

ORDINANCE NO. C-24-34

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA SECTION 8-144, ENTITLED "PRIVATE USE OF PUBLIC PROPERTY ABUTTING WATERWAYS" BY REPEALING THE EXISTING TEXT OF SECITON 8-144 (17), RENUMBERING THE EXISTING TEXT OF CODE SECTION 8-144 (18) TO THE AMENDED TEXT OF CODE SECTION 8-144 (17); PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Code Section 8-143, entitled "Rights of City on Property Abutting Waterways" declares that whenever a public street is laid out or existing in the City abutting or touching a waterway open to the public, the City, as trustee for the public has and owns the riparian rights at such place and has the authority to regulate the construction of docks, public landings, piers or wharves at such public place; and

WHEREAS, pursuant to City Code Section 8-143, on October 2, 2019, the City of Fort Lauderdale City Commission adopted Ordinance No. C-19-22 on second reading, which Ordinance revised City Code Section 8-144 entitled "Private Use of Public Property Abutting Waterways"; and

WHEREAS, Subsection 17 of City Ordinance No. C-19-22, established that where (a) a parcel abutting a street under City Code Section 8-143 and (b) the parcel also had waterfrontage on the same parcel independent of City Code Section 8-143, that such parcels would no longer be eligible for dock permits under City Code Section 8-144 (17) after July 1, 2025 or after such date that the City raises the seawall with municipal funds, whichever is first; and

WHEREAS, prior to the adoption of City Ordinance No. C-19-22, the ability for parcels described in (a) and (b) above to acquire dock permits under the pre-existing City Code Section 8-144 had no limitations regarding the acquisition of dock permits (i) after July 1, 2025, or (ii) such date as the City raises the public seawall with municipal funds, whichever is first; and

WHEREAS, at the City Commission during the Conference Agenda on March 5, 2024, discussed the situation under City Code Section 8-144 (17), resulting in a request to present to the City Manager and City Commission an amendment to City Code Section 8-144 (17) which would result in a repeal of City Code Section 8-144 (17); and

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

SECTION 2. City Code Section 8-144 is hereby amended as follows:

Sec. 8-144 – Private use of public property abutting waterways.

The city commission, by resolution duly adopted, may grant a dock permit for the use by private persons of certain public property abutting or touching a waterway, including some public property described in section 8-143 as set forth herein, except: (i) areas being utilized as municipal docks for which docking fees are being charged and collected and those areas under license by the city; (ii) street ends as more particularly defined herein; (iii) city parks, ~~(iv) subject to certain conditions set forth in subsection (17) hereof.~~ (iv) upland parcels with property lines that abut or are contiguous to a navigable waterway independent of that described in section 8-143(a), and (v), certain upland parcels falling within the ambit of the Florida Supreme Court case of Burkart v. City of Fort Lauderdale, 168 So. 2d 65 (Fla. 1964) and more particularly defined below in subsection ~~(17)(18)~~ hereof, said dock permits may be granted under the following conditions and restrictions, to-wit:

. . .

~~(17) Other than upland parcels referenced in subsection (18) below, subject to exceptions hereinafter set forth, no dock permits shall be issued for upland parcels that abut and are contiguous to a waterway and have riparian rights relative thereto after July 1, 2025 or after such date that the city raises the seawall with municipal funds, whichever is first. For dock permits that were issued prior to June 1, 2019 for upland parcels that abutted and are contiguous to a waterway and to which riparian rights have attached thereto, those dock permits shall continue to remain valid until expiration of their initial term, and, upon renewal such dock permit shall be subject to the terms and conditions set forth in any renewal permits and this section, other than the prohibition against issuance of dock permits for upland parcels that abut a waterway and have riparian rights. Any permits for these upland parcels issued after June 1, 2019 will require the raising of the seawall by the applicant to the current elevation standard as a condition of the dock permit.~~

~~(17)~~(18) In accordance with the Florida Supreme Court holding in *Burkart v. City of Fort Lauderdale*, 168 So. 2d 65 (Fla. 1964), dock permits shall not be required for the following lots and blocks set forth on the Plat of IDLEWYLD, as recorded in Plat Book 1, Page 19 of the Public Records of Broward County, Florida: Lots 1—5 and 11—12 Block 1; Lots 1—6 Blocks 2, 3, 4, 5, 6, and 8; Lots 1-7, Block 8: and Lots 1—3 and 27—32, Block 12 thereof.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinances; that sections of this Ordinance can be re-numbered to accomplish codification and, regardless of whether this Ordinance is ever codified, the Ordinance can be re-numbered, and typographical errors that do not affect the intent can be corrected with the authorization of the City Manager, or his designee, without need for a public hearing.

SECTION 4. That 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. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. That this Ordinance shall be effective immediately upon its passage and adoption.


PASSED FIRST READING this 18th day of June, 2024.

PASSED SECOND READING this 2nd day of July, 2024.



Mayor
DEAN J. TRANTALIS

ATTEST:



City Clerk
DAVID R. SOLOMAN

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