



**CITY OF FORT LAUDERDALE**  
**City Commission Agenda Memo**  
**REGULAR MEETING**

**#23-0027**

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**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Greg Chavarria, City Manager

**DATE:** January 24, 2023

**TITLE:** First Reading - Ordinance - Amending Unified Land Development Regulations (ULDR), Sections 47-19.3 *Boat slips, docks, boat davits, hoists and similar mooring structures* and 47-39 *Development Regulations for Annexed Areas* and Adding Section 47-19.13 *Resiliency Standards for Tidal Flood Protection* - **(Commission Districts 1, 2, 3 and 4)**

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**Recommendation**

Staff recommends the City Commission adopt on first reading an amendment to the City of Fort Lauderdale Unified Land Development Regulations (ULDR) modifying Sections 47-19.3 *Boat slips, docks, boat davits, hoists and similar mooring structures* and 47-39 *Development Regulations for Annexed Areas* and creating Section 47-19.13 *Resiliency Standards for Tidal Flood Protection* to change standards for seawall construction to be consistent with the Broward County Tidal Barrier model ordinance by raising the minimum height of seawalls and related tidal barriers to comply with county-wide tidal flood barriers standard and requiring disclosure of this standard as part of real estate transactions. To ensure consistency across the City's code, a definition change is also required in Code Sec. 8-91 (a) (2) by separate action.

**Background**

The City of Fort Lauderdale Commission adopted amendments to ULDR Section 47-19.3 *Boat slips, docks, boat davits, hoists and similar mooring structures* on June 21, 2016 (CAM #16-0662) and again on December 6, 2016 (CAM #16-1414) to establish construction standards that ensured that seawalls and similar structures contributed to coastal resilience and mitigated the effects of tidal flooding and sea level rise. The adopted minimum height for new seawalls was 3.9 feet North American Vertical Datum (NAVD88).

Following the City's adoption of these ordinance amendments, Broward County worked with the United States Army Corps of Engineers to determine an appropriate minimum height for seawalls which would provide adequate protection to address future sea level

rise based on the most recent projections. Based on that determination, the Broward County Commission approved a county-wide tidal flood barriers standard on March 31, 2020. Much of the Broward County ordinance was based on the City of Fort Lauderdale 2016 seawall ordinance. The adoption of the County ordinance provides the start date for the 24-month timeline relating to implementation of Policy 2.21.7 of the Broward Comprehensive Plan. This policy requires that tidally-influenced municipalities adopt within 24-months regionally consistent top elevation of five feet NAVD for seawalls, banks, and berms, consistent with Broward County Chapter 39, Article XXV. Therefore, the local governments are required to adopt a local ordinance implementing the regional standard by February 13, 2022. Since the City was unable to meet the required deadline for adoption, staff has been in regular contact with Broward County to keep them updated on our progress. To date, the following tidally-influenced municipalities that have adopted the regionally consistent flood barrier standard: Dania Beach, Davie, Deerfield Beach, Hallandale Beach, Hollywood, Lauderdale-By-the-Sea, Oakland Park, Pompano Beach, and Wilton Manors.

The ordinance (Exhibit 1) being proposed includes the following key modifications:

**ULDR Section 47-19.3 Boat slips, docks, boat davits, hoists and similar mooring structures.**

- Modifies the definitions of mooring device and mooring structure;
- Removes all language related to seawall elevation requirements from this section; and
- Allows docks to have a maximum elevation up to 12 inches above the associated tidal barrier or shoreline structure.

**ULDR Section 47-19.13 Resiliency Standards for Tidal Flood Protection.**

- Establishes terms, phrases, words for definition and interpretation purposes of this section;
- Extends the elevation requirement from only seawalls to all tidal flood barriers;
- Requires a minimum elevation of five (5) feet National American Vertical Datum (NAVD88) for new or substantially repaired tidal barriers;
- Allows for structures permitted before Jan 1, 2035 to be built at four (4) feet NAVD88 but they must be designed to be elevated to five (5) feet NAVD88 by Jan 1, 2050;
- Establishes a maximum elevation for tidal barriers in related to the base flood elevation of the property or six (6) feet NAVD88 whichever is less;
- Requires tidal structures built where no previous seawall existed to provide habitat enhancement at the waterward face of the bulkhead or seawall;
- Encourages incorporation of living shoreline features;
- Provides for the City Engineer's ability to issue a waiver from the top elevation requirement for waterfront properties containing a principal structure with a habitable finished floor elevation of less than 4.0 feet NAVD88; and

- Required disclosure of the county-wide tidal flood barriers standard in contracts for sale of real estate after December 31, 2022.

**ULDR Section 47-39.A.1.b General provisions.**

- Requires all property located in the annexed areas to comply with tidal flood protection measured outlined in ULDR Section 47-19.3.

Table 1 provides a summary of stakeholder engagement on the concepts and amended ordinance.

Table 1: Summary of Stakeholder Engagement

Date	Stakeholder Meeting
February 4, 2021	City of Fort Lauderdale Marine Advisory Board
March 9, 2021	The Council of Fort Lauderdale Civic Associations (CFLCA)
March 17, 2021	Rio Vista Civic Association Board of Directors
September 1, 2022	City of Fort Lauderdale Marine Advisory Board
September 21, 2022	Planning and Zoning Board
October 11, 2022	CFLCA - General Membership Meeting
October 24, 2022	Sustainability Advisory Board
November 8, 2022	CFLCA - Board
November 16, 2022	Planning and Zoning Board
November 17, 2022	Lauderdale Isles Civic Association

Support for the amendments were received from the Rio Vista Civic Association, Marine Advisory Board (MAB), Sustainability Advisory Board, Tyler Chappell, Broward County, the Board of the Council of Fort Lauderdale Civic Associations and Lauderdale Isles Civic Improvement Association, Inc. (Exhibit 2).

At the September 21, 2022 Planning and Zoning Board (PZB) meeting, the motion finding the ordinance amendments consistent with the Comprehensive Plan failed by a 3 to 6 vote (Exhibit 2). This was despite the fact that the Comprehensive Plan Policy Climate Change Element 2.2.3a specifically states that "...the City will adopt and update as necessary regionally consistent top elevations standards for seawalls, banks and berms, and other appurtenant coastal infrastructure (e.g., boat ramps) consistent with the findings and recommendations of the United States Army Corps of Engineers/Broward County Flood Risk Management Study for Tidally Influenced Coastal Areas. These standards shall be consistent with Chapter 39, Article XXV – Resiliency Standards for Flood Protection - of the Broward County Code of Ordinances." The PZB board members' concerns included a perceived lack of public outreach and a lack of understanding of sea level rise issues by board members. Following the September PZB meeting, a presentation was made to the

Council of Fort Lauderdale Civic Associations (CFLCA) – General Membership Meeting. Staff offered to provide a presentation of the amendments to any interested homeowners association (HOA). No requests for HOA presentations were received following the meeting. The presentation was given and a supportive communication was received from the Sustainability Advisory Board on October 24, the advisory board charged to oversee strategies associated with climate change and sea level rise. At the November PZB meeting (Exhibit 4), the motion finding the ordinance amendments consistent with the adopted Comprehensive Plan failed for the second time by a 4 to 5 vote without discussion (Exhibit 5).

Following presentation of the proposed ordinance to the various boards, the City Attorney's Office is recommending two additional modifications that would be incorporated between first and second reading. The first is to modify the definition of a mooring structure in ULDR 47-19.3(a)(2) and in Code Sec. 8-91 (a) (2) to read:

“Mooring structure means a dock, marginal dock, seawall, ~~boat davit, hoist, boat lift,~~ mooring pile, finger pier, or similar structure attached to land more or less permanently to which a vessel can be moored.”

The second modification is to make the date of the real estate disclosure in Sec. 47-19.13.E coincide with the effective date of the proposed Ordinance.

Based on the County mandate to adopt a regionally consistent flood barrier standard, the City's Comprehensive Plan policies supporting this amendment, and the Commission's prioritization of resilience, staff recommends adoption of this ordinance amendment on first reading as drafted.

### **Resource Impact**

There is no fiscal impact associated with this action.

### **Strategic Connections**

This item is a *2022 Top Commission Priority*, advancing the Infrastructure and Resilience initiative.

This item supports the *Press Play Fort Lauderdale 2024 Strategic Plan*, specifically advancing:

- The Infrastructure Focus Area
- Goal 1: Build a sustainable and resilient community.
- Objective: Reduce flooding and adapt to sea level rise.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Ready*.

This item supports the Advance Fort Lauderdale 2040 Comprehensive Plan specifically advancing:

- The Infrastructure Focus Area
- The Climate Change Element
- Goal 2: Achieve a climate-resilient community through the protection and adaptation of public infrastructure, services, and natural resources from adverse climate change impacts.

### **Attachments**

Exhibit 1 – Proposed Ordinance (ULDR Sec. 47-19.3, 47-19.13, and 47-39, Section 8-91 the Code of Ordinances of the City of Fort Lauderdale)

Exhibit 2 – Documented Support for the Amended Ordinance

Exhibit 3 – September 21, 2022 PZB Meeting Minutes

Exhibit 4 – November 16, 2022 PZB Staff Report Case Number- T22010

Exhibit 5 – November 16, 2022 PZB Meeting Minutes

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