

ORDINANCE NO. 2019-07

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA AMENDING CHAPTER 5, "BOATS, DOCKS AND WATERWAYS," OF THE VILLAGE CODE OF ORDINANCES BY AMENDING ARTICLE I, "IN GENERAL," TO AMEND SECTION 5-1, "DEFINITIONS;" AMENDING ARTICLE III, "CONSTRUCTION REQUIREMENTS," BY AMENDING DIVISION 3, "BULKHEADS AND SEAWALLS," TO AMEND SECTION 5-70, "SUBMISSION OF SPECIFICATIONS AND PLANS," TO REQUIRE REVIEW BY THE VILLAGE ENGINEER, AMEND SECTION 5-71, "SPECIFICATIONS," TO UPDATE THE CONSTRUCTION AND ENGINEERING STANDARDS, ADOPT A NEW SECTION 5-72, "MINIMUM DESIGN REQUIREMENTS FOR SEAWALLS," TO ADOPT NEW DIMENSIONAL, COMPATIBILITY AND ELEVATION REQUIREMENTS FOR SEAWALL CAPS AND ALLOW FOR RECONSTRUCTION OF AN EXISTING SEAWALL OR BULKHEAD BEYOND THE PROPERTY LINE IN SPECIFIED CIRCUMSTANCES, AMEND SECTION 5-73, "INSPECTION," TO CLARIFY AND EXPAND THE PERMITTING AND INSPECTION REQUIREMENTS; AMENDING ARTICLE III, "CONSTRUCTION REQUIREMENTS," BY AMENDING DIVISION 4, "DOCKS AND PIERS," TO AMEND SECTION 5-81, "DEFINITIONS," AMEND SECTION 5-82, "GENERALLY," TO CLARIFY THE UPLAND PROPERTY OWNER, REQUIRE ALL CONSTRUCTION DOCUMENTS BE SIGNED AND SEALED BY AN ENGINEER, REQUIRE SUBMITTAL OF POLLUTION CONTROL PLANS AND REGULATE FENCING ON BULKHEADS OR SEAWALL CAPS, AMEND SECTION 5-83, "MINIMUM DESIGN REQUIREMENTS," TO MODIFY THE STANDARDS FOR DECKING ELEVATIONS, FLOATING DOCKS, AND PILING, DOLPHINS AND TIE POLES; AMEND SECTION 5-84, "REGULATIONS GOVERNING CONSTRUCTION IN WATERS OTHER THAN LAKE WORTH AND ATLANTIC OCEAN," TO UTILIZE THE PROPERTY LINE FOR MEASUREMENT AND CLARIFY EXISTING PROVISIONS, AMEND SECTION 5-85, "REGULATIONS GOVERNING CONSTRUCTION IN LAKE WORTH AND ATLANTIC OCEAN," TO UTILIZE THE PROPERTY LINE FOR MEASUREMENT AND CLARIFY EXISTING PROVISIONS, AND AMEND SECTION 5-86, "VARIANCES," TO AUTHORIZE VARIANCES FROM THE DIMENSIONAL REQUIREMENTS AND CLARIFY THE PROCEDURE; AMENDING CHAPTER 7, "BULKHEAD LINES," OF THE VILLAGE CODE OF ORDINANCES BY AMENDING ARTICLE I, "IN GENERAL," TO DELETE SECTION 7-1, "ESTABLISHED; DESIGNATED," AND AMEND SECTION 7-2, "FILLING OPERATIONS BEYOND BULKHEAD LINE; PROHIBITED," TO REMOVE ALL REFERENCES TO BULKHEAD LINES AND AMENDING ARTICLE II, "FILLING PERMIT," TO MODIFY AND SIMPLIFY THE PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council wishes to amend Chapter 5, "Boats Docks and Waterways," of the Village Code of Ordinances to, among other things: modify the definitions; update the permitting, inspection and construction requirements for bulkheads, seawalls, docks and piers; provide minimum and maximum elevations for seawall caps; allow replacement of an existing bulkhead or seawall up to eighteen inches waterward of the rear property line; utilize the property line for measurement; and clarify existing regulations and procedures; and

WHEREAS, the Village Council also wishes to amend Chapter 7, "Bulkhead Lines," of the Village Code of Ordinances to remove all references to bulkhead lines and modify and update the requirements applicable to fill permits; and

WHEREAS, the Village Council determines that the adoption of this Ordinance is in the interests of the public health, safety and welfare of the Village and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing "whereas" clauses are hereby ratified as true and are incorporated herein.

Section 2. The Village Council hereby amends Chapter 5, "Boats, Docks and Waterways," by amending Article I, "In General," by amending to Section 5-1, "Definitions," to read as follows (new language is underlined):

Sec. 5-1. Definitions.

As used in this chapter, unless the context indicates otherwise, the following terms shall have the indicated meanings:

* * *

NAVD88 or the North American Vertical Datum of 1988 means the vertical datum used for vertical control surveying in the conterminous United States and Alaska.

* * *

Section 3. The Village Council hereby amends Chapter 5, "Boats, Docks and Waterways," by amending Article III, "Construction Requirements," to read as follows (new language is underlined and deleted language is ~~stricken through~~):

* * *

DIVISION 3. BULKHEADS AND SEAWALLS

Sec. 5-69. Compliance with division required.

All bulkheads or seawalls ~~to be~~ constructed within the corporate limits of the village shall meet the requirements set forth in this division.

Sec. 5-70. Submission of plans and specifications.

Plans and specifications for any bulkhead or seawall ~~to be~~ constructed within the corporate limits of the village shall be submitted by an engineer registered in the state and shall bear his or her certification and seal on the face thereof. The village engineer shall review all applications for bulkhead or seawall repair or reconstruction.

Sec. 5-71. Specifications.

All bulkheads and seawalls to be henceforth constructed within the village shall be of reinforced or prestressed concrete construction and shall be subject to the following minimum requirements of this division. Material substitutions and deviations and alternative construction methods may be administratively approved with the mutual consent of both the village engineer and the village building official.

- (1) All materials and construction methods utilized in the construction shall conform to the applicable portion of the latest edition of the state department of transportation Florida Department of Transportation (FDOT) Standard Specifications for Road & Bridge Construction. All precast prestressed concrete piles shall be produced at an FDOT certified prestress manufacturing facility.
- (2) Bulkheads and seawalls may be of either the king pile-and-slab type or of the tongue-and-groove-concrete-sheet-pile type or of any other type which contains comparable or better qualities for the purposes of bulkheads or seawalls, depending upon the recommendation of the designing engineer. All bulkheads and seawalls shall be capped with a continuous reinforced concrete cap a minimum of ten (10) inches in depth and fifteen (15) inches in width and shall be provided with a two-inch chamfer on the top edges of the cap. All bulkheads or seawalls shall be of the anchored type using a suitable tie-back system. The bulkhead cap shall be placed at elevation five and five-tenths (5.5) feet mean sea level, or shall conform to the elevation of the bulkhead caps in existence on adjacent property insofar as possible. Special exceptions to this elevation requirement may be granted if the installation is in connection with commercial or industrial development.
- (3) All reinforcing steel shall be provided with a minimum of two and one-half (2½) inches of concrete cover. Exposed steel and anchors, tie rods, etc., shall be coated with a protective coating of an approved type to prevent corrosion.
- (4) All exposed concrete shall be troweled or rubbed smooth prior to setting whether concrete is cast-in-place or precast construction.
- (5) Plans submitted for the construction of bulkheads and seawalls shall contain a cross section of the proposed channel on the canal side of the bulkhead wall.
- (2) Bulkheads and seawalls may be of either the king pile or concrete sheet pile type.
- (3) All bulkheads and seawalls shall be capped with a continuous reinforced concrete cap. All concrete corners shall be chamfered three quarters of an inch (¾") minimum.

- (4) The design of the bulkhead wall shall conform to recognized engineering standards and calculation methods for bulkhead structures and shall take into account the following:
 - (a) Load and resistance factors applicable for the engineering analysis and design of the wall;
 - (b) Differential hydrostatic pressure due to tides and stormwater runoff;
 - (c) Surcharge loads on the bulkhead wall;
 - (d) Potential for erosion at the toe of the wall; and
 - (f) Backflow prevention for drainage outfalls, where applicable.
- (5) The dimensions of each component of the concrete wall shall be sized so that the concrete cover over the steel reinforcing bar is a minimum of four inches (4") for all external surfaces and surfaces exposed to saltwater and cast against earth and a minimum of three inches (3") for all formed surfaces not in contact with saltwater.

Sec. 5-72. Reserved Minimum Design Requirements for Seawalls.

All bulkheads and seawalls constructed shall within the village shall comply with the dimensional and compatibility requirements of this section. The provisions of this section shall not apply to repairs to existing bulkheads and seawalls where the total cost of the repairs is less than fifty percent (50%) of the replacement cost of the bulkhead or seawall.

- (1) Seawalls and bulkheads shall not be constructed beyond the rear property line, provided however, a property owner may reconstruct an existing seawall or bulkhead no more than eighteen inches (18") waterside of the property line. Any extension waterside beyond eighteen inches (18") from the property line shall only be approved by the village council in accordance with the fill permit process set forth in chapter 7 of this code.
- (2) Seawall caps shall extend no farther than three feet (3') from the wet face of the seawall or bulkhead or the rear property line, whichever is greater. A portion of the seawall cap may exceed this limitation provided that it meets the required setbacks and dimensions for docks.
- (3) The seawall or bulkhead cap shall be placed at the following established minimums and maximum cap elevations:

<u>Property Location</u>	<u>Minimum Cap Elevation</u>	<u>Maximum Cap Elevation (NAVD88)</u>
<u>Zone X & X500 – not in the FEMA Special Flood Hazard Area or Coastal High Hazard Area</u>	<u>Four feet (4') NAVD88</u>	<u>Six inches (6'') above grade or four feet and six inches (4'6'') NAVD88, whichever is greater. The grade (natural elevation) shall be calculated by selecting a minimum of two (2) elevation points within 1 foot (1') of the rear property line on each adjoining side property line and calculating the average of the selected elevation points.</u>
<u>In the FEMA Special Flood Hazard Area or Coastal High Hazard Area with an established base flood elevation (BFE)</u>	<u>Four feet (4') NAVD88</u>	<u>Six inches (6'') above grade as defined above or five feet (5') NAVD88, whichever is greater.</u>
<u>In the FEMA Special Flood Hazard Area or Coastal High Hazard Area with an established base flood elevation (BFE), and in the waters of the Intracoastal, Lake Worth or the Atlantic Ocean</u>	<u>Five feet (5') NAVD88</u>	<u>Six inches (6'') above grade as defined above, or six (6') NAVD88, whichever is greater; or</u> <u>Equal in elevation to BFE shown on the flood insurance rate map published by the Federal Emergency Management Agency (FEMA), provided that mitigation measures for aesthetic compatibility and other impacts to adjacent properties for seawall cap heights greater than six feet (6') NAVD88 are approved by the Community Development Director, the Village Engineer and the Building Official.</u>

- (4) Seawall caps placed at an elevation greater than the adjacent property shall provide a wall return of the same material and type as the seawall cap. All areas visible from adjacent property shall have a finished appearance equivalent to or better than painted concrete stucco. The height of any wall or fence placed on top of the return shall be measured from the grade of the adjacent property.

Sec. 5-73. Permitting and Inspection required.

After issuance of a construction permit and commencement of construction on any seawall or bulkhead, the work shall be subject to the following inspection requirements by the village building inspector: All seawalls and bulkheads shall be subject to the following permit and inspection requirements:

- (1) Permitting. In addition to building and zoning review, the village engineer shall review all permits for seawalls and bulkheads for structural integrity and consistency with the requirements of this division. All permit applications shall include the following information:

- (a) Engineering plans signed and sealed by a professional engineer licensed in the State of Florida.
 - (b) A Standard Penetration Test (SPT) soil boring report containing the required soil design parameters for the location of the proposed wall prepared by a geotechnical engineer licensed in the State of Florida. The location and required depth of the boring shall be determined by the geotechnical engineer. The depth of the boring shall be a minimum of five feet (5') lower than the deepest component of the proposed bulkhead wall.
 - (c) A soil boring profile signed and sealed by the geotechnical engineer.
 - (d) A plan view of the proposed bulkhead wall clearly indicating the location of the soil boring.
 - (e) A cross section of wall indicating the channel bottom elevation, the cap elevation and identifying the type, size and location of wall components.
 - (f) Fundamental soil data from the soil boring used in the design including saturated and submerged unit soil weight, coefficient of active pressure, coefficient of passive pressure, friction angle (for cohesionless soils), and cohesion (for cohesive soils).
 - (g) Documentation demonstrating that all concrete satisfies the requirements of ACI 318 Exposure Class C2.
 - (h) Plans demonstrating that exposed steel tie back anchor rods and other anchors shall be coated with a heavy-duty protective coating to prohibit corrosion.
 - (i) A copy of the pollution control plan required by the Florida Department of Environmental Protection (FDEP) permit depicting the location and types of pollution control mitigation measures. During the course of construction, the permittee shall be required to submit to the village all reports required by the National Pollutant Discharge Elimination System (NPDES) permit prior to the village's issuance of a certificate of occupancy.
- (+2) Inspection. ~~The permittee shall notify the village building inspector shall~~ be at least forty-eight (48) hours prior to the following events so as to allow for inspection:
- (a) ~~present during~~ the first installation of any structural support, including a king pile or support concrete sheet;
 - (b) ~~and shall inspect the site prior to the backfilling of structural supports, including any anchors or tie rods; and~~

(c) before the pouring any cast-in-place construction; and

(d) before the final cap pouring.

- (2) All precast prestressed sections shall be certified by the manufacturer to the effect that the sections are in conformance with the plans and specifications accompanying the permit, and copies of the certification shall be furnished to the building inspector.

DIVISION 4. DOCKS AND PIERS

Sec. 5-81. Definitions.

As used in this division, the following terms shall have the indicated meanings, unless the context clearly indicates otherwise:

* * *

Pier means a dock that extends more than five (5) feet from the property line and is perpendicular to a bulkhead or shoreline.

* * *

Sec. 5-82. Generally.

- (a) Docks, piers, mooring buoys and anchors, boat davits and other boat-lifting devices and other approved structures shall be owned and constructed only by the adjacent upland landowner. For the purposes of this section, upland shall be defined as a buildable lot with a zoning designation and legal access and shall not include upland portions of a canal right-of-way.
- (b) Boat davits and other boat-lifting devices shall require a building permit.
- (c) Docks, piers, mooring buoys and anchors and other waterside structures shall require a building permit.
- (d) The length or width of a dock or pier, as applicable, shall include all protrusions therefrom.
- (e) All construction documents for new docks or piers or modifications to docks or piers shall be signed and sealed by a professional engineer licensed in the State of Florida.
- (f) Where applicable, applications for a building permit must provide a copy of the pollution control plan required by the Florida Department of Environmental Protection (FDEP) permit depicting the location and types of pollution control mitigation measures.
- (g) Side property line fencing on waterfront lots may extend waterward beyond the rear property line to the edge of the bulkhead or seawall cap and any fencing affixed to a bulkhead or seawall cap must be constructed of aluminum or equivalent.

Sec. 5-83. Minimum design requirements.

- (a) *Coverings.* Any sun, wind or weather covering to be constructed over a dock or pier shall require a permit and shall be classified as a canopy and shall meet the building code as such.
- (b) *Decking elevation.* The main deck of a dock or pier shall be placed at a minimum of ~~three and five-tenths (3.5) feet above mean sea level~~ of two and one-half feet (2½') NAVD88 and at a maximum elevation equal to the elevation of the adjacent bulkhead or seawall cap. ~~The steps from the ground or bulkhead cap shall not exceed seven (7) inches for each step.~~
- (c) *Wave break.* The bottom wave breaking stringer shall not extend below mean low water.
- (d) *Floating docks.* Free-standing piling for floating docks shall be a ~~minimum schedule 40, six-inch diameter, pea rock concrete filled steel pipe or six-inch plastic pipe filled with pea rock concrete and two (2) equally spaced number four reinforcing bars, suitably tied. Attaching rings shall be steel or chain. Smaller piling may be allowed when properly structurally designed prestressed concrete, steel pipe or timber.~~
- (e) *Floating vessel platforms.*
 - (1) Floating vessel platforms shall be secured in the same manner as floating docks as specified above, or in the manner specified by the manufacturer, or as designed by a Professional Engineer licensed in the State of Florida.
 - (2) The vessel on top of the floating platform must be independently secured to a fixed dock, seawall, or similar structure on the property to which it is accessory by a mooring line or chain of sufficient strength and condition as if the vessel were floating independently.
 - (3) Floating vessel platforms shall use flotation materials that are either fully encapsulated or suitable for marine use, resistant to puncture and loss of internal components, resistant to fire, cracking and peeling, and generally impervious to water or fuel damage.
- (f) *Construction material.* Construction material for piers and docks shall meet the following requirements:
 - (1) Piling, dolphins and tie poles.
 - a. Minimum bottom penetration is to be six (6) feet
Piles, dolphins and tie poles shall have enough
penetration into subsurface soils to resist the
horizontal design loads.

- b. Concrete piling is to be minimum eight-inch by eight-inch or eight-inch diameter reinforced with four (4) number five (5) rods with number two (2) hoops eight (8) inches on center Piles shall be prestressed concrete or steel. The properties, number and spacing shall be selected to resist the horizontal design loads.
 - c. Wood piling is to be minimum ten-inch butt diameter and the treatment shall conform to AWPB MP1, MP2 or MP4. Pile cutoff shall be treated in accordance with AWPB M4.
 - d. All piling are to be set a maximum of ten (10) feet ~~on center for timber deck construction.~~
- (2) Stringers and bracing. Stringers and bracing, if lumber, shall be a minimum two-inch by eight-inch.
- (3) Decking. Decking, if lumber, shall be a minimum two-inch by six-inch.
- (4) Fasteners.
 - a. All bolts, nuts, washers and nails shall be hot dipped galvanized or zinc plated or equal.
 - b. Stringers and braces shall be fastened with minimum one-half-inch bolts.
- (5) Dock lumber. All dock lumber shall be pressure treated or equal.
- (6) Concrete strength. All concrete shall be a minimum strength of thirty-five hundred (3,500) psi in twenty-eight (28) days.
- (7) ~~Blocks~~ Existing bulkhead. If a dock ~~or pier~~ is to be supported by an existing bulkhead, ~~four-inch by four-inch blocks or equal shall be bolted to bulkhead wall; stringer shall be bolted to four-inch by four-inch blocks~~ the permittee shall demonstrate by performing a structural analysis that the existing bulkhead is capable of supporting the applied dock or pier loads.
- (g) *Structural equivalents permitted.* Docks and piers of other design and material may be permitted when structurally equivalent to the above and approved with the mutual consent of both the village engineer and the village building official.
- (h) *Commercial docks and piers.* All commercial docks and piers are to be designed by a Florida registered professional engineer.
- (i) *~~Dolphins and tie poles~~*

- (1) ~~Bottom penetration is to be a minimum of six (6) feet.~~
- (2) ~~Materials and construction are to be the same as dock and pier pilings.~~
- (ji) *Commercial marinas.* All fixed docks and piers to be constructed in commercial marinas shall be concrete or equal.
- (k) ~~*Batter piles.*~~
 - (1) ~~Batter piles are to be designed by a Florida registered professional engineer.~~
 - (2) ~~Batter piles are to be constructed of prestressed concrete.~~
 - (3) ~~A building permit shall be required prior to construction for all batter piles.~~
 - (4) ~~Batter piles shall be installed only under the following conditions:~~
 - a. ~~Obstructions prevent use of standard tiebacks and anchors to reinforce bulkheads.~~
 - b. ~~Existing bulkhead has failed or is in danger of failing.~~
 - c. ~~Not to be used in the construction of new bulkheads.~~
 - (5) ~~Base of batter pile shall extend a maximum of five (5) feet from the waterside face of the bulkhead.~~

Sec. 5-84. Regulations governing construction in waters other than Lake Worth and Atlantic Ocean.

All docks or other approved structures to be constructed waterside of bulkheads or land in the lagoons, waterways or other bodies of water in the village, other than the waters of Lake Worth and the Atlantic Ocean, shall be constructed in accordance with the following requirements and regulations:

- (1) Prior to a permit being issued by the village, a permit shall be obtained from such other authority that has a vested interest in the waterway.
- (2) In regard to construction waterside of any lot having fifty-foot or less frontage on the water, docks shall not be placed within five (5) feet of the side property line extended.
- (3) In regard to construction waterside of any lot having greater than fifty-foot frontage on the water, docks shall not be placed within ten (10) feet of the side property line extended.
- (4) Dead end lagoon. In regard to construction waterside of any platted lot at the dead end of a lagoon, a dock or a pier may be placed zero (0) feet from the side property line extended when all the following requirements are complied with:

- a. The lot/lots shall be in a R-1 Single Family Dwelling District.
 - b. Building permits shall be obtained as required by section 5-82 of this chapter.
 - c. At least one (1) lot shall have less than seventy-five (75) feet frontage on the water.
 - d. A dock or pier, but not both, shall be constructed at the same time on both sides of the common property line in question or, in the alternative, if one of the property owners chooses to construct the dock or pier at a future date, that property owner shall record a deed restriction in the public records, in a form acceptable to the village attorney, limiting the location of the future dock or pier to the property line and requiring that it mirror the dock or pier constructed on the adjacent property. No permit shall be issued until the restriction is recorded.
 - e. The dock or pier on a lot shall be structurally independent of the dock or pier on the adjacent lot.
- (5) Docks shall extend a maximum of five (5) feet ~~out from the face of the bulkhead wall~~ waterward from the rear property line. Notwithstanding the foregoing, floating docks constructed within the North Palm Beach Waterway may extend a maximum of ten (10) feet ~~out from the face of the bulkhead wall~~ waterward from the rear property line; provided, however, that the mooring of vessels to such extended floating docks, for purposes other than loading or unloading, is prohibited.
- (6) ~~a:~~ Piers shall not exceeding six (6) feet in width and shall not be closer to the side property line extended than half of its extension waterside from the rear property line.
- (7) Piers may extend waterside a maximum distance from the rear property line as follows:
- a. fifteen (15) feet into lagoons;
 - b. twenty (20) feet into the North Palm Beach Waterway;
 - c. twenty-five (25) feet into West Lake; ~~and~~
 - d. forty (40) feet into North Lake; ~~and~~
 - e. forty (40) feet into Prosperity Harbor for properties on Teal Way;
 - f. not more than twenty-five (25) percent of the waterway width of the Earman River; ~~provided, however, that~~

a A pier may extend waterside a maximum of fifty-five (55) feet when connected with a commercial marina operation in a commercial zoned piece of property so long as said construction leaves a minimum clear water distance of forty (40) feet between the pier and any opposite bulkhead or water structure which may be constructed in accordance with this chapter.

- (8) Piers located in the Earman River may be constructed with "L" heads, "T" heads, or other configurations that may allow for the docking of vessels parallel to the shore provided the maximum allowable length waterside is reduced by twelve (12) feet.

b. ~~Piers located on Teal Way in Prosperity Harbor may not exceed six (6) feet in width and shall be a maximum of forty (40) feet in length.~~

~~Piers located per this section shall not be closer to the side property line extended than half of its extension waterside of the bulkhead.~~

- (79) In lagoons, dolphin poles, wave breaks, mooring posts, mooring buoys or floating anchors shall be placed a maximum of twenty (20) feet from the ~~face of the bulkhead~~ rear property line or the shore; ~~provided, however, that wave breaks shall be allowed only at lagoon entrances opening into Lake Worth.~~

- (810) In the North Palm Beach Waterway, dolphin poles, mooring posts, mooring buoys or floating anchors shall be placed a maximum of thirty (30) feet from the ~~face of the bulkhead~~ rear property line or the shore.

- (911) In the Earman River, dolphin poles, wave breaks, mooring posts, mooring buoys or floating anchors shall be placed not more than twenty-five (25) percent of the waterway width from the ~~bulkhead~~ rear property line or the shore; ~~provided, however, that wave breaks shall be allowed only at the entrance to Lake Worth.~~

- (4012) In West Lake, and North Lake, and water front properties along Teal Way, dolphin poles, mooring posts, mooring buoys or floating anchors shall be placed a maximum of fifty (50) feet from the face of the ~~bulkhead~~ rear property line or the shore.

- (4113) Dolphin or mooring post location shall be inside the side property line extended and shall be determined by the building department.

- (4214) In no instance shall any structure extend more than twenty-five (25) percent of the width of the water.

- (13) ~~For the purposes of this section, the face of the bulkhead wall shall refer to the waterfront face of a retaining wall of approved materials constructed adjacent to navigable waters and shall not include the seawall cap, batter piles or king piles.~~

- (415) Floating vessel platforms may be installed with minimum side setbacks as specified above for docks, and with maximum waterside extension as specified above for dolphin poles and mooring posts.

Sec. 5-85. Regulations governing construction in Lake Worth and Atlantic Ocean.

All residential piers, docks or other approved structures to be constructed waterside of the ~~bulkhead rear property~~ line ~~or land of the village~~ in Lake Worth, or the mean low-water mark of the Atlantic Ocean, shall meet the following regulations and requirements:

- (1) The design of any pier to be constructed under the provisions of this division shall be performed by an engineer registered in the state, and detailed construction drawings shall be submitted bearing the certification and seal of such engineer.
- (21) Prior to a permit being issued by the village, a permit shall be obtained from such other authority that has a vested interest in the waterways. Nothing contained in this division shall be construed to affect the rights or obligations connected with spoil areas located in Lake Worth within one hundred (100) feet lakeward of the bulkhead line referred to above and the granting of a permit by the village does not release the applicant from personally determining what, if any, effect such spoil areas may have upon any construction done in accordance with this division.
- (32) No pier or finger pier shall extend beyond a line fifty (50) feet waterside from and parallel to the ~~bulkhead rear property~~ line of the village.
- (43) The centerline of all piers shall be on a uniform alignment.
- (54) Piers may be constructed with "L" heads or "T" heads of fifty (50) feet. A finger pier extending from the "L" or "T" head shall not exceed twenty-two (22) feet in length and shall be a maximum of six (6) feet and a minimum of three (3) feet in width.
- (65) No point on any pier shall be closer than twenty (20) feet to either side property line projected along a line parallel to the pier center line or closer than forty (40) feet to any part of another pier.
- (76) Piers shall have a maximum width of ten (10) feet, and a minimum width of six (6) feet.
- (87) Dolphins or mooring posts may be installed adjacent to piers, with location to be determined by the building department.
- (98) In regard to construction waterside of any lot having fifty (50) feet or less frontage on the water, docks shall not be placed within five (5) feet of the side property line extended.
- (109) In regard to construction waterside of any lot having greater than fifty (50) feet frontage on the water, docks shall not be placed within ten (10) feet of the side property line extended.
- (110) Freestanding wave breaks shall not be permitted.

(1211) Mooring buoys and anchors shall be designed and located in such a manner as to not allow the moored vessel to cross the side property lines extended. Mooring buoys and anchors shall be located parallel to the bulkhead no more than one hundred fifty (150) feet from the bulkhead rear property line. No live-aboards are allowed. The upland landowner shall not moor or anchor more than one (1) boat.

(1312) Floating vessel platforms may be installed with minimum side setbacks as specified above for docks, and with maximum waterside extension as specified above for piers.

Sec. 5-86. Variances.

The board of adjustment created and described in section 21-21 of this Code shall have the power to authorize upon appeal such a variance from the dimensional terms requirements of this division in accordance with the criteria and procedures set forth in that section, section 5-85(3) as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of those sections of the village Code as they pertain to properties located on Lake Worth will result in unnecessary and undue hardship. In order to authorize any variance from the terms of those sections of the village Code, the board of adjustment must find the factors set forth in F.S. section 163.225(3)(a), (b), (c):

"(3) (a) To authorize upon appeal such variance from the terms of the ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the ordinance, the board of adjustment must find:

- "1. — That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- "2. — That the special conditions and circumstances do not result from the actions of the applicant;
- "3. — That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district;
- "4. — That literal interpretation of the provisions of the ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;
- "5. — That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structures;
- "6. — That the grant of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

"(b) In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this part and any ordinance enacted under its authority. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the ordinance.

(c) — The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

Public notice of all hearings conducted in accordance with this section shall be provided as required by section 21-3 of this Code.

* * *

Section 4. The Village Council hereby amends Chapter 7, "Bulkhead Lines," of the Village Code of Ordinances to read as follows (new language is underlined and deleted language is stricken through):

CHAPTER 7. BULKHEAD LINES FILL PERMITS

ARTICLE I. IN GENERAL

~~Sec. 7-1. Established; designated.~~

There is hereby established a comprehensive system of bulkhead lines in the waters of Lake Worth and other tidal waters within the territorial limits of the village; and such bulkhead lines shall be along the lines indicated and shown in red on the maps attached hereto, made a part hereof, and which are marked respectively bulkhead maps nos. 1, 2, 3 and 4.

Sec. 7-12. Filling operations beyond bulkhead property line; prohibited.

No fill shall be made, deposited or maintained in the waters of Lake Worth or other tidal waters within the ~~territorial~~ corporate limits of the village, waterward or outward from any shoreline, in such a manner so that such fill shall extend beyond any ~~bulkhead property line except as provided in article II below as established and designated on the bulkhead maps referred to in section 7-1 above.~~

Sec. 7-23. Unlawful fill; removal.

Any fill which shall be made contrary to the provisions of this chapter shall be unlawful and subject to removal upon order of the village council.

ARTICLE II. - FILLING PERMIT

Sec. 7-16. Required.

(a) No person may make or deposit any fill or undertake the filling, creation or extension of land by pumping, dredging, pumping sand, rock or earth or otherwise within the water of Lake Worth or other tidal waters within the limits of the village without first having received a permit therefor from the village council. All filling shall be made in accordance with the plans and specifications designated in the application for such permit.

(b) Notwithstanding the foregoing, a fill permit shall not be required for any fill associated with the replacement or reconstruction of an existing seawall or bulkhead no more than eighteen (18) inches waterward of the property line as provided in section 5-72(1) of this code.

Sec. 7-17. Public hearing prerequisite to consideration.

(a) Before any petition or application for a permit to fill or dredge submerged lands located within the corporate limits of the village may be considered by the village council, the advisability of issuing such permit shall be considered at a public hearing at least ten (10) days prior to the meeting at which such petition or application shall be considered by the village council. The village council shall consider all applications for a fill permit at a duly noticed public hearing.

(b) Notice of the public hearing shall be given not less than ten (10) days prior to the public hearing by means of the village newsletter or other direct mail to all residents of the village and also by posting in three (3) conspicuous places in the village, one (1) of which places shall be at the village hall published in a newspaper of general circulation at least seven (7) days prior to the hearing at which the application is considered. Additionally, notice shall be mailed to all property owners of record within three hundred (300) feet of the property to which the application relates, as derived from the official tax roll of Palm Beach County, at last ten (10) days prior to the hearing. The applicant shall provide an affidavit attesting to the completeness and accuracy of the property owner's list and confirming that the notice was sent to all property owners included on the list. The notice shall contain the following information:

- (1) A brief description of the fill permit application;
- (2) Time, date and location of the public hearing;
- (3) The street address of the property upon which the fill activities are proposed (or in the event there is no address a legal description and location map); and
- (4) Name, address and telephone number of the office where additional information may be obtained.

(c) The terms of this chapter shall be in addition to any terms set forth in this Code which are concerned with applications for dredge and fill permits, and shall not be considered to be in lieu of any requirements contained herein.

Sec. 7-18. Application; issuance.

(a) Applications for the permit required by this article shall be in writing and directed to the ~~village clerk~~ community development director and shall be accompanied by a surveyor's sketch plan of what is proposed to be done and shall also show the details of any proposed construction, the proposed area to be filled, the area to be dredged for procuring fill materials, if the proposed construction is intended to be created from dredged material, and such other information and data as may be pertinent to the proposed filling.

(b) The village council shall not grant any fill permit that would violate In the event such application be found by the village council not to be violative of any statute, zoning law, ordinance or other applicable restriction, which may be applicable thereto, or In determining whether to grant, grant with conditions or deny any fill permit application, the village council shall consider:

- (1) whether any that no harmful obstruction to or alteration of the natural flow of the adjacent navigable waters will arise from the proposed construction; or
- (2) whether any that no harmful or increased erosion, shoaling of channels or stagnant areas of water will be created thereby; or and
- (3) whether any that no material injury or monetary damage to adjoining land will accrue therefrom the proposed activities. a permit shall be granted to the applicant, subject, however, All fill permits are subject to approval by the trustees of the internal improvement fund of the state and by the U.S. Army Corps of Engineers, as applicable.

Sec. 7-19. Application fees.

Each application for a permit required by this article submitted to the village clerk shall be accompanied by a deposit of the estimated costs of the village in processing the application. Upon the village determining the actual costs, applicants shall pay the balance, if any, in full of such costs including advertising and cost of review by the village engineer prior to final consideration of the application by the village council. If the deposit exceeds actual costs, the balance shall be refunded to applicant. Each change in plans and specifications subsequent to the issuance of a permit shall be the subject of a new or supplemental application and a like fee shall be paid upon the filing of such application as was paid in the case of the original application.

Sec. 7-20. Expiration date; renewal; revocation.

(a) All permits issued under this article shall be valid for a period of two (2) years from the date thereof, but shall be automatically revoked if the proposed work is not completed within such period except for good cause shown.

(b) The renewal of any permit prior to sixty (60) days after its expiration may be granted by the community development director for good cause shown.

(c) For violation of or noncompliance with the terms of a permit, such permit may be revoked after notice of intention to do so has been communicated to the holder and opportunity afforded within a reasonable time for a hearing thereon before the village council.

Section 5. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida.

Section 6. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Section 7. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. This Ordinance shall take effect immediately upon adoption.

PLACED ON FIRST READING THIS 11TH DAY OF JULY, 2019.

PLACED ON SECOND, FINAL READING AND PASSED THIS 25TH DAY OF JULY, 2019.

(Village Seal)

MAYOR

ATTEST:

VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

VILLAGE ATTORNEY