



**AGENDA
HARBOR AND WATERWAYS BOARD MEETING
THURSDAY, MAY 23, 2024
5:30 PM
DESTIN CITY HALL ANNEX CHAMBERS**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**
- 2. APPROVAL OF MINUTES**
 - A) Minutes March 28, 2024**
- 3. NEW BUSINESS**
 - A) Draft Land Development Code Marina Siting Section of the Draft Article 7 – Resource Conservation & Protection**
- 4. PUBLIC COMMENTS**
- 5. COMMITTEE MEMBER REPORTS**
- 6. NEXT MEETING DATE: June 27, 2024**

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the City Clerk at (850) 837-4242 at least 48 hours prior to the hearing. If a person decides to appeal any decision made with respect to any matter considered at such meeting, such person will need a record of the proceeding and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (Sec. 286.0105, Florida Statutes)

**MINUTES OF THE
HARBOR AND WATERWAYS BOARD MEETING
DESTIN CITY HALL, MARCH 28, 2024 - 5:30 P.M.**

1. CALL TO ORDER:

Chairman Hoey called the Destin Harbor and Waterways Board meeting to order at approximately 5:30 p.m. on Monday, March 28, 2024, at Destin City Hall, with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Member Present:

Jim Green
Bill McKissick
Richard Hoey
Guy Tadlock
Jerod Hayden

Members Absent

Casey Jones

Staff:

Kim Montgomery Deputy City Clerk
Steven O'Connor Principal Planner
Daniel Butler Senior Planner
Tina Deater Planner
Kim Kopp City Attorney

3. Chair & Vice Chair Nominations

Motion by Board member Hoey to nominate Board member McKissick as Chairman.

Board member McKissick stated that he still has a quite a bit of traveling to do on Monday's and would like to keep the meetings on Thursdays. Additionally, he feels that someone else could better serve as the Chairman since he cannot guarantee that he can attend every meeting at this time.

Board member Hoey moved to nominate Board member Green as Chairman, with Board member Tadlock providing the second. Board member Green accepted the nomination. The motion passed 5-0.

Board member Hoey moved to nominate Board member McKissick as Vice Chairman, with Board member Tadlock providing the second. Board member Green accepted the nomination. The motion passed 5-0.

4. APPROVAL OF MINUTES: September 28, 2023

Motion to approve the minutes of the September 28, 2023, meeting was made by Board member Tadlock, with Board member McKissick providing the second. The motion passed by a unanimous vote of 5-0.

5. PUBLIC COMMENTS:

Mr. Michael Zigler of 516 Norriego Road spoke of how he agrees with the \$100.00 yearly fee to help maintain the harbor pump in order to keep the water quality up to standards, however he wants assurance that the city keeps the maintenance of the pump on schedule, as well. He feels that the Board should recommend to Council to stop the impact fees for the installation and repair

of all docks and seawalls in the harbor and the canals. He feels the fees are a negative impact to all those that want to make improvements but can't afford to. He also spoke of how he feels the ACOE study that stated the majority of the impacts to the harbor are from the citizens is an incorrect statement and spoke of how he sat on his deck for four hours and counted boats and the majority of the ones he counted, were commercial boats that are rented and are on the water for 4-6 or more hours a day. Whereas an owner only takes their boats out for the most part less than an hour a day. Lastly, he feels that the city's Public Works funds should be used to maintain and clean out the storm drains, not the NPEB funds that come from the homeowners and commercial owners on the harbor.

Mr. Mike Abadie, 534 Harbor Blvd. mentioned that he is the person that attended the LPA meeting and brought forth the idea of a fee being charged, across the board, annually to those that live and have commercial businesses on the harbor. He spoke of the \$90k fee that he had to pay and thought there has to be a better way to sustain the fund in order to be able to sustain the health of the harbor. Noting, if no one builds a dock in the next five years, there is no steady source of income coming in for the fund.

6. NEW BUSINESS:

A. Net Positive Environmental Benefit (NPEB) Fee – LDC 11.05.02.N

Mr. O'Connor clarified this is not a recommendation from staff or anyone at this point, it is just a concept. Also, regarding the statement by Mr. Zeigler about not using the NPEB funds for the stormwater, that is a requirement by the State of Florida and the city by Memorandum of Understanding that NPEB funds are used pay for the stormwater cleanouts. Additionally, the fees have to be dedicated to any other programs that help with the health of the harbor, such as the pump and the water monitoring stations maintained by CBA. He explained how the charge of this board is to find ways to help improve the health of the waterways of the harbor, and any innovative way to make it happen sustainably, is in the best interest of the residents of the city, because the harbor is the heart of the city.

Mr. Tadlock agreed that the harbor is a destination for tourists and spoke of it has being discussed at a past Council meeting how the TDC should participate, at some level, in the fund.

The City Attorney informed the members that the Interim City Manager is actively meeting with the county and discussing methods to come up for some level of assistance.

There was a lengthy discussion regarding how to figure out the fees and who should pay what, as well as how they would be assessed depending on the projects. Mr. O'Connor clarified that is what staff is asking is of the Board is to recommend what direction they want to go in regards to creating the fund.

Motion by Green motion to explore what a flat NPEB fee of 10% and charge and annual rate per slip starting annually of \$100.00.

According to Mr. O'Connor, that would in essence deplete the fund, especially if they don't want to go retroactively. **Chairman Green pulled his original motion.**

Chairman Green then inquired about a prorated type of impact fee and then later charge an annual fee for each slip, as docks get older, the income for the fee goes down.

Mr. O'Connor advised, that in his expertise, creating a flat rate, one that is easy to assess and then assess the annual fee and at some future date, for those that have already paid the NPEB fee, they will not have to pay again for some length of time at whatever time span is decided. Adding that something similar is necessary to get the fund solvent and operating properly.

Chairman Green suggested all NPEB fees at 10% and then charge an annual slip fee.

Board member Hayden asked Mr. O'Connor if they completely got rid of the initial fee and just started charging a \$100.00 fee per year per dock, or whatever is agreed on, would the fund be solvent. According to Mr. O'Connor, that may work. Board member Hayden suggested making a five-year moratorium, then the next year, start charging \$100 per dock to get the fund in the green.

The Chairman brought up the people, such as Mr. Abadie, who have paid 30-years into the fund, and that is where he is having concerns with this discussion.

Mr. O'Connor stated that he understands that concern, however, at some point, everyone is going to have to feel the burn, to get it right. He then suggested if someone has paid an NPEB in the last five years they get 15-years and someone has paid in the past 10-years, they get 10-years. If they've paid in the last 15, they get 5 years, or something to that effect, until everyone on the harbor is paying. At least with that, there is some consistency stability to the account, so the city can start maintaining the pump like it should be, maintaining the stormwater systems so they work properly, and addressing the channel by putting it on some kind of maintenance plan to get dredged every five years.

According to Mr. Tadlock, the TDC should contribute to the funding because of all of the tourists they bring into the area that come into the harbor and create the crowdedness. Mr. O'Connor explained that the staff is in discussions with the TDC. However, staff is not presenting this tonight to discuss the TDC, staff is asking for the board to give some insight on how to move forward with the NPEB fund. The City Attorney explained the city is working with the TDC and feels confident that the TDC will help however, they should not be expected to fund it all and what

staff is asking for from them is a recommendation to take to Council for what type of fees can the city charge to benefit the harbor NPEB funds and city staff is merely asking for their input.

Board member Tadlock spoke of the high taxes that waterfront homeowners pay and how those on the harbor and canals cannot rent their slips and feels that there should be some kind of program in place to help with that, and suggested allowing them to rent their boat slips out like commercial businesses on the harbor can. He also suggested that they have some kind of benefit for those that have boatlifts, such as those not having to pay anything since, they do not put burden on the environment when their boats are lifted and do not shadow the water as much.

Chairman Green spoke of how everyone has to pay to have our vehicles registered and everyone that has access to the harbor and a slip, regardless of if you're and owner or not, and everyone should pay the same.

Motion by Chairman Green recommend the staff to explore a flat NPEB fee of 10% with those starting annually, paying a per slip fee of \$100.00 and if they have already paid their NPEB in less than the last 5-years, their amortization is 20-years, if they have paid it from five to ten years, their amortization is 10-years, if they have paid it in the last 10-15 years, their amortization is 5 years. If they are over 15-years, they would start paying the fee immediately. Board member McKissick provided the second. In discussion, Board member Tadlock expressed concern over this plan getting implemented too soon. Mr. O'Connor briefly explained the process and how this would not be something that could be implemented quickly.

Chairman Green addressed Mr. Tadlock's comment regarding boatlifts not impacting the environment as much, noting that anytime a vessel is put into the water, it is impacting the environment.

Mr. O'Connor verified with the Chairman that this is just for those that own property on the harbor. Chairman Green confirmed that yes, just on the harbor. **Having no further discussion among the board members, the motion passed 5-0.** Chairman Green opened up the public for additional discussion.

Mr. Mike Abadie, 530 Harbor Blvd., spoke of three items that he feels should be considered. Those are:

- People making repairs to their docks should not have to pay to the fund.
- The commercial slip industry will build out eventually, so you cannot base the future income solely on that.
- The commercial boat industry pays a lot to the city that the residential boat owner do not.

Mr. Michael Zigler stated that he recommends getting rid of the categories and base the fee on the number of slips being installed. Have a minimum and a sliding scale for the maximum along with the annual fee that he feels everyone should have to pay.

Mr. Randy Taylor, 508 Harbor Blvd., spoke of all the commercial vessels that are causing pollution in the harbor and those that come into the harbor and moor for 20+ days, as well as those that come into the harbor that don't live in Destin. They all are impacting the environment one way or another. He spoke of how everyone should be paying, not just the ones that live and work on the harbor.

With no further comment, Chairman Green closed the public hearing portion for discussion.

B. Draft Land Development Code Marina Siting Section of the Draft Article 7 – Resource Conservation & Protection

Mr. Butler explained to the members how the regulations have been moved to the appropriate locations in the LDC and the regulations, such as dock lengths and no dumping of fish carcasses, are not applicable to the Land Development Code but more appropriately suited for the Code of Ordinance, and all of the processes and procedures of the Mariana Siting has been moved to Article 2. He explained how the development regulations for new marine construction are now in Article 7. He further explained there were not any substantial changes, it is just better reorganized in a much easier to read fashion, with a chart that was created for dock length allowances. He also informed the members that the Fuel Abatement section has not been implemented yet, staff is still working on it, however, it will be in the Marina Siting Section after it has been developed and approved.

Board member Hoey thanked the staff for the outstanding job on the rewrite and spoke of some changes to certain areas that he suggests. Mr. O'Connor spoke of how it would be better if they had any further suggestions, changes or corrections, if they would email them to staff and they could then compile them and bring back for everyone's review and if it's agreed by all, staff would implement the agreed upon suggestions. The Chairman agreed and spoke how that he feels that would be the best way, at this late hour of the meeting.

Chairman Green mentioned living on Coleman Lake, which is a private lake, and how there is a new construction on a lot and part of it is for a dock, which the city is requiring the permitting process for it. He spoke of how he feels that a private lake should be exempt from the permitting process, since there is no State Submerged Lease permitting requirements, and the owners still have to involve the HOA requirements.

Motion by Chairman Green to add into the draft Article 2 an exemption for building permits for all privately owned lakes inside the limits of the city of Destin. Board member McKissick provided the second. In discussion, Board member Hayden mentioned that he feels the language should just read the permitting process only applies to State Navigable Waters. Mr. O'Connor stated that staff realizes the intent and can make the necessary language in the Article. **With no further discussion, the members voted 5-0, in favor of the motion.**

7. BOARD MEMBER COMMENTS:

➤ **Board member Tadlock** – Mentioned that he has checked on the harbor pump three different times around midnight and the pump has not been running and would like a report back on the run times for it and if it is working. Also, he still has not received the water testing information he requested and would like that information to be provided to them at their next meeting.

➤ **Board member McKissick** – Thanked everyone for assisting him this past year with his health issues and asked the members if they didn't mind, to keep the meetings on Thursdays since he still will have more travelling on Mondays for doctor appointments into the near future.

8. DIRECTOR REPORT:

9. ADJOURNMENT:

With there being no further discussion, the meeting adjourned at 7:45 p.m.

Adopted and approved this _____ day of _____ 2024.

Capt. Jim Green, Chairman

Kim Montgomery, Deputy City Clerk

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: May 23, 2024
BOARD/COMMITTEE: Harbor & Waterways Board
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 3.A.

TO: Harbor & Waterways Board

THRU: Louis Zunguze, City Manager
 Kimberly Kopp, City Attorney

FROM: Daniel Butler, Senior Planner
 Steve O'Connor, Principal Planner

DATE: May 17, 2024

SUBJECT: Draft Land Development Code Marina Siting Section of the Draft Article 7 –
 Resource Conservation & Protection

I. BACKGROUND: On April 5, 2021, Staff brought the Scope of Work and Budget to completely rewrite the **Land Development Code (LDC)** for approval to the City Council, both of which were approved unanimously. Since that time, Staff has worked with the 3TP Consultants to move forward diligently and systematically with drafting the new LDC. This work to date has involved the following:

- **Review of Comprehensive Plan Policies**
- **Developing Planning Areas and their associated Intent Statements**
- **Review of the LDC text chapter by chapter**

II. DISCUSSION: The LDC Rewrite Project is a complete reorganization and update to the development standards and regulations for the City of Destin. Currently, the **Marina Siting** section is located in *Article 11 – Coastal Management and Conservation*.

The reorganization of the regulations has taken all procedural processes and placed them in *Article 2 – Administration*. Meaning, all marine projects' application review and approval processes by the **Harbor and Waterways Board (HWB)** and **City Council** (if applicable) is proposed to be located there, as discussed with the **HWB** in April 2023. On the other hand, the specific development standards are proposed to be placed in *Section 7.02 – Marina Siting of Article 7 – Resource Conservation & Protection*.

Section 7.02 – Marina Siting

This section focuses on the proposed Marina Siting specific regulations and development standards. The attached **Section 7.02** lists all the development standards that an applicant must meet when proposing a residential or commercial dock. The language included in the proposed **Marina Siting Section 7.02** is significantly less than what is currently in **11.05.00 – Marina Siting** due to the reorganization of the LDC, i.e:

1. relocating the application and review procedures from the current Marina Siting regulations to **Article 2 - Administration**, and
2. removing the language that is more appropriately located within the Code of Ordinances.

The HWB has previously reviewed the Marina Siting regulations twice now and given positive feedback on what has been presented. However, during the April 24, 2024 HWB meeting, board member Hoey recommended a new way of determining “**dock length**” and where to begin the measurement. Currently, dock length is allowed within a buffer of the allowed length from the **Mean High Water Line (MHWL)**.

SECTION 7.02.04 DIMENSIONAL AND DENSITY LIMITATIONS

A. Length

1. The following table includes the maximum dock length allowed for any new dock construction or modifications. For the purposes of this subsection, lots may be combined with neighboring lots, however no dock may exceed the limitations outlined in this Section

Dock Location	Maximum Length Allowed
Any waterfront property not adjacent to Choctawhatchee Bay or zoned South Harbor Mixed Use (SHMU)	The width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is connected to the uplands, whichever is less.
Waterfront property with uplands zoned South Harbor Mixed Use (SHMU)	1.5 times the width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is connected to the uplands, whichever is less.
Waterfront property adjacent to Choctawhatchee Bay.	1.5 times the width of the lot at the mean high-water line, or 200 feet, whichever is less.
Waterfront Property with less than 50 feet of waterfront shoreline.	No individual dock is allowed, unless parallel to the shoreline (marginal dock). Marginal docks shall not be wider than six (6) feet. Docks may be allowed if lots are combined with neighboring lots in accordance with this section

Member Hoey suggested, rather than a buffer, allowing a max distance measured from the

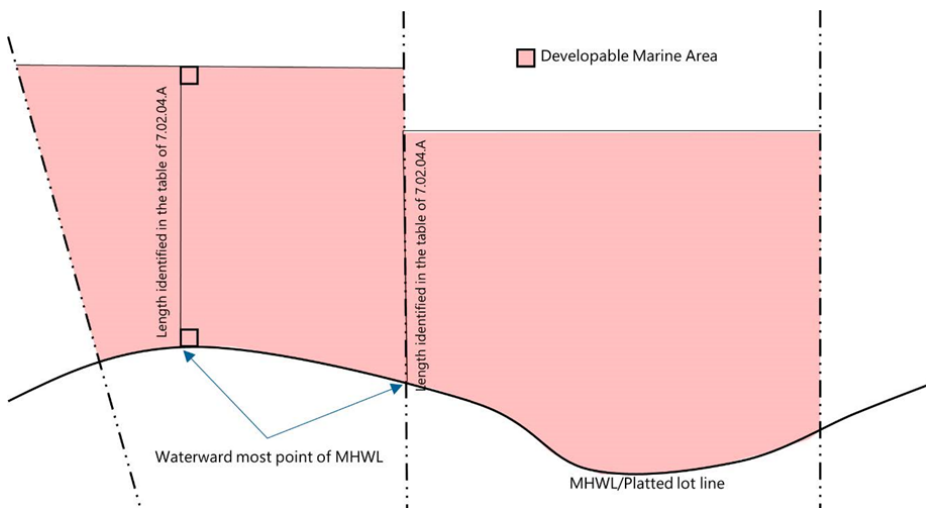
waterward most point of the **MHWL** waterward to the allowed distance, then creating a “box” within the riparian lines that shows the area of marina development.

Staff created language and a graphic for the HWB review and consideration based on the discussion. If the Board is good with the language and graphics, Staff will proceed with posting this to the website for public review. Otherwise, please provide comments on how to improve upon what Staff is presenting.

2. Measurement of length shall start at the waterward most point of the Mean High Water Line or platted lot line which ever is more restrictive. See Design Manual Section 8.00 -Measurements for diagram and drawing to show how to measure.

3. From the waterward most point identified per paragraph 2 above a perpendicular line drawn waterward the distance allowed per the chart in Paragraph A above.

4. At the maximum distance of length allowed above another perpendicular line is drawn from between the identified or implied riparian lines.



A. Link to Strategic Goals / Objectives: #2. Enhanced quality of life and safety for families

#3. Economic development and revitalization

#4. Effective, efficient, and aesthetically pleasing infrastructure

#6 A green and sustainable environment.

B. Effect on Budget (EOB): Budget for this work is already approved.

C. Level of Service (LOS): Develop and implement processes for consistent and streamlined application of codes and procedures.

D. Legislative Sponsor:

III. CONCLUSION: Staff is seeking a positive recommendation of the proposed development regulations for marine facilities as presented in **Section 7.02 – Marina Siting** of the draft **Article 7 of the LDC**. Any recommendations the Board provides will be incorporated into a report for the **Local Planning Agency (LPA)** and **City Council's** consideration and review before going back forward with the final draft development.

IV. RECOMMENDED MOTION: I move that the Harbor & Waterways Board recommend City Council approve the proposed language of *Section 7.02 – Marina Siting* of the Draft *Article 7 – Resource Conservation & Protection* as presented.

ALTERNATE MOTION: I move that the Harbor & Waterways Board recommend City Council approve the proposed language of *Section 7.02 – Marina Siting* of the Draft *Article 7 – Resource Conservation & Protection* with the following additional regulations ().

Attachments:

1. 1 - Draft Article 7

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City of Destin, FL - Land Development Code

ARTICLE 7 - RESOURCE CONSERVATION AND PROTECTION

SECTION 7.01 ENVIRONMENTAL & NATURAL RESOURCE PROTECTION

SECTION 7.01.01 PURPOSE

- A. The purpose of this Section is to provide regulations intended to protect the City's existing environmental and natural resources, especially the coastal resources. Therefore, this Section intends to establish regulations to mitigate the impacts of floods, protect and restore wetlands, limit the impact of development, and enhance the quality of life and property.
- B. It is also the purpose of this Section to ensure that publicly funded infrastructure shall not be built within any Coastal High Hazard Area (CHHA) unless the facility is for any of the following:
 1. Protection of public health and safety
 2. Creation of open space
 3. Implementation of beach restoration
 4. Shoreline erosion protection programs

SECTION 7.01.02 BAY SHORELINE PROTECTION ZONE

- A. The Bay Shoreline Protection Zone is applicable to properties lying within the City limits along the waterfront of Choctawhatchee Bay, Joe's Bayou, Marler Bayou and Indian Bayou. This zone is defined as a 50-foot buffer that begins at the mean high-water line and extends landward 50 feet. This buffer zone shall consist of preserved native vegetation, including canopy, understory, and ground cover.
- B. The following regulations shall apply to all development and redevelopment within the Bay Shoreline Protection Zone of the City:
 1. No native vegetation shall be removed from the coastal or wetland shoreline without a duly authorized permit from the city and state agencies, as applicable.
 2. The minimum setback for principal habitable structures shall be 50 feet from the mean high-water line.
 - a. If the 50-foot setback cannot be achieved due to depth of property prior to platting of lots, right-of-way easements, utility easements, or access easements existing at the time of adoption of this ordinance, the maximum width achievable shall be provided.
 - b. An applicant claiming inability to comply with the 50-foot setback requirement because of the above-stated causes must submit documentation certified by an engineer as to the limitations on the property which make compliance impossible.
 - c. Minor structures and accessory uses are allowed within this buffer zone, provided these improvements do not constitute more than 40 percent of the square footage within the buffer zone.
 - i. These improvements shall comply with **Section 6.08.00** of this Code.
 3. Other uses and activities permitted in the Bay Shoreline Protection Zone are those that are compatible with the protection and conservation of the areas, as described below:
 - a. Scenic, historic, wildlife, or scientific preserves,
 - b. Minor maintenance or emergency repair to existing structures or improved areas, and
 - c. Bulkheads and/or seawalls along or within property lines.

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SECTION 7.01.03 GULF SHORELINE PROTECTION ZONE

- A. The Gulf Shoreline Protection Zone consists of the area that commences at the mean high-water line and runs to and includes ten feet (10') landward of the primary dune system.
1. The 10' landward area of the dune system shall function as a buffer, and shall be planted with native plantings, excluding trees.
 2. Whenever any construction activity is to be undertaken in the area between the CCCL and the landward limit of the Gulf Shoreline Protection Zone, and such construction would alter any portion of the primary dune, the City shall require the implementation of an FDEP approved Beach and Dune Restoration Plan to mitigate any damage which would result from the construction.
 - a. Proof of FDEP review shall be submitted at the time of Development Order application.
 - b. Proof of FDEP approval shall be submitted at time of construction permitting.
 3. Public expenditures within any Gulf Shoreline Protection Zone shall comply with the LDC and shall be limited to the following:
 - a. Recreational uses,
 - b. Protection or restoration of valuable natural resources, or
 - c. Increase the public's access to the shoreline.
- B. Prohibitions
1. The following activities shall be prohibited within the Gulf Shoreline Protection Zone:
 - a. Construction of buildings and structures
 - b. Removal of vegetation, except as allowed pursuant to an approved FDEP permit,
 - c. Planting of new vegetation except for native, salt-resistant species suitable for beach and dune stabilization,
 - d. Installation of temporary or permanent coastal armoring, unless a Building Permit is obtained, and all construction complies with applicable Federal, State, and Local regulations.
 - e. Exceptions
 - i. Minor structures authorized by FDEP; albeit the minimum setback for construction within properties fronting the Gulf of Mexico shall not be less than 50 feet from the mean high-water line.
 - ii. The prohibitions listed above shall not apply to construction landward of the Coastal Construction Control Line nor to any structure or activity permitted by FDEP.
 - iii. Beach Boxes for beach recreational equipment are permitted on private beached provided they meet the following regulations:
 - (a) No excavation can occur to set or establish a beach box
 - (b) Beach boxes shall not exceed the following dimensions:
 - (i) Height:
 - (ii) Depth/Length:
 - (iii) Width:
 - (c) Location:
 - (i) Shall stay off any and all vegetation.
 - (ii) Primary dune setback: A beach box shall be located between five feet (5') and fifteen feet (15') from the waterward primary dune line.

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- (iii) At no time shall a beach box be located in a way to obstruct the traversing of any individual or vehicle.
 - (d) Number:
 - (i) No more than one (1) box per fifty feet (50') of water frontage.
 - (e) Color:
 - (i) All beach boxes shall be painted white or off white.
- C. Dune enhancement.
- 1. All persons constructing elevated boardwalks on property located in the Gulf Shoreline Protection Zone shall include in their plans provisions to enhance and revegetate the dune system on their property.
- D. The following development standards shall apply to all development located within the Gulf Shoreline Protection Zone:
- 1. Point source and non-point source discharges are prohibited, except for stormwater, in accordance with Section 7.05.02 of this Article.
 - 2. Siltation and erosion control measures shall be applied to stabilize disturbed areas during and after construction. Sediment settling ponds shall be installed for stormwater runoff prior to the creation of any impervious surfaces. For lots or parcels that are cleared, silt screens shall be placed between the construction site and the water body to prevent erosion and siltation.

SECTION 7.01.04 WHITE SAND PROTECTION ZONES

- A. The purpose of this Section is to prohibit and/or regulate the use of clays, sand-clay mixtures or any other material subject to wind and water transport that can be potentially discoloring to the natural white sands and to the waters of the City, and to regulate and require permitting for use of these materials in other areas of the City. The provisions of this Section shall apply to all types of construction.
- B. Approvable Materials
- 1. Zone 1: White sand must be used as fill material in a White Sand Zone 1.
 - 2. Zone 2: White sand, sandy soil which is indigenous to Zone 2, or other sandy soil which is as light or lighter than the undisturbed indigenous soil on site may be used in Zone 2.
 - 3. Special purpose materials, as described below, may be used within a White Sand Zone 1 or 2:
 - a. Discoloring material used for horticulture and landscaping may be used if discoloration is limited to the planted area by containment safeguards. Any discoloration to public or other private property is unlawful. It shall be the responsibility of the permitted property owner to clean and restore any discolored public or other private property affected by the landscaping or horticultural activity.
 - b. Beneath building foundations, parking lots, and roadbeds, limestone, dolomite, crushed lime rock, and other similar stabilizing materials containing no red clay, red sand, tan sand, or other adversely deeply tinted material, may be used if both of the following measures have been incorporated:
 - i. The material is contained by a concrete curb or solid concrete block wall extending not less than one foot below grade and as deep as necessary to provide containment.
 - ii. The material must be covered by a permanent cover such as asphalt, concrete or other appropriate material within five (5) calendar days (120 hours) of placement.

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- (a) If it is not practical to permanently cover the material until the completion of construction, the material must be physically sealed by a wind- and water-resistant membrane as soon as possible, in no case more than five (5) calendar days (120 hours) after its placement, and must be permanently covered at the completion of construction prior to the issuance of a Certificate of Occupancy or Completion, whichever is applicable.
- c. Driveways and parking lots within any White Sand Zone may use oyster shell, granite, or washed, coarse aggregate rock meeting FDOT standards for final driveway or parking lot material, provided these materials shall be contained to those areas and shall not be spread elsewhere on the site as fill material.
 - i. Driveways and parking lots within White Sand Zone 1 shall contain these materials by utilizing a concrete curbing that extends no less than one (1) foot below grade.
- 4. Reconstruction & Redevelopment
 - a. At any time of reconstruction or redevelopment where previously utilized materials that are not compliant with this Section are disturbed, the nonconforming materials/soils shall be removed from the site and from the zone using safeguards to prevent discoloring the natural sand and water at the site and adjacent properties. Such removal shall be completed within five (5) business days.
 - i. If the native soil of such site does not comply with this Section, the applicant shall demonstrate that the use of the native soil shall not alter or adversely affect the surrounding properties.
 - ii. In no case shall any red clay, red dirt, or other staining material be allowed to remain on site.

SECTION 7.01.05 ENVIRONMENTALLY SENSITIVE AREAS

- A. The purpose of this Section is to protect the City's Environmentally Sensitive Areas (ESAs), which have special environmental attributes worthy of retention or special care to maintain habitat, open space, and wildlife corridors; provide stormwater management, filtration, flood, and erosion control benefits; and protect surface ground water quality.
 - 1. At a minimum, Norriego Point and all lands within the defined Coastal High Hazard Area (CHHA) and any functioning wetlands, as defined by United States Army Corps of Engineers (USACE) and Florida Department of Environmental Protection (FDEP) shall be included.
 - 2. A developer shall obtain a determination of the boundaries of a protected Environmentally Sensitive Area and submit to the City with development applications. Such applications shall include an adequate description of the land the developer wishes to develop, the nature of the developer's right to ownership or control of the land, and other information pertinent to the project.
 - 3. Development plans submitted to the City shall comply with applicable federal, state and water management district regulations relating to Environmentally Sensitive Areas. In all cases, the strictest of the applicable standards shall apply.
 - a. Such development plans shall include a Wetland Report, prepared by appropriately licensed engineers, biologists, landscape architects, or other similar design or land planning experts.
- B. Wetland Protection Zones

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1. The boundaries of this zone shall be the most landward extent of the following:
 - a. Areas within the dredge and fill jurisdiction of the Florida Department of Environmental Protection as authorized by F.S. Ch. 403.
 - b. Areas within the jurisdiction of the U.S. Army Corps of Engineers as authorized by Section 404, Clean Water Act, or Section 1, River and Harbor Act.
 - c. Areas within the jurisdiction of the Northwest Florida Water Management District.
 - d. It shall be the responsibility of the owner/applicant to coordinate with all federal, state, and local agencies to determine if the property lies within any jurisdictional wetlands.
2. Development activities allowed within Wetland Protection Zones.
 - a. Certain activities are presumed to have an insignificant adverse effect on the beneficial functions of Wetland Protection Zones.
 - b. These activities may be undertaken unless it is shown by competent and substantial evidence that the specific activity would have a significant adverse effect on the Wetland Protection Zone.
 - c. For the reasons described above, the following uses and activities are permitted within a Wetland Protection Zone, provided it does not conflict with any other provisions of this Code:
 - i. Scenic, historic, wildlife or scientific preserves.
 - ii. Minor maintenance or emergency repair to existing structures or improved areas.
 - iii. Cleared walking trails having no structural components.
 - iv. Timber catwalks and docks four (4) feet or less in width.
 - v. Cultivating agricultural or horticultural products that occur naturally on the site.
 - vi. Developing an area that no longer functions as a wetland, except a former wetland that has been filled or altered in violation of any rule, regulation, statute, or this Code.
 - (a) Such evidence shall be provided by the applicant to FDEP for review.
3. The following special design standards apply to any development within Wetland Protection Zones:
 - a. Wherever possible, natural buffers shall be retained between all development and all Wetland Protection Zones.
 - i. If a natural buffer does not exist, an equivalent buffer shall be created.
 - ii. The size of the buffer shall meet the minimum requirements as defined by the Northwest Florida Water Management District (NFWMD) to prevent significant adverse effects on the protected area.
 - iii. At no point shall a buffer have less than an average width of twenty-five feet (25'), with a minimum width of fifteen feet (15').
 - b. The developer shall completely restore any portion of a wetland protection zone damaged during construction.
 - i. Complete restoration means that the damaged area shall, within five years, be operating as effectively as the natural system did prior to being destroyed.
 - c. Other reasonable protective measures necessary to prevent significant adverse effects on a Wetland Protection Zone may be required. Protective measures may include, but are not limited to:
 - i. Maintain natural drainage patterns,

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- ii. Limiting the normal removal of vegetation to the minimum amount necessary to conduct the development activity,
 - iii. Expediently replanting disturbed areas,
 - iv. Stabilizing banks and other unvegetated areas by siltation and erosion control measures,
 - v. Minimizing the amount of fill used in the development activity,
 - vi. Disposing of dredged spoil at specified locations in a manner causing minimal environmental damage,
 - vii. Constructing channels at the minimum depth and width necessary to achieve their intended purposes and designing them to prevent slumping and erosion and allow revegetation of banks,
 - viii. Dredging wetlands at times of minimum biological activity to avoid periods of fish migration and spawning and other cycles and activities of wildlife,
 - ix. Designing, locating, constructing, and maintaining all development in a manner that minimizes environmental damage,
 - x. Prohibiting septic tanks, or
 - xi. Requiring the developer and successor to record deed restrictions and other legal mechanisms to protect the environmentally sensitive areas and maintain the development.
- d. The City Council may require additional environmental protection measures to provide sufficient protection for Wetland Protection Zones.
 - e. Clustering Development
 - i. In the case that any proposed development is located on property with wetlands, the allowable density and/or intensity of the total site shall be applied to the developable area outside of the wetlands.
 - ii. In no case shall the proposed density and/or intensity be greater than the allowable density of the total site.
 - iii. Clustering development allowances only apply if the developer does not build within the wetlands, and all protective measures, as identified above, are implemented to reduce adverse impacts to the wetlands.
- C. Coastal Marsh Vegetation Protection Zones
- 1. This Section shall apply to any property that contains coastal marsh vegetation.
 - 2. Regulations for structures built over Coastal Marsh Vegetation Protection Zones
 - a. The structure shall be designed to have the smallest footprint practicable.
 - b. The elevation of the structure shall be a minimum of eight feet (8') above the coastal marsh vegetation area floor level.
 - c. The width of the structure shall be limited to a maximum of four feet (4').
 - d. The structures shall be aligned in a north-south direction wherever practicable.
 - 3. Prohibited acts in Coastal Marsh Vegetation Protection Zones
 - a. No person shall remove, cut, or alter the natural growth of coastal marsh vegetation.
 - b. No herbicide or pesticide is to be used on coastal marsh vegetation.
 - c. No placement of riprap on coastal marsh vegetation or within five feet (5') of coastal marsh vegetation.
 - d. No placement or construction of seawalls in areas containing coastal marsh vegetation.

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- e. No storage of hazardous chemicals or materials.
4. Exceptions to prohibited acts in Coastal Marsh Vegetation Protection Zones
 - a. Walls may be built as upland retaining walls with a minimum distance of five feet (5') upland of the coastal marsh vegetation.
5. The following standards apply to post-development activities taking place within any Coastal Marsh Vegetation Protection Zones.
 - a. Point source and non-point source discharges.
 - i. Absent an amendment to a development order, point source and non-point source discharges shall continue to meet the standards applicable to the original development.
 - b. Clearing
 - i. Absent an amendment to a development order, no person shall clear more vegetation than was permitted for the original development.
 - c. Handling and storage of fuel, hazardous/toxic substances, and waste
 - i. Development where any types of fuel, hazardous/toxic substances, or waste will be stored, transferred, or sold shall employ the best available facilities and procedures for the prevention, containment, recovery, and mitigation of spillage of these substances. Facilities and procedures shall be designed to prevent substances from entering the water or soil and employ adequate means for prompt and effective cleanup of spills that do occur.
 - ii. No fuel, hazardous/toxic substances, or waste shall be stored in outdoor containers not specifically designed and intended for storage of such materials.
 - iii. Storage or disposal of all types of fuel, hazardous/toxic substances, or waste is prohibited on or along shorelines.
6. Fertilizers, herbicides, or pesticides shall not be applied in any Coastal Marsh Vegetation Protection Zones, except for projects conducted under the authority of F.S. §§ 373.451—373.4595, the Surface Water Improvement and Management Act, and governmental authorized mosquito control programs.
7. Spray vehicles used for mixing or spraying chemicals are prohibited from withdrawing water directly from open waters, as well as cleaning/discharging into any Coastal Marsh Vegetation Protection Zones.
8. Sewage, solid waste, and petroleum waste generated by vessels or vehicles on the site shall be collected and disposed of as required by law.

SECTION 7.01.06 SIGNIFICANT ENVIRONMENTS AND WILDLIFE PROTECTION

- A. It is the purpose of this Section to provide standards necessary to protect the habitats of species, both flora and fauna, of endangered, threatened, or special concern status in the city. It is the intent of this Section to require that an appropriate amount of land shall be set aside to protect the habitat of rare, endangered or of special concern plant and animal species.
 1. Areas subject to the standards of this Section shall be those identified by the United States Fish and Wildlife Service (USFWS), Florida Fish and Wildlife Conservation Commission (FWC), or any other local, State, or Federal agency.
- B. Habitat Management Plan

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1. It shall be the responsibility of the applicant to inform Staff whether a site contains plant or animal species which are endangered, threatened, or a species of special concern.
 - a. If any of these species are present, the applicant shall submit and obtain a Habitat Management Plan to the Florida Fish and Wildlife Conservation Commission (FWC), the United States Fish and Wildlife Service, or the Florida Department of Agriculture and Consumer Services.
 - b. This habitat plan shall include a field survey, written comments, and recommendations concerning the impact of the proposed use on such species from the appropriate agency.
 - c. City Council may utilize this information to consider including conditions of approval as deemed appropriate.
 2. The Habitat Management Plan shall be prepared by an ecologist, biologist or other related professional. The plan shall document the presence of affected species, the land needs of the species that may be met on the development site and shall recommend appropriate habitat management plans and other measures to protect the subject wildlife.
 3. The final development plans approved for a development shall substantially conform to the recommendations in the Habitat Management Plan.
 4. Where land on a proposed development site is to be preserved as a habitat of rare, endangered, or special concern species, such land shall be adjacent to existing viable habitat, a significant wetlands system, floodplain, or wildlife corridor.
 - a. If such lands are not adjacent to the development site, land to be set aside shall be of such quantity and quality to provide a viable habitat as documented in the study required by this Section.
 - b. A conservation easement shall be recorded by the applicant for all land, including wetlands, which are to be preserved as a condition or a requirement of a development approval.
- C. Marine Turtle Conservation Zone.
1. These regulations are intended to accomplish the following:
 - a. Protect marine turtle hatchlings from the adverse effects of artificial lighting.
 - b. Provide overall improvement in nesting habitat degraded by light pollution.
 - c. Increase successful nesting activities and production of hatchlings on the beaches located within the City of Destin.
 2. All new coastal construction seaward of the Coastal Construction Control Line (CCCL) in the Marine Turtle Conservation Zone shall comply with the outdoor lighting standards outlined in the City's Design Manual.
 3. Existing artificial light fixtures that are replaced for any reason shall comply with this Section.
 4. The following activities are prohibited within a Marine Turtle Conservation Zone:
 - a. The use of laser source light or any similar high intensity light for outdoor advertising.
 - b. The operation of searchlights or beacons.
 - c. All other outside light sources shall comply with this Code.

SECTION 7.02 MARINA SITING

SECTION 7.02.01 PURPOSE

- A. This Section establishes and regulates standards by which the City controls and regulates development, construction, and activities within and contiguous to the Harbor and waterways of Destin.

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SECTION 7.02.02 GENERAL REGULATIONS

- A. The requirement of a Harbor and Waterways Board (HWB) application, and any applicable public hearings, shall be in accordance with Section 2.08.03 of this Code.
- B. All marine construction projects shall provide the City with the applicable homeowner's association (if applicable), State, and Federal approvals at the time of building permit submittal.
- C. No dock of 100 feet or longer shall be constructed unless a white navigation/security night-light is installed at the furthest point seaward on said dock.
 - 1. All navigation/security night-lights shall be illuminated continuously from dusk to dawn every night of the year.
 - 2. All existing docks 100 feet or longer shall install and operate a navigation/security light pursuant to this subsection.
 - a. Each light shall be installed within 90 days after adoption of this Code.
- D. No utility services shall be installed upon any dock without a permit obtained from the City.
- E. Aerators or circulation devices may be required as determined by the City when it is determined that the water circulation is deemed to be impacted negatively by the proposed facilities.
- F. Development classified as Class 3, per Section 2.08.03 of this Code, shall be denied if the City Council determines that the proposed development does not meet the criteria outlined in this Section, and further, if the proposed development is averse to the public's interest. Listed below are the criteria for Class 3 Development:
 - 1. Land use compatibility
 - a. The applicant shall demonstrate that the proposed development, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses and will not adversely impact land use activities in the immediate vicinity.
 - 2. Proper use of mitigative infrastructure
 - a. The applicant shall demonstrate the proposed development and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to surface waters.
 - 3. Hazardous waste
 - a. The proposed development shall not generate hazardous waste or require the use of hazardous materials in its operation without the use of city-approved mitigative techniques designed to prevent any adverse impacts to adjacent surface waters. The development shall include best management principles and practices.
- G. Exemption:
 - 1. Any dock located on a private lake controlled by an active owner's association is exempt from the regulations of Section 7.02 Marina Siting of this Article.

SECTION 7.02.03 COMMERCIAL REGULATIONS

- A. Commercial marine businesses located within the city that rent or operate passenger vessels must provide designated docking facilities, whether privately owned or leased.
- B. All commercial docks shall be designed with at least one (1) sewage pump out station for public use. Such sewage pump out station shall be operable and maintained.
- C. All commercial docks shall be designed with the necessary firefighting facilities, as specified by the City or Destin Fire Control.

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SECTION 7.02.04 DIMENSIONAL AND DENSITY LIMITATIONS

A. Length

- The following table includes the maximum dock length allowed for any new dock construction or modifications. For the purposes of this subsection, lots may be combined with neighboring lots, however no dock may exceed the limitations outlined in this Section

Dock Location	Maximum Length Allowed
Any waterfront property not adjacent to Choctawhatchee Bay or zoned South Harbor Mixed Use (SHMU)	The width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is connected to the uplands, whichever is less.
Waterfront property with uplands zoned South Harbor Mixed Use (SHMU)	1.5 times the width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is connected to the uplands, whichever is less.
Waterfront property adjacent to Choctawhatchee Bay.	1.5 times the width of the lot at the mean high-water line, or 200 feet, whichever is less.
Waterfront Property with less than 50 feet of waterfront shoreline.	No individual dock is allowed, unless parallel to the shoreline (marginal dock). Marginal docks shall not be wider than six (6) feet. Docks may be allowed if lots are combined with neighboring lots in accordance with this section

- Measurement of length shall start at the waterward most point of the Mean High Water Line or platted lot line which ever is more restrictive. See Design Manual Section 8.00 - Measurements for diagram and drawing to show how to measure.
- From the waterward most point identified per paragraph 2 above a perpendicular line drawn waterward the distance allowed per the chart in Paragraph A above.
- At the maximum distance of length allowed above another perpendicular line is drawn from between the identified or implied riparian lines

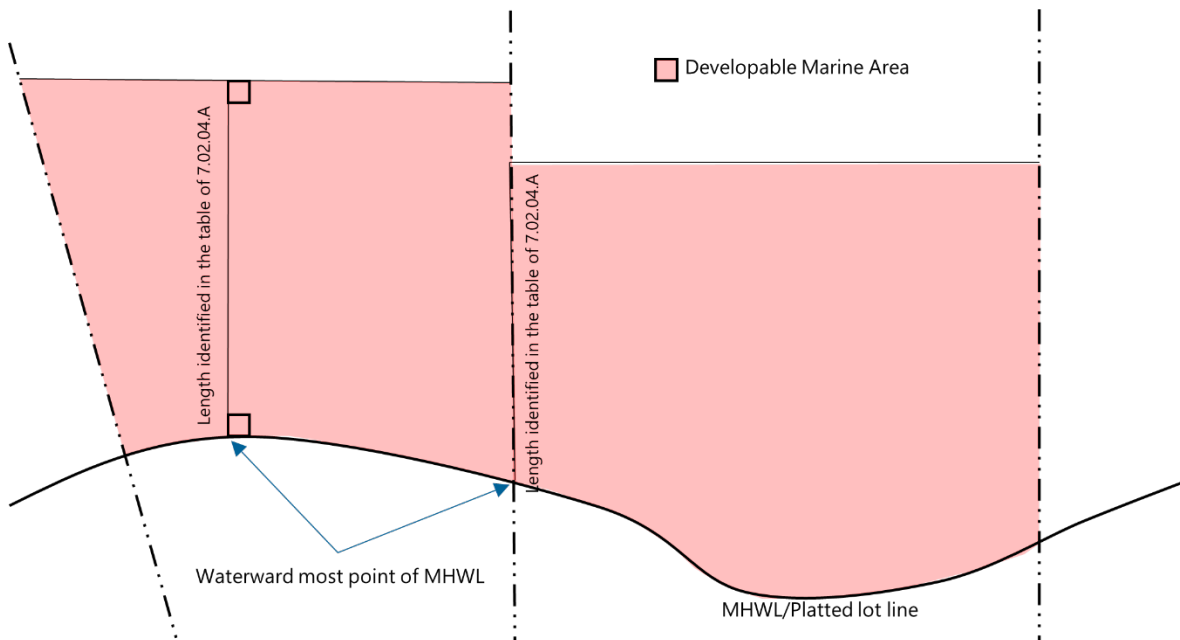


Figure 7.02-1 Dock Length

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- B. No pier shall extend more than six (6) feet into a canal right-of-way.
- C. Density
 - 1. No dock shall be constructed or modified such that slip density exceeds one (1) slip per eight (8) linear feet of waterfrontage.
 - 2. Docks along canals shall not have more than one (1) slip per 45 linear feet of waterfrontage.
 - 3. Lots that are riparian to a canal shall be entitled to at least two (2) slips on the canal.

SECTION 7.03 ARCHEOLOGICAL AND HISTORICAL RESOURCE PROTECTION

SECTION 7.03.01 PURPOSE

- A. The Florida Department of State, Division of Historic Resources has identified six sites within Destin of historic significance. Such sites have been identified and documented as being significant in American history, architecture, archaeology, engineering, or culture. They reflect the prehistoric occupation and historical development of the nation, state, and local community. Their protection and preservation, therefore, is essential.

SECTION 7.03.02 PRESERVATION OF HISTORICAL STRUCTURES, SITES, AND RESOURCES

- A. Any time a proposed development may impact a historic or archeological site within the City, as deemed by the State, the following subsections of this Section shall apply. It shall be the responsibility of the owner/applicant to coordinate with all federal, state, and local agencies to determine if the proposed development may impact such identified sites within the City.
 - 1. Historic structures shall be exempt from the provisions of the Florida Building Code if any modification, repair, or restoration activity would jeopardize their historical integrity.
 - 2. Land alteration or development of land where such would contribute to the destruction of historic resources shall be prohibited.
 - 3. A project classified as a development of regional impact (DRI) shall contain a description of historical or archaeological sites within the proposed development and suggested mitigation measures for such resources if present. DRIs shall be submitted to the Compliance and Review Section in the Florida Department of State's Bureau of Historic Preservation.
 - 4. For any proposed development activity on a historic site previously identified in this Section, all Development Order applications (if applicable) or Building Permit applications shall include an archeological and historic review summary, provided by the applicant. Such review summary shall be reviewed and approved by the City and Florida Department of State, Division of Historical Resources.
 - 5. If valuable archaeological or historical resources are previously known to exist, development approval shall be conditioned upon performance of an archaeological salvage excavation plan approved by the City and the Florida Department of State, Division of Historical Resources.
 - a. If artifacts of known or suspected historical significance are found on the site, any further land disturbing activities shall cease pending an evaluation by Florida Department of State, Division of Historical Resources.
 - 6. The City shall prepare reports describing any developments that discovered, impacted, or removed any historic or archeological artifacts or sites within the City when such events occur.
 - 7. For any proposed development within the City's Harbor District Overlay or the Zerbe-Calhoun Overlay, please see [Section 4.07.04](#).

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SECTION 7.04 ILLICIT DISCHARGE DETECTION AND ELIMINATION

SECTION 7.04.01 PURPOSE

- A. The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of Destin through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.
- B. This Section also establishes minimum standards and methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) to ensure compliance with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

SECTION 7.04.02 PROHIBITION OF ILLICIT DISCHARGES AND CONNECTIONS

- A. Illicit discharge
 1. Aside from stormwater, no substances, materials, or effluent (chemical or physical) shall be discharged or caused to be discharged, by any person or entity, into the municipal storm drain system, adjacent properties, or watercourses.
 2. If a discharge is found, the City reserves the right to enforce this Section.
- B. Prohibition of illicit connections.
 1. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - a. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
 - b. A person is considered to be in violation of this Section if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.
 - c. A person commits an offense if that person reinstates MS4 access to premises terminated pursuant to this section without the prior approval by the City.
- C. Suspension of access to a municipal storm sewer system.
 1. The City may suspend access to the MS4 if any of the following situations occurs:
 - a. Suspension due to illicit discharges in emergency situations.
 - i. The City, without prior notice, may suspend MS4 discharge access to a person or entity, when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States.
 - ii. If the violator fails to comply with a suspension order issued in an emergency, the City may enter the property and take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
 - iii. The violator shall be responsible for reimbursing the City or their agent for all costs incurred from the corrective action.
 - b. Suspension due to the detection of illicit discharge.
 - i. Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge.
 - c. Industrial or construction activity discharges.
 - i. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit.
 - (a) Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4.

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- D. Private Single-Family/Duplex Illicit Discharges.
 - 1. Direct or indirect non-stormwater contaminant or wastewater shall not leave said private property and enter an adjacent private property without receiving the adjacent property owner's express written consent.
 - a. Irrigation sprinkler overspray is exempt from this requirement.
 - 2. Swimming pool backwash/flush water, car wash water, pond, fountain, or any other water feature that receives periodic pumping out and/or cleaning shall either:
 - a. Provide facilities to collect and hold wastewater on-site until it percolates or evaporates completely, without creating a mosquito breeding or any other hazard, or
 - b. Discharge into an approved industrial sewer.
 - 3. The system shall not be overwhelmed and allowed to spill over onto an adjacent property or Environmentally Sensitive Areas.

SECTION 7.04.03 EXEMPTIONS

- A. The commencement, conduct, or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows:
 - 1. Water line flushing or other potable water sources,
 - 2. Landscape irrigation or lawn watering,
 - 3. Diverted stream flows,
 - 4. Rising ground water,
 - 5. Ground water infiltration to storm drains,
 - 6. Uncontaminated pumped ground water,
 - 7. Foundation or footing drains (not including active groundwater dewatering systems),
 - 8. Crawl space pumps,
 - 9. Air conditioning condensation,
 - 10. Springs,
 - 11. Non-commercial washing of vehicles,
 - 12. Natural riparian habitat or wet-land flows,
 - 13. Swimming pools (if dechlorinated less than one parts per million chlorine),
 - 14. Firefighting activities,
 - 15. Other water source not containing pollutants,
 - 16. Discharges specified in writing by the City as being necessary to protect public health and safety, or
 - 17. Dye testing, given a written notification is provided to the City at least 48 hours prior to the time of the test.
- B. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency (EPA).
 - 1. The permitted discharger shall be in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations. Such written approval shall be maintained on site.