

ORDINANCE NO. 2016-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA REGULATING THE USE OF COUNTY-OWNED CANALS WITHIN THE TREASURE BEACH MUNICIPAL SERVICE BENEFIT UNIT CREATED BY ST. JOHNS COUNTY ORDINANCE 2013-23; PROVIDING DEFINITIONS; MAKING FINDINGS OF FACT; PROVIDING REQUIREMENTS FOR BULKHEADS; PROVIDING REQUIREMENTS FOR DOCKS; IDENTIFYING PUBLIC NUISANCES; IDENTIFYING VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE WAIVERS; REPEALING ST. JOHNS COUNTY ORDINANCES 1997-54 AND 1999-7; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

Section 1. Definitions.

- A.** *Board* means the Board of County Commissioners of St. Johns County, Florida.
- B.** *Bulkhead* means a structure that conforms to the requirements of this ordinance and acts to effectively prevent the passage of dirt, earth, or other solids from a lot into the adjoining canal.
- C.** *Canal* means any of the Treasure Beach Canals, as described in the plats of Treasure Beach Second and Third Additions, as recorded in Map Book 11, pages 42 through 48 of the public records of St. Johns County, Florida, and related access channels.
- D.** *Code enforcement officer* means a designated employee or agent of St. Johns County or the St. Johns County Sheriff's Office whose duty is to enforce one or more of the County's codes or ordinances, including code inspectors and other code compliance personnel and law enforcement officers trained in code compliance. This definition shall not include any employee in the Building Services Division whose duty is to enforce the Florida Building Code.
- E.** *County* means St. Johns County, Florida.
- F.** *Damaged bulkhead* means a bulkhead that has deteriorated or been damaged to the extent that dirt, earth, and other solids pass through or over the bulkhead into the canal.
- G.** *Newly constructed bulkhead* means any portion of any bulkhead constructed or repaired after the effective date of this ordinance.

H. *Non-bulkheaded* means a lot that does not have a bulkhead on the canal side of the lot.

I. *Public nuisance* means any circumstance that tends to annoy the public, injure the public health, safety, and welfare, or cause inconvenience or damage to the public generally.

J. *Riparian rights* mean the common law rights of those who own land bordering on navigable waters.

K. *Subdivision* means the Treasure Beach Second Addition Subdivision as recorded in Map Book 11 pages 42 through 44 of the public records of St. Johns County and the Treasure Beach Third Addition Subdivision as recorded in Map Book 11, pages 45 through 48 of the public records of St. Johns County.

Section 2. Findings of Fact.

The Board makes the following findings of fact in support of this ordinance:

A. The Board expressly recognizes the common law riparian rights of those property owners whose properties border the canals, including the right of access to the water for navigation and other lawful purposes, subject to the rights of the public for navigation, fishing, and other purposes in which the public has an interest.

B. The navigation and recreational use of the canals has been severely impeded in part due to sloughing of dirt and earth into the canals from adjoining non-bulkheaded lots and lots with damaged bulkheads.

C. The accumulation of dirt and earth in the canals over time combined with natural siltation processes has caused portions of the canals to become too shallow for navigation and recreational use.

D. The shallowness of the canals prevents efficient flushing action and thereby promotes increased siltation and the degradation of water quality within portions of the canals.

E. Inefficient flushing of the canals has the potential to promote the proliferation of unwanted and non-beneficial organisms such as algae, cattails, and mosquitos within the canals.

F. The health and welfare of the citizens of the County may be adversely affected by the consequences of inefficient flushing.

G. The navigation and recreational use of the canals has been severely impeded by docks and other non-vessel structures constructed or floated too far into the canals.

H. The impeded navigability of the canals may have a deleterious effect on the property values of the lots adjoining the canals to the detriment of the owners and on ad valorem tax revenues to the County as a whole.

I. In Section 403.021(2), Florida Statutes, the Florida legislature has declared that it is the public policy of the state “to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses.”

J. Preventing or impeding the degradation of the canals is consistent with the public policy of the state and is in the best interests of the public health, safety, and welfare.

Section 3. Bulkhead Requirements.

A. A building permit shall be required prior to the construction of a new bulkhead or the repair of an existing bulkhead.

B. Any bulkhead constructed along the canals shall be constructed of one of the following materials:

- 1.** Marine environment treated timber wall with galvanized or grade 304 or higher stainless steel tiebacks;
- 2.** Poured concrete wall with galvanized or grade 304 or higher stainless steel tiebacks;
- 3.** Corrugated sheet piling wall with galvanized or grade 304 or higher stainless steel tiebacks; or
- 4.** An alternate material approved by the County building official.

C. All newly constructed bulkheads that have seams, joints, gaps, or other surface areas where water flowing toward the canals may move soil, sand, or earth from the lot toward the canal shall have a geotechnical fabric or a substantially similar substance or material placed on the lot side of the newly constructed bulkhead to prevent the movement of such soil, sand, or earth from the lot toward the canal.

D. Newly constructed bulkheads shall be engineered and constructed at a sufficient depth to prevent dirt or debris from washing under the bulkhead into the canal in accordance with the approved design for the permitted bulkhead as determined by a Professional Engineer.

E. Newly constructed bulkheads shall comply with all applicable requirements of the Florida Building Code. An application for a building permit for the construction of a new bulkhead or the repair of an existing bulkhead shall be accompanied by a set of scaled plans and specifications signed and sealed by a Professional Engineer registered in the state of Florida. Construction and repair of bulkheads shall be subject to inspection by the Building Services Division to ensure conformance with permitted plans and this ordinance.

F. No bulkhead shall be located more than 5 feet canalward of the existing property

line. If a bulkhead is constructed canalward of a property line, this shall not extend the maximum distance into the canal for docks, vessels, or non-vessels structures.

G. It shall be the responsibility of any property owner who has a bulkhead on the portion of the property adjoining the canals to remove any debris that enters the canal due to the bulkhead collapsing or otherwise becoming damaged. Failure to remove such debris shall be a violation of this ordinance.

H. It shall be the responsibility of any property owner who constructs a bulkhead on the portion of the property adjoining the canals to ensure that the bulkhead does not impact adjacent properties with respect to the volume, rate, and quality of stormwater runoff leaving the property. Stormwater impacts to adjacent properties shall be mitigated through the use of a stormwater management system designed, constructed, and maintained in compliance with the requirements of Section 6.04.06 of the St. Johns County Land Development Code.

Section 4. Docks.

A. A building permit and a right-of-way permit shall be required prior to the construction of any dock or non-vessel structure within the canals.

B. All docks and other non-vessel structures constructed within the subdivision shall be set back no less than 10 feet from the side property line. For the purposes of this subsection, side setback lines shall extend in a straight line to the center-line of the canal for non-cul-de-sac lots and in a wedge shape to the center point of the canal for cul-de-sac lots.

C. No vessel, dock, or other non-vessel structure may extend further than 22.5 feet from the rear property line to the center-line of the canal, inclusive of any bulkhead constructed canalward of the property line.

Section 5. Public Nuisance.

A. For the reasons set forth in Section 2 above, the Board declares the following as a public nuisance:

1. Any non-bulkheaded lot adjacent to a canal;
2. Any damaged bulkhead;
3. Any vessel, dock, or other non-vessel structure extending more than 22.5 feet into the canal;
4. Any dock or other non-vessel structure constructed less than 10 feet from the side property line as provided in Section 4.B; and
5. Any bulkhead constructed after the effective date of this ordinance without a building permit.

B. Any code enforcement officer has the authority to:

1. Identify a public nuisance within the subdivision or canals;
2. Notify the owner or possessor of a public nuisance of the existence of the public nuisance; and
3. Provide the owner or possessor of a public nuisance with reasonable time, not to exceed 6 months, to take such action as is necessary to correct the circumstances giving rise to the public nuisance.

C. It shall be a violation of this ordinance for any person to maintain a public nuisance beyond the time set forth by a code enforcement officer for the correction of the circumstances giving rise to the public nuisance.

D. Nothing in this section shall prevent a code enforcement officer from requiring immediate correction of a public nuisance when the public nuisance presents an immediate danger to public health, safety, and welfare or when the public nuisance is irreparable or irreversible.

Section 6. Violations.

The following actions shall be a violation of this ordinance:

A. Causing or allowing a boat, vessel, or any portion thereof to be moored or anchored for more than 72 consecutive hours within 5 feet of the centerline of a canal that is approximately 40 feet wide or 7.5 feet of the centerline of a canal that is approximately 60 feet wide;

B. Allowing fishing lines, minnow traps, crab traps, holding traps, buoys, markers, anchors, ropes, or other similar objects to be in or touch canal waters within 5 feet of the centerline of a canal that is approximately 40 feet wide or 7.5 feet of the centerline of a canal that is approximately 60 feet wide;

C. Depositing garbage, trash, tires, yard debris, or other solid waste materials into a canal;

D. Removing from a canal or relocating within a canal any sediment, soil, sand, earth, or other solid material by dredging, pumping, or mechanical excavating without first obtaining a right-of-way permit from the County;

E. Constructing a new bulkhead or repairing an existing bulkhead without a building permit.

Section 7. Enforcement.

A. Violations of this ordinance may be prosecuted as follows:

1. In the same manner misdemeanors are prosecuted as provided in Section 125.69(1), Florida Statutes;
2. As provided in Section 125.69(2), Florida Statutes;
3. As provided in Chapter 162, Florida Statutes, including the citation procedure provided in Part II of Chapter 162 and St. Johns County Ordinance 1994-36; or
4. Any other method provided by law.

B. Each day that a violation of this ordinance continues shall constitute a separate violation and may be punished as provided in this section.

Section 8. Nonconformities

For bulkheads, docks, and other non-vessel structures constructed prior to the effective date of this ordinance that conformed to the regulations in place at the time they were constructed, the following shall apply:

- A.** Such nonconformities shall not be expanded or enlarged after the effective date of this ordinance.
- B.** To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans or construction of any bulkhead, dock, or non-vessel structure if actual construction has begun prior to the effective date of this ordinance.
- C.** If a bulkhead, dock, or non-vessel structure is damaged or destroyed following the effective date of this ordinance, it shall be repaired or reconstructed in compliance with the requirements of this ordinance.
- D.** No change shall be made to a bulkhead, dock, or non-vessel structure shall increase the nonconformity with the regulations set forth in this ordinance. However, changes may be made that do not increase such nonconformity or that are otherwise in compliance with this ordinance.

Section 9. Administrative Waiver

A. If an error is discovered in the location of a bulkhead, dock, or non-vessel structure relative to the distance requirements contained in this ordinance, an Administrative Waiver may be granted if the difference between the location of the bulkhead, dock, or non-vessel structure and the requirements of this ordinance is no greater than 6 inches. If the error relates to the location of a dock or non-vessel structure with respect to side setbacks, an Administrative Waiver may be granted if the required setback is not exceeded by more than 10 percent.

B. In order to grant an Administrative Waiver, County staff must determine that granting the waiver will not have a detrimental effect on the ability of adjoining property owners or other members of the public to use the canals.

C. An application for an Administrative Waiver under this Section shall be submitted to Development Review and shall be accompanied by an application review fee as provided in the County’s fee schedule.

Section 10. Repeal.

St. Johns County Ordinances 1997-54 and 1999-7 are hereby repealed. The Clerk of Court is instructed to remove Ordinances 1997-54 and 1999-7 from the County Code.

Section 11. Severability.

If any part or application of this ordinance is declared, void, invalid, or unconstitutional for any reason by a court of competent jurisdiction, such part or application shall be severability and shall not affect the remainder of this ordinance.

Section 12. Effective Date.

This ordinance shall be effective upon a certified copy being filed with the Florida Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County this _____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY**

By:

James K. Johns, Chair

ATTEST: Hunter S. Conrad, Clerk

By: _____

Deputy Clerk

Effective Date: