

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, AMENDING CHAPTER 151, "BEACHES AND WATERWAYS," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 151.01, "INTENT," BY AMENDING SECTION 151.02, "PERMIT REQUIRED," BY AMENDING SECTION 151.03, "STRUCTURES IN WATERWAYS," BY AMENDING SECTION 151.05 "SEAWALLS," AMENDING SECTION 151.06, "DISREGARD OF NOTICE," BY AMENDING SECTION 151.07, "BACKFILLING SEAWALLS," BY AMENDING SECTION 151.08, "STRUCTURES ON SEAWALLS," BY AMENDING SECTION 151.09, "VARIANCES," TO MODIFY DEFINITIONS, PROCEDURES AND REQUIREMENTS; BY CREATING SECTION 151.10, "REQUIRED DISCLOSURE IN CONTRACTS FOR SALE OF REAL ESTATE," TO REQUIRE DISCLOSURE OF PROPERTY LOCATED IN A TIDALLY INFLUENCED AREA; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 151.01, "Intent," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.01 INTENT.

(A) The intent of this chapter is to permit construction in, over and upon the waterways within the city ~~of fixed docks, floating docks, floating vessel platforms, wharves, finger piers, boat lifting devices (floating or stationary), dolphin, fender or mooring piles, mooring buoys, and other related structures, of~~

Mooring Structures, Tidal Flood Barriers, Rip-Rap or any similar marine structures, which do not interfere with navigation, endanger life or property, or deny the public reasonable access to public waterways. Structures not similar in nature to those listed herein shall be prohibited.

(B) Definitions. For the purposes of this article, the following terms, phrases, words, and their derivation shall have the meanings given herein, except when the context clearly indicates a different meaning. In the interpretation and application of this article, the definitions provided for herein shall control over definitions which that may be included in other documents or manuals, including, but not limited to, the Florida Building Code. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive.

BANK. Level space separating a waterway from an inland area, often elevated and constructed of compacted soil.

BERM. An earthen mound designed with impermeability to resist the flow of tidal waters through to an adjacent property or public right-of-way.

COMMON DOCKING AREA. The Terminus of a canal river basin or waterway, excluding the navigational channel, that is shared by Lots adjacent to each other and created when the outer boundary Lot lines intersect with the adjacent shared Lot lines when extended into a canal or waterway.

GREEN-GREY INFRASTRUCTURE OR GREEN-GREY MATERIALS. A combination of engineered and natural features that provide environmental qualities and ecosystem value.

LOT. Shall be defined as it presently or as it may hereafter be amended in Chapter 155.4215

MEASUREMENT REFERENCE LINE. The measurement standard utilized for the purpose of measuring the distance for Mooring Structures, Tidal Flood Barriers, Rip-Rap and all other similar structures in waterways. When the recorded property line is seaward of the wet face of the original tidal flood barrier or Rip-Rap, the wet face of the original Tidal Flood Barrier or Rip-Rap is to be utilized as the measurement reference line. When the property line is landward of the original Tidal Flood Barrier or Rip-Rap greater than one foot, the Measurement Reference Line is the wet face of the original Tidal Flood Barrier. In all other instances, including when the property line will become landward of a new or proposed Tidal Flood Barrier or Rip-Rap, the Measurement Reference Line is the recorded property line.

MOORING STRUCTURES. A Vessel dock, slip, davit, hoist, Vessel lift, floating Vessel platform, personal watercraft/jet ski platform, mooring pile or similar structures that may be attached to land or a Tidal Flood Barrier, to which a Vessel can be moored.

NAVIGATIONAL CHANNEL. The 45% of the width of a canal, river, basin, or waterway with a width of greater than 40 feet. All other canals, rivers, basins, or waterways 40 feet or less, the Navigational Channel is 55% of the width of the canal, river basin, or waterway. The center of the Navigational Channel shall coincide with the centerline of the canal, river, basin, or waterway. Where the Navigational Channel runs to the terminus of a dead-end canal, river, basin or waterway, the Navigational Channel shall end a distance from the dead- end canal, river, basin or waterway that is equal to the distance between the Navigational Channel and Tidal Flood Barrier, Rip-Rap or Shoreline as measured along the same canal, river, basin or waterway but before the terminus of a dead-end canal, river, basin or waterway.

NORTH AMERICAN VERTICAL DATUM (NAVD88 OR NAVD). The vertical control for datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

PUBLIC NUISANCE. A condition injurious to the public health or safety of the community or neighborhood, or injurious to any considerable number of persons, or a condition that obstructs the free passage or use, in the customary manner, of any public right-of-way.

REVERSE CORNER LOT. Any Lot when its boundary line abutting a canal or waterway that is concave.

RIP-RAP. A foundation of unconsolidated boulders, stone, rubble, concrete without protruding rebar, or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

SEAWALL. The vertical or near vertical (often interlocking) structures placed between an upland area and a waterway or waterbody for erosion control.

SEAWALL CAP. The concrete box structure (usually reinforced) that connects Seawall panels, piles and anchoring system (if present) together at the top.

SHORELINE. The tidally influenced area where land meets water.

SUBSTANTIAL REPAIR OR SUBSTANTIAL REHABILITATION.

(1) Any modification to shoreline or shoreline structures (such as Tidal Flood Barriers) along more than 50% of the length of the property's Shoreline; or

(2) Any modifications, alterations, or installation of appurtenant structures (such as a Mooring Structures) which exceed 50% of the cost as determined by the City Engineer of a Tidal Flood Barrier or raised Seawall Cap along the property's Shoreline.

TERMINUS. The ending point or boundary limit of a dead-end canal, river, basin or waterway

TIDAL FLOOD BARRIER. Any structure or shoreline feature including, but not limited to, Banks, Berms, Green-Grey Infrastructure, Seawalls, Seawall Caps, upland stem walls, or other infrastructure that impedes tidal waters from flowing onto adjacent property or public right-of-way and located within or along a Tidally Influenced Area. This definition is not meant to include Rip-Rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding.

TIDALLY-INFLUENCED AREAS. The real property adjacent to, or effected by a waterway with water level changes in response to the daily tide.

VESSEL. A watercraft used or capable of being used as a means of transportation on water, except:

- (1) A seaplane;
- (2) An amphibious vehicle for which a certificate of title is issued pursuant to FS chapter 319 or a similar statute of another state;
- (3) Non-motor-powered watercraft less than 16 feet in length;
- (4) Watercraft that operate only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;
- (5) A stationary floating structure that:
 - (a) Does not have and is not designed to have a mode of propulsion of its own;
 - (b) Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
 - (c) Has a permanent, continuous hookup to a shoreside sewage system;
- (6) Watercraft owned by the United States, a state, or a foreign government or a political subdivision of any of them; and
- (7) Watercraft used solely as a lifeboat on another watercraft.

SECTION 2. That Section 151.02, "Permit Required," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.02. PERMIT REQUIRED.

(A) It shall be unlawful for any person to construct, repair, erect or install ~~fixed docks, floating docks, wharves, piers, or dolphin piles, mooring piles, or fender piles, mooring buoys or any type of boat lifting device or mooring device, platform or any other fixed or floating structure~~ Mooring Structures, or any similar marine structures, Tidal Flood Barriers, Banks, Berms, Green-Grey Infrastructure, Seawalls, Seawall Caps, upland stem walls, Rip-Rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding, footers or any other similar infrastructure designed and constructed to perform as a flood barrier in, over or upon the canals, waterways, rivers, or basins within the city without first obtaining an engineering permit from the City Engineer, as provided in this chapter and a building permit from the City Building Official as provided in Chapter 152. The qualified applicant for the proposed work, as defined in F.S. Chapter 489 and Chapter 9 of the Broward County Ordinances, shall also be required to seek the necessary approvals, permits and/or exemptions from the Broward County Environmental Protection and Growth Management Department, Florida Department of Environmental Protection or South Florida Water Management District, United States Army Corps of Engineers, and other governmental agencies as applicable, unless subject to the exceptions set forth in F.S. § 403.813.

(1) Permits shall be required for replacement of a Mooring Structure's structural elements including, but not limited to, pilings, sub-stringers, stringers, and footers, as well as ledgers, however, replacement of ~~more than 25% of decking.~~

~~(2) — Replacement of 25% or less of existing decking within a calendar year shall be exempt from the requirement to obtain a permit.~~

~~(3) Nonconforming docks and other similar marine structures as described above~~ Mooring Structures or similar structures, Shoreline or shoreline structures, Banks, Berms, Green-Grey Infrastructure, Seawalls, Seawall Caps, footers, upland stem walls, Rip-Rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding or any other similar infrastructure that were properly permitted by the city at the time of initial installation which are destroyed by fire or other casualty or ~~aet of God may force majeure shall~~ only be reconstructed in conformity with all current applicable regulations.

(3) Nonconforming ~~structures~~ Mooring Structures or similar dock structures, that were properly permitted by the city at the time of initial installation which are damaged or otherwise require maintenance may be repaired and remain in their existing nonconforming configuration, provided that they were properly permitted by the city at the time of initial installation, and such repairs do not require replacement of more than 50% of the combined structural elements as determined by the City Engineer including, but not limited to, pilings, sub-stringers, stringers and footers, at any one time or collectively within a one-year period ledgers, but excluding wood or fabricated wood decking.

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(E) ~~Permit fees for city capital improvement projects.~~ Engineering permit fees shall be waived for the construction of city owned capital improvement projects.

...

(I) Re-inspection fees. If the Engineering Inspector, while performing a partial or final inspection of the construction work, finds that the work does not conform or comply with approved plans or the city's Code of Ordinances, he/she shall notify the contractor or property owner and indicate the required corrections. The contractor or property owner shall notify the Engineering Inspector to request a re-inspection after the required corrections have been made. A re-inspection fee of \$30 will be charged for the re-inspection; however, when an extra inspection is necessary due to any of the below listed reasons, a fee charge of four times the amount of the first re-inspection shall be imposed:

(1) Wrong address provided for the initial inspection by the permittee or contractor;

...

(4) The final or other inspections could not be performed due to the actions of the permittee or contractor; or

(5) Second or subsequent failed inspection of the same repair/correction.

...

(J) Plan revisions or change of contractor. A fee of \$40 100 will be charged for all revised plans submitted for review or for a change of contractor application. An estimate of the cost of construction for the additional work shall be submitted with the revised plans. A revised permit and plan approval will be issued for this work. If additional work is shown on the revised plans, a permit fee will be charged based on 4% of the cost of construction of the additional work.

...

SECTION 3. That Section 151.03, "Structures in Waterways," of the Pompano Beach

Code of Ordinances is hereby amended as follows:

§ 151.03. STRUCTURES IN WATERWAYS.

~~(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~COMMON DOCKING AREA.~~ That part of a canal or waterway that is shared by lots adjacent to each other and adjacent or contiguous to a canal or waterway and created when boundary lot lines intersect when extended into a canal or waterway, but excluding the navigational channel area.

~~LOT.~~ Shall be defined in this subsection (A) as it presently or as it may hereafter be amended in Chapter 155.

~~MEASUREMENT REFERENCE LINE.~~ A measurement standard utilized for the purpose of distance measurement for structures in waterways regulated under this section, where a recorded property line of the adjacent waterfront property is either landward or seaward of the wet face of an existing seawall by one foot or more; in such instance, the wet face of the existing seawall is to be utilized as the reference line for distance measurement into the waterway for such structures; in all other instances, the reference line is the recorded property line.

~~REVERSE CORNER LOT.~~ Any lot when its boundary line abutting a canal or waterway is concave.

(A) Measurement standards for all structures except for wooden, fabricated wood, or concrete docks shall be from the Measurement Reference Line seaward to the end of the structure including pilings. Measurement standards for wooden, fabricated wood, or concrete docks and finger piers shall be from the Measurement Reference Line seaward to the end of the dock's decking.

(B) No Mooring Structures or other similar structures may be erected or installed within five feet of an extended side property line or cause a watercraft or Vessel to extend within five feet of an extended side property line.

(C) No Mooring Structures or any other similar structures may be erected or installed into the Navigational Channel or cause a watercraft or Vessel to extend into the Navigational Channel.

(D) Any structure erected pursuant to this section shall be kept in good repair by the owner thereof and shall be subject to removal by the city in the event that they are unsafe or create a hazard to navigation as determined by the City Engineer or City Building Official, the cost thereof to be assessed against the owner. However, opportunity for notice and a hearing shall be afforded to the owner prior to such removal by the city.

(BE) In a canal, river, basin, or waterway 50 feet in width or less, wharves, finger piers, fixed docks, floating docks, boat lifts (floating or stationary), floating vessel platforms, dolphin, fender or mooring piles, mooring buoys or any other structures fixed, or floating docks shall not be constructed or installed more than five feet waterward of the recorded property line or measurement reference line Measurement Reference Line.

(F) In a canal, river, basin, or waterway 50 feet in width or less, Vessel davits, hoist, vessel lift, floating vessel platform, personal watercraft / jet ski platform are permitted to be constructed seaward to the Navigational Channel.

(EG) In a canal, river, basin, or waterway which is more than 50 feet in width, wharves, finger piers, fixed docks, floating docks, boat lifts (floating or stationary), floating vessel platforms, dolphin, fender or mooring piles, and/or mooring buoys Mooring Structures or any other marine structures must be constructed or installed pursuant to the following conditions, provided that the navigational channel is not encroached upon:

(1) For the purpose of this section, the **NAVIGATIONAL CHANNEL** shall be defined as the 45% of the width of a canal, river, basin, or waterway with a minimum width of 40 feet. The center of the navigational channel shall coincide with the centerline of the canal, river, basin, or waterway. Where the navigational channel runs to the terminus of a dead end canal, river, basin or waterway, the navigational channel shall end a distance from the dead end canal, river, basin or waterway that is equal to the distance between the navigational channel and seawall or shoreline as measured along the same canal, river, basin or waterway but before the terminus of a dead end canal, river, basin or waterway.

(21) Fixed ~~boat~~ vessel docks, floating docks or wharves may be constructed or installed to extend into any canal, river, basin, or waterway a distance of 10% of the width of the canal, river, basin, or waterway or a distance of eight feet whichever is less, as measured from the ~~recorded property line~~ or measurement reference line.

(32) Fixed finger piers and floating finger piers may be constructed or erected to extend into any canal, river, basin, or waterway a distance of 20% of the width of the canal, river, basin, or waterway or a distance of 20 feet, whichever is less, as measured from the ~~recorded property line~~ or measurement property reference line. A finger pier (floating or stationary) shall not be constructed to a width greater than four feet. The distance between finger piers shall not be less than 25 feet.

(3) Fixed Vessel docks, wharves, or finger piers shall not be constructed or erected so as to cause the elevation of the deck to exceed the elevation of the top of the abutting Tidal Flood Barrier or Rip-Rap, with the exception that decking on fixed Vessel docks, wharves, or finger piers may be elevated above the abutting Tidal Flood Barrier or Rip-Rap a total of two inches in order to meet any surface finish of the abutting Tidal Flood Barrier or Rip-Rap.

(4) ~~Boat~~ Vessel davits, elevator lifts, cradle lifts, floating lifts, floating vessel platforms, personal watercraft / jet ski platform used for the express purpose of storing a watercraft out of the water or any other similar form of ~~boat vessel~~ lifting device may be constructed or installed to extend into any canal, river, basin, or waterway, in a fully raised position, a distance equal to 20% of the width of the canal, river, basin, or waterway or a distance of ~~20~~ 28 feet, whichever is less, as measured from the ~~recorded property line~~ or measurement reference line.

(5) If an elevator lift is permitted, approved, and built, an access platform may be constructed pursuant to an approved permit to facilitate access to vessels when the lift is in the down position. Said access platform, attached to ~~an a~~ a permitted and approved dock structure, shall be limited to the spacing between the battered support beams of the elevator and shall not extend more than three feet beyond the dock into the waterway or exceed ten feet in width. Said access platform is deemed an accessory to the elevator lift and its authorized placement is contingent upon the existence of a permitted and properly operating lift at the location. Should the lift fall into disrepair and no longer function or is removed and not replaced, then an approved existing access platform must be removed if it causes the dock structure to exceed any of the size restrictions set forth in this section; including, but not limited to, the requirements of subsection ~~(C)(2)~~ (F) and (G)(1) above.

(6) In a canal, river, basin, or waterway less than 150 feet, but more than 50 feet in width, dolphin, mooring, or fender piles and/or mooring buoys may not be installed in any canal, river, basin, or waterway any further than the navigation channel boundary line as measured from the ~~recorded property line or measurement~~ property reference line.

(7) In a canal, river, basin, or waterway 150 feet or greater in width, dolphin, mooring, or fender piles and/or mooring buoys may not be installed in any canal, river, basin, or waterway any further than 40 feet as measured from the ~~recorded property line or measurement~~ property reference line.

(8) In a canal, river, basin, or waterway, adjacent to single-family zoned Lots, dolphin, mooring, or fender piles are limited to two or two clusters per Lot.

(9) All ~~D~~ dolphin, mooring, and fender piles shall have a six-inch wide fluorescent or reflective band placed two feet below the top of the piling. Mooring buoys shall have a reflective band a minimum of four inches wide. ~~The minimum spacing between dolphin, fender, and/or mooring piles shall be ten feet.~~

(710) No roofs or similar covering structures may be installed in, over, or upon any canal, river basin, or waterway within the city. This shall include covered structures over ~~docks and boatlifts~~ mooring structures or other similar structures.

~~(DH)~~ No docks, fixed docks, floating docks, wharves, finger piers, boat lifts (floating or stationary), mooring devices, dolphin, mooring or fender piles, mooring buoys or other similar structures may be erected or similar structures meeting the requirements of subsection A through G above may be constructed or installed within five feet of an the extended side property line or cause a watercraft to extend within five feet of an extended side property line unless once the following conditions have been met prior to any permit being issued pursuant to the terms of this section:

(1) The affected abutting property owners shall enter into an agreement with the city which states the property owners have reviewed and approved the proposed plans as they relate to the placement of ~~any structure~~ the above structures which is erected within five feet of the extended side property line and the owners indemnify the city for any claim brought against the city for the placement of structures installed within five feet of the extended side property line. The agreement shall be approved by the Office of the City Attorney for legal content and recorded along with a copy of the approved plans in the Public Records of Broward County, Florida, and shall be considered to be a restriction running with the land and shall bind the heirs, successors and assigns of the property owners.

~~(2) The width of the canal, river, basin or waterway along which the structure is erected must have a minimum width of 50 feet.~~

~~(3) No boat lifts (floating or stationary) shall be erected within five feet of the extended property line.~~

~~(42) No Watercraft or any type of vessel shall not be docked within five feet of the extended side property line.~~

~~(53) Fire suppression systems shall be installed in accordance with all applicable fire codes.~~

~~(E) Fixed boat docks, floating docks, wharves, or finger piers shall not be constructed or erected so as to cause the elevation of the deck to exceed the elevation of the top of the abutting seawall.~~

~~(F1) In addition to the requirements contained in subsections (A) through (DG), if two or more lots share a common docking area, in lieu of provisions found in subsections (D)(1) (5) lots share a Common Docking Area, the following conditions must be met prior to any permit being issued under the terms of this section.~~

(1) The affected property owners shall may enter into an agreement with the city which shall state the property owners have reviewed and approved the proposed plans as it relates to the placement of any structure in the common docking area as well as the proposed docking of any ~~boat~~ vessel or watercraft as permitted in § 91.10. The agreement shall be approved by the Office of the City Attorney for legal content and recorded along with a copy of the approved plans in the Public Records of Broward County, Florida, and shall be considered to be a restriction running with the land and shall bind the heirs, successors and assigns of the property owners.

(2) In lieu of provisions in (I) (1) above, the City Engineer may divide the Common Docking Area from the seaward intersection of the extended Lot lines to the wet face of the Tidal Flood Barriers or Rip-Rap corner of the adjoining Lots.

(GJ) The provisions of subsections (BH) through (FI) shall not apply where a court of competent jurisdiction has adjudicated the docking rights of the adjoining property owners.

~~(H) Any structure erected pursuant to this section shall be kept in good repair by the owner thereof and shall be subject to removal by the city in the event that they are unsafe or create a hazard to navigation as determined by the City Engineer or City Building Inspector, the cost thereof to be assessed against the owner. However, opportunity for notice and a hearing shall be afforded to the owner prior to such removal by the city.~~

~~(I) For the purpose of this section, **TERMINUS** shall mean the ending point or boundary limit of a dead-end canal, river, basin or waterway.~~

(JK) Diagrams which document examples of the different docking provisions and waterways described by this section shall be maintained by and with the Code Enforcement Division.

SECTION 4. That Section 151.05 "Seawalls," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.05 SEAWALLS TIDAL FLOOD BARRIERS.

A. All new or Substantial Repair or Substantial Rehabilitation of Banks, Berms, Green-Grey Infrastructure, Seawalls, Seawall Caps, upland stem walls, or other similar infrastructure shall be designed and constructed to perform as Tidal Flood Barriers. Tidal Flood Barriers shall have a minimum elevation of five feet NAVD88 and shall not exceed an elevation of five feet ten inches NAVD88. Persons desiring to construct or repair a Tidal Flood Barrier or Rip-Rap shall obtain all required permits and furnish a plan to the City Engineer for approval, which are prepared by an engineer licensed in the State of Florida, showing elevations, and proposed and adjacent Seawalls referenced to North American Vertical Datum of 1988 (NAVD 88).

(B) All property owners must maintain a Tidal Flood Barrier in good repair. A Tidal Flood Barrier is presumed to be in disrepair and a Public Nuisance if it allows tidal waters to flow unimpeded through or over the barrier and onto adjacent property or public right-of-way. Failure to maintain a Tidal Flood Barrier in good repair shall be a citable offense. The owner of the Tidal Flood Barrier shall demonstrate progress towards repairing the cited defect within 60 days after receiving a citation and shall complete repairs within 365 days after receipt of the citation. If the required repair or rehabilitation meets the Substantial Repair or Substantial Rehabilitation threshold, no later than 365 days after receipt of the citation, the property shall design, obtain permits, cause to be constructed, and obtain final inspection approval of Seawall improvements that meet the minimum elevation and design requirements.

(C) Tidal Flood Barriers below a minimum five feet NAVD88 elevation shall be improved, designed, and constructed so as to prevent tidal waters from impacting adjacent property or public right-of-way. Causing, suffering, or allowing the trespass of tidal waters onto adjacent property or public right-of-way is hereby declared a Public Nuisance and a citable offense requiring abatement. The owner shall demonstrate progress toward addressing the cited concern within 60 days after receipt of the citation and complete the construction of an approved remedy no later than 365 days after receipt of the citation.

(D) Tidal Flood Barriers shall be designed and constructed to prevent tidal waters from flowing through the barrier, while still allowing for the release of upland hydrostatic pressure.

(E) To the extent practicable, Tidal Flood Barriers shall be designed and constructed to adjoin immediately proximate Tidal Flood Barriers to close gaps and prevent trespass of tidal water.

(F) All Tidal Flood Barriers below five feet NAVD88 undergoing Substantial Repair Or Substantial Rehabilitation shall be brought to the minimum height of five feet NAVD 88 and shall be constructed along the property's entire shoreline.

(G) All Tidal Food Barriers below five feet NAVD88 shall be brought to the minimum height of five feet NAVD88 when modifications, alterations, or installation of appurtenant structures (such as Mooring Structures) exceed 50% of the cost of a Tidal Flood Barrier along the property's entire Shoreline.

(H) All Tidal Flood Barriers shall be constructed with natural lime rock Rip-Rap, or other approved habitat enhancement, at the waterward face of the structure.

(I) Property owners are encouraged to consider approaches and materials that enhance the biological value of traditional (flat surface) Seawalls and flood barriers with the incorporation of living shoreline features, use of hybrid green-grey materials, and the use of biological forms, where practicable.

(J) This section shall not be construed to require the installation of a Seawall where other protection measures serve as an equally effective Tidal Flood Barrier.

(K) Tidal Flood Barriers capable of automatically being elevated in advance of high tides to prevent tidal flooding are permissible, provided that automation cannot require daily human intervention.

(AL) Whenever it shall come to the attention of the City Engineer or the City Building Inspector Official or designee, that any property adjacent to any natural or artificial canal, stream, or other body of water requires the construction of or maintenance of a seawall Tidal Flood Barrier, Rip-Rap, derelict erosion control structures or permeable earthen mounds that do not provide an impermeable

water barrier to tidal flooding on the property in order to abate a public nuisance-or abate a condition which is injurious to the health, safety, or welfare of the neighborhood or community or dangerous to the navigability of any canal, stream, or other body of water or to abate a condition causing soil erosion or mitigation of soil to such body of water the City Engineer or the City Building Official or designee shall inspect the premises. The City Engineer or the City ~~Building Official~~ Code Compliance Officer or their designees of the city shall give to the owner or person having a beneficial interest in the property notice of the condition. This notice shall require the owner or person having beneficial interest in the property to obtain all necessary approvals and permits to abate the condition and to complete construction or repair within 365 days. Proper service shall be as set forth in F.S. Ch. 162 and Chapter 37 of this code. In the event that after a hearing before the Pompano Beach Special Magistrate for Code Enforcement a violation of this section is found, the Special Magistrate shall hear testimony by the alleged violator and the ~~Pompano Beach~~ City Engineer or the City Building Official or City Engineer or their designees prior to setting a time for compliance. Such testimony shall include a listing of the regulatory agencies which will be involved in the permitting process and the magnitude of the work which will be involved to abate the condition.

~~(B) — For the purposes of this chapter, a **SEAWALL** shall mean a man-made structure that is built along and parallel to a shoreline for the purpose of protecting and stabilizing the shore against erosion and wave action. A **SEAWALL** shall also include, for the purpose of this chapter, riprap to protect and stabilize the shore against erosion and wave action, and shall be designed by a professional engineer registered in the state.~~

~~(C) — The desired elevation of seawalls shall not exceed an elevation of five feet ten inches NAVD 88. Persons desiring to construct or repair a seawall shall obtain all required permits and furnish a plan to the City Engineer for approval, which are prepared by an engineer in the State of Florida, showing elevations or proposed and adjacent seawalls referenced to North American Vertical Datum of 1988 (NAVD 88).~~

(M) The maximum width of a Seawall Cap cannot exceed thirty-six inches seaward from the wet face of the existing Tidal Flood Barrier or Rip-Rap.

(N) Unless approved by the City Engineer, the wet-face of a reconstructed Tidal Flood Barrier or Rip-Rap shall not exceed twelve inches from the wet-face of the existing Tidal Flood Barrier or Rip-Rap. A request to exceed twelve inches must include; a signed and sealed detailed drawing of the existing Tidal Flood Barrier or Rip-Rap, a signed and sealed statement by a licensed Florida engineer that structural damage will occur to the adjacent properties if a new Tidal Flood Barrier or Rip-Rap is installed within twelve inches of the existing wet face of the existing Tidal Flood Barrier or Rip-Rap and all necessary approvals, permits and/or exemptions from the Broward County Environmental Protection and Growth Management Department, Florida Department of Environmental Protection or South Florida Water Management District, United States Army Corps

of Engineers, and other governmental agencies as applicable, unless subject to the exceptions set forth in F.S. § 403.813.

SECTION 5. That Section 151.06, "Disregard of Notice," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.06. DISREGARD OF NOTICE.

(A) It shall be an offense and a violation of this code to refuse or fail to commence or complete repair or construction of the ~~seawall~~ Tidal Flood Barrier or Rip-Rap as set forth in the notice received by the property owner or the person having a beneficial interest in the property pursuant to § 151.05 herein.

(B) No building permits shall be issued for any construction, enlargement, alteration, repairing, moving, removing, installation, or demolishing or other such work on any building, structure, or any part thereof (other than the required ~~seawall~~ Tidal Flood Barrier or Rip-Rap) until the owner or the one having beneficial interest has complied with all provisions herein or any final order ~~of the Code Enforcement Board of the city~~ issued by the City of Pompano Beach Special Magistrate for code compliance.

SECTION 6. That Section 151.07, "Backfilling Seawalls," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.07. BACKFILLING SEAWALLS TIDAL FLOOD BARRIERS, RIP-RAP.

(A) All existing ~~seawalls~~ Tidal Flood Barrier or Rip-Rap and newly erected or repaired ~~seawalls on private property~~ Tidal Flood Barriers or Rip-Rap shall be backfilled with clean fill material. The fill material shall be backfilled to the finished elevation of the ~~seawall~~ Seawall Cap, or to the level of the finished floor elevation if the Seawall Cap exceeds the level of the finished floor elevation. There shall be no depressions, holes, or any other conditions which would allow stagnant water to accumulate anywhere landward behind the ~~seawall~~, Tidal Flood Barrier or Rip-Rap or cause excess or concentrated drainage into the adjoining property.

(B) ~~Existing seawalls~~ All Tidal Flood Barriers or Rip-Raps shall be maintained in such a manner as to prevent the erosion or damage to any adjoining property. All holes, depressions, or other similar conditions occurring on property behind existing ~~seawalls~~ Tidal Flood Barrier or Rip-Rap as a result of settlement, erosion, or any other condition of the soil or ~~seawall~~ Tidal Flood Barrier or Rip-Rap shall be filled and maintained at the finished elevation of the ~~seawall~~ Tidal Flood Barrier or Rip-Rap or to the level of the finished floor elevation if the Seawall Cap exceeds the level of the finished floor elevation.

SECTION 7. That Section 151.08, "Structures on Walls," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.08. STRUCTURES ON ~~WALLS~~ SEAWALLS CAPS, TIDAL FLOOD BARRIERS AND RIP-RAPS.

No ~~dock, deck, finger pier~~ Mooring Structures, terrace, retaining wall, stairway or other related structures shall be erected on top of or over a ~~seawall~~ Tidal Flood Barrier or Seawall Cap.

SECTION 8. That Section 151.09, "Variances," of the Pompano Beach Code of Ordinances is hereby amended as follows:

§ 151.09. VARIANCES.

(A) The Zoning Board of Appeals of the City shall hear and decide any variance requests from the regulations contained within this chapter.

(B) The provisions under § 151.03(B) and (C) is prohibited from variances.

~~(B)~~—(1) Any such application for variance must first be submitted to the Marine Advisory Board for its review and recommendations.

~~(D)~~—(2) The procedures, applications, form, timetables, and fees for the filing of a variance from these regulations shall be the same as that provided for a variance from any zoning ordinance as provided in Chapter 155.

SECTION 9. That Section 151.10, "Required Disclosure in Contracts for Sale of Real Estate," of the Pompano Beach Code of Ordinances is hereby created as follows:

§ 151.10. REQUIRED DISCLOSURE IN CONTRACTS FOR SALE OF REAL ESTATE.

In any contract for the sale of real estate located in tidally influenced areas of Broward County executed after December 31, 2021, the seller shall include in the contract or a rider to the contract the following disclosure in not less than fourteen-point, capitalized, bold-faced type:

THIS REAL ESTATE IS LOCATED IN A TIDALLY INFLUENCED AREA. THE OWNER MAY BE REQUIRED BY COUNTY OR MUNICIPAL ORDINANCE TO MEET MINIMUM TIDAL FLOOD BARRIER ELEVATION STANDARDS DURING CONSTRUCTION OR SUBSTANTIAL REPAIR OR SUBSTANTIAL REHABILITATION OF SEAWALLS, BANKS, BERMS, AND SIMILAR INFRASTRUCTURE OR WHEN REQUIRED TO ABATE NUISANCE FLOODING.

SECTION 10. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 11. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2022.

PASSED SECOND READING this _____ day of _____, 2022.

REX HARDIN, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB:jrm
12/28/21
L:ord/ch/151/2022-46