

ORDINANCE NO. 22-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, BY AMENDING CHAPTER 100, "NUISANCES," SECTION 100.04, "SEAWALLS," TO ESTABLISH REGULATIONS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC AND PRIVATE SEAWALLS AND PROVIDE FOR GENERAL PENALTIES; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach ("City") completed the "Intracoastal Waterway Water Level and Infrastructure Vulnerability Study" ("Study") in October 2018 to evaluate the impact of extreme high tides (King Tides) that substantially exceeded the predicted high tides in Southeast Florida; and

WHEREAS, the Study found that properties with insufficient seawalls and seawalls with defects or in disrepair contribute to tidal flooding on adjacent properties and public Rights-of-Way, and not provide adequate coastal resilience; and

WHEREAS, Section 100.04 of the City's Code of Ordinances requires seawall maintenance to promote the health, safety, and welfare of residents and properties within the City, but does not provide procedures for enforcement and remedy; and

WHEREAS, the proposed amendment to Section 100.04 of the City's Code of Ordinances provides enforcement mechanisms and a procedure requiring property owners to address deficient seawalls; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Delray Beach as set forth in Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, *Florida Statutes*, and other applicable controlling laws; and

WHEREAS, the City Commission deems approval of this Ordinance to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. That Chapter 100, "Nuisances," Section 100.04, "Seawalls," of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

**Sec. 100.04. - SEAWALLS.**

- (A) It shall be unlawful and constitute a public nuisance for any property owner to fail to erect, maintain, or repair a seawall to maintain or allow to be maintained on property owned by him located adjacent to any tidally influenced natural or artificial canal, stream, or other body of water in a condition requiring construction of a seawall or maintenance or repair of an existing seawall.
- (B) Construction of a seawall or repair or maintenance of an existing seawall along a tidally influenced body of water shall be deemed necessary when the lack of a seawall or need for maintenance or repair of an existing seawall causes a situation that threatens or endangers the public health, safety or welfare, or that impedes the navigability of any canal, stream, or other body of water, or that endangers swimming or other water sports, or that allows for upland erosion, transfer of material through the seawall or allows tidal waters to flow unimpeded to adjacent properties, public infrastructure, or public right-of-way.
- (C) Property owners failing to maintain a seawall are subject to the penalties in Section 10.99, General Penalties. An owner of a property cited for failure to maintain a seawall is required to initiate the repair process, including but not limited to hiring a contractor or submitting a building permit, and must demonstrate progress toward repairing the cited defect within sixty (60) days of receiving notice from the City and complete any necessary repairs within three hundred sixty-five (365) days of receiving notice. 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 in Section 7.1.7(B)(1) within three hundred sixty-five (365) days of citation.

Section 3. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 4. Specific authority is hereby given to codify this Ordinance.

Section 5. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this \_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

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Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_