



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Seawalls LDR Amendment

Meeting	File No.	Application Type
August 16, 2021	2021-156-LDR-PZB	Amendment to the Land Development Regulations

Request

Provide a recommendation to the City Commission on Ordinance No. 23-21, a City initiated request to amend the Land Development Regulations (LDR) to adopt specific regulations for seawall construction and maintenance and related dock elevations.

Background Information

In 2018, the City of Delray Beach commissioned the Intracoastal Waterway Water Level & Infrastructure Vulnerability Study (the "Vulnerability Study") to evaluate flooding that has been occurring more frequently and with increased severity in recent years within the city's coastal communities, streets, parks, and other facilities that border the Intracoastal Waterway, primarily associated with seasonal high tide events (commonly referred to as King Tides). Other coastal Florida communities have also experienced the same increases in coastal flooding. The Vulnerability Study provided an assessment of the city's vulnerability to future seasonal flooding and identified potential options to protect its infrastructure and private property.

The Vulnerability Study concluded that the city is primarily vulnerable to flooding along the Intracoastal Waterway due to low or unmaintained seawalls, and low or unprotected stormwater inlets under both private and public ownership. Using a 30-year planning elevation of 4.4 feet North American Vertical Datum (NAVD) of 1988, approximately 85 percent of waterfront parcels are vulnerable and require seawall raisings to prevent flooding, and 58 public stormwater inlets are vulnerable and unprotected by a backflow prevention device.

The Vulnerability Study included the following recommendations for improving resilience to coastal flooding, based on thorough analyses of current conditions and consultation with City staff:

- Implement seawall repairs and raisings to publicly owned seawalls following the developed ranking table.
- Systematically install backflow prevention devices, develop standards for maintenance of backflow prevention devices, and monitor for structural or hydraulic decay of the public stormwater system.
- Perform public outreach and educate residents about the contributing factors to coastal flooding and develop guidelines for improvements to private seawalls and stormwater systems.

The Vulnerability Study was presented to the City Commission on April 9, 2019 and the Commission requested that public information meetings be held to share the information and request input. Six Town Hall style public meetings were held between November 2019 and March 2020 to present the findings of the Vulnerability Study and to garner public input.

The complete Vulnerability Study is provided as an attachment. The proposed ordinance is brought forth to implement the third recommendation above, by providing regulations governing seawalls.

Description of Proposal

The proposed amendment is primarily to **LDR Section 7.1.7, Seawalls**, to provide standards for the construction and maintenance of seawalls along the Intracoastal Waterway and to establish thresholds for substantial improvements. The proposed ordinance includes amendments to the following sections:

- **Section 7.1.7, Seawalls**

- Purpose and Intent. Establishes minimum standards for seawalls to prevent tidal flooding.
- Applicability. The amendment only applies to seawalls along the Intracoastal Waterway.
- Definitions. Establishes definitions relative to this section.
- Requirements. Establishes minimum elevations, design requirements, and maintenance standards. The ordinance also proposes a required disclosure for real estate contracts in tidally influenced areas of the city.
- Approval Procedures. The existing approval procedures remain as adopted, with edits for clarity.

- **Section 7.9.5, Standards for Approval**

- Establishes additional standards for docks related to seawall height.

An amendment to Chapter 100, *Nuisances*, Section 100.04, *Seawalls* of the Code of Ordinances accompanies the subject amendments as Ordinance No. 22-21. The Code of Ordinances currently require seawall maintenance to promote the health, safety, and welfare of life and property within the City, but does not provide procedures for enforcement and remedy. Amendments to the Code of Ordinances are not subject to review and recommendation by the Planning and Zoning Board prior to consideration by the City Commission; the amendment to the Code of Ordinances is provided for information only. The following changes are proposed:

- **Chapter 100, Nuisances, Section 100.04, Seawalls.**

- Property owners failing to maintain a seawall are subject to the penalties in Section 10.99, *General Penalties*.
- Property owners are 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 requirements in Section 7.1.7(D) within three hundred sixty-five (365) days of citation.

Ordinance No. 22-21 will be reviewed by City Commission concurrent with the review of Ordinance No. 23-21.

Review and Analysis

Pursuant to **LDR Section 1.1.6, Amendments**, *the text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

The recommendation of the Planning and Zoning Board will be provided to the City Commission, where the amendments will be reviewed at two public meetings. The anticipated review dates are September 13, 2021 and October 5, 2021 (Public Hearing).

Pursuant to **LDR Section 2.4.5(M)(1)**, amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.

The proposed amendment was initiated by the City Administration, to comply with the adopted Comprehensive Plan.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, *the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan.* The following Objective and Policy of the adopted Comprehensive Plan are applicable to the proposed amendment:

Coastal Management Element

GOAL CME 2 BALANCE BETWEEN BUILT AND NATURAL ENVIRONMENTS *Ensure development and redevelopment within the Coastal Planning Area is compatible with the existing character and sensitively balances the needs of the natural environment.*

Policy CME 3.2.5 *Upon completion of the City of Delray Beach Intracoastal Waterway Water Level & Infrastructure Vulnerability Study, identify locations for new hard and soft coastal protection systems, and develop construction standards and strategies for funding,*

permitting, and constructing the repair, enhancement, or replacement of seawalls located on both public and private properties. [Complete by 2025]

Objective CME 3.3 Mitigation of Peril of Flood from Sea Level Rise on the Intracoastal Waterway Create development and redevelopment policies based on the Intracoastal Waterway Water Level & Infrastructure Vulnerability Study (2018) to reduce future flood risk in coastal areas resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.

Policy CME 3.3.1 The City of Delray Beach Intracoastal Waterway Water Level & Infrastructure Vulnerability Study (2018) shall be one of the resources to base new principles, strategies, and engineering solutions to reduce future flood risk of existing and future development along canals and the Intracoastal Waterway.

Policy CME 3.3.2 Within two (2) years of adoption of the Intracoastal Waterway Water Level & Infrastructure Vulnerability Study (2018), adopt new design criteria for both public and private seawalls throughout the city. [Complete by 2022]

The amendment adopts the required seawall regulations to reduce future flood risk for properties along the Intracoastal Waterway. The proposed regulations are based on recommendations in the *Intracoastal Waterway Water Level & Infrastructure Vulnerability Study (2018)*.

Board Action Options

- A. Recommend **approval** to the City Commission of Ordinance No. 23-21, a City initiated request to amend the LDR to adopt specific regulations for seawall construction and maintenance and related dock elevations, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 23-21, a City initiated request to amend the LDR to adopt specific regulations for seawall construction and maintenance and related dock elevations, by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations, **as amended**.
- C. Recommend **denial** to the City Commission of Ordinance No. 23-21, a City initiated request to amend the Land Development Regulations (LDR) to adopt specific regulations for seawall construction and maintenance and related dock elevations, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.
- D. Move to **continue with direction**.

Public and Courtesy Notices

X Courtesy Notices were sent to the following:

- Beach Property Owners Association
- Palm Trail HOA
- Rio Delray Shores
- Marina Historic District
- Tropic Isle HOA
- Tropic Harbor HOA

X Public Notices are not required for this request.