

**RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE
TOWN OF FORT MYERS BEACH, FLORIDA**

RESOLUTION NUMBER 17-009

ORDINANCE AMENDING CHAPTER 26 ARTICLE II IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE “SEAWALLS, DOCKS AND OTHER SHORELINE STRUCTURES,” AMENDING SECTION 26-71 “DOCKS AND BOAT RAMPS” AND SECTION 26-73 “FISHING PIERS AND OBSERVATION DECKS” TO PROVIDE MORE CLAIRTY ON WORK THAT CAN BE DONE WITHIN NATURAL AND ARTIFICAL BODIES OF WATER AND ON CONSTRUCTION OF HANDRAILS.

WHEREAS, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the Local Planning Agency (LPA) is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the Town Council; and

WHEREAS, the purpose of this Ordinance is to amend the current regulations to provide clarity on existing regulations for docks, fishing piers, and observation decks;

WHEREAS, docks and other shoreline structures are regulated by Chapter 26, Article II, of the Land Development Code of the Town of Fort Myers Beach , and

NOW THEREFORE BE IT RESOLVED, that the LPA **recommends** that Town Council approve and adopt the proposed Town Ordinance to amend Chapter 26 Article II, Section 26-71 “Docks And Boat Ramps” and Section 26-73 “Fishing Piers And Observation Decks” of the Town Land Development Code and recommends the following findings of fact and conclusions with regard thereto:

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed ordinance is in the best interests of the health, safety and welfare of the citizens, residents, visitors, and business owners of the Town of Fort Myers Beach.
2. The proposed ordinance will promote the safe enjoyment of the town’s beaches by residents and visitors.

3. The proposed ordinance will protect the public's right to use and traverse public portions of the beach.

4. The LPA hereby recommends the following revision(s) to the proposed ordinance:

Section I: Sec. 26-71. - Docks and boat ramps is amended as follows with added language underlined and redacted language as struck-through.

Docks and boat ramps will be permitted only in accordance with the following regulations:

(1) Number of docks and slips.

- a. No more than one, two-slip private single-family dock is permitted to extend from each lot ~~into a natural waterbody~~, except that a shared property line dock can be approved for up to four slips.
- b. Handrails may be required to prohibit the mooring of watercraft in any area not designated as a slip. Handrails must be permanently maintained. Handrails may include, but are not limited to, rope, wood, or composite materials.

(2) Length of docks. No private single-family dock, including its tie-up area, may be permitted or constructed in a natural or artificial waterbody exceeding the following lengths:

- a. Twenty-five percent of the navigable channel width, up to a maximum of 200 feet in length; or up to a maximum of 300 feet in length if the director, in his sole discretion, finds that:
 1. The proposed dock has been approved by all applicable state and federal agencies;
 2. The increased length will not result in a hazard to navigation;
 3. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and
 4. The increase in length will lessen the dock's impacts on seagrass beds or other marine resources.
- b. All measurements are from the mean high-water line seaward. Tie-up areas that are waterward of the dock will be deemed ten feet in width.

(3) Maximum dimensions of docks.

- a. Private single-family docks ~~in natural waterbodies~~ must comply with the following maximum dimensional requirements:
 1. Access walkway - Four feet wide;
 2. Terminal platform - 160 square feet;
 3. Finger piers - Three feet wide

The application of these regulations is illustrated in Figure 26-1.

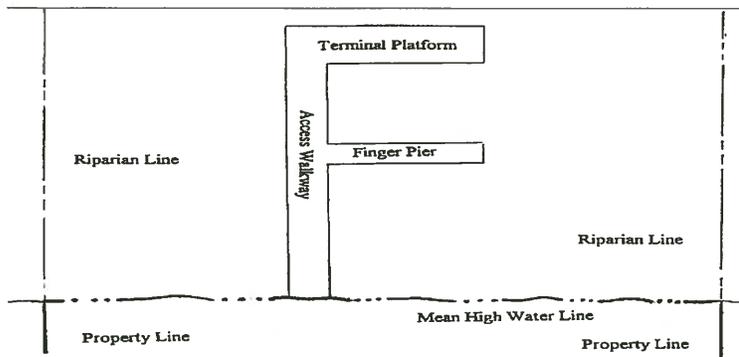


Figure 26-1 Private Single-Family Structure Plan View

(4) Setbacks.

- a. Multi-slip and marina docks, except boat davits, in or adjacent to natural or artificial waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.
- b. Private single-family docks in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:
 1. Marginal docks - At least ten feet.
 2. All other docks - At least 25 feet.
- c. Private single-family docks in artificial waterbodies must be set back at least five feet from all adjoining side lot and side riparian lines.
- d. Side setback requirements for docks can be reduced if:
 1. Adjoining property owners propose a single dock for their joint use, or if they execute a written agreement in recordable form agreeing to a setback less than that required; and
 2. Placement of such dock(s) will not result in greater environmental impacts than compliance with the regulations set forth in this subsection.
- e. The director, in his discretion, may permit administrative deviations from the dock setbacks required by this subsection if the structure is located as close to the required setback as possible and:
 1. The width of the subject parcel is not wide enough to permit construction of a single-family dock perpendicular to the shoreline at the midpoint of the shoreline property line without a deviation; or
 2. If moving the structure closer to a property line than normally allowed would minimize damage to wetland vegetation or other environmental resources.

The director's decision under this subsection can be appealed through the procedure set forth in § 34-86 of this LDC or the applicant may seek a variance in accordance with § 34-87 of this LDC.
- f. All boat ramps must set back at least ten feet from all adjoining side lot and side riparian lines.

(5) Location.

- a. Docks, tie-up areas, and moored watercraft cannot be located in a manner that will create a hazard to navigation in natural or artificial waterbodies.
- b. Boat ramps cannot be located in a manner that will result in a horizontal change in the mean high-water line.
- c. The director has the discretion to require reconfiguration of a proposed dock or boat ramp to reduce impacts to the riparian rights of adjacent properties.

(6) Minimum water depths.

- a. There must be a minimum depth of three feet below mean low-water for all slips on private single-family docks in natural waterbodies.
- b. Water depths adjacent to and within a multi-slip dock or a marina must ensure that a minimum one foot clearance is provided between the deepest draft of a vessel and the bottom at mean low-water or the top of marine resources (e.g., seagrasses).

(7) Dock boxes. Dock boxes on private single-family docks may not exceed three feet in height and 100 cubic feet in volume. Such dock boxes do not require building or marine facility permits.

Section II: Sec. 26-73. - Fishing piers or observation decks is amended as follows with added language underlined and redacted language as struck- through.

Fishing piers or observation decks may be permitted in areas where water depth is insufficient for mooring. Fishing piers and observation decks must:

- (1) Be designed to prohibit watercraft mooring;
- (2) Be constructed to provide access walkways and terminal platforms at five feet above mean high-water;
- (3) Have fixed handrails, including intermediate rails, installed around the perimeter of the structure, including but not limited to, rope, wood, or composite materials; and
- (4) Have a "no boat mooring" sign placed facing the water on the terminal platform of the structure.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member _____ and seconded by LPA Member _____ and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	AYE/NAY	Suzanne Katt, Vice Chair	AYE/NAY
Scott Safford	AYE/NAY	Jane Plummer	AYE/NAY
Megan Heil	AYE/NAY	Dan Hendrickson	AYE/NAY
Lorrie Wolf	AYE/NAY		

DULY PASSED AND ADOPTED THIS 8th day of August 2017.

LPA of the Town of Fort Myers Beach

By: [Signature]
Hank Zuba LPA Chair

Approved as to legal sufficiency: ATTEST:

By: [Signature]
LPA Attorney

By: [Signature]
Michelle Mayher, Town Clerk

