feet.
- (12) Height restrictions.
 - a. The height above mean high water, of the lowest horizontal structural member of the walkway to the dock and of the dock platform, shall not exceed, by more than six inches, the minimum height required by state law or regulation.
 - b. With an exception for the height of the access walkway as provided for in subsection (10) of this section, the height of the surface of the decking for the walkway to the dock and for the dock platform shall not exceed, by more than 20 inches, the height of the bottom of the lowest horizontal structural member.
 - c. The height of required railing shall not exceed, by more than three inches, the minimum required by the building code.
 - d. The height of mooring piling shall not exceed ten feet above the mean high water line.

- (13) No dock, boat davits, boat lifts, and mooring pilings shall be located closer than 30 feet to any property line, as extended into the water.
- (14) Piling pairs for the walkway to the dock shall be placed at least 15 feet apart. Pilings shall be no greater in number and size than necessary to support the structure, given the anticipated use and soil conditions.
- (15) The walkway to the dock shall either be interrupted or be elevated to allow public access underneath, with at least six feet of clearance between the beach and the lowest member of the dock, in the area between mean high water and the mean low water line. However, as an alternative, a property owner may grant a public access easement adequate to provide reasonable passage around or across the walkway if proper ramping is provided.
- (16) Deck planks shall be no wider than six inches wide. The deck planks shall be spaced at least one inch apart. Alternative materials may be utilized for decking where it provides an equivalent or greater amount of light penetration as the deck planking standards.
- (17) Materials utilized in marine construction shall not be treated with chemicals which may have a detrimental effect on water quality, including creosote, tri-butyl tin, and all asbestos treatments.
- (18) Turbidity screening shall be employed during subsurface construction, to remain in place a minimum of 24 hours after construction is completed to ensure protection of water quality in the area.
- (19) A marine habitat, such as the placement of rip-rap, shall be provided under the dock platform.
- (20) The dock, boat davit, or boat lift shall be located so as to avoid, as far as possible, the disturbance of any shell bed or grass bed.
- (21) Railings shall be installed along the sides of the dock to prevent the docking or mooring of boats in any area of the dock that the water depth is less than 3½ feet at mean low water.
- (22) Lighting fixtures may be installed upon docks, boat davits, and boat lifts only in accordance with the following standards:
 - a. Lighting required under federal laws or regulations as an aid to navigation is permitted on docks, boat davits, and boat lifts, in accordance with United States Coast Guard standards.
 - b. Other lighting fixtures may be installed on docks only providing they are mushroom-type fixtures designed to direct light downward, installed at least 25 feet apart, not more than one foot above the surface of the dock, and limited to 25 watt incandescent yellow bulbs equivalent to a maximum of 25 incandescent watts or 4 LED watts and compliant with the lighting standards for marine turtle protection pursuant to section 126-1000, that are marine turtle protection compliant as defined by Florida Fish and Wildlife Conservation Commission.
 - c. All existing lighting on docks, boat davits, and boat lifts which does not conform to these standards shall be deemed nonconforming and shall be made to conform.
- (23) A certified topographic survey, by a registered professional surveyor, indicating the mean high water line, approximate mean high and low water depths, the location of any shoals, depressions, holes, and manmade structures and the location of the navigation channel. The mean high water line shall be staked by the surveyor before an application for a permit is submitted and the staking shall be maintained in place until the completion certificate is issued.
- (24) A vegetation survey of the bay bottom, along the full width of the applicant's property, shall be provided. Such survey shall disclose, locate, and identify all existing conditions, such as, but not limited to, grass beds, shell beds, shoals, depressions, and holes.

- (25) As a condition of a development permit for a dock, boat davit, or boat lift, an applicant shall be required to establish compliance with all federal, state, or county permitting requirements.
- (26) Shoal signs shall be posted in any grass beds or shell beds.
- (27) Signs shall be posted at the end of the dock to warn boaters of shallow waters.

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DIVISION 2. – ACCESSORY STURCTURES

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Subdivision II. – Accessory Marine Structures

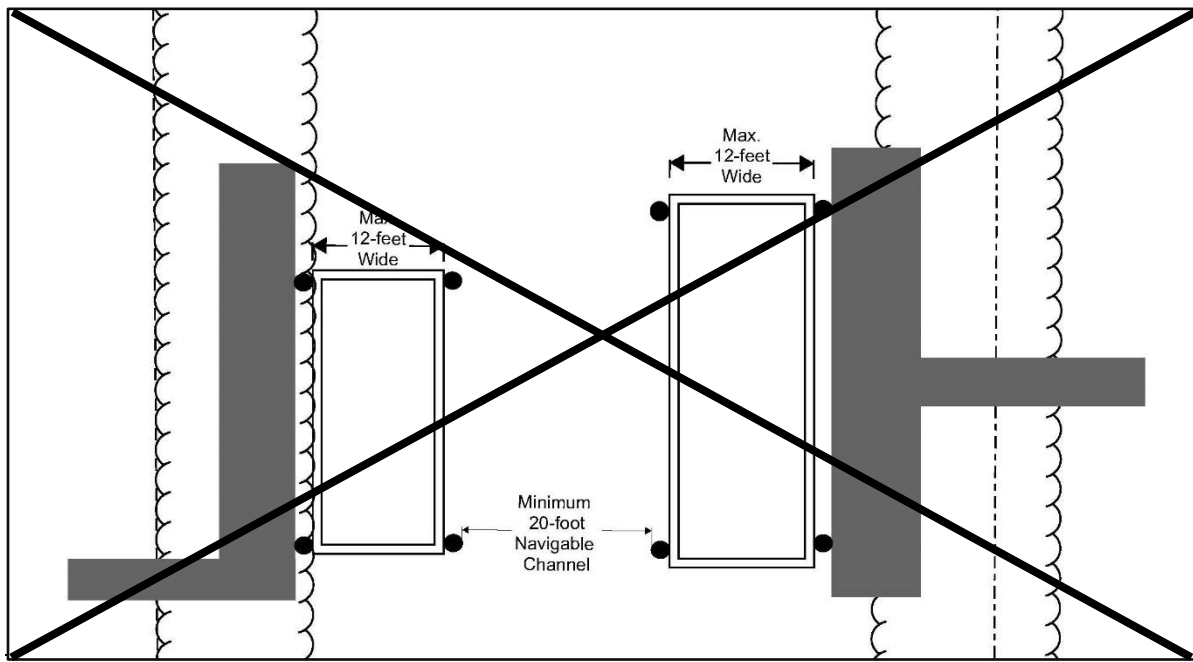
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Sec.126-875. - Waterward extension.

Docks, boat davits, and boat lifts shall not be extended waterward (from the approximate mean high water line) to a distance greater than is necessary to provide reasonable use of the facility based upon the following standards:-

- (1) For properties located on natural bodies of water:
 - (a) For properties with lawfully existing, nonconforming seawalls, or alternative shoreline stabilization, no~~Ne~~ such structure (including mooring pilings) on land having navigable access to state waters (including Clam Bayou and Old Blind Pass) shall be extended waterward more than 30 feet or 20 percent of the width of the waterway, whichever is less, except along shorelines with extensive mangrove vegetation, in which case such structures may extend up to 15 feet waterward past the roots of the mangroves from which the structure projects; provided such structures can be located where the water depth is greater than three feet above the bottom surface at mean low water where such minimum water depth is required, but in no event more than 20 percent of the width of the waterway.
 - (b) For shorelines with extensive mangrove vegetation, such structures may extend up to 15 feet waterward past the roots of the mangroves from which the structure projects; provided such structures can be located where the water depth is greater than three feet above the bottom surface at mean low water and the dock with a moored boat or a boat life does not encroach into the existing navigable channel.
- (2) For properties located on humanmade canals:
 - (a) For properties with seawalls, no such structure (including mooring pilings) on land having navigable access to state waters (including Clam Bayou and Old Blind Pass) shall be extended waterward more than 30 feet or 20 percent of the width of the waterway, whichever is less.
 - (b) For shorelines with extensive mangrove vegetation on land having navigable access to state waters (including Clam Bayou and Old Blind Pass), such structures may extend up to 15 feet waterward past the roots of the mangroves from which the structure projects; but in no event past more than 33 percent of the width of the waterway, including the width of the dock and a boat lift, when a minimum 20-foot-wide navigable channel is maintained. The width of the navigable channel will be measured based upon applying the same maximum waterward extension to the property on the opposite side of the canal if that property has a mangrove vegetated shoreline, or the standard from subsection (2)(a) if the property has a seawall shoreline.

- (c) When the proposed navigable channel is less than 25 feet wide based upon applying the subsection standards of (2)(a) or (2)(b), only piling supported boat lifts with reflectors placed on the outer pilings to assist with navigation may be approved.
- a. An exception to the waterward extension detailed in subsection (1) above may be granted administratively by the City Manager or designee and approved through a short form development permit for a boat lift when the shoreline of a parcel on a humanmade canal contains mangrove vegetation and the following are met through the design of a boat dock and boat lift:
- i. a boat dock is installed in a manner that protects the mangrove fringe to the maximum extent feasible;
 - ii. a boatlift no more than 12-feet wide measured between pilings or to the most waterward extension of an elevator style boatlift;
 - iii. the boat dock and boat lift design is the minimum necessary to provide boat mooring; and
 - iv. a minimum 20-foot wide navigable channel will be maintained with the same waterward extension allowance for any parcel of land with a mangrove fringe across the canal from the subject property as detailed in the following figure:



Above diagram to be deleted

- (32) Docks (including their mooring pilings) located on land adjacent to open bodies of water (including the Sanibel River) not having navigable access to state waters shall in no event be extended waterward more than 15 feet or 20 percent of the width of the waterway, whichever is less.
- (43) On properties where a seawall has been permitted waterward of the existing seawall per section 126-106, the distance of the waterward extension must be measured from the original seawall as depicted in the as-built survey for the replacement seawall.
- (5) When permit applications are received for accessory marine structures that exceed 30 feet or 20 percent of the canal width, whichever is less, then a notice of proposed construction shall be sent to all property owners on the canal where the structures are proposed a minimum of 14 days prior to issuance of the permit.

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Sec. 126-882. Deck planking.

Deck planking shall be no wider than six inches. Spacing of no less than one-quarter inch shall be provided between deck planking to provide for light penetration and air movement. Alternative materials may be utilized for decking where it provides an equivalent or greater amount of light penetration as the deck planking standards.

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Sec. 126-888. Lights.

Lights on docks, boat davits, boat lifts, and mooring pilings shall be no more than the minimum number necessary as an aid to navigation and to illuminate the surface of the dock and access walkway as a safety measure for those walking on these surfaces at night. A light installed as an aid to navigation shall be in conformance with the United States Coast Guard standards. Lights installed to illuminate the surface of a dock or walkway shall be a minimum of 11 feet apart, shall be so shielded and directed that the light falls only on the surface of the dock or walkway, shall use a ~~an incandescent bulb with~~ equivalent to a maximum of 25 incandescent watts or 4 LED watts, ~~shall number no more than six~~, shall be installed so that no part of the light fixture is more than 30 inches above the surface of the dock or walkway, and shall otherwise comply with subsection 126-652(9) and article XIV, division 5, of this chapter. Docks located within the Bay Beach Zone must also comply with the lighting standards set forth in section 126-96 under conditional use permits.

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SECTION 3. Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 6. Effective date. This Ordinance shall be effective immediately upon adoption.

FIRST READING SCHEDULED FOR THE 16TH DAY OF JANUARY 2024.

SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND SPECIAL SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THE 6TH DAY OF FEBRUARY 2024.

Attest:

Scotty Lynn Kelly, City Clerk

Richard Johnson, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

Johnson	_____
Miller	_____
Crater	_____
Henshaw	_____
Smith	_____

First Reading:	_____, 2024
Publication Date:	_____
Second Reading:	_____