

**CITY OF MIAMI BEACH**

## FREEBOARD

ORDINANCE NO. 2016-4009

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A – GENERAL ORDINANCES, OF THE CITY CODE, BY AMENDING CHAPTER 54 “FLOODS” AT SECTION 54-35, “DEFINITIONS,” BY AMENDING THE DEFINITIONS FOR BASE FLOOD ELEVATION, CROWN OF ROAD, AND FREEBOARD, AND BY CREATING DEFINITIONS FOR CENTERLINE OF ROADWAY, CRITICAL FACILITY, FUTURE CROWN OF ROAD, MINIMUM FREEBOARD, MAXIMUM FREEBOARD, GREEN INFRASTRUCTURE, LOW IMPACT DEVELOPMENT (LID), AND SURFACE STORMWATER SHALLOW CONVEYANCE; BY AMENDING SECTION 54-45, “PERMIT PROCEDURES,” TO REQUIRE A STORMWATER MANAGEMENT PLAN; BY AMENDING SECTION 54-47, “GENERAL STANDARDS,” TO PROHIBIT SEPTIC SEWAGE SYSTEMS, AND INCLUDE REQUIREMENTS FOR STORAGE OF HAZARDOUS MATERIALS; BY AMENDING SECTION 54-48, “SPECIFIC STANDARDS,” TO CLARIFY THE MINIMUM ELEVATION OF THE LOWEST FINISHED FLOOR FOR RESIDENTIAL AND NON-RESIDENTIAL CONSTRUCTION, AND REQUIRING A MINIMUM ELEVATION FOR GARAGE ENTRANCES; BY AMENDING SECTION 54-51, “STANDARDS FOR COASTAL HIGH HAZARD AREAS (V-ZONES),” TO CLARIFY THE MINIMUM ELEVATION OF THE LOWEST FLOOR OF ALL NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

**WHEREAS**, sea level rise and flooding is an ongoing concern of the City; and

**WHEREAS**, low lying infrastructure including buildings must also elevate in order to reduce risk or maintain low risk from potential flood damage; and

**WHEREAS**, it is appropriate to establish minimum freeboard requirements for residential and commercial structures to provide additional levels of protection to maintain consistency with U.S. Federal and state guidance, and

**WHEREAS**, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved.

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** Section 54-35, “Definitions,” is amended as follows:

\* \* \*

Base Flood Elevation means the water surface elevation associated with the base flood—the regulatory elevation associated with building elevation, flood-proofing, protection of building systems and utilities and other flood protection provisions as identified in current FEMA Flood Insurance Rate Map (FIRM) panels. This elevation shall not be less than 8.0 ft. NGVD (6.44 ft. NAVD) in the City of Miami Beach.

\* \* \*

Crown of road (Center line) of roadway means a line running parallel with the highway roadway right-of-way which is half the distance between the extreme edges of the official right-of-way width as shown on a map approved by the department of the public works.

\* \* \*

Critical facility means a facility designated as an essential facility including, but not limited to: hospitals, fire, rescue, ambulance and police stations and emergency vehicle garages, emergency shelters, designated emergency preparedness, communications, and operation centers and other facilities required for emergency response, power generating stations and other public utility facilities required in an emergency ancillary structures (including, but not limited to, communication towers, fuel storage tanks, cooling towers, electrical substation structure, fire water storage tanks, or other structures housing or supporting water, or other fire-suppression material or equipment, water storage facilities and pump structures required to maintain water pressure for fire suppression building and other structures (including, but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing extremely hazardous materials.

Crown of road means the highest elevation of the roadway at a specific cross section.

Crown of road, future means the highest elevation of the crown of road as described in the adopted Miami Beach Stormwater Master Plan, located at exhibit X.

\* \* \*

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions. All new construction and substantial improvements to existing construction shall meet the minimum freeboard requirement, and may exceed the minimum freeboard requirement up to the maximum freeboard without such height counting against the maximum height for construction in the applicable zoning district

Freeboard, minimum equals one (1) foot.

Freeboard, maximum equals five (5') feet.

\* \* \*

Green Infrastructure means natural vegetation, landscape design and engineered techniques that retain, absorb, and often cleanse stormwater runoff.

\* \* \*

Low-Impact development (LID) means techniques that mimic natural processes to manage stormwater, and are frequently cheaper and more attractive than traditional stormwater management techniques.

\* \* \*

Surface stormwater shallow conveyance means vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices.

\* \* \*

**SECTION 2.** Section 54-45, "Permit Procedures," is amended as follows:

Application for a development permit shall be made to the building director or his/her designee on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimension, and elevations of the area in questions, existing and proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application stage:

\* \* \*

- (f) A stormwater management plan and site drainage calculations, for new constructions and substantial improvement, shall be prepared by a Florida licensed engineer in accordance with the ~~Public Works Department Manual and Procedures~~ CDM Smith 2011 Stormwater Plan, to demonstrate that adequate surface drainage shall be provided and surface run-off water shall be diverted to a storm conveyance or other approved point of collection, in accordance with Florida Building Code Sections 1804 and R401.3. The site shall be graded in manner to drain surface water away from foundation walls in accordance with Florida Building Code Sections 1804 and R401.3. All site drainage for new construction shall be designed and constructed in such a manner as to provide runoff rates, volume and pollutant loads not exceeding predevelopment conditions and prevent flooding adjacent properties.

\* \* \*

**SECTION 3.** Section 54-47, "General Standards," is hereby amended as follows:

In all areas of special flood hazard, all development sites, including new construction and substantial improvements, shall be reasonably safe from flooding and meet the following provisions:

\* \* \*

(16) Installation of new septic swage systems is prohibited in the City of Miami Beach Special Hazard Area.

(17) Hazardous materials shall be stored indoors in the City of Miami Beach Special Flood Hazard Area and shall be elevated no lower than Base Flood Elevation plus minimum freeboard.

\* \* \*

**SECTION 4.** Section 54-48, "Specific Standards," is hereby amended as follows:

In areas mapped as "Zone X" (shaded and unshaded) on the City of Miami Beach Flood Insurance Rate Map (FIRM), all new construction and substantial improvement of any buildings (including manufactured homes) shall construct the lowest floor at an elevation of at least one foot above the highest adjacent grade or above the crown of the nearest street, whichever is higher.

In all A-zones where base flood elevation data have been provided (zones AE, A1-30, A (with base flood elevation), and AH), as set forth in section 54-37, the following provisions, in addition to those set forth in sections 54-47 54-47 and 54-49 54-49, shall apply:

(1) *Residential construction.*

- (a) All new construction and substantial improvement of any residential building (including manufactured homes) shall have the lowest finished floor including electrical, heating, ventilation, plumbing, air conditioning equipment, cable, telephone, and other service facilities, including duct work elevated to no lower than the base flood elevation plus minimum freeboard. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of subsection 54-48(3).

The following shall apply for single family residential garage structures:

When constructed as part of a detached or attached garage structure to the main home, garages shall be constructed no lower than adjusted grade, as defined in Section 114.1. Further, the overall height and structural composition of the first floor garage structure shall be designed and built to accommodate a future raised floor slab to meet the height of base flood elevation plus minimum freeboard, subject to the height limitations provided in Section 142-105.

When constructed under the main home, the associated driveway shall be sloped upward from the public right of way to a minimum elevation of adjusted grade, as defined in Section 114.1, and then may slope downward to a lower garage elevation.

The following shall apply to multifamily residential garage structures:

Access drives to garage structures shall be sloped upward from the public right of way to a minimum elevation of adjusted grade, as defined in Section 114.1, and then may slope downward to a lower garage elevation. Further, the overall height and structural composition of the first floor garage structure shall be designed and built to accommodate a future raised floor slab to meet the height of base flood elevation plus minimum freeboard.

- (b) The lowest floor of an addition to the nonsubstantial improvement of a residential structure shall be elevated to no lower than the existing lowest finished floor elevation.

(2) *Nonresidential construction.*

- (a) All new construction and substantial improvement of any commercial, industrial, or nonresidential building (including manufactured homes) shall have the lowest floor, including basement, electrical, heating, ventilation, plumbing, air conditioning equipment, cable, telephone, and other service facilities, including duct work, elevated to no lower than the base flood elevation plus minimum freeboard. All buildings located in A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building components, together with attendant utilities and sanitary facilities, below the base flood elevation, plus one-foot minimum freeboard are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA floodproofing certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.
- (b) The lowest floor of an addition to the nonsubstantial improvement of a commercial structure shall be elevated to no lower than the existing lowest finished floor elevation.
- (c) All new construction and substantial improvements to critical facilities shall have the lowest floor, including electrical, heating, ventilation, plumbing, air conditioning equipment, cable, telephone, and other service facilities including duct work, elevated to no lower than the base flood elevation plus two (2) feet.

\* \* \*

(4) *Standards for manufactured homes and recreational vehicles.*

- (a) All manufactured homes that are placed, or substantially improved within azones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than the base flood elevation, plus freeboard and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

\* \* \*

**SECTION 5.** Section 54-51. "Standards for coastal high hazard areas (V-zones),"is amended as follows:

\* \* \*

Located within areas of special flood hazard established in section 54-37 are coastal high hazard areas, designated as zones V1-V30, VE, or V (with BFE). The following provisions shall apply:

- (2) All new construction and substantial improvements in zones V1-V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:

- (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than the base flood elevation, plus freeboard, whether or not the structure contains a basement; and

\* \* \*

- (c) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements of the habitable structures, as defined in Florida Building Code Section 3109, shall be elevated to the 100-year flood elevation established by the Florida Department of Environmental Protection, plus freeboard or the base flood elevation, plus freeboard, whichever is the higher.

\* \* \*

- (11) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements of the habitable structures, as defined in Florida Building Code Section 3109, shall be elevated to the flood elevation established by the Florida Department of Environmental Protection, plus freeboard or the base flood elevation, plus freeboard, whichever is higher. All non-elevation design requirements subsections 54-51(2) through (10) shall apply.

\* \* \*

**SECTION 6. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 7. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 8. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 9. EXCEPTIONS.**

This ordinance shall not apply to anyone who filed a completed application package for Board of Adjustment, Historic Preservation Board or Design Review Board Approval with the Planning Department on or before June 8, 2016; or anyone who obtained a Building Permit Process Number from the Building Department on or before June 8, 2016.

**SECTION 10. EFFECTIVE DATE.**

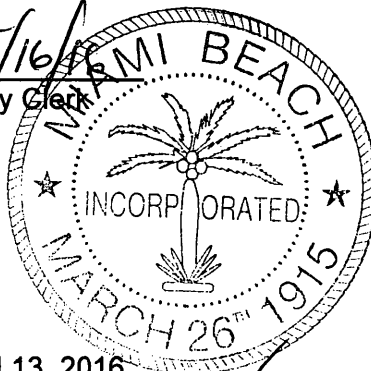
This Ordinance shall take effect on June 8, 2016.

**PASSED AND ADOPTED** this 11 day of May, 2016.

  
Philip Levine, Mayor

ATTEST:

 5/16/16  
Rafael E. Granado, City Clerk



APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

  
City Attorney

5/12/16  
Date

First Reading: April 13, 2016

Second Reading: May 11, 2016

Verified By: 

Thomas R. Mooney, AICP  
Planning Director



**CITY OF FORT LAUDERDALE**

Sec. 47-19.3. - Boat slips, docks, boat davits, hoists and similar mooring structures.

- (a) The following words when used in this section shall, for the purposes of this section, have the following meaning:
- (1) *Mooring device* means a subset of mooring structures as defined herein including boat davits, hoists, boat lifts and similar devices that are erected on or adjacent to a seawall or dock and upon which a vessel can be moored. A mooring device does not include docks, slips, seawall or mooring pile.
  - (2) *Mooring structure* means a dock, slip, seawall, boat davit, hoist, boat lift, mooring pile or a similar structure attached to land more or less permanently to which a vessel can be moored.
  - (3) *NGVD 29* or the National Geodetic Vertical Datum of 1929 means the vertical control datum established for vertical control surveying in the United States of America by the General Adjustment of 1929. The datum is used to measure elevation or altitude above, and depression or depth below, mean sea level (MSL).
  - (4) *NAVD88* or the North American Vertical Datum means the vertical control 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.
  - (5) *Seawall* means vertical or near vertical structures placed between an upland area and a waterway. For the purposes of Section 47-19.3(f), rip rap is not considered a seawall.
  - (6) *Rip rap* means a foundation of unconsolidated boulders, stone, concrete or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.
- (b) Boat davits, hoists and similar mooring devices may be erected on a seawall or dock subject to the following limitations on the number and location as follows:
- (1) Except as provided herein, only one (1) mooring device per the first one hundred (100) feet of lot width or portion thereof, and one mooring device for each additional one hundred (100) feet of lot width. A second mooring device may be permitted within the lot area greater than one hundred (100) feet but less than two hundred (200) feet if approved as a Site Plan Level II permit, subject to the following criteria:
    - a. The location of the proposed mooring device will not interfere with the view from adjacent properties to a degree greater than the intrusion already permitted as a result of the berthing of a vessel at applicant's property within the setback and extension limitations provided in the Code.
    - b. The type of mooring device is the least intrusive and most compatible with the view from the waterway.
    - c. No conflict with a neighboring property owner's usage of the waterway will be created as a result of the additional mooring device.

Pursuant to Site Plan Level II review, the development review committee ("DRC") shall determine whether the proposed additional mooring device meets the criteria based on its location and the relationship of applicant's property to abutting properties with regard to height, angle of view of the device from abutting properties and the height, width and length of the mooring device proposed.

Approval of a Site Plan Level II development permit for an additional mooring device shall not be final until thirty (30) days after preliminary DRC approval and then only if no motion is approved by the City Commission seeking to review the application pursuant to the process provided in Section 47-26. The denial of an application for an additional mooring device may be appealed to the City Commission in accordance with the provisions of Section 47-26.

- (2) In addition to the mooring device described in paragraph (b)(1) of this section, one (1) lift designed and used solely for the lifting of a personal watercraft (PWC) per development site is permitted. For purposes of this subsection (2) a PWC is as defined in F.S. Ch. 327.
  - (3) The cross section of the davit, hoist or other mooring device shall not exceed one (1) square foot and have a maximum height of six and one-half (6½) feet above lot grade.
  - (4) The lowest appendage of a vessel may not be hoisted greater than one (1) foot above a seawall cap or if no seawall, above the average grade of the upland property and properties abutting either side of the upland property, whichever is less.
- (c) No boat slips, docks, boat davits, hoists, and similar mooring structures not including mooring or dolphin piles or a seawall, may be constructed by any owner of any lot unless a principal building exists on such lot and such lot abuts a waterway. Mooring structures, not including mooring or dolphin piles, shall not extend into the waterway more than twenty-five (25) percent of the width of the waterway or twenty-five (25) feet whichever is less as measured from the property line.
- (d) Mooring or dolphin piles, shall not be permitted to extend more than thirty (30) percent of the width of the waterway, or twenty-five (25) feet beyond the property line, whichever is less.
- (e) The City Commission may waive the limitations of Sections 47-19.3.(c), 47-19.3.(d) and 47-39.A.1.b.(12).(a) and 47-39.A.1.b.(12).(b) under extraordinary circumstances, provided permits from all governmental agencies, as required, are obtained after approval of the City Commission, after a public hearing and notification to property owners within three hundred (300) feet. In no event shall the extension exceed thirty (30) percent of the width of the waterway and no variance may be approved by the Board of Adjustment or other agency permitting an extension beyond the thirty percent (30%) limitation. Reflector tape shall be affixed to and continually maintained on all mooring or dolphin piles authorized under this

subsection to extend beyond the limitations provided in subsection (d). The reflector tape must be formulated for marine use and be in one (1) of the following uniform colors: international orange or iridescent silver. On all such piles, the reflector tape shall be at least five (5) inches wide and within eighteen (18) inches of the top of the pile.

- (f) The top surface of a seawall shall have a minimum elevation of 3.9 feet NAVD88 (see table). The elevation of a seawall or dock shall not exceed a maximum of the base flood elevation (BFE) as identified in the corresponding FEMA Flood Insurance Rate Map (FIRM) for the property, except as specifically set forth herein. For properties with a BFE of 4.0 feet NAVD88, the minimum seawall elevation shall meet 3.9 feet NAVD88 and the maximum seawall or dock elevation shall be 5.0 feet NAVD88. For waterfront properties with a habitable finished floor elevation of less than 3.9 feet NAVD88, a seawall may be constructed at less than the stated minimum elevation if a waiver is granted by the City Engineer. For properties within an X zone, the minimum seawall elevation shall meet 3.9 feet NAVD88 and the maximum seawall or dock elevation shall meet the definition of grade as determined by subsection 47-2.2 (g)(1)(a). The maximum height of related structures attached to a seawall shall not exceed the elevation of the seawall to which the structure is attached. In the event of a conflict between subsection 47-19.5.B.Table 1, Note G: subsection 1.a.ii. and the requirements of this section, this section shall govern. Property owners choosing to construct seawalls at less than 5.0 feet NAVD88 are strongly encouraged to have the foundation designed to accommodate a future seawall height extension up to a minimum elevation of 5.0 feet NAVD88.

Property's FEMA Flood Insurance Rate Map Location	Minimum Allowable Seawall Elevation	Maximum Allowable Seawall or Dock Elevation
In a floodplain with a base flood elevation greater than or equal to 5.0 feet NAVD88	3.9 feet NAVD88	Base flood elevation of the property
In a floodplain with a base flood elevation equal to 4.0 feet NAVD88	3.9 feet NAVD88	5 feet NAVD88
In an X zone, not in a floodplain	3.9 feet NAVD88	Meet the definition of grade as determined by <u>Section 47-2.2(g)(1)(a)</u>

- (1) Seawalls must be designed and built in a substantially impermeable manner to prevent tidal waters from flowing through the seawall while still allowing for the release of hydrostatic pressure from the upland direction.
- (2) Fixed docks may be constructed at an elevation less than the elevation of the seawall to which it is attached but shall not be constructed at an elevation more than ten (10) inches above the seawall's elevation. The dock elevation may not exceed the maximum elevation as described in subsection (f) of this section. Floating docks shall be allowed and must be permitted and permanently attached to a marginal dock, finger pier, mooring pilings, or seawall.
- (3) Seawall improvements constituting substantial repair at the time of permit application shall meet the minimum elevation and consider the design recommendations (see subsection (f) above) for the continuous seawall for the length of the property. For the purposes of this section, the substantial repair threshold shall mean the following:
  - (i) Any improvement to the seawall of more than fifty percent (50%) of the length of the structure, which for the purposes of this section, shall include both the seawall and cap; or
  - (ii) Any improvement to the seawall which results in an elevation change along more than fifty percent (50%) of the length of the structure.
- (4) All property owners must maintain their seawalls in good repair. A seawall is presumed to be in disrepair if it allows for upland erosion, transfer of material through the seawall or allows tidal waters to flow unimpeded through the seawall to adjacent properties or public right-of-way. Property owners failing to maintain their seawalls may be cited. The owner of the property on which the seawall is constructed is required to initiate a process, including but not limited to hiring a contractor or submitting a building permit, and be able to demonstrate progress toward repairing the cited defect within sixty (60) days of receiving notice from the city and complete the repair within three hundred sixty-five (365) days of citation. If the required repair meets the substantial repair threshold, the property owner shall design, permit, and construct the seawall to meet the minimum elevation requirement and design requirement (see subsection 47-19.3(f)) within three hundred sixty-five (365) days of citation.
- (5) Property owners with seawalls below the minimum elevation, or permeable erosion barriers such as rip rap, or a land/water interface of another nature shall not allow tidal waters entering their property to impact adjacent properties or public rights-of-way. Property owners failing to prevent tidal waters from flowing overland and leaving their property may be cited. The owner of the property is required to initiate a process, including but not limited to, hiring a contractor or submitting a building permit, and be

able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving notice from the city and complete the proposed remedy within three hundred sixty-five (365) days of citation.

- (g) No boathouse, permanent covering, or temporary covering for a boat shall be permitted within the setback area required for the zoning district in which such shelter is to be located, nor shall any boathouse, permanent covering or temporary covering for a boat, or any other structure not otherwise specifically permitted, be permitted within or cover any public waterway.
- (h) No watercraft shall be docked or anchored adjacent to residential property in such a position that causes it to extend beyond the side setback lines required for principal buildings on such property, as extended into the waterway, or is of such length that when docked or anchored adjacent to such property, the watercraft extends beyond such side setback lines as extended into the waterway. The owner of real property which would be entitled to the density limitation of a maximum of forty (40) units per acre pursuant to the terms for habitation of floating homes or vessels, Section 47-19.6, may apply for an exception to the setback requirements contained herein. An application for such exception shall be heard by the Planning and Zoning Board (board) at a public hearing called for that purpose. After the public hearing, the board shall make a recommendation to the City Commission that the application be granted or denied, or granted subject to conditions. If the board recommends that the application be either granted or granted subject to conditions, the City Clerk shall place the recommendation on the agenda of the City Commission for a public hearing at a regular meeting. The City Commission shall, by resolution, either grant the application, deny the application, or grant the application subject to such conditions as it finds necessary to the health, safety and general welfare of the citizens of the city. In deciding whether to grant or deny the application, the City Commission shall consider the neighborhood within which the applicant's property lies and the effect that the exception to the setbacks would have on the following:
  - (1) The surrounding property.
  - (2) The ability of adjacent property owners to enjoy abutting waterways.
- (i) Waiver of limitations. Property owners of lands located on the Isle of Venice and Hendricks Isle may dock or anchor watercraft adjacent to their respective properties in a manner which extends beyond side setback lines, required by this section as approved by Resolution No. 85-270.

(Ord. No. C-97-19, § 1(47-19.3), 6-18-97; Ord. No. C-04-2, § 4, 1-12-04; Ord. No. C-10-44, § 2, 12-7-10; Ord. No. C-13-18, § 2, 6-4-13; Ord. No. C-16-13, § 1, 6-21-16; Ord. No. C-16-27, § 1, 12-6-16)

**PUNTA GORDA**

**ARTICLE III. BURNT STORE ISLES CANAL MAINTENANCE ASSESSMENT DISTRICT**

**Sec. 6-33. Canal maintenance assessment district -- Creation.**

There is hereby created a special district, to be known as the "Burnt Store Isles Canal Maintenance Assessment District," for the purpose of the maintenance of canals, waterways, and navigable channels, including the maintenance and reconstruction of bulkheads and retaining walls, which have been accepted or are hereafter accepted by the City of Punta Gorda, within the area comprising the district. The Burnt Store Isles Canal Maintenance Assessment District shall assume all of the assets, rights, liabilities and obligations of the former Burnt Store Isles Canal District created by City of Punta Gorda Ordinance No. 825-86, which is hereby dissolved.

**Sec. 6-34. Same -- Area included within district.**

- (a) The land comprising the Burnt Store Isles Canal Maintenance Assessment District is that land within the City of Punta Gorda, Charlotte County, Florida, legally described as follows:  
Punta Gorda Isles, Section 15, as per plat recorded in the Official Records of Charlotte County, Florida, including the channel to the city limits in Alligator Creek; less Commercial Lots 1 through 25, inclusive; and less Block 228; and less Block 229, Lots 2 through 9 and Lots 20 through 25, inclusive; and less Block 230, Lots 1 through 8, inclusive, and Lots 20 through 25, inclusive; and less Blocks 283 through 294, inclusive; and less Tracts A, B, C, D, E, F, G, H, I, and Burnt Store Golf Villas; and less lands zoned Environmentally Sensitive.
- (b) The Burnt Store Isles Canal Maintenance Assessment District shall review and consider all requests to include lands not currently included within the district.
  - (1) Requirements. Requests for inclusion and acceptance of lands into the Canal Maintenance Assessment District shall require the following:
    - a. Submission of a written application by the property owner on such forms prescribed by the Canal Maintenance Division. The application must be signed and notarized by all owners of the property. If the property is part of a condominium association, an officer of the association authorized under its bylaws shall make the application on behalf of the property owners.
    - b. A copy of the deed or other evidence of property ownership.
    - c. A Digital Text File of the metes and bounds description of the property.
    - d. A written evaluation of the current condition of the existing seawall and seawall cap furnished by a Florida licensed marine contractor. Such written evaluation shall be obtained by the applicant at his/her sole cost and expense.
  - (2) Review. Upon receipt of a complete request for inclusion of lands into the Canal Maintenance Assessment District, the Canal Maintenance Division shall verify the current condition of the existing seawall and shall prepare the proposed amendment to Subsection (a) of this Section, and submit the request along with recommendation to the Burnt Store Isles Canal Advisory Committee. The Burnt Store Isles Canal Advisory Committee shall consider the request at a duly noticed public hearing and provide recommendation to the Burnt Store Isles Canal Maintenance Assessment District. The Burnt Store Isles Canal Maintenance Assessment District shall consider the request at a duly noticed public hearing and shall either approve or deny the request.



- (3) Notice. Public Hearing Notice shall be advertised one time in a newspaper of general circulation at least fifteen (15) days prior to the public hearings.
- (4) Fee. The fee for acceptance of lands into the Burnt Store Isles Canal Maintenance Assessment District shall be equal to the total assessment which would have been due on the property from the inception of the district. This fee shall be calculated by the Finance Department upon receipt of the application. In the event that the seawall and seawall cap have been replaced, the fee shall be prorated to the date of such replacement. If the seawall and seawall cap have been replaced within the three (3) years preceding the request, the fee shall be waived. The Burnt Store Isles Canal Maintenance Assessment District shall have the authority to deny the request based on, but not limited to, the condition of the seawall.

(Ord. No. 1673-11, <sec> 1, 3-16-11)

**Sec. 6-35. Same -- Governing body; advisory committee.**

The Burnt Store Isles Canal Maintenance Assessment District shall be governed by a board of five members, who shall be the members of the city council of the City of Punta Gorda. The governing body shall appoint and be advised by a committee of five (5) residents of the district. The initial members of the advisory committee shall be the members of the advisory committee of the former Burnt Store Isles Canal District. The duties of the advisory committee include, but are not limited to:

- (a) Representing the residents and property owners in the district;
- (b) Reporting to and making recommendations to the city council on matters concerning functions of the district, to include holding public hearings on petitions for variances for the purpose of recommending to the City Council approval or denial of said variances from the provisions of section 6-6(c) or any other variance request located on land abutting and lying within six (6) feet of the seawall; and
- (c) Working with the City Manager in determining priorities concerning work to be done by the district.

(Ord. No. 1669-11, <sec> 2, 3-2-11)

**Sec. 6-36. Same -- Powers of district.**

The Burnt Store Isles Canal Maintenance Assessment District shall have the following powers, to be exercised through its governing body, together with all other powers necessary to the effective maintenance of existing canals, waterways and navigable channels within the district, to the effective maintenance and reconstruction of bulkheads and retaining walls within the district, and to the imposition and collection of special assessments for such purposes:

- (a) To sue and be sued in its own name;
- (b) To adopt and use a seal;
- (c) To acquire and own property in its own name;
- (d) To enter into contracts to effectuate the purposes of the district;
- (e) To borrow and expend money and to issue bonds and revenue certificates and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;

- (f) To levy and collect annual special assessments on each subdivided lot within the district which is zoned for single-family residential use, pro-rated in the case of ownership of partial lots according to the proportion of the original subdivided lot area held, and, for all properties zoned otherwise, to levy and collect annual special assessments equal to one ten-thousandth of a single-family lot assessment for each square foot of land lying less than one hundred twenty (120) lineal feet from any dedicated canal or waterway, or from seawalls or bulkheads abutting Charlotte Harbor; and
- (g) To provide for the levying of such assessments on annual tax bills, as non-ad valorem assessments, in accordance with Florida Statutes.

**Sec. 6-37. Same -- annual assessments.**

The Burnt Store Isles Canal Maintenance Assessment District shall each fiscal year levy an assessment sufficient to fund the necessary and expected expenses for such fiscal year and to provide a reasonable contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences. Notices of proposed assessments shall be included, as non-ad valorem assessments, on the notices of proposed taxes mailed each year by the Charlotte County Tax Collector. Each year, the governing body of the district shall hold a public hearing on the amounts of assessments, with such hearing to be in conjunction with the City of Punta Gorda budget hearings. The district shall publish a notice of said public hearing at least five (5) days in advance thereof in a newspaper of general circulation in Charlotte County. At such public hearing, all persons assessed within the district shall have the opportunity to contest the amount of their assessments and the value of the special benefit to their properties upon which such assessment is based.

**Sec. 6-38. Same -- finding of special benefit.**

In creating the Burnt Store Isles Canal Maintenance Assessment District, the City Council finds and determines that the special benefits to each property owner in the district--through the sharing of costs of maintaining all canals, seawalls, and navigation channels in the district; through the shared use of such canals; by the property value created and enhanced by a functioning, well-maintained and safe canal system; and through the provision of a contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences--exceeds each property owner's share of the costs of the necessary and expected expenses incurred by the district each year.

**Sec. 6-39. Same -- use of City employees and equipment.**

The City Manager is authorized and directed to use City employees and equipment in assisting the Burnt Store Isles Canal Maintenance District in performing its obligations and duties set out in this article and to charge the district the reasonable costs thereof incurred by the city. By accepting the use of such employees and equipment, the district shall agree to pay such costs, which shall be included in the annual assessments.

(Ord. No. 1156-96 <sec> 3, 07-03-96, Ord. No. 1163-96 <sec> 3, 09-18-96)