

**ORDINANCE NO. 2023-06**

**AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, PROVIDING FOR AN AMENDMENT TO SECTION 74-63 – “PUBLIC BATHING BEACH” OF THE CITY’S CODE OF ORDINANCES PERTAINING TO THE OPERATION OF VESSELS WITHIN THE CITY’S COASTAL WATERS IN THE GULF OF MEXICO; PROVIDING FOR THE INCORPORATION OF RECITALS; PROVIDING FOR AN AMENDMENT TO THE CITY’S CODE TO REMOVE THE RESTRICTION ON ANCHORING TO CONFORM WITH ADMINISTRATIVE GUIDANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 166.021, Florida Statutes acknowledges the City’s governmental, corporate, and proprietary powers enabling it to conduct municipal government, perform municipal functions, and render municipal services, and that the City may exercise those powers for municipal purposes except when expressly prohibited by law; and

**WHEREAS**, in order to bring its local regulations into alignment with state statutes and regulations, while continuing to balance the interests of vessel operators and the beachgoing public the City amended its code in 2022 by adopting Ordinance 2022-07; and

**WHEREAS**, subsequent to the adoption of Ordinance 2022-07, Florida’s Fish and Wildlife Conservation Commission reviewed and provided additional legal insights concerning the Ordinance’s consistency with its administrative and legal guidelines relating to anchoring within a public bathing beach; and

**WHEREAS**, the City Commission finds that this Ordinance is in the best interests of the City’s residents and property owners and furthers the public interest in protecting life, safety and property values.

**NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Indian Rocks Beach, Florida, that:**

**SECTION 1.** The above recitals are true and correct and are incorporated herein by reference.

**SECTION 2.** That Section 74-63 (“Public Bathing Beach Area”) of the Indian Rocks Beach City Code, is amended to read as follows:

Section 74-63. Public Bathing Beach Area.

- (a) *Purpose.* This section is enacted for the purpose of protecting public bathers from dangers caused by increased and accelerated vessel operations along the beaches and shorelines of the City of Indian Rocks Beach. The purpose of this Section is to protect

public bathers that bathe, wade, lounge, congregate, and engage in recreational activities in and on the shallow waters of the city. The city desires to ensure that such activities are conducted in a manner that is safe for any residents and visitors that engage in such activities, with protection from potential boating accidents, vessel congestion, and other navigational hazards. The city intends to designate the entire area from its northern corporate boundary to its southern corporate boundary and extending three hundred feet (300') from the city's shoreline and into the Gulf of Mexico, as a public bathing beach.

**(b) Definitions.** For purposes of this Section, the following terms, phrases, words, and derivations shall have the meaning given herein.

- 1) *Boating restricted area.* An area of the city's waters within which the operation of vessels is subject to specified restrictions or from which vessels, or certain classes of vessels, are excluded.
- 2) *Buoy.* Any device designed to float which is anchored in the water and used to convey a message, carry a sign, or support a mooring pennant.
- 3) *Manually Propelled Vessels Only.* All vessels other than those propelled by oars, paddles, or poles are prohibited from entering the marked area. Vessels equipped with sails or a mechanical means of propulsion may enter the marked area only if the sails or mechanical means of propulsion is not in use and, if possible to do so, the mechanical means of propulsion is tilted or raised out of the water.
- 4) *Regulatory Marker.* A device used to alert mariners to various regulatory matters such as permissible horsepower, speed, wake, or entry restrictions.
- 5) *Vessel-Exclusion Zone.* An area from which all vessels or certain classes of vessels are excluded.

**(c) Public Bathing Beach Permitting Manually Propelled Vessel Only.**

- 1) *Public Bathing Beach Established.* There is created a boating restricted area designated as a public bathing beach, wherein only manually propelled vessels are permitted. This area shall extend three hundred feet (300') from the city's shoreline into the Gulf of Mexico, and run parallel along the entirety of the city's shoreline abutting the Gulf of Mexico.
- 2) *Public Bathing Beach Markers.* This boating restricted area shall be designated by regulatory markers affixed to buoys, which shall be designed, installed, replaced, and maintained in conformity with any applicable state and federal regulatory requirements. The City may install, replace, and maintain the requisite regulatory markers and buoys, or cause such activity to occur.

**(d) Violations.**

- 1) Any operator or person in command of any motorized, wind-powered, or other artificially propelled vessel who intentionally or negligently navigates into the designated public bathing beach shall be deemed to have violated the restrictions set forth in this Section, which shall constitute a noncriminal infraction as set forth in F.S. § 327.73. Such restriction shall not apply to any watercraft entering the vessel-exclusion zone as a result of an emergency or to any official emergency vessels.
- 2) The mooring of any vessel, watercraft, or other foreign object to markers or buoys placed by the city or other authorized governmental body shall be prohibited and punishable by a fine pursuant to Section 1-15 of the city's code of ordinances.
- 3) ~~It shall be unlawful for any person to anchor a watercraft within the public bathing beach, which area shall be marked by buoys and permitted regulatory markers.~~

**(e) Enforcement.** Enforcement of the restrictions relating to the operation of any motorized, wind-powered or other artificially propelled vessel shall be by law enforcement officers from the Florida Fish and Wildlife Conservation Commission or County Sheriff Department, using the Uniform Boating Citation as provided for by applicable Florida law. Any other violations of this Section may be enforced by a city code enforcement inspector.

**SECTION 3.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

**SECTION 4.** All other ordinances of the City of Indian Rocks Beach, Florida, or portions thereof, which conflict, with this or any part of this Ordinance are hereby repealed.

**SECTION 5.** This Ordinance shall become effective upon adoption by the City Commission of the City of Indian Rocks Beach, Florida.

**ADOPTED ON FIRST READING** on the \_\_\_\_ day of \_\_\_\_\_, 2023, by the City Commission of the City of Indian Rocks Beach, Florida.

**PUBLISHED** the \_\_\_\_ day of \_\_\_\_\_ 2023 in the Tampa Bay Times newspaper.

**ADOPTED ON SECOND AND FINAL READING** on the \_\_\_\_ day of \_\_\_\_\_, 2023, by the City Commission of the City of Indian Rocks Beach, Florida.

**ATTEST:**

\_\_\_\_\_  
Deanne B. O'Reilly, City Clerk

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Joanne "Cookie" Kennedy  
Mayor-Commissioner

**APPROVED AS TO FORM:**

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Randol D. Mora, City Attorney