



**AGENDA
HARBOR AND WATERWAYS BOARD MEETING
MONDAY, SEPTEMBER 28, 2020
5:00 PM
DESTIN CITY HALL ANNEX COUNCIL CHAMBERS**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**
- 2. APPROVAL OF MINUTES**
 - A) June 22, 2020 Minutes**
- 3. PUBLIC COMMENTS**
- 4. NEW BUSINESS**
- 5. OLD BUSINESS**
 - A) Marina Siting Proposed Amendments**
- 6. COMMITTEE MEMBER REPORTS**
- 7. DIRECTOR'S REPORT**
- 8. NEXT MEETING DATE: TBD**
- 9. ADJOURNMENT**

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, JUNE 22, 2020 - 5:00 P.M.**

1. CALL TO ORDER:

Chairman Trammell called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, June 22, 2020 at Destin City Hall.

2. ROLL CALL:

Member Present:

Matt Trammell
Richard Hoey
Guy Tadlock
Bill McKissick
Casey Jones
Quinten Selby

Members Absent

Jim Green

Staff:

Kim Montgomery, Deputy City Clerk
Traci Goodheart, Planner
Lauren Witt, Planning Manager
Steven Bauman, City Attorney

3. APPROVAL OF MINUTES:

- **September 25, 2018**
- **February 24, 2020**

Board member Jones moved to approve the minutes of the September 25, 2018 and the February 24, 2020 minutes as written with Board member Hoey providing the second; the motion passes with a 6-0 vote.

4. PUBLIC COMMENT: Kurt Fisher

Mr. Fisher spoke to the Board members about his concern that he has for the lack of proper boating courses required prior to people getting their license to operate a boat. He spoke of the high number of boating accidents and how important the need is to get the numbers down.

He spoke of how he feels a licensed boat captain should be required to take the boat owners out onto the water and properly teach them one-on-one before the license is issued to them.

Board member McKissick spoke of how he is responsible when selling people boats that they understand how to operate them and spends a minimum of two hours with before finishing the sale. Adding that 15-minutes is definitely not enough time.

Chairman Trammell spoke of how it is the responsibility of the business owner, the captain and or operator when there is an accident on the water.

5. NEW BUSINESS:

- **Sunshine Law/Public Records Law – This was continued to the next meeting**

➤ **4156 Belcourt Drive/Bill Smith**

Mrs. Goodhart explained this has been previously brought before them to discuss the riparian settlement and is now being brought for a recommendation to approve the request. Adding that it meets the settlement agreement between Coach Miles and the previous owner of 65-Linear feet and revised drawings have been submitted identifying the riparian settlement agreement on the aerial in addition to the ACOE and FDEP permits.

Chairman Trammell clarified that the permits have been obtained and the memorandum of understanding has been acknowledged between both property owners. According to Mrs. Goodhart, they have.

Board member Jones made the recommended motion for the Harbor & Waterways Board recommends City Council approve the request for the proposed marine construction project located at 4156 Belcourt Drive located in the Choctawhatchee Bay, Class II Florida Waters. Board member Hoey providing the second.

In discussion, Board member Tadlock spoke of the property now being owned by a different person than when what they heard in 2018. Mrs. Goodhart confirmed that statement. Mr. Tadlock asked if what is going to be built is exactly as what they reviewed in 2018? According to Mrs. Goodhart the project request with the revised drawings in their packet is what will be built. And referred the members to their packet to look at the Bill Smith aerial and the Bill Smith drawing; they will see the structural drawings and the linear foots is proposed to be 65-feet. Mr. Tadlock asked if they are still under the 1,000 square feet requirement. Mrs. Goodhart acknowledged his statement, that they are.

Mr. Hoey thanked Mr. Lobello for attending the meeting and how the drawings are just what they like to see for project requests. He then commented on how the drawings do not show the actual size of the roof and stated how much easier it is for them to calculate the square footage of the shadow on the water when reviewing these kind of projects if the roof covering is included.

The Chairman called for the vote and the motion passed 6-0.

➤ **510 Calhoun Avenue/Mike Buckingham**

According to Mrs. Goodhart, the contractor has submitted a modification to two docks on one parcel. Explaining further that one of the docks is a shared dock between the property owner and his adjacent neighbor. Adding that staff did receive an email from the adjacent property owner stating that he does agree with the modification to the existing dock. Adding that staff understands that the current dock is a nonconforming structure and is being reduced. The Code does allow for nonconforming docks to be reduced as well as docks to be shared. In addition, one of the existing docks located at 510 Calhoun Avenue is going to be expanded to approximately 600-square feet from its original footprint of 266-square feet. The nonconforming dock is being reduced from 885 sq. feet to 266 sq. feet with the adjacent dock being expanded to 600-sq feet of 266 sq. feet. She

also pointed out to the members that the applicant's request has received their FDEP permit but at this time, has not received their ACOE permit.

Mrs. Goodhart informed the board members that during their review of the EAR they were in contact with the State for some policy language to add to the Comprehensive Plan and the State wanted staff to reference Section 166.033 of the Florida Statutes that reads that local government cannot hold up any permits that the State and the ACOE enforce. That area is theirs to enforce and the city can only enforce their own regulations. Therefore, going forward, they cannot make an approval contingent upon a State or Federal Approval. So, if the project meets all the requirements of the Code, they must make a recommendation based solely on the codes.

Board member Jones made the recommended motion to recommend City Council approve the request by Mike Buckingham at 510 Calhoun Avenue located within the Marler Bayou Class three Florida Waters. With Board member Selby providing the second.

Board member Hoey asked the City Attorney that the Florida DEP are rendering the rules and not Federal and questioned if they have jurisdiction over how this Board treats a Federal document.

According to Mr. Bauman, in his opinion, they have jurisdiction over how those are applied in the State by Local Municipalities and Governmental units.

52:35

6. OLD BUSINESS:
None

7. MEMBER REPORTS:

8. DIRECTOR'S REPORT:

A. Marina Siting Ordinance

9. MEETING DATES: July 28, 2020

ADJOURNMENT:

With there being no further discussion, the meeting adjourned at 7:00 p.m.

Adopted and approved this _____ day of _____ 2020.

Matt Trammell, Chairman

Kim Montgomery, Deputy City Clerk

ORDINANCE NO. 20-06-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING SECTION 11.05.00 OF THE LAND DEVELOPMENT CODE; AMENDING REGULATIONS FOR MARINA SITING; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Part II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council in providing for the health, safety and welfare of its citizens finds that the City should modify the regulations for marina siting; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol * represents sections of the Land Development Code that have been skipped and remain unchanged.**

SECTION 3. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 11.05.00.

Section 11.05.00 of the Land Development Code is hereby amended as follows:

11.05.00. - Marina siting.

11.05.01. *General regulations; prohibitions.* This article establishes and regulates procedures and standards by which the City controls and regulates development, construction and activities within and contiguous to the Harbor and waterways of Destin. The following regulations and prohibitions shall apply to the Harbor and waterways of Destin:

- A. No person shall construct or add to an existing dock, seawall, bulkhead, mooring or piling, modify an existing submerged land lease, or conditions thereto, or conduct dredge or fill operations in, or contiguous to, the Harbor or waterways of Destin without first obtaining the proper authorization from the appropriate federal, state and City agencies.
- B. All new commercial docks, marinas, upland cuts, and proposed single-family marine construction projects of 1000 square feet or more shall require approval from the Harbor and Waterways Board and City Council. The addition or modification of a boat lift or pilings within an existing legal and conforming boat slip shall not require the review of the Harbor and Waterways Board or the City Council. Rather, a copy of the U.S. Army Corps of Engineers permit, DEP permit, and a homeowner's association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created.
- C. No fish carcasses and debris shall be discharged into the Harbor or waterways of Destin.
- D. No person who maintains or operates a dock shall allow or permit the disposal of fish carcasses, litter, waste petroleum products or other pollutants into the Harbor or waterways of Destin. Trash disposal receptacles shall be anchored to each dock to ensure compliance with the provisions of this article.
- E. No fuel or oil shall be willfully or knowingly discharged in the Harbor or waterways of Destin. No dock which sells fuel or oil shall be constructed, operated or maintained in the Harbor or waterways of Destin unless an oil abatement plan, in accordance with Coast Guard guidelines, is available at each dock. The Destin Harbor and Waterways Board shall review and recommend approval or disapproval of each oil abatement plan to the City Council, which shall have approval authority. Each existing dock which sells fuel or oil shall develop and have approved an oil abatement plan acceptable to the City. All new docks which sell fuel or oil shall develop and have an approved oil abatement plan, which is acceptable to the City, prior to receiving a building permit from the City.
- F. No new or existing dock shall be constructed or modified such that the length of any pier as completed is greater than 20 percent of the width of the Harbor or waterway at the place where the pier is located, or out 200 feet, whichever is less, except in Choctawhatchee Bay.
- G. No piling(s) shall be added to the waterward end of any pier which piling(s) would make the total length of the dock more than 200 feet, or 20 percent of the waterway, whichever is less, except in Choctawhatchee Bay.
- H. No vessel shall be moored or docked on the waterward end of any pier of the maximum legal length, as determined pursuant to subsection F above, for more than 72 hours.
- I. No dock shall be constructed which permits the commercial docking of boats with on-board toilets unless such the dock is equipped with a sewage pump-out.
- J. No dock shall be constructed which permits the docking of a live-aboard unless such vessel has an operable holding tank.
- K. No boat shall be moored in the Harbor or waterways of Destin such that constitutes a hazard to navigation.
- L. No dock shall be constructed such that it constitutes a hazard to navigation.
- M. Excepting docks connected to uplands zoned SHMU, or those located on Choctawhatchee Bay, no dock shall be longer than the width, at the mean high-water line, of the lot to which the dock is attached.

1. For those docks connected to uplands zoned SHMU, or those located on Choctawhatchee Bay, a dock may be constructed to a length of 1.5 times the width of the property at the mean high-water line, provided the length of the dock not exceed the maximum length established by paragraphs F and G above.
 2. For the purpose of this subsection, lots may be combined with neighboring lots. However, no dock may exceed the limitations specified in subsection F above.
- N. No dock shall be constructed or modified such that slip density exceeds one slip per eight lineal feet of waterfront footage except that, on canals, no lot may have more than one slip per 45 linear feet of waterfront. However, all lots riparian to a canal shall be entitled to at least two slips on the canal.
- O. No boat or vessel, entering into, exiting or operating within the Destin Harbor shall operate at such speed that would create a wake that endangers other boats or vessels, swimmers or other persons within the Destin Harbor, or would contribute to any adjacent land erosion.
- P. No heated or cooled water may be emitted into the Harbor, waterways, or the Harbor canals other than from a boat.
- Q. No pier shall extend more than six feet into a canal right-of-way.
- R. No discharge of water shall contain phosphorous or any other substance likely to cause a violation of the water quality standards specified in Chapter 17-302, Florida Administrative Code.
- S. No dock or vessel shall be placed within the 25-foot setback of a property line without providing prior written notification to the adjoining landowners and requesting their response. Any objections received from the adjoining property owners will be considered by the Harbor and Waterways Board in their recommendations to the City Council.
- T. No dock shall unreasonably interfere with the riparian rights of others.
- U. 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 and such light is to be illuminated continuously from dusk to dawn every night of the year. All existing docks 100 feet or longer shall install and operate a navigation/security light pursuant to this subsection. Each light shall be installed within 90 days after adoption of this Code.
- V. No commercially operated boat docking facilities shall be permitted or operated unless equipped with firefighting facilities as specified by the City.
- W. No construction shall be allowed which violates any provision of the Standard Building Code, as adopted by the City.
- X. No electrical or water service upon any dock shall be installed unless a permit is obtained from the Planning Department and Building Department for that service.
- Y. No person, while operating a boat within the or waterways of Destin shall allow or permit the disposal of fish carcasses, litter, waste, petroleum products or other pollutants into the Harbor or waterways of Destin from such boats.
- Z. No lot, or multi-contiguous lots, with less than 50 feet of waterfront footage shall be allowed individual docks, unless they are parallel to the shoreline. However, docks may be allowed under the provisions of subsection 11.05.01.M.2.

- X. Commercial marine businesses located in South Harbor Mixed Use (SHMU) and/or Calhoun Mixed Use (CMU), that operate or rent passenger vessels must provide designated docking facilities, whether privately owned or leased.

11.05.02. *Permitting procedures.* The following procedures shall be adhered to by persons desiring to construct a new dock or add to, alter or remodel, add riprap to, or reconstruct an existing dock:

- A. Persons desiring to construct a new dock or add to, alter, remodel, add riprap to, or reconstruct an existing dock shall apply for and obtain a permit and other authorization from the City prior to construction.
- B. Each applicant shall designate the location of his property on the or waterways of Destin and attach this to the building permit application and must complete the City application form(s).
- C. Application shall be made by filing with the City, the City's permit application form and a copy of the joint application form used by the United States Army Corps of Engineers, and the Florida Department of Environmental Protection, the requirements of which are expressly adopted herein as they existed on the effective date of this Code, and as they are hereafter amended by said respective agencies.
- D. A building permit shall be obtained from the City prior to beginning construction, in accordance with City ordinances.
- E. If the dock is to have more than two slips for commercial use or for use by persons other than the owner, the applicant/owner shall supply a certified copy, from the Okaloosa County Tax Appraiser, of all names, addresses, and property I.D. numbers of the owners of adjacent waterfront property.
- F. The Harbor and Waterways Board shall review all timely received applications at the next regularly scheduled Harbor and Waterways Board meeting. The City Council shall take final action on the application within 30 days of receipt of all state and federal permits and the Board's recommendation.
- G. Marinas having ten or more slips and/or non-residential docking facilities shall require a public hearing before the City Council prior to approval. A marina having ten or more slips and/or non-residential docking facilities 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 adverse to the public's interest.

Criteria for marinas and/or non-residential docking facilities:

- 1. Land use compatibility. 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 use and will not adversely impact land use activities in the immediate vicinity. The proposed development shall meet or exceed the requirements outlined in Article 7.12.00, City's Land Development Code.
- 2. Proper use of mitigative infrastructure. 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. The proposed development shall

meet or exceed the requirements outlined in Article 10.03.00, City's Land Development Code.

3. Hazardous waste. The proposed development shall not generate hazardous waste or require use of hazardous materials in its operation without 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 and must comply with the requirements outlined in Article 11.09.00, City's Land Development Code.
- H. Building permits must be obtained within one year of final approval by the City Council or the approval expires and must be resubmitted for reconsideration by both the Harbor and Waterways Board and City Council. The project will be subject to all current regulations of the City.
- I. The application must be signed by the title of record owner(s) or any long-term lessee of the abutting upland property.
- J. Applications for permission for dock or upland cut construction shall include scaled drawings, ~~prepared and certified by a land surveyor or architect, if requested by the Harbors and Waterways Board at the public hearing,~~ and said plans shall include at a minimum:
1. Boundary Survey or Plat, to include:
 - i. Location of the mean high-water line
 - ii. Linear feet of water frontage
 2. Accurate measurements for depth and width in several locations in the vicinity of the proposed dock, in addition to:
 - i. Linear feet and/or total square footage of the proposed project
 - ii. Boathouse height, if applicable
 - iii. Identification of environmentally sensitive areas, if applicable (i.e., sea grasses)
 2. Channels, shoals, obstructions, docks, markers, and proposed improvements.
 3. Accurate location of the applicant's shoreline, and the opposing shoreline with corresponding measurements, if applicable (i.e., Destin Harbor, Joe's Bayou, Indian Bayou)
 4. Riparian lines setbacks (i.e., 25' adjacent property lines)
 5. Other site-specific information.
- K. In water bodies of less than 100 feet in width, owners of property on the opposing shore to the proposed construction shall be provided with written notification of the proposed construction. Any objections received will be provided to the Harbor and Waterways Board and the City Council.
- L. Where multiple slips extend from the shore and on multiple-slip docks and for any slip in a canal, aerators or circulation devices shall be required as determined by the City. Such devices shall be required where it is determined that circulation is deemed to be interfered with by the proposed facilities.

- M. Shorelines shall require protection from erosion as determined by the City.
- N. A net positive environmental benefit (NPEB), equal to 25 percent of the cost of construction shall be made to the City of Destin by the applicant prior to issuance of a building permit for each construction project authorized by this Article, which is located within the Destin Harbor.
- O. No permit shall be issued by the City until the applicant obtains all authorizations and permits from federal and state agencies, and until the required NPEB funds are paid, if applicable.
- P. All applicants shall apply to the City and must receive preliminary approval for the proposed construction prior to taking any other action. Preliminary approval shall be considered for issuance by the City Council after review and recommendations of the Harbor and Waterways Board. If the application is for joint ownership of a dock, the applicant must obtain written permission from all title of record owners and long-term lessees of the abutting upland property. Upon approval of all appropriate federal and state agencies, final approval from the City Council shall be obtained before a permit is issued.
- Q. The following procedures shall apply to transferring permits:
1. The permit is not transferable without the written consent of the City, which consent shall not be unreasonably withheld. The City Manager, or his designee, shall determine transferability upon recommendation of the Board. The decision may be appealed to the City Council.
 2. Whenever, during a construction project, a permittee transfers title of record to the abutting upland property or leases that property by long-term lease, a request by the original permittee shall be made to the City to transfer the permit. Forms for this purpose may be obtained from the City. Failure to apply for such a transfer within 30 days from the date the abutting upland property is sold or conveyed by long-term lease will result in an additional fee being charged to the original permittee by the City.
 3. At the time of transfer, all construction shall be inspected for compliance with the City's minimum plumbing, electrical and structural requirements and for compliance with the conditions of the existing permit. Fees for said inspections are set forth in Article 18 of this Code. All deficiencies shall be corrected prior to final transfer of the dock.
- R. All construction in the Harbor and waterways of Destin shall require a permit from the City.
- S. The applicant shall be responsible for personal injury or property damage which arises from construction and use of the project to the extent provided by common law.
- T. The City shall retain the right to revoke any permit issued under this Article if the health, safety or welfare of any person or property is in jeopardy, or for any other good cause. If the applicant fails to remove such structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove the same at the cost and expense of the applicant. Good cause shall include, but not be limited to, violation of any permit conditions, or any provision of this Article.
- U. Upon completion of a dock, or other structure requiring a construction permit, a final inspection shall be conducted by the City. After the final inspection is complete, a certificate of occupancy will be issued which shall be a permanent permit for such dock or structure.
- V. The addition or modification of an upland cut shall require the review of the Harbor and Waterways Board and City Council. A copy of the U.S. Army Corps of Engineers permit, DEP permit, and a homeowner's association approval (if applicable) shall be required at the time of permit

issuance. The project will be subject to all current regulations of the City, and must meet the minimum side setback requirements for said zoning districts.

W. Written notice shall be provided to adjacent property owners in accordance with Article 2.17.00, Land Development Code.

11.05.03. *Inspection and repairs.* All construction shall be inspected by the City Building Inspector for compliance with applicable building codes. The permittee shall be responsible for the condition and repair of permitted docks and failure to maintain said docks in a safe condition shall constitute grounds for revocation of the permit.

11.05.04. *Permit revocation.* The City reserves full right, power and authority to revoke a permit at any time for good cause. In the event that permittee fails to remove said structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove same at the cost and expense of the permittee. Good cause shall include, but not be limited to, violation of any permit condition, or any provision of this ordinance.

11.05.05. *Liveaboards.* Except in an emergency, no person(s) shall live aboard any boat in Harbor and waterways of Destin for a period exceeding 48 hours without notifying the Code Compliance Department Environmental Officer, or other City official as designated by the City Manager, and receiving a registration permit. In cases of an emergency, such notification shall be given to the Code Compliance Department Environmental Officer within three hours after the immediate emergency situation ceases. Proof that each live-aboard boat has an operable holding tank must be furnished to the Code Compliance Department Environmental Officer at time of notification. All liveaboards must comply with all applicable regulations of the U.S. Coast Guard, Florida Marine Patrol, and City of Destin.

11.05.06. *Joint ownership docks.* Permits may be granted for joint ownership of a dock at the common riparian boundary, subject to the following conditions:

- A. No permits shall be granted to persons other than the title of record owner or long-term lessee of the abutting upland property.
- B. The permit application must be signed by the owner of record or long-term lessee of all abutting upland property having access to the facility.
- C. The permit shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations and conditions set forth in the permit and this ordinance.
- D. The regulations for setbacks apply to joint ownership docks with the exception that docks may be extended over the common property lines.

11.05.07. *Permit for maintenance and cosmetic improvements.* The City Manager, or his designee, may issue permits within the Harbor and waterways of Destin for which maintenance or cosmetic improvement is accomplished to existing facilities. No permit shall be issued for facilities which do not conform to the standard Harbor drawings and the adopted marina siting requirements.

11.05.08. *Registration of structures.* All existing docks, seawalls and bulkheads located within the Harbor and waterways of Destin shall be registered with the City as follows:

- A. The title of record or long-term lessee of all existing structures at the time of adoption of this ordinance shall register such structure with the City within 90 days after adoption of this ordinance.

- B. Each structure shall be re-registered upon any change in ownership or long-term lessee of the abutting upland property.
- C. The City shall be notified upon the expiration of an existing long-term lease by the title of record owner of the abutting upland property.
- D. The City shall be notified by the title of record owner and long-term lessee of the abutting upland property upon the destruction of 50 percent of the replacement value of the structure. The City shall maintain a registration of all docks, seawalls and bulkheads located within the Destin Harbor.

11.05.09. *Exceptions.* Exceptions from the provisions of Section 11.05.01 are as follows:

- A. The Board of Adjustment may approve an exception for docks and pilings to be extended beyond the limits allowed in paragraphs M and N of Section 11.05.01 provided that, in addition to the criteria listed in Section 2.25.03.G, the following criteria is also met:
 - 1. That site-specific environmental conditions would impede placement of slips near or next to the shoreline.
 - 2. That site specific environmental conditions exist that prohibit dredging.
 - 3. That the proposed layout of the dock and pilings does not create a hazard to navigation.
 - 4. That no additional slips are obtained than would otherwise fit into a dock of the maximum size allowed without the exception.
- B. Properties located in the South Harbor Mixed Use zoning district that propose development under Tier 1 or 2 development standards are exempt from the provisions prescribed in paragraphs F, G, M and N of Section 11.05.01 provided they meet all of the following criteria:
 - 1. An approved submerged land lease from FDEP is submitted.
 - 2. An approval from the Army Corps of Engineers stating that the length of docks and pilings will not create a risk to navigation is submitted.
 - 3. This provision only applies to properties with only non-residential uses and mixed uses that contain non-residential uses and short-term residential uses.
 - 4. This provision does not apply to developments that contain long-term residential uses.
 - 5. A minimum ten percent of the total number of the slips in the project are set aside for fare carrying boats and that another minimum ten percent of the total slips are set aside for transient boats that are open to the public (to promote non-automobile travel). "Project" as used herein shall mean the entire number of slips tied to the uplands and not the total number of slips past 200 feet from the uplands. A minimum of 50 percent of the transient slips must be reserved for non-rental users. The remainder of the total ten percent may be reserved for short-term rental users. A loading and unloading area or slip must be reserved for use by a water taxi. This area or slip must be clearly marked by signage stating that it is reserved for the water taxi.
 - 6. For Tier 1 developments, all of the requirements listed in Section 7.09.03.F.7 must be met.
- C. Properties located in the Calhoun Mixed Use zoning district that propose development under Tier 1 or 2 development standards are exempt from the provisions prescribed in paragraphs M and N of Section 11.05.01 provided they meet all of the following criteria:
 - 1. An approved submerged land lease from FDEP is submitted.

2. An approval from the Army Corps of Engineers stating that the length of docks and pilings will not create a risk to navigation is submitted.
3. A minimum ten percent of the total number of the slips in the project are set aside for fare carrying boats and that another minimum ten percent of the total slips are set aside for transient boats that are open to the public (to promote non-automobile travel). "Project" as used herein shall mean the entire number of slips tied to the uplands and not the total number of slips past 200 feet from the uplands. A minimum of 50 percent of the transient slips must be reserved for non-rental users. The remainder of the total ten percent may be reserved for short-term rental users. A loading and unloading area or slip must be reserved for use by a water taxi. This area or slip must be clearly marked by signage stating that it is reserved for the water taxi.
4. For Tier 1 developments, all of the requirements listed in Section 7.09.03.F.7 must be met.

11.05.10. *Reconstruction of existing facilities.* For existing facilities which are damaged by accidents, vandalism, ordinary wear and tear or acts of God, the provisions of paragraphs F, G, M, and N of Section 11.05.01 shall not be applicable to reconstruction so long as the damaged facilities are reconstructed in the same or lesser dimensions and so long as the construction permit is applied for from the City within six months of the sustaining damage.

11.05.11. *Penalties.* Any person found in violation of this article shall be punished by a fine not exceeding \$500.00 or imprisoned for a term not exceeding 60 days or by both such fine and imprisonment. Each day any violation of any provision of this Code continues shall constitute a separate offense.

(Ord. No. 152.40, § 3, 8-6-01; Ord. No. 05-13-LC, § 13, 8-22-05; Ord. No. 07-21-LC, §§ 17, 18, 5-7-07; Ord. No. 07-46-LC, § 3, 12-17-07; Ord. No. 09-01-LC, § 3, 2-17-09)

Editor's note— As of June 1, 1997, this section (§ 11.05.04 excepted) is superseded by Ord. No. 87.1 (codified as City Code Ch. 5, art. III). See appendix B hereto.

SECTION 4. INCORPORATION INTO LAND DEVELOPMENT CODE. This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS _____ DAY OF _____, 2020.

By: _____
Gary Jarvis, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____