

# INDIAN SHORES

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## TOWN COUNCIL WORKSHOP AGENDA TUESDAY, FEBRUARY 12, 2019, BEGINS AT 2:30 P.M. INDIAN SHORES MUNICIPAL CENTER, 4<sup>TH</sup> FLOOR

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### ITEM #      AGENDA ITEM

- 1.0      Discussion and review of proposed Leave No Trace Ordinance 2018-04.  
(Ref.: Pgs. 1-7)

A handwritten signature in black ink, reading "Freddie Lozano". The signature is written in a cursive style with a horizontal line underneath.

Freddie Lozano  
Town Clerk

**Patrick C. Soranno**  
Mayor

**Diantha Schear**  
Vice Mayor

**Mike Hackerson**  
Councilor

**Michael (Mike) Petruccelli**  
Councilor

**William F. (Bill) Smith**  
Councilor

**Bonnie Dhonau**  
Town Administrator

**E.D. Williams**  
Interim Chief of Police

**Susan L. Scrogam**  
Director of Finance  
and Personnel

**Freddie G. Lozano**  
Town Clerk

**Steve Tetlak**  
Building Official

**Regina Kardash, Esq.**  
Town Attorney

**ORDINANCE 2018-04**

**AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, AMENDING PART II, CODE OF ORDINANCES, CHAPTER 34 – ENVIRONMENT, BY ADDING ARTICLE V.- LEAVE NO TRACE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN OF INDIAN SHORES LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE.**

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WHEREAS, the Town of Indian Shores desires to provide its residents with a fair, consistent, clear and concise code; and

WHEREAS, the Florida Constitution provides for municipal home rule power and the charter of the Town of Indian Shores authorizes the Town Council to exercise any power for municipal purposes, except where prohibited by law; and

WHEREAS, the Town Council of the Town of Indian Shores desires to continue to protect marine turtles and provide for an environment that is conducive to marine turtle nesting and habitat protection; and

WHEREAS, the Town desires to keep the beach and pathways clear of unnecessary obstructions to ensure public access and safety on the beach; and

WHEREAS, the beaches of the Town of Indian Shores are used and enjoyed by residents and visitors alike for vacationing, recreation, fishing, walking, water access and other traditional uses; and

WHEREAS, the Town desires to keep the beaches clean and free from potential hazards to people, animals, or the environment; and

WHEREAS, the Town Council finds that marine turtle protection and conservation of the Town's natural environment advances the goals and objectives of the Town's Comprehensive Plan; and

WHEREAS, the Florida Fish and Wildlife Commission (FWC) provides and the Town of Indian Shores recognizes that items left on the beach interfere with marine turtle nesting and hatchlings and pose a danger to the survival rate of the species; and

WHEREAS, the FWC further provides and the Town recognizes that fires on the beach could interfere with marine turtle nesting and hatchlings and prove to be detrimental to the species; and

WHEREAS, the Town Council desires to continue to comply with updated standards for marine turtle protection in accordance with FWC guidelines and the "Marine Turtle Protection Act," *Florida Statutes* § 379.2431; and

WHEREAS, the Town Council desires to adequately balance the interests of its residents in the full use and enjoyment of the beach and their beachfront residences while safeguarding nesting female marine turtles and their hatchlings, and the natural environment; and

WHEREAS, items of personal property left unattended on the beach constitute a public nuisance and pose a serious and immediate threat to marine turtles and the public; and

WHEREAS, the Town Council believes that regulating for the protection of marine turtles serves a significant public interest aimed at preserving the natural environment for the benefit of the public, visitors and tourists;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES:

### **SECTION I**

That the foregoing findings are true and correct, and are hereby adopted as if fully set forth herein.

### **SECTION II**

That a new ARTICLE V. – LEAVE NO TRACE, is added to the Town of Indian Shores, Florida, Town Code Chapter 34 – ENVIRONMENT, to read as follows:

#### **ARTICLE V. - LEAVE NO TRACE**

##### **Sec. 34-119. - Purpose and title.**

The purpose of this division is to ensure the public beach and beach access areas are free from any obstruction by any item of personal property in order to protect public ingress, egress and use of the public beach, promote public safety, and to protect endangered sea turtles. This division may be referred to as the "Leave No Trace Ordinance."

##### **Sec. 34-120. - Definitions.**

Beach means the zone of unconsolidated material that extends landward from the mean low water line to either the place where there is a marked change in material or physiographic form: the line of permanent vegetation, which is usually the effective limit of storm waves; or constructed bulkheads or other coastal protection structures.

Beach access areas means those public beach access points in Indian Shores, Florida, identified by appropriate signage, including associated boardwalks, walkways, and dedicated parking areas, and the area on the public beach beginning at the entrance of the beach access point perpendicular with the applicable road right-of-way to the water's edge.

Dune means a mound, bluff or ridge of loose sediment, usually sand-sized sediment, lying landward of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location. In the absence of a discernible dune, the seaward boundary of a dune will be deemed to be the line of native vegetation.

Person includes a natural person and all artificial entities, such as, but not limited to, corporations, limited liability companies, partnerships, limited partnerships, associations, trustees, receivers, legal representatives and organizations.

Personal property means all types of personal property, including by way of example and not limitation, tents (including tent frames), canopies, cabanas, umbrellas and other shading devices, picnic tables, tiki huts, volleyball nets, tents, hammocks, beach chairs and other furniture, kayaks, canoes, catamarans, floats, sailboards, surfboards, kites, jet skis, sailboats, water cycles and other watercraft.

Sec. 34-121. - Digging holes on beach.

Holes dug on the beach are required to be attended and shall be filled prior to leaving the public beach.

Sec. 34-122. - Obstructions on the beach and beach access areas prohibited.

(a) It shall be unlawful for any person to leave an item of personal property unattended on any portion of the public beach located in Indian Shores, Florida from sunset until sunrise daily, except as otherwise permitted in this division.

(b) It shall be unlawful for any person to leave an item of personal property unattended at anytime within any public beach access area located in Indian Shores, Florida.

(c) Any items of personal property that remain on the beach in violation of this Article during marine turtle nesting season shall be deemed a nuisance and abandoned by the owner and shall be removed by the Indian Shores Police Department, Public Works staff or Code Enforcement officer. Any personal property so removed shall be stored in an area designated by the Town. After 90 days of impoundment, as required by Florida Statute § 705.103, the Town may dispose of any item(s) removed pursuant to this section. The Town may, by Resolution, enact an impoundment fee to be collected at the time any item(s) are retrieved from impoundment by the party claiming the item(s).

(d) From sunset until sunrise daily on the beach, items of personal property that are relocated as close to, but not on, the toe of the dune or native vegetation, or where there are no dunes or native vegetation, are relocated as close as practicable to an existing permanent structure or the line of buildings, will not be considered discarded by the owner, abandoned or a violation of this division, provided:

(1) Such items shall not be placed on the dune or on native vegetation.

(2) Such items shall be stored in a neat and orderly manner.

(3) Such items shall not inhibit access to the public beach from the nearest public access areas, nor obstruct access on the public beach, nor impact native vegetation, nor significantly affect sea turtles.

(4) Private property owners may store items under or adjacent to their private dune walkovers, boardwalks, or permanent structure.

- (5) Items shall not be placed on any public beach access point or within twenty (20) feet of any public trash receptacle.
- (e) Unattended items of personal property in violation of this division shall be removed from the public beach by any law enforcement officer, code enforcement officer, or Town Public Works staff.
- (f) Unattended or abandoned items of personal property, and unattended, unfilled holes on the beach, are in violation of this division are a public nuisance.

Sec. 34-123. - Exceptions.

The prohibitions contained herein do not apply to:

- (1) Trash containers;
- (2) Signs placed by a governmental agency;
- (3) Items placed by persons acting under authority of the Chief of police, the Town Administrator, or other governmental agency;
- (4) Structures, including without limitation boardwalks, decks, and dune walkovers constructed and permitted by the Town of Indian Shores, Pinellas County or the State of Florida;
- (5) Items placed on the beach by persons who have authorization or a permit to engage in marine turtle nesting research issued by the United States Fish and Wildlife Service or the State of Florida.

Sec. 34-124. - Permits.

- (a) Permits may be issued by the Building Official or their designee for activities otherwise prohibited by this division for such periods of time and under such conditions as the Building Official deems reasonably appropriate under the circumstances that are found to be necessary for:
  - (1) Reasonable accommodation of persons with disabilities;
  - (2) Adjunct to a lawfully existing activity;
  - (3) For the conduct of a governmental, civic or educational activity;
  - (4) For the conduct of scientific research;
  - (5) For special events; or
  - (6) For a beach amusement, beach business, or beach service.
- (b) There shall be no fee for obtaining this permit. Such permit shall include the following:
  - (1) Name and contact information of the owner or person in possession and control of the item;
  - (2) Description of the item;
  - (3) Location of the item;
  - (4) Duration of time the item will remain in such location; and

(5) Acknowledgement that owner or person in possession and control of the item will be liable for any impacts to federally protected species.

(c) This division is not intended to authorize any violation of F.S. § 379.2431, or any of the provisions of the Endangered Species Act. Indian Shores will not be liable for any impacts to federally protected species resulting from persons leaving items of personal property on the beach and such liability will rest with the owner of such item.

Sec. 34-125. - Leave no trace and warning signs in rental rooms.

In each rental unit rented by the day or week, or longer period, in Indian Shores, Florida, there shall be posted or placed in a plainly legible fashion, in a conspicuous place in each rental unit for each occupancy, a sign in form and substance approved by the director of administrative services:

(1) Explaining the "Leave No Trace" Ordinance prohibiting tents and personal property on the beach at night; and

(2) Warning beachgoers that any unattended tents or property left on the beach at night shall be deemed discarded by the owners and become the property of Indian Shores and may be removed and disposed of by the appropriate authority.

Sec. 34-126. – Fires Prohibited.

It shall be unlawful to start, maintain or otherwise ignite an open fire on the beach or sand within the Town of Indian Shores and as otherwise prohibited in Chapter 38 – FIRE PREVENTION AND PROTECTION.

### SECTION III

That all ordinances or parts of ordinances in conflict herewith are hereby repealed insofar as the same conflict with the provisions of this ordinance.

### SECTION IV

That if a court of competent jurisdiction finds any provisions of this ordinance to be invalid or unenforceable as a matter of law, the offending portion shall be stricken and all other provisions shall remain in full force and effect.

### SECTION V

That the provisions of this ordinance shall be included and incorporated into the Land Development Code of the Code of Ordinances for the Town of Indian Shores, Florida, as an amendment thereto, and shall be renumbered to conform to the uniform numbering system thereof as necessary.

### SECTION VI

That this ordinance shall be in full force and affect immediately upon its passage, or in the manner provided by law.

**FIRST READING** this 13<sup>th</sup> day of November, 2018.

**SECOND READING AND FINAL PASSAGE** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES, FLORIDA, THIS** \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

\_\_\_\_\_  
Patrick Soranno  
Mayor

\_\_\_\_\_  
Freddie Lozano  
Town Clerk

Approved as to form:

\_\_\_\_\_  
Regina A. Kardash, Esq.  
Town Attorney

## Sec. 38-1. - Open fires.

- (a) No person shall make or cause to be made, set or cause to be set, any fire of any kind in the open, within the town, except within a grill, barbecue or similar appliance using charcoal or similar fuel and only for the purpose of cooking or heating food. Such grills or barbecues shall conform to NFPA-58, or NFPA-1, Open Outdoor Fires.
- (b) No person shall set or cause to be set, burn or cause to be burned, at any time, any fire commonly known as a grass fire, for burning off vegetation, leaves, grass, weeds or scrub growth on any lot or parcel of land within the town.
- (c) The open burning of trash, rubbish, refuse, grass, leaves, wood or other combustibles at any time within the town is prohibited.
- (d) A beach fire for cooking will be allowed provided it must be in a grill, hibachi or other similar container and the ashes or other by-products of combustion are removed from the beach in subsection (e).
- (e) It is expressly prohibited to bury ashes, charcoal or any by-product of combustion resulting from a fire on the beach, regardless of whether the fire is contained pursuant to subsection (d) or uncontained pursuant to subsection (f).
- (f) An uncontained beach bonfire will be allowed on private property for an event, provided that a permit is obtained from the Pinellas Suncoast Fire and Rescue, a copy of which is recorded with the Indian Shores Police Department. The beach bonfire must be under the direct supervision of a responsible adult and be completely extinguished and debris removed before the site is left, pursuant to subsection (e).
- (g) The size of uncontained beach bonfires will be as determined by the Fire Marshal of Pinellas Suncoast Fire and Rescue.
- (h) All uncontained beach bonfires are prohibited on public land, as provided in subsection (i).
- (i) Public land used in subsection (h) is defined as land seaward of the erosion control line, established pursuant to F.S. § 161.181, with title vested in the state and being located within the corporate limits of the town.

(Ord. No. 2004-3, § 2, 4-12-04)