

ORDINANCE NO. 2023-0998

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 42, ENTITLED "LAND DEVELOPMENT CODE," ARTICLE IV, ENTITLED "ZONING," DIVISION 5, ENTITLED "SUPPLEMENTAL REGULATIONS AND REQUIREMENTS FOR SPECIFIC USES," BY AMENDING SECTION 42-381, ENTITLED "SEAWALL HEIGHT AND RAISING OR CAPPING SEAWALLS" TO INCREASE THE PERMITTED HEIGHT OF SEAWALLS, AND TO PROVIDE FOR THE ABILITY TO INCREASE THE HEIGHT OF THE SEAWALL IN THE FUTURE AND TO ACCOMMODATE DIFFERENCES IN ELEVATION WITH ADJACENT PROPERTIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission requested City Administration to review the code relating to the permitted height of seawalls in the City; and,

WHEREAS, at its April 25, 2023, meeting, the City Commission declared a Zoning In Progress to permit the construction of seawalls in the City to an elevation of up to 5.0 feet NAVD for owners of waterfront property who desire to do so while the City undergoes the process to adopt an amendment to the City's Code of Ordinances to reflect this change; and,

WHEREAS, at its June 6, 2023, meeting, the City's Planning and Zoning Board considered revisions to Section 42-381, entitled "Seawall Height and Raising or Capping Seawalls" and recommended adoption of the proposed amendment; and,

WHEREAS, the City Commission hereby finds it is in the best interest of the residents and citizens of the City to amend the City Code of Ordinances relating to maximum allowable height of seawalls in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA:

Section 1: That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: Chapter 42, entitled "Land Development Code," Article IV, entitled "Zoning," Division 5, entitled "Supplemental Regulations and Requirements For Specific Uses," Section 42-381, entitled "Seawall height and raising or capping seawalls," is amended by amending subsection 42-381(a) as set forth below:

Sec. 42-381. - Seawall height and raising or capping seawalls.

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(a) All seawalls within the city shall have a cap elevation of no less than 4.0 feet NAVD (5.5 feet NGVD) above mean sea level. Owners of all real property on canals or waterways in the city as described in all waterfront property in Blocks 48, 51, 52, 57, 58, 60, 61, 63, 64, Venetian Isles 3rd Section, Plat Book 47, Page 13 of the public records of the county are hereby authorized to raise or cap existing seawalls to a height after improvement of ~~4.0~~5.0 feet NAVD (5.5~~6.5~~ feet NGVD) ~~feet~~ above mean sea level. In recognition of construction difficulties and soils settling, a seawall cap elevation of not less than three feet eight inches nor more than ~~four~~five feet four inches NAVD (not less than five foot two inches nor more than ~~five~~six feet ten inches NGVD) above mean sea level shall be considered to be in conformance with this subsection.

(1) Upon commencement of work to construct a new seawall or to substantially rehabilitate replace, maintain, or improve an existing seawall, the seawall must be designed to accommodate a seawall cap to be built to a height, after improvement, of 5.0 feet NAVD (6.5 feet NGVD) above mean sea level.

(2) If the proposed seawall is to be designed to be constructed at a higher elevation than the adjacent property or properties, as determined by a licensed surveyor or engineer, then the seawall shall have return walls for a distance to a point where the proposed construction elevation is the same elevation as the adjacent property or properties. All constructed return walls shall be parallel to the property line or lines such that said return walls be fully constructed on the property on which the proposed seawall is being constructed.

Section 3: All Ordinances and Resolutions or parts of Ordinances and Resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

Section 4: If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 5: It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Land Development Code and Ordinances of the City of Lighthouse Point, Florida.

Section 6: This Ordinance shall become effective upon passage and adoption.

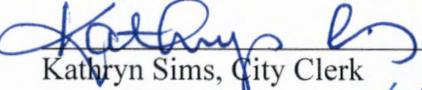
PASSED AND ADOPTED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THIS 20 DAY OF August, 2023.

PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA THIS 19 DAY OF September, 2023.

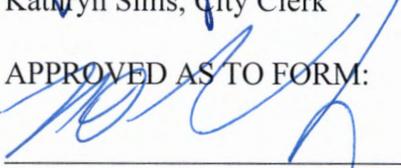
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Sandy Johnson, Commission President

ATTEST:


Kathryn Sims, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney

	Yes	No	Absent
Commission President Sandy Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commission Vice President Michael S. Long	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Jason D. Joffe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Everett Marshall III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Patty Petrone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CITY OF LIGHTHOUSE POINT, FLORIDA
CITY COMMISSION AGENDA ITEM REPORT
DATE OF COMMISSION MEETING – August 22, 2023

AGENDA ITEM NO. - 60

PREPARED BY – Jim Hickey, Consultant Planner

DIRECTOR APPROVAL - _____

ADMINISTRATOR APPROVAL - RL

SUBJECT: Public Hearing and Second Reading of Ordinance 2023-0998, amending Chapter 42 – Land Development Code, Section 42-381 Seawall height and raising or capping seawalls

1. BACKGROUND/HISTORY

On October 26, 2022, City Staff was directed by Mayor Van Buskirk to complete a study on seawall elevation standards for municipalities within Broward County. The City's Consultant Planner completed the analysis and presented this study to the Marine Advisory Board (MAB) Meeting on November 3, 2022. The study included municipal and County seawall standards and provided this report to the MAB. The study found that while Lighthouse Point limits seawall elevations to 4.0 NAVD (with allowable deviations for construction difficulties – 3'8" to 4'4"), most coastal municipalities in Broward County are conforming and adopting the new County provisions which allows for seawall elevations to be built to an elevation of 5.0 NAVD.

The City's planning consultant presented a discussion item related to seawall elevations at the next Planning and Zoning Board Meeting on December 6, 2022. Following the Planning and Zoning Board discussion, the Board made a motion to require 4.0 NAVD by 2035 and 5.0 NAVD by 2050 contingent upon some sort of governmental assistance program being in place to alleviate the cost burden. The motion was passed unanimously.

At the March 28, 2023, City Commission Meeting, seawall height was a discussion item on the City Commission agenda. The discussion centered on the City raising the maximum seawall height to 5.0 NAVD. At the conclusion of the discussion, Mayor Van Buskirk stated that City Staff would draft a proposed ordinance which would be brought to a future Commission meeting for review.

At its April 11, 2023, meeting, the City Commission discussed a motion to declare a Zoning in Progress to allow seawalls to be constructed to a maximum elevation of 5.0 feet NAVD while the ordinance adoption process is underway. The City Commission voted to table this item to the April 25, 2023 meeting and asked the City Engineer to be present to discuss seawalls within the City.

At the April 25, 2023, City Commission Meeting, the City engineer presented to the Commission regarding presented information regarding the construction and reconstruction when adding, replacing or rehabilitating existing seawalls and the limitations of design based on the height and construction of seawalls. Many of the existing seawalls in the City are made of coral rock and are over 50 years old. Over time, these walls will need to be replaced and cannot hold the weight of building on top of them. That evening, the City Attorney presented a discussion item for the City Commission to declare a Zoning in Progress to temporarily allow the City's Building Department to process building permits for seawall elevations up to a maximum of 5.0 feet NAVD. This request would allow the approval of these permits to begin while staff completed the ordinance to amend the Land Development Code. The City Commission voted to declare a Zoning in Progress to allow

seawall elevations to a maximum of 5.0 feet NAVD. The Zoning in Progress will end upon the adoption of an ordinance amending Section 42-381, or a decision by the City Commission not to amend this ordinance.

On June 22, 2023, the Planning and Zoning Board held a public hearing and approved the ordinance to raise the seawalls to the elevation of 5.0 NAVD with the following conditions:

1. Require 4' in height by 2035 and 5' in height by 2050 through providing the support necessary to obtain 5' or through the use of acceptable technology to raise the seawall height to 5'; and
2. Seawall can be increased to 5' provided that a retaining wall is constructed at the property line to ensure protection to neighboring properties.

On July 11, 2023, the City Commission held the first reading of Ordinance 2023-0998. During the discussion of this item, the City Commission asked questions to the City's planning consultant and City staff regarding the language within the ordinance:

- The first question related to requirements for sea walls which are not improved to 5.0 NAVD.
- The second question regarded drainage onto adjacent properties, and when return walls were required to ensure drainage is maintained on the improved property.

Based on these concerns, the item was tabled to allow the planning consultant and City staff to review the information and provide an updated ordinance.

On August 22, 2023, the City Commission held the first reading of Ordinance 2023-0998. At this meeting, City staff provided additional language for the proposed ordinance that clarifies how a seawall needs to be constructed if not constructed to 5.0 NAVD and address when return walls are required for the property. Based on the proposed language, the City Commission approved first reading of the ordinance.

2. FINDINGS/CURRENT ACTIVITY

The proposed Ordinance will amend the existing language set forth in Sec.42-381 entitled, "Seawall height and raising or capping of seawalls" to be consistent with the Zoning in Progress approved by the City Commission. Based on City Commission input, the proposed language will require property owners to raise the seawalls to a cap elevation of 4.0 NAVD and allow for a maximum of 5.0 feet NAVD.

The revised language within the ordinance requires a property owner to build the seawall to support an additional one foot of elevation in the future if the seawall is built at a height below 5.0 NAVD. The proposed language also keeps flexibility in the code for height based on construction difficulties and soil settling which occurs primarily in the redevelopment of existing seawalls.

As for the question on drainage and return walls, City staff and the consultant planner discussed the issue of requiring a return wall at the property line with the City Engineer. The City Engineer recommends the return wall be required if the proposed seawall top is designed to be constructed at a higher elevation than the adjacent property or properties, based on the final grade as determined by a licensed surveyor or professional engineer. Return walls would then be required to be extended upland to the property's interior parallel to the property line to a distance where the differing grades are equal.

3. ATTACHMENTS

Ordinance No. 2023-0998

4. FINANCIAL IMPACT

None

5. ACTION OPTIONS/RECOMMENDATION

The City Commission is requested to conduct a public hearing and consider the second reading of Ordinance No. 2023-0998 amending Chapter 42 – Land Development Code, Sec. 42-381 Seawall height and raising or capping of seawalls.