



Cover Memorandum/Staff Report

File #: 21-951

Agenda Date: 9/23/2021

Item #: 9.B.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: September 23, 2021

ORDINANCE NO. 23-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER 7, "BUILDING REGULATIONS," ARTICLE 7.1, "BUILDING REGULATIONS," SECTION 7.1.7, "SEAWALLS" AND AMENDING ARTICLE 7.9, "DOCKS, DOLPHINS, FINGER PIERS, AND BOAT LIFTS," SECTION 7.9.5, "STANDARDS FOR APPROVAL," TO ESTABLISH REGULATIONS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC AND PRIVATE SEAWALLS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

Recommended Action:

Consider Ordinance No. 23-21, a City initiated request to amend Section 7.1.7 and Section 7.9.5 of the Land Development Regulations (LDR) to adopt specific regulations for seawall construction and maintenance and related dock elevations.

Background:

The proposed amendment to LDR Section 7.1.7 and Section 7.9.5 implements recommendations from the Intracoastal Waterway Water Level & Infrastructure Vulnerability Study (the "Vulnerability Study") to improve resilience to coastal 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). The complete Vulnerability Study is provided as an attachment.

A parallel amendment to the Code of Ordinances is provided for separate consideration as Ordinance No. 22-21. The proposed amendment provides penalties for nuisance seawalls and a process to remedy the violation.

On August 16, 2021, the Planning and Zoning Board voted 6-0 to recommend approval of Ordinance No. 23-21, with the understanding that staff would review recommendations provided during public comment and incorporate the changes, as applicable and appropriate.

The suggested changes that were incorporated include the following:

- Added definitions of tidal flood barriers and tidally influenced areas
- Added "public infrastructure" to the list of potential impacts by tidal flooding in Section 7.1.7(D)(5).
- Added the elevation of the current seawall to permit application requirements

Other suggested changes that are not reflected in the ordinance included establishing a higher minimum seawall height of 5 feet and a more aggressive timeline for compliance apart from the nuisance-driven updates. The suggestion was to require seawalls 4 feet tall through 2035, and then require 5 feet in height after 2035. The ordinance maintained the requirement of 4 feet minimum in height to allow for mid-range protection without impacting views. Not stipulating a timeline for compliance allows the City to focus on nuisance situations without impacting homeowners who are income or asset constrained. Building permits for new construction will be held to the new standards.

City Attorney Review:

Ordinance No. 23-21 was approved to form and legal sufficiency.

Funding Source/Financial Impact:

Not applicable.

Timing of Request:

Second reading is anticipated for October 19, 2021.