

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, CREATING A SECURED FACILITIES ORDINANCE; AMENDING CHAPTER 42 – LAW ENFORCEMENT AND ADDING A NEW ARTICLE III, SECTION 42-70, “CONTROL OF ACCESS TO TOWN-OWNED, CONTROLLED, AND LEASED PROPERTY”; DESIGNATING PROPERTY AS PUBLIC FORUM, LIMITED FORUM, AND NONPUBLIC FORUM; PROVIDING FOR THE SECURITY AND PRIVACY OF THE TOWN EMPLOYEES, PROVIDING FOR THE SECURITY AND PRIVACY OF PUBLIC VISITORS, MINIMIZING POTENTIAL DISRUPTIONS TO TOWN BUSINESS AND WORK, IMPLEMENTING PROCEDURES TO REGULATE AND CONTROL PUBLIC ACCESS TO PUBLIC FORUM, LIMITED FORUM, AND NONPUBLIC FORUM; ENACTING PENALITIES FOR VIOLATION; DESIGNATING FACILITIES RULES AND POSTING OF RULES; INCORPORATING FINDINGS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Indian Shores (the Town) is a Florida municipal corporation and political subdivision of the State of Florida; and

WHEREAS, The Town Council of the Town may lawfully designate the degree of public access within Town-owned, controlled, and leased property according to the necessity, degree and use of areas within such property; and

WHEREAS, the Town Council seeks to maintain a safe and orderly environment on Town-owned, controlled, and leased property which is conducive to the designated use of the areas within such Town property and the efficient rendering of public services; and

WHEREAS, the Town Council of the Town of Indian Shores, Florida, seeks to discourage and prevent behavior on Town-owned, controlled, and leased property which interferes with the designated use of the areas within such Town property and to the efficient rendering of public services; and

WHEREAS, the Town Council desires to appropriately maintain and be responsible stewards of the public property, facilities, and resources under their purview; and

WHEREAS, the Council finds that it is in the best interest of the Town, and the health, safety and welfare of its residents, visitors and businesses, to adopt this Ordinance.

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

Section 1: That all of the above recitals are true and correct, and the same are incorporated into this Ordinance as if fully set forth herein.

Section 2: That the Town of Indian Shores Code of Ordinances, Chapter 42 – Law Enforcement – is hereby amended by the addition of a new Article III, Sec. 42-70, and shall hereby be created to read as follows:

Sec. 42-70. Control of Access to Town-owned, controlled, and leased property.

1. Consistent with decisions of the U.S. Supreme Court, public access to areas within enclosed facilities owned, controlled, and leased by the Town of Indian Shores may be restricted depending upon whether such areas are classified as “designated public forum”, “limited public forum”, and “nonpublic forum”. How areas within enclosed facilities owned, controlled, and leased by the Town of Indian Shores are classified is based upon their intended use. For example, there are certain areas which are intended primarily for the use of Town employees in the conduct of their business, may from time to time be utilized for the convening of public hearings; there are certain limited area which may be open to the public while engaging in legitimate business with Town officers or employees; and there may be certain areas which are primarily intended for the convening of public meetings.
2. The Town Administrator, Police Chief or their respective designee is hereby authorized to manage public access to enclosed Town-owned, controlled, and leased property. In the performance of such responsibilities, the Town Administrator, Police Chief or their respective designee shall have the authority to identify which areas are to be considered designated public forum, limited public forum, or nonpublic forum.
3. Upon the classification of areas within enclosed Town-owned, controlled, and leased property, the Town Administrator, Police Chief, or their respective designee is hereby authorized, subject to the availability of appropriate funds, to employ whatever means they deem necessary and appropriate to separate designated public forums from nonpublic forums, including but not limited to the use of physical barriers and signage. The Town Administrator, Police Chief or respective designee shall also have the authority to develop and implement procedures to regulate and control the public access within Town-owned, controlled, and leased property to provide for the security and privacy of public visitors; to provide for the security of and privacy of Town employees and officers; and to minimize potential disruptions to the work of Town government. Any person who engages in conduct that causes disruptions to the work of Town government shall be deemed to no longer be permissible within the town-owned, controlled, or leased property on legitimate business.

4. The fourth floor of the Indian Shores Municipal Center is hereby declared to be a non-public forum unless or until a public meeting is convened in such area pursuant to public notice. During the aforementioned duly noticed public meetings, the fourth floor Town Council Chamber is deemed to be a limited public forum subject to the duly enacted Rules of Procedure and state laws applicable to the orderly conduct of government business. The second and third floors of the Indian Shores Municipal Center are hereby declared to be limited public forums. All Town employee work areas within the second and third floors are deemed non-public forums and secure facilities, which shall be so designated by appropriate signage. Members of the public are prohibited from entering Town employee work areas without being escorted by a Town employee. The lobbies of the second and third floors are hereby declared limited public forums, and only persons who are present to engage in legitimate public business with Town officers or employees shall be authorized. It shall be a violation of this Ordinance to be within a nonpublic forum or a limited public forum without authorization. Unauthorized persons found by the Town Administrator, Police Chief or their respective designees to be within a nonpublic forum and who refuse to leave the premises upon request, shall be considered a trespasser. Law enforcement at its option, or upon the request of Town Officials or employees, may issue a trespass warning for this conduct.
5. Except within the fourth floor in which a public meeting is being conducted pursuant to a public notice, it shall be unlawful and a violation of this Ordinance, to record video and/or sound with Town-owned, controlled, and leased property without consent. The prohibition shall not apply to any law enforcement activities. In addition to being a violation of this ordinance, if anyone who is observed to be recording video and/or sound within Town-owned, controlled, and leased property, and such person refuses to cease such activity after being advised that such activity is prohibited under this Ordinance, such refusal shall be considered to be a disruption to the work of the Town government. Therefore, such person shall be deemed to no longer be present within the Town-owned, controlled, and leased property on legitimate public business. The Town Administrator, Police Chief and their respective designees are hereby authorized on behalf of the Town of Indian Shores, Florida to request any person who refuses to cease recording video and/or sound to immediately leave the premises. Any person who refuses to cease video and/or sound recording and refuses to leave the premises following the request of the Town Administrator, Police Chief, or their respective designee, shall be considered a trespasser. Law enforcement at its option, at the request of a Town Official or employee, may issue a trespass warning for this conduct.
6. The Town Administrator, Police Chief or their respective designees may have cause to remove any person they determine:
 - a. Acts in a manner which violates or is reasonably suspected to violate any federal, state, or local law, ordinance or regulation; or

- b. Acts in any manner which violates any Town rule of policy, including but not limited to, the Facility Rules; or any directive on any sign or notice at the public property.

The Town Administrator, Police Chief, and their respective designees are hereby authorized on behalf of the Town of Indian Shores, Florida to warn persons of this prohibited activity and request to cease. Law enforcement at its option, at the request of a Town Official or employee may issue a trespass warning for this conduct.

7. The Town Administrator, Police Chief, and their respective designees are hereby authorized on behalf of the Town of Indian Shores, Florida to warn persons who have entered into or remain in areas where they are not authorized to be, and to request such persons to depart. The Town Administrator, Police Chief, and their respective designees are hereby authorized to call upon law enforcement to treat as trespassers any persons who refuse to depart after such a request has been made. Law enforcement at its option, may enforce any person's refusal to depart by means of Section 810.08 and 810.09, Florida Statutes or issue a trespass warning notice.
8. Facility Rules. The following conduct is prohibited within the interior spaces of all Town-owned, controlled, and leased buildings of the Town of Indian Shores:
 - a. Engaging in any conduct prohibited by Federal, State of Florida, or Town of Indian Shores law.
 - b. Possession of any weapons, except as specifically permitted by law.
 - c. Smoking, chewing tobacco, use of e-cigarettes or vaping devices, or carrying any lite or smoldering pipe, cigar, or cigarette.
 - d. Disruptive, harassing, or unsafe behavior, including conduct which interferes with Town employees or Town officials in the performance of their duties, or interferes with the proper use of the Town facility by others.
 - e. Abusive or harassing behavior, including use or display or obscene language, gestures, or graphics.
 - f. Blocking entrances, exits, fire exits, access areas, or otherwise interfering with the provision of services of the use of Town property.
 - g. Entering or remaining in nonpublic areas without authorization. Areas inside Town buildings, including offices, hallways, stairways, and elevators are open to the public only to the extent necessary to attend to Town business, or attending a Town-authorized function, event, or activity to which the person is an invitee, or attending a duly noticed public meeting. Otherwise, such areas are deemed nonpublic areas.
 - h. Any act which could result in substantial risk of harm to persons or property.
 - i. Disrupting Town business, events, or other Town sponsored or authorized activities.

- j. Leaving unattended packages, backpacks, luggage, or other personal items. Any such items are subject to immediate confiscation.
- k. Laying down or sleeping in chairs, benches, or otherwise.
- l. Possession of illegal drugs.
- m. Posting or affixing to Town property without permission from the Town Administrator, Police Chief, or their respective designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written, pictorial, or graphic material or any kind.
- n. Tampering with or unauthorized use of building or facility systems or devices, including electrical, plumbing, locks, doors, or cameras.
- o. Audio and/or video recording anywhere inside of Town buildings except during duly noticed public meetings, or as otherwise approved by the Town Administrator, Police Chief, or their respective designee. Except as otherwise approved by the Town Administrator, Police Chief, or their respective designee, audio and/or video recording may only be on the fourth floor and any other room within which the activity has been authorized by law. Any person found to be conducting audio and/or video recording except as authorized by herein, must cease doing so immediately. This rule does not apply to audio and/or video recording performed by authorized law enforcement personnel engaged in the performance of their official duties. Audio and/or video recording of public meetings must be undertaken in a quiet and orderly manner so as not to interfere with the conduct of the meeting, block the view of any person attending the public meeting, or block any aisle, row, ingress or egress.
- p. Remaining in a Town building after posted hours of operation or after the conclusion of an authorized "after hours" public meeting or event.
- q. Failure to cease conduct specifically prohibited in items A through P above immediately after a request by the Town staff to do so.
- r. A copy of the foregoing facility rules shall be posted in close proximity to all public entrances of Town-owned, controlled, and leased buildings of the Town of Indian Shores.

Section 3: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: That the provisions if this Ordinance shall become a part of and be included in the Town of Indian Shores Code of Ordinances, and the keeper of the Code is hereby authorized to renumber and incorporate said provisions into the Code Ordinances as may be required to accomplish the orderly codification of same.

Section 5: That if any provision or part of this Ordinance is declared invalid or unenforceable as a matter of law, the offending portion shall be stricken and all other provisions hereof shall remain valid and enforceable.

Section 6: This Ordinance shall become effective immediately upon adoption in the manner provided by law.

FIRST READING this 9th day of May, 2023.

The first reading of the above Ordinance, upon motion by Councilor Bill Smith and seconded by Vice Mayor Diantha Schear as duly approved at a regular Council Meeting held on the 9th day of May, 2023.

Voting in favor of the First Reading: **Mayor Patrick C. Soranno, Vice Mayor Diantha Schear, Councilor Ellen Bauer, Councilor Mike Petruccelli, Councilor Bill Smith**

Voting in opposition: **None** Absent: **None** Abstaining: **None**

SECOND READING AND FINAL PASSAGE this 13th day of June, 2023.

The second reading of the above Ordinance, upon motion by Vice Mayor Diantha Schear and seconded by Councilor Ellen Bauer as duly approved at a Regular Town Council Meeting held on the 13th day of June, 2023.

Voting in favor of the Second Reading: **Mayor Patrick C. Soranno, Vice Mayor Diantha Schear, Councilor Ellen Bauer, and Councilor Mike Petruccelli.**

Voting in opposition: **None** Absent: **Councilor Bill Smith** Abstaining: **None**

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES, FLORIDA, THIS 13th day of June, 2023.

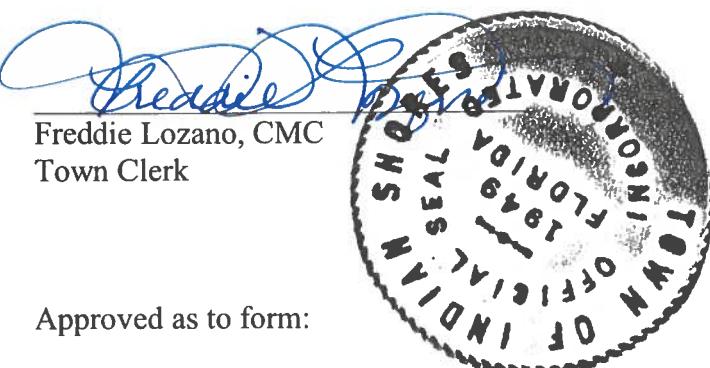


Patrick C. Soranno
Mayor

ATTEST:



Freddie Lozano, CMC
Town Clerk



Approved as to form:



Regina A. Kardash, Esq.
Town Attorney