

## Chapter 15

### MARINE STRUCTURES, WAYS AND ACTIVITIES\*

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\* **Cross References:** Buildings and building regulations, Ch. 5; building standards, § 5-41 et seq.; building slab elevations, § 5-43; code enforcement, Ch. 6; flood prevention, Ch. 9; garbage and refuse, Ch. 10; health and sanitation, Ch. 11; planning and development, Ch. 19; platting, Ch. 20; zoning, Ch. 27; parks and playgrounds, § 23-171 et seq.; parking of boats, boat trailers, airboats, golf carts, horse trailers, swamp buggies and utility trailers prohibited in certain areas, § 25-45.

**State Law References:** Beach and shore preservation act, F.S. Ch. 161; tidal lands and bulkheads, F.S. § 253.12 et seq.; deposit of material in tidewater regulated, F.S. § 309.01; Florida boat registration and safety law, F.S. Ch. 327; local regulations qualified, F.S. § 327.60; conservation, F.S. Ch. 369 et seq.; saltwater fishing preemption, F.S. § 370.102; freshwater fishing preemption, Fla. Const. Art. IV, § 9; seawalls, F.S. 403.911 et seq.

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#### ARTICLE I.

#### IN GENERAL

##### Sec. 15-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Construction material* means any material actually or customarily used in the construction of a building or appurtenances thereto and shall include, but is not limited to, such items as lumber, plywood, hardboard and particle board whether panels, boards or scraps thereof; metal forms or scrap; fixtures; cement blocks, slabs or portions thereof; roofing tiles and portions thereof; cement or mortar; sand, aggregates used for concrete; plaster; asphalt; paper; plastic; any kind of container, cover or wrapper.

*Debris* means any material or substance that when it becomes detached or is removed from its natural place would become a pollutant or obstruction in waterways. This term includes, but is not limited to, trees, limbs and leaves; palm fronds; grass and grass clippings; weeds and other plants; rocks; masonry blocks and pieces; lumber; metal; fiberglass forms.

*Garbage* means food or food scraps, fruits, vegetables, or remains or parts of animals.

*Mean sea level* means the mean plane about which the tide oscillates; the average height of the sea for all stages of the tide.

*Obstructions* means any object, trash or debris which by its size or composition would deny free navigation of the tidal waterways or could cause damage to a boat or its occupants.

*Tidal and nontidal canals* means those canals in which the water elevation varies with the normal ebb and flow of the daily tide. "Nontidal canals" are all canals not falling within the definition established for tidal canals.

*Tidal waterway* means tidal canals and waterways in which the water elevation varies with the normal ebb and flow of the daily tide.

*Trash* means discarded material or matter commonly associated with household and yard usage, including, but not limited to, such items as furniture, toys, house and yard fixtures, pens and houses for animals, paper, plastic, cardboard, wood, cloth, boxes, crates, bottles, containers, vehicles and components of vehicles.

*Waterway* means any body of water within the corporate limits of the city, such as but not limited to, rivers, lakes and canals either tidal or nontidal of natural or man-made origin.

(Code 1964, §§ 23-15, 26A-1)

**Cross References:** Definitions and rules of construction generally, § 1-2.

### **Sec. 15-2. Permit required prior to commencing construction.**

It shall be necessary for any person desiring to perform any work as outlined in this chapter to apply to the city building department for the issuance of a permit prior to commencing construction.

**Cross References:** Permit fees, §§ 5-21, 5-23, 5-24; building and building regulations, Ch. 5.

### **Sec. 15-3. Enforcement.**

(a) When it shall come to the attention of the police department or building department that an alleged violation of this chapter exists, or has occurred, the police department or building department shall make an investigation and report.

(b) The report of investigation shall contain the name of the complaining witness (if any); the name of the alleged violator or violators; the location at which the violation is alleged to have occurred or exist together with the name of the owner and/or occupant of that location or prime contractor, if applicable; its date or date of beginning; and a photograph of the place of the alleged violation and a specification of the section and subsection or subsections of this chapter involved in the alleged violation. Such report shall be submitted to the police chief or chief building official, who shall determine whether there is probable cause for further action hereunder and, if so, cause such action to be taken.

(c) If notice to the violator is required, a copy of such report shall be delivered to the alleged violator or property owner together with a demand that they respond in writing within twenty (20) days from receipt. If

the alleged violators or property owners cannot or will not accept delivery in person, then delivery shall be deemed effective by sending such demand by certified mail, return receipt requested, to the last-known residences of such alleged violator or property owner.

(d) If a response is made and the police department or building department believes that a violation exists or if no response is made, the building department or police department shall take such action as shall be necessary for:

(1) Charges to be brought against the alleged violators or property owners or both for violation of this chapter.

(2) Action to be commenced to abate the alleged nuisance.

(Code 1964, § 26A-7)

#### **Sec. 15-4. Authorized contracts.**

The city council is authorized to enter into contracts with any person for such period or periods of time, for such consideration and under such conditions as shall be deemed necessary and advisable by the city council for the purpose of effectuating and carrying out the provisions of this chapter.

(Code 1964, § 26A-9)

#### **Secs. 15-5--15-19. Reserved.**

## **ARTICLE II.**

### **WATERWAYS\***

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\* **Cross References:** Flood prevention and drainage, Ch. 9; catch basins in subdivisions, § 20-180; canals, ditches and swales in subdivisions, § 20-181.

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#### **Sec. 15-20. Tidal and non-tidal waterways.**

(a) The minimum width for tidal waterways shall be sixty (60) feet as measured between recorded property or easement lines, as applicable.

(b) The minimum width for non-tidal waterways shall be forty (40) feet as measured between recorded property or easement lines, as applicable.

(c) For dredging purposes, the minimum required navigation channel width for waterways shall be fifty (50) percent of the waterway width with a minimum width of thirty (30) feet for tidal waterways and twenty (20) feet for non-tidal waterways. The navigation channel shall be located such that the channel centerline coincides with the waterway centerline.

(d) Waterway minimum construction and permitting requirements shall be as specified in Article V, Waterway Dredging of this Code.

(e) Sufficient rights-of-way shall be provided and dedicated to the public, no partial waterway right-of-way dedication will be approved along subdivision boundary lines except where partial dedications or easements already exist.

(f) As-built drawings of completed waterway construction prepared by a Florida registered professional land surveyor and mapper shall be submitted to the city for review and approval before final subdivision approval will be granted.

(Code 1964, § 23-15(8)(a); Ord. No. 2256, § 1, 7-25-01)

**Cross References:** Drainage and flood prevention, § 9-56 et seq.; waterways, § 15-21 et seq.; lake and canal excavations, § 15-91 et seq.

### **Sec. 15-21. Owners and occupants to maintain land abutting canals.**

(a) The owners or occupants of property abutting canals shall not permit the trees, shrubs, or other flora on such lands to grow out, over or into canals so as to interfere with any canal easement rights enjoyed by the city, its agents, or employees. In addition, the owners and occupants of abutting lands shall not permit the trees, shrubs, and other flora on such lands to grow over or into the canal so as to interfere with the use or utility of the canal waterway as a method of channeling waters during times of flood or other natural disaster.

(b) Landowners and occupants of land abutting canals within the municipal boundaries of the city shall maintain the trees, shrubs, and other flora thereon in such a fashion so as to provide a minimum of an eight-foot vertical open-air clearance, measured at the canal's highwater mark. This eight-foot open-air clearance shall extend across the canal's banks.

(c) The duty of an abutting landowner or occupant to maintain the flora, trees and shrubs shall also include a duty to remove any accumulation of leaves or branches which may from time to time fall into the canal by reason of maintenance or otherwise.

(d) If any owner or occupant of such abutting lands fails to provide for the eight-foot open-air clearance above the canal waterway or fails to remove any branches or accumulation of leaves which may fall into the canal, the director of public works shall have the discretion whether to notify the code inspector for the code enforcement board for such board's enforcement action in accordance with chapter 6 or whether to pursue, in the alternative or in addition thereto, such action as set forth in this section.

(e) If any owner or occupant of such abutting lands fails to provide for the eight-foot open-air clearance above the canal waterway or fails to remove any branches or accumulation of leaves which fall into the canal, the director of public works may direct a certified letter, return receipt requested, to the owner or occupant of the abutting land, requesting that the canal be maintained as provided in this section, and further advising the owner or occupant that the city will have the canal so maintained unless the owner or occupant does so within a period of ten (10) days after receipt of the notice. The director shall designate in the letter the approximate cost to the landowner or occupant if the city does the maintaining, which costs shall not only include the actual cost to the city of the maintenance, but will also include a fee for the administrative work, postage, and such other costs as are necessary to be expended by the city. If such owner or occupant does not maintain the canal within ten (10) days after receipt of the letter from the director, then the city shall cause the canal to be cleaned out, the vegetation to be appropriately maintained, and all costs thereof shall be assessed against the land as an assessment. An assessment authorized in this section shall have the same payment deadlines, lien status, enforcement and foreclosure procedures, as special assessments enjoy under the Charter

of the city.

(f) If such letter is returned unclaimed, then a notice directed to the landowner or occupant of the street address shall be published in a newspaper of general circulation in the county once each week for two (2) consecutive weeks, two (2) publications being sufficient, directing the owner to forthwith commence, and within ten (10) days after the last publication of such notice, complete appropriate maintenance to the trees, shrubs, and other flora, in accordance with this section. A copy of the advertised notice shall be posted upon a front door of a structure on the property, or in a prominent place on the affected property. It will be a violation of this Code for anyone other than an owner or occupant of the affected lands to remove a posted notice, and this posted notice will so state. Furthermore, the advertised and posted notice shall advise the owner or occupant that the city will have the canal so maintained unless the owner or occupant timely maintains the canal in accordance with this subsection, and the notice shall approximate the cost to the landowner or occupant if the city does the maintaining, which cost shall not only include the actual cost to the city of the maintenance, but will also include a fee for the administrative work, postage, advertising costs, and such other costs as are necessary to be expended by the city. If the owner or occupant of the affected property does not timely maintain the canal, then the city shall cause the canal to be cleaned out, the vegetation to be appropriately maintained, and all costs thereof shall be assessed against the land as an assessment. An assessment authorized by this section shall have the same payment deadlines, lien status, enforcement and foreclosure procedures, as special assessments enjoy under the Charter of the city.

(g) Since the duty to maintain the abutting lands is imposed on both a landowner and any occupant thereof, the city may hold either or both financially responsible for the assessment authorized by this section. It shall be no defense against the city that the landowner or occupant has, by private agreement or otherwise, delegated the duty to maintain the abutting land to one not a party to an administrative or legal procedure initiated to enforce an assessment or foreclose the lien authorized by this section, or to one not billed or assessed in a prelitigation, litigation, or postlitigation collection effort.  
(Ord. No. 1383, § 1, 3-5-86)

#### **Sec. 15-22. Introducing or permitting foreign material into waterway.**

It shall be unlawful for a person to introduce into any tidal waterway or permit the introduction therein through the use of his property any trash, garbage, manure, oil, debris, construction material or other obstructions. All obstructions so introduced shall be immediately marked to warn others and shall be thereafter removed forthwith.

(Code 1964, § 26A-2(a))

**Cross References:** Garbage and refuse, Ch. 10; health and sanitation, Ch. 11.

#### **Sec. 15-23. Failure to retrieve foreign material.**

It shall be unlawful for any person whose use in person or through such use by an invitee or licensee of his real property on or adjacent to any tidal water shall have resulted in the introduction of any trash, debris, construction material or other obstructions to fail to remove same from such waterway within seventy-two (72) hours of receipt of notice of its introduction and demand for the removal thereof by any police officer or building official of the city.

(Code 1964, § 26A-2(b))

#### **Sec. 15-24. Waterway contour and seawall maintenance.**

(a) It shall be unlawful for any owner or occupant of property abutting on tidal or non-tidal waterways to permit the waterway to shallow beyond the degree common to adjacent property through failure to construct or maintain a stabilized shoreline or a seawall in accordance with this Code and the South Florida Building Code or its successor building code then in effect. In the event of violation of this provision of this section, the owner of the property shall, within ninety (90) days of the notice of violation, restore the abutting waterway to original design grade and provide shoreline stabilization or construct a seawall in accordance with the provisions of this Code. The failure of the owner of the property to restore the abutting waterway to its original design grade or to provide shoreline stabilization or to construct a seawall within the time required is hereby declared and defined as a nuisance. If compliance is not achieved by the owner within the ninety (90) day period, then the city may initiate action to cause such shoreline to be stabilized or seawall to be constructed and the waterway grade re-established; and further, may specially assess the responsible property owner for the costs thereof, using the procedure set forth below, or using special assessment procedures set forth in the City Charter or using special assessment procedures otherwise provided by law (e.g., Chapter 170, Florida Statutes). The ninety-day time period may be extended one time by the building official or the city engineer for good cause shown prior to the end of the ninety-day time period; provided that such extension must be in writing and may not exceed ninety (90) days.

(b) Whenever it shall come to the attention of the city that any property adjacent to any natural or manmade canal, stream, or other body of water requires the construction or maintenance of a seawall on the property for abatement of a condition which is dangerous to the navigability of any canal, stream, or other body of water or to abate a condition causing soil erosion or deposition of soil to such body of water, the city may give the owner or occupant of the property notice of the condition. This notice shall require the owner or occupant to obtain all necessary approvals and permits to abate the condition and to complete construction or repair of a seawall within ninety (90) days of the notice of violation. A failure to correct the condition as defined in this notice is hereby declared to be and defined as a nuisance. If compliance is not achieved by the owner within the ninety-day period, then the city may initiate action pursuant to authority under its Charter to cause such seawall to be constructed or repaired and the condition corrected and the property specially assessed for the costs thereof, using the procedure set forth below, or using special assessment procedures set forth in the City Charter or using special assessment procedures otherwise provided by law (e.g., Chapter 170, Florida Statutes). The ninety-day time period may be extended one time by the building official or the city engineer for good cause shown prior to the end of the ninety-day time period; provided that such extension must be in writing and may not exceed ninety (90) days.

(c) Seawalls shall be maintained in accordance with the following standards, and a failure to maintain seawalls in accordance with such standards is hereby defined and declared a nuisance:

- (1) Cement or concrete finishes shall not suffer spalling to a depth greater than a depth of one-half (1/2) inch, or to a depth where steel reinforcement is exposed.
- (2) All joints shall be properly sealed so as to be soil-tight and shall not have missing or loose sealant material.
- (3) Wall panels shall not be loose, disconnected, broken or missing.
- (4) Cracks shall be repaired with appropriate material where the cracking is greater than one-

sixteenth ( 1/16) of an inch in width.

- (5) Seawalls shall be maintained in such a manner as to prevent the erosion or damage to any adjoining property.
- (6) Grade settlement behind seawalls shall be backfilled with clean, granular material so as to present a uniform and even grade consistent with the top elevation of the seawall cap. There shall be no depressions, holes, or other conditions which would allow water to accumulate anywhere on the landward side of the seawall. If grade settlement behind the seawall exists, the source of settlement shall be identified and corrected prior to backfilling.
- (7) Grade settlement shall be prevented at connecting locations where two (2) or more seawalls intersect, regardless of whether the seawalls are of similar construction.
- (8) Seawalls shall be maintained in an upright and vertical position. All leaning or tilted seawalls which either impact negatively the navigability of the waterway or allows soil erosion and deposition of soil into the waterway shall be repaired or reconstructed in accordance with the provisions of this Code.
- (9) Seawalls shall be maintained to prevent settlement. Settlement is defined as a slippage or sinking into or along the ground or underwater which either impacts negatively the navigability of the waterway or allows soil erosion and deposition of soil into the waterway. A seawall that has settled shall be repaired or reconstructed to original design elevations or to the maximum elevation permitted by this Code.
- (10) Where a seawall built prior to (the effective date of Ordinance No. 2256 [July 27, 2001]) can be repaired so as to comply with the requirements of section 15-24(c)(1) through (10), section 15-24(c)(11) through (13), section 15-57(a) through (f), section 15-59(c)(1), and either section 15-57(h)(3) through (5) (for pre-cast, cast in place, or pre-stressed reinforced concrete seawalls), or section 15-57(i)(2) and (4) (for aluminum seawalls), a repair may be allowed without meeting the other design specifications applicable to new seawalls, subject to the following limitations:
  - a. Where the seawall is made of material containing asbestos, the provisions of section 15-24(c)(12) shall not apply, and the repaired section of the seawall shall not contain asbestos material or material containing asbestos;
  - b. Whenever the estimated cost of repairing a seawall so as to comply with the requirements of this subsection (10) exceed fifty (50) percent of the estimated costs of installing a new seawall, a repair shall not be allowed and the seawall shall be reconstructed. When a seawall is required to be reconstructed, the reconstruction shall meet all design specifications of this Code as if a new seawall is being installed. The city engineer and city building official have the discretion to deviate from and increase the fifty (50) percent threshold above upon consideration of site specific factors, certifications, observations, engineering principles, and the age, condition, and type of material of the portion of the seawall that will not be repaired, so as to allow a repair to be made and the resultant seawall compliant with the provisions of this subsection (10). In exercising this

discretion, the building official and the city engineer may require a letter of certification, signed and sealed by a Florida registered professional engineer, attesting that the repair design meets the requirements of this subsection (10), and justifying why a deviation from the fifty (50) percent threshold is warranted in the particular case.

- (11) Seawalls shall be maintained so as to be free from graffiti. No excessive or unsightly mildew shall be permitted to accumulate on the seawall cap. "Excessive or unsightly mildew" is defined as being easily discernable from across the waterway or where over twenty-five (25) percent of the surface area of the cap is approximately charcoal in color from mildew growth.
- (12) Seawalls on the same lot or property shall be constructed, reconstructed or repaired such that all seawall panels along a lot line are of one uniform and consistent material as permitted in the construction specifications of this chapter.
- (13) Where another governmental agency with jurisdiction has promulgated laws or rules which have more strict maintenance, repair, or construction standards, those standards shall apply to the extent of conflict, and the city's less strict standards shall apply to the extent there is no conflict.
- (14) In the event the city building official or city engineer observes a condition which in his or her opinion creates a reasonable basis to conclude that the seawall does not meet the requirements of this chapter, the landowner or occupant or both shall construct a second seawall or reconstruct or repair the existing seawall so as to make same compliant with the provisions of this chapter, and for structural work the owner or occupant of the property where the wall is situated (or which abuts the wall if the wall is in public right-of-way or easement) may be required to deliver to the city a letter signed and sealed by a Florida registered professional engineer, attesting that the seawall complies with the specifications of this chapter.

(d) For purposes of this section, the word "seawall" shall encompass all structures, walls or material that are included in the scope of section 15-52(1)a of this Code for tidal waterways, and other methods of shoreline stabilization (such as rip rap) for non-tidal waterways. The maintenance and shallowing standards of this section shall be the duty of the owner or occupant or both of the property where the seawall is situated. Where a seawall is located in a public right-of-way or easement and

- (1) Where a permit has been issued by the appropriate governmental agency to an abutting private property owner or occupant to construct the seawall; or
- (2) Where the seawall was not created by a governmental entity; or
- (3) Where the seawall was erected or constructed by the city as a result of the abutting private property owner's or occupant's failure to maintain the seawall or failure to correct a shallowing condition, it shall be the duty of the owner and occupant of the abutting private property to maintain such seawall.

(c) Failure of any seawall to comply with the above standards shall be a violation of this Code. However, if any of the above conditions exist on a temporary basis while work is being performed pursuant to a building permit, which work is to cure the condition, then no violation of this section shall exist during a period

of time not to exceed ninety (90) days, or such shorter period of time that the city building official or city engineer determines is reasonable under the circumstances to address the violation. This ninety (90) day or shorter period may be extended in writing one time for good cause by the building official or the city engineer for a period of time not to exceed an additional ninety-day period.

(f) Upon a determination that a seawall violates the provisions of this section or that a shallowing has occurred, the city may refer such violations to the code enforcement board or special master or may prosecute the violation by any other means available (e.g., by the police department issuing a notice to appear in county court, or by the city seeking injunctive or other relief). The city may also take remedial action set forth below which shall not relieve the owner or occupant having the duty to comply with this section from a violation of this Code. Taking such remedial action shall not create a continuing duty of the city to take additional remedial action, to make further repairs, or to maintain the seawall, and additionally, does not create any liability against the city for any damages to the property if the remedial action is taken and completed in good faith.

(g) Where the condition of the seawall or waterway violates this section, the city's enforcement personnel may direct a certified letter, return receipt requested, to the owner or occupant of the land as such is indicated upon the property tax roll, requesting that the condition be remedied and further advising that unless the owner or occupant does so within the period of ninety (90) days after the letter's date, the city may take remedial action. The ninety-day time period may be extended one time by the building official or the city engineer for good cause shown prior to the end of the ninety-day time period; provided that such extension must be in writing and may not exceed ninety (90) days. The letter shall be posted upon the property's front door, or facade or if there is no building, stapled to a stake sign and covered with plastic. The notice shall state that no further notice will be given if the city effects remedial action and subsequently, the same violation occurs. However, this shall be applicable only if the property owner remains the same according to the tax rolls of the county. If the property owner has changed, a new notice shall be provided. The enforcing officer shall designate in the letter the approximate cost to the city of the corrective action and will also include a fee for the administrative work, postage and such other costs as are necessary to be expended by the city. Posting of the notice shall be sufficient to entitle the city to effect remedial action and recover the costs thereof as provided below. It is intended that the mailed notices provided in this subsection are courtesy notices only and that an owner's or occupant's actual receipt of a the mailed notice that the seawall is in violation is not a prerequisite to the city's abatement of the condition or the recovery of the costs of abatement as provided for in the paragraph below; however, if the mailed notice is received, such mailed notice shall be sufficient to entitle the city to effect remedial action and recover the costs thereof as provided below. It will be a violation of this Code for anyone other than the enforcement personnel or property owner to remove the notice and the notice shall so state. If a property owner or occupant wishes to dispute any determination by the city that a violation of this section exists, the owner may notify the city enforcement personnel that made the determination. The city may then cite the property owner with a violation. In that event, the city may not perform any remedial work until the violation has been prosecuted.

(h) If the condition is not remedied within ninety (90) days of the date of the notice, then the city may cause the seawall or waterway to become Code compliant and all costs thereof shall be assessed against the offending owner or occupant's land by the city promulgating a resolution. The city may undertake the remedial action with its own forces or may contract for same as it so determines. The enforcing officer will keep a docket of these liens and will notify the city attorney of any which are not paid in the manner as provided in the resolution. The lien is an authorized Charter special assessment lien and therefore attaches at the time the

resolution is promulgated; moreover, the lien shall be coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims (including, but not limited to, prior recorded mortgages). Interest on the lien shall accrue at a simple rate of eight (8) percent per annum from the date the resolution is promulgated until the lien is satisfied. If a bond is placed (or a series of bonds issued) to finance, all or a portion of the costs of such abatement, interest on the lien may exceed eight (8) percent per year, but shall not exceed a rate of one (1) percent above the rate of interest payable by the city on such placed bond or issued bonds commencing the date the project is completed. If the assessment is payable in installments, in the event any installment on the assessment is not paid when due, there shall be added a penalty at the rate of one (1) percent per month, until paid. The city may enforce the lien in any manner permitted by law, including an action to foreclose the lien in a similar manner as mortgages are foreclosed. Should the city enforce a lien, the city shall be entitled to recover all its costs and expenses incurred, including attorneys' fees at trial and on appeal. In the event a court should rule that a given special assessment is void, voidable, or otherwise invalid or defective, such ruling shall not prevent the city from re-assessing the affected property in a lawful manner so as to collect the assessed costs and all other expenses.  
(Code 1964, § 26A-2(c); Ord. No. 2256, § 2, 7-25-01)

### **Sec. 15-25. Failure to remove or repair obstructions.**

It shall be unlawful for the owner or occupant of any property abutting on a tidal waterway to fail to remove or repair as necessary such obstructions to navigation of the waterways as are hereinafter set forth. If the owner or occupant fails to remove or repair as necessary to correct the condition causing the obstruction within thirty (30) days from the date that notice is received from the city, then in addition to the penalties set forth herein, the owner or occupant of the property shall be subject to special assessment for the cost to the city for removal of such obstructions, to wit:

- (1) *Collapsed docks.* The remnants of the docks will be removed or repair of the dock begun within thirty (30) days after notice.
- (2) *Sunken boats or hulls.* Within the meaning and intention of this chapter, a boat that has been resting on the bottom and not raised within ten (10) days shall be considered as abandoned property and an obstruction to navigation. Such sunken boats or hulls shall be removed by the owner of the property at which it is located within thirty (30) days after notice to remove is given to the property owner by the city. When possible, the owner of such abandoned property shall be ascertained and copied with the notice to remove.
- (3) *Accumulated heavy debris.* The owner or occupant of the property shall be responsible for the removal of any heavy debris that has been placed or otherwise accumulated at the berm area of his seawall. Such debris as cement block, large stones, loose lumber and similar objects that by their size and nature may be obstructions to free navigation shall not be stowed, kept or allowed to remain in the tidal waterways. This provision is not intended to deny the use of small stones, coral or gravel as riprap against the berm of a seawall nor to prevent the placing of cement blocks under docks or wharves or using them as bases for water drainage pipes, intake pipes or ladders.
- (4) *Growth of trees or plants extending beyond the seawall.* The owner or occupant of the property shall trim, prune or remove any tree, plant or portion thereof that extend beyond, over or above

the seawall.  
(Code 1964, § 26A-2(d))

**Sec. 15-26. Pipes extending into waterway.**

It shall be unlawful for any owner or occupant of property abutting the tidal waterways to install or allow to be installed or to continue the use of drainage and intake pipes into the waterway that exceeds the limitations set forth below.

- (1) Any pipe that expels water into the waterway shall not extend more than eighteen (18) inches from the outer edge of the seawall.
- (2) Any pipe that draws water from the waterway shall be fully submerged within eighteen (18) inches of the outer edge of the seawall and shall be submerged for not more than seven (7) feet. Markers that float on the surface of the waterway shall not extend more than five (5) feet from the seawall.

(Code 1964, § 26A-2(e))

**Sec. 15-27. Failure by contractor to prevent pollution or obstruction.**

It shall be unlawful for any contractor or property owner to pollute or obstruct the tidal waterways by failing to take preventive measures or by failing to retrieve or remove from the tidal waterways of the city within seventy-two (72) hours after knowledge or notice such trash, debris or construction material as may escape from any property upon which any type of construction is being prepared, built or completed. The contractor having prime contract responsibility on such building site and the owner of the property shall be responsible for any of the aforementioned violations, including actions of subcontractors, workers, materialmen and visitors. It is the intent of this section that the prime contractor and owner take whatever measures are necessary to prevent any pollution or obstruction of any such tidal waterway occurring on or from the construction site.

(Code 1964, § 26A-2(f))

**Sec. 15-28. Structures extending over seawall.**

It shall be unlawful for any owner or occupant of property to construct, place or allow the construction or placement of any structure or object such as decking or walkway that extends beyond the seawall whether above or below the outer edge of the seawall cap. This provision is not intended to deny the construction or use of docks or boat lifts as specified in this chapter, nor the use of docking accessories such as mooring whips.

(Code 1964, § 26A-2(g))

**Sec. 15-29. Effect of state statutes.**

The provisions of this chapter are deemed to be cumulative of those provisions set forth in Florida Statutes and is not in any way to be construed as limiting the regulations and penalties provided therein.

(Code 1964, § 20-4(a))

**Sec. 15-30. Reserved.**

**Editors Note:** Ord. No. 1503, § 1, adopted Oct. 7, 1987, repealed § 15-30, concerning speed and wakes of boats or vessels,

as derived from Code 1964, § 26A-2(h).

**Sec. 15-31. Towing or dragging from boats or vessels.**

It shall be unlawful for the operator of any boat or vessel within the tidal waterways to tow or drag any object. This prohibition includes but is not limited to objects such as water skis, sleds, surfboards and similarly constructed devices. This provision is not intended to prohibit the towing of disabled boat or vessel provided that the speed and wake limitations set forth in section 15-30 are observed.

(Code 1964, § 26A-2(i))

**Sec. 15-32. Reserved.**

**Editors Note:** At the direction of the city, § 15-32, pertaining to operation of certain special high-speed water vehicles, derived from Code 1964, § 26A-2(j), has been deleted.

**Sec. 15-33. Mooring, securing or anchoring vessels.**

It shall be unlawful for any owner or operator of any vessel or the owner of property to which a vessel may be moored to cause or allow violation of the following provisions:

- (1) *Occupying excess space in the waterways.* No vessel shall be moored or otherwise secured to a dock, shoreline or another vessel for any period of time in excess of twenty-four (24) hours so that such vessel or vessels, including dock, occupy more than one-third of the width of the waterway.
- (2) *Extending of vessel beyond side property line.* No vessel shall be moored or otherwise secured for any period of time in excess of twenty-four (24) hours so that any portion of such vessel extends beyond the side boundary line of the property to which the vessel is moored.
- (3) *Anchoring of vessels.* No vessel shall anchor in any tidal waterway for any period of time in excess of twenty-four (24) hours.

(Code 1964, § 26A-2(k))

**Secs. 15-34, 15-35. Reserved.**

**Editors Note:** Ord. No. 2293, §§ 1, 2, adopted Jan. 29, 2003, repealed §§ 15-34, 15-35, which pertained to commercial vessels and placing of traps or nets derived from the 1964 Code, § 26A-2(l), (m).

**Sec. 15-36. Public nuisances.**

Trash, garbage, debris, construction material or obstructions when present in or on or under the surface of tidal waterways are hereby declared to be public nuisances, the abatement of which pursuant to the police power is necessary for the health, welfare and safety of the residents of the city.

(Code 1964, § 26A-3)

**Cross References:** Health and sanitation, Ch. 11.

**Sec. 15-37. Pipelines, cables or other devices that cross a tidal waterway.**

- (a) *Structures.* After November 1, 1977, there shall be no structures placed so as to span or cross

over a tidal waterway.

(b) *Subaqueous installations.* Any pipes, cables or devices that cross a tidal waterway shall be installed as a subaqueous installation. In any such installation, the top of the pipe, cable or device shall be no less than seven (7) feet below mean sea level.  
(Code 1964, § 26A-5)

**Sec. 15-38. Nonliability of city for maintenance of tidal waterways.**

Notwithstanding anything to the contrary set forth or implied by this chapter regulating tidal waterways, the city is not assuming or becoming liable by the enactment or enforcement of this chapter for the maintenance of tidal waterways or for the maintenance or construction of seawalls or docks; nor shall this chapter in any way affect the jurisdiction of other governmental agencies concerning the permitting of docks or seawalls in tidal waterways; nor shall this chapter constitute an undertaking by the city to maintain tidal grades or slopes on private property.  
(Code 1964, § 26A-8)

**Sec. 15-39. Right of entry.**

Upon presentation of proper credentials, the building official may enter, at any reasonable time, any building or structure or property for the purpose of inspection as to prevent violations of this article.  
(Code 1964, § 26A-10)

**ARTICLE IIA.**

**MOTOR-POWERED BOATS\***

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\* **Editors Note:** Ord. No. 1503, § 3, adopted Oct. 7, 1987, repealed emergency Ord. No. 1453, adopted Mar. 4, 1987, § 2 of which comprised Art. IIA, §§ 15-40--15-44, concerning motor-powered boats. Section 2 of Ord. No. 1503 added new Article IIA provisions, as herein set out.

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**Sec. 15-40. Applicability.**

The provisions of this Article IIA shall control in the event of any conflict or inconsistency with the other provisions of this chapter.  
(Ord. No. 1503, § 2, 10-7-87)

**Sec. 15-41. Definitions.**

For the purposes of this article, the following definitions shall apply:

*Canal, waterway or lake.* Any body of water within the corporate limits of the City of Plantation, regardless of whether such water body is tidal or nontidal.

*Motor-powered boat.* Any boat or vessel propelled or powered by machinery, regardless of whether or not such machinery is the principal source of propulsion.

(Ord. No. 1222, § 1, 7-11-84; Ord. No. 1503, § 2, 10-7-87)

**Sec. 15-42. Operation.**

(a) No motor-powered boat may be operated on any canal, waterway or lake within the corporate limits of the City of Plantation, except as provided by this article.

(b) No motor-powered boat shall be operated on any canal, waterway or lake at more than idle speed, which is herein defined as a speed only sufficient to maintain steerage, said idle speed to assure minimum vexations noise level or damaging wake on such canal, waterway or lake from such motor-powered vessels.

(c) No motor-powered boat shall be operated on any canal, waterway or lake within the corporate limits of the City of Plantation between the hours of sunset and sunrise.

(Ord. No. 1222, § 2, 7-11-84; Ord. No. 1503, § 2, 10-7-87)

**Sec. 15-43. Violations; penalty.**

Any person found to be in violation of any section of this article may be subject to a fine not to exceed five hundred dollars (\$500.00) or have his motor-powered boat impounded for a period not in excess of thirty (30) days, or both. The court may prohibit such person from operating a motor boat for a period not to exceed thirty (30) days, or by both such fine and other penalty or penalties, in the discretion of the court.

(Ord. No. 1503, § 2, 10-7-87)

**Secs. 15-44--15-50. Reserved.**

**ARTICLE III.**

**SEAWALLS\***

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\* **Cross References:** Buildings and building regulations, Ch. 5; planning and development, Ch. 19; platting, Ch. 20; zoning, Ch. 27; construction of seawalls on nontidal canals and nontidal lakes in subdivisions, § 20-184.

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**Sec. 15-51. Requirements.**

(a) *Canals.*

(1) A continuous seawall shall be constructed along both sides of the waterways concurrently with the excavation of the waterways, except that no seawall will be required on the far side of subdivision boundary line waterway where a partial waterway dedication or easement already exists.

(2) No maintenance easements shall be required.

(b) *Nontidal canals and nontidal lakes.*

- (1) The developer shall have the option of constructing or not constructing seawalls. Where seawalls are constructed, they shall be constructed continuously along both sides of the waterway concurrently with the excavation of the waterway, except that no seawall will be required on the far side of subdivision boundary line where a partial waterway dedication or easement already exists. Where seawalls are not constructed, the following additional requirements shall be met:
  - a. A fifteen-foot wide maintenance area (as measured from the water's edge at normal high water elevation) shall be provided on both sides of the waterway and maintenance areas shall be included in the waterway right-of-way dedication.
  - b. The maintenance areas shall be stabilized with a stand of perennial grass. No paving and drainage construction approval shall be considered final until the stand of grass has become permanently established and has been approved and accepted by the city's engineering department.
  - c. The banks of the waterway (above normal high water elevation) shall be constructed to a slope no steeper than four (4) horizontal to one (1) vertical.
  - d. Isolated seawalls or retaining walls along nontidal waterways within or abutting the waterway right-of-way line may be constructed along any canal initially constructed without seawalls if the application for building permit of such wall is accompanied by prints of construction or installation plans bearing the seal of a professional engineer registered to practice in the state. Accompanying this seal must be explicit certification by the engineer that the isolated seawall will be tied in and otherwise constructed in such a way that no erosion will be caused to neighboring property and in all other ways will meet the structural requirements for seawalls or retaining walls as provided by this Code. No building permit may be issued unless the isolated seawall is of the same type of construction as other existing seawalls along with the nontidal waterway with the same relative elevation and cap so as to avoid or minimize future tie-in problems of such walls. As this Code provides that the engineer, contractor and owner of the seawall bear ultimate responsibility for design, construction, and maintenance, so do the engineer, contractor and owner bear ultimate responsibility for erosion, collapse or other related damages caused by isolated seawalls. Accordingly, in issuing a permit for an isolated seawall, the city assumes no responsibility whatsoever as to the protection of the neighboring property to the isolated seawall, nor does the city assume responsibility for design, construction or maintenance. In addition, each and every provision contained in this Code regarding the city's nonliability as to seawalls apply to all facets and effects of isolated seawalls.
- (2) The provisions of this section shall not apply to any waterway or drainage facility owned by the Old Plantation Water Control District, The South Florida Water Management District, the city or any other political subdivision of the state except that the city may require that existing waterways bordering on proposed subdivisions be excavated and widened to conform with the provisions of this section and apply to such existing waterways, such other provisions of this section as it may find necessary in order to protect the safety, health and general welfare.

- (3) The materials, equipment and construction methods to be used shall conform to the specifications established by the city.

(Code 1964, § 23-15(b))

**Sec. 15-52. Adoption of minimum construction specifications.**

The minimum specifications for seawalls as set forth in this section be and the same hereby are adopted:

PERMIT PROCEDURES AND  
MINIMUM SPECIFICATIONS FOR  
SEAWALL CONSTRUCTION  
CITY OF PLANTATION  
FLORIDA

OCTOBER 7, 1961

(1) *Scope:*

- a. No seawall, bulkhead, retaining wall or other structure, the purpose of which is to produce a vertical drop in elevation at the edge of a navigable waterway, shall be constructed within the city limits without a permit for such construction first being obtained from the city.
- b. The necessity for obtaining a permit prior to construction shall apply to all privately and governmentally owned, as well as publicly dedicated, navigable waterways situate in, or adjacent to, the city limits.
- c. Any owner, developer, contractor, engineer, architect or other authorized person, firm or corporation may apply for and obtain a construction permit provided all regulations herein set forth are complied with.
- d. It is understood that the specifications set forth below are general minimum specifications, and that special conditions may warrant special design and construction procedures and techniques. Thus, the city building official or city engineer may accept a letter of certification signed and sealed by a Florida registered professional engineer attesting that the seawall meets the general standards of section 15-57(a) through (g), though it does not meet all of the other technical specifications for construction. It is further understood that the designing engineer and the contractor, individually and collectively, will be held accountable for any degree of structural or functional failure; however, the city does not assume any responsibility for either correcting or forcing the correction of any structural or functional failures; nor does the city, by issuing a construction permit, inspecting the construction or other act, assume any obligation or responsibility for the structural or functional adequacy of the structure.

(Code 1964, § 20-1(A); Ord. No. 2256, § 3, 7-25-01)

**Sec. 15-53. Permit--Required; review, inspection; fee.**

(a) It shall be necessary for any person desiring to erect a seawall within the municipal limits of the city to apply to the city building department for the issuance of a permit prior to commencing construction of such seawall, and the permit fee for the construction of any seawall in the city shall be set by subsections (b) and (c) of this section.

(b) Upon receipt of an application for a seawall permit and the plans required for same, the building department may, at its option, seek engineering review and inspection services for the seawall project from the city's engineering department; for instance, when an isolated seawall is being proposed to be built. If such referral for engineering review or inspection services is made, no permit will be issued until:

- (1) The city engineer completes his review of the plans, sets a review fee, and estimates the inspection costs for inspecting the construction of the seawall, if the engineering department is to inspect construction.
- (2) The applicant pays the review fee and escrows the inspection fee by payment to the city, if inspections are to be made by the engineering department. If the actual inspections cost less than the amount escrowed, the appropriate portion of the amount escrowed will be returned to the applicant. The applicant will not be charged more than the amount escrowed.

(c) In addition to the amount required under subsection (b), if any amount is so required, or as the sole permit charge if no referral is made to the city's engineering consultants, there will be a base permit charge made to applicant of one dollar (\$1.00) per lineal foot, with a minimum fee of one hundred dollars (\$100.00), to be paid before a permit is issued.

(Code 1964, § 20-3)

#### **Sec. 15-54. Same--Application.**

A building permit shall be acquired by application from the building department, before any construction or installation begins. The permit shall be in the amount prescribed by fee schedules. The application for a permit shall be accompanied by five (5) copies (eight and one-half (8 1/2) inches by fourteen (14) inches or multiples thereof) of prints of construction or installation plans bearing the seal of a professional engineer registered to practice in the state. The plans shall show all details necessary for the construction or installation of the project, and shall also include:

- (1) A location sketch of sufficient scope and detail to accurately portray the site and identify the location and street address of the project;
- (2) Up-to-date property survey, accurate ties to land lines or existing platted property lines so as to show the proximity to the dwelling, water's edge and side property lines;
- (3) The total length and other dimensions of the project;
- (4) The mean low water elevation, the mean high water elevation, and the elevation of the top of the cap, all referenced to National Geodetic Vertical Datum, 1929 (N.G.V.D.) plane;

- (5) The seal and signature of a professional civil engineer registered to practice in the state.
- (6) In issuing the permit the city does not assume any responsibility for the accuracy or reliability of the information shown by the construction plans or their conformity with the minimum specifications as set forth.

(Code 1964, §§ 26A-4(A), 20-1(B))

**Sec. 15-55. Required at time of issuance of building permits on tidal waterway lots.**

On all existing tidal waterway lots where seawalls are not in existence, no building permit for the erection of a structure upon such lot shall issue until the seawall line is established for such tidal waterway lot and a seawall permit is issued so as to continue the seawall as same is erected on adjacent or nearby lots and, thereafter, no certificate of occupancy shall be permitted for such tidal waterway lot until the seawall is erected on such tidal waterway lot.

(Code 1964, § 26A-11)

**Sec. 15-56. Placement standards.**

- (a) *New seawalls.*
  - (1) For any seawall to be constructed in an area where existing seawalls are in place, the elevation of the new seawall shall be at the common elevation established by existing seawalls. The outer edge of the new seawall cap shall conform to the rear property line where such property line corresponds to the edge of the waterway. In cases where the rear property line extends to midcanal, the outer edge of the seawall cap shall conform to the established line of seawalls.
  - (2) Any cradle of a marine elevator or boat lift which, there are no existing seawalls, the minimum elevation at the top of the seawall cap shall be five (5) feet above mean sea level. The outer edge shall conform with the rear property line.
- (b) *Rebuilt or reconstructed seawalls.*
  - (1) Where an existing seawall or portions thereof are to be removed for the construction of a replacement, the provisions of subsection (a) above apply.
  - (2) Where an existing seawall is to be reconstructed by superimposing new construction on the existing wall or cap, the reconstructed seawall may exceed the elevation of the previous seawall by no more than one (1) foot. In cases where the rear property line extends to midcanal, the outer edge of the reconstructed seawall cap may extend no more than two (2) feet beyond the common seawall line.

(Code 1964, § 26A-4(B))

**Sec. 15-57. Minimum design criteria.**

- (a) Seawalls shall be designed and constructed so as to be structurally sound, stable and soil-tight.

(b) Seawalls shall be designed to resist pressures of the retained material, including both dead and live load surcharge to which they may be subjected.

(c) Seawalls shall be designed for stability against overturning, sliding, maximum soil pressure, as well as for moment, shear, bond, and maximum pressure at sections of the wall at regular intervals of height.

(d) For stability against sliding, resistance shall be provided for at least twice the computed active horizontal thrust on the wall.

(e) The designing engineer shall take existing soil conditions and condition of adjacent property(s) into account during the design of the seawall.

(f) For stability against overturning, the righting moment of the weight of the wall, fill and other superimposed loads shall be at least fifty (50) percent greater than the overturning moment due to the thrust of the filling material, together with that due to any dead load or live load surcharge.

(g) The city may, at its discretion, require the designing engineer to submit additional drawings, calculations, test results or other data considered necessary to properly evaluate the proposed work.

(h) Specific minimum specifications for pre-cast, cast in place or pre-stressed reinforced concrete seawalls:

(1) Slab thickness--Seven (7) inches;

(2) Cap width/depth--Twenty-four (24) inches/twelve (12) inches;

(3) Panel penetration below berm--As required to support design loads and moments, except that panels may terminate at a point of refusal.

(4) Pile penetration below berm--As required to support design loads and moments, except that piling may terminate at point of refusal.

(5) Reinforcing steel--As required.

a. Specific minimum specifications for aluminum seawalls:

1. Seawall cap--Reinforced concrete only with minimum dimensions of twelve (12) inches wide and ten (10) inches deep. Concrete cap shall be fully insulated from aluminum sheeting.

2. Aluminum wall panel penetration--As required to support design loads and moments, except that panels may terminate at point of refusal).

3. All aluminum wall components shall be manufactured of alloy 6061-T6-in conformance with ASTM designation B221.

4. Reinforcing steel--As required.

(Code 1964, § 20-1(D); Ord. No. 1605, § 2, 2-15-89; Ord. No. 2256, § 4, 7-25-2001)

**Sec. 15-58. Reserved.**

**Editors Note:** Ord. No. 2256, § 5, adopted July 25, 2001, repealed § 15-58, Construction standards for asbestos-cement sheeting seawalls, derived from the 1964 Code, § 26A-4(D).

**Sec. 15-59. Approved seawall types.**

(a) Only the following types of seawalls shall be constructed or installed in tidal waterways:

- (1) Pre-cast, poured-in-place or pre-stressed, reinforced concrete panel with support piling and/or "dead-man" assemblies;
- (2) Aluminum panel with "dead-man" assemblies;
- (3) Aluminum panel.

(b) Alternate types of seawalls meeting all other requirements contained herein, will be approved for construction except as follows:

- (1) For seawalls constructed along tidal canals as defined by section 15-1.
- (2) For seawalls constructed along nontidal canals where the developer has exercised his option as provided in section 15-1 to construct seawalls concurrently with the canal excavation.

(c) Minimum specifications for all approved seawall types:

- (1) Minimum elevation at top of cap +5.0' NGVD with a maximum elevation of +7.5' NGVD.

(Code 1964, §§ 26A-4(C), 20-1(C); Ord. No. 1605, § 1, 2-15-89; Ord. No. 2256, § 6, 7-25-01)

**Secs. 15-60--15-70. Reserved.**

**ARTICLE IV.**

**DOCKS\***

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\* **Cross References:** Buildings and building regulations, Ch. 5; platting, Ch. 20; planning and development, Ch. 19; streets, sidewalks, bridges and other public places, Ch. 23; zoning, Ch. 27.

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**Sec. 15-71. Boat lifts and davits.**

Boat lifts and davits to be constructed, reconstructed or installed on tidal waterways shall conform to the following:

- (1) Pre-cast reinforced concrete (T-pile and slabs) installed so that any fixed part extends more than

five (5) feet beyond the outer edge of the seawall cap;

- (2) Any cradle of a marine elevator or boat lift which, when submerged, extends more than five (5) feet from the outer edge of the seawall cap shall have a flag or other warning sign at its outer edge which extends at least one (1) foot above mean high tide level;

- (3) The closest part to any boat lift or davit shall be at least five (5) feet from the side property line.  
(Code 1964, § 26A-4(A)(4), (B)(4)(c))

### **Sec. 15-72. Types allowed.**

Platform supported by pilings and secured to or integral with the seawall cap are the only types of docks that shall be built in the tidal waterways.  
(Code 1964, §§ 23-15, 26A-4(c)(2))

### **Sec. 15-73. Specifications.**

Docks and pilings shall conform to the following:

- (1) No dock shall be built so as to extend more than five (5) feet beyond the outer edge of the seawall cap or above the top of the seawall cap.
- (2) No piling shall be placed more than five (5) feet from the outer edge of the seawall cap.
- (3) The closest part of any boat lift or davit shall be at least five (5) feet from the side property line.
- (4) Pilings. Wooden piling shall be of pressure-treated creosote or comparable process and shall measure a minimum of eight (8) inches in diameter at the butt end. Concrete or metal pilings of comparable size and/or strength may be used. Any piling used to support a dock must be sunk at least to the depth of hard sand or to the point of refusal so that the piling could remain upright unsupported by props. Such pilings shall be placed no more than eight (8) feet apart except when four-inch-wide stringers are used, then the pilings may be up to ten (10) feet apart.
- (5) Stringers.
  - a. Supporting timbers shall be of treated lumber no less than two (2) inches thick and six (6) inches wide, nominal measurement. Galvanized or stainless steel lag screws of no less than one-half-inch in diameter shall be used to secure a stringer to the seawall cap. Such screws shall be screwed into anchors imbedded not less than two (2) inches into the seawall cap. These supporting screws shall be placed at intervals not more than five (5) feet apart.
  - b. Stringers where secured to pilings shall be secured by:
    1. Galvanized nails of not less than twenty (20) penny; or

2. Galvanized lag screws of not less than three-eighths-inch in diameter and imbedded not less than three (3) inches into the piling; or
3. Galvanized or stainless steel through bolts of not less than three-eighths-inch in diameter secured with washer and nut.

- (6) Decking. Wooden decking shall be of treated lumber not less than two (2) inches thick and six (6) inches wide and shall be secured to stringers with galvanized nails of not less than ten (10) penny or the equivalent galvanized lag screws. Concrete slab decks shall be not less than four (4) inches thick and reinforced with a grid of eight-inch squares of steel rods not less than one-half inch in diameter. The slab shall be placed, poured and finished in keeping with good engineering practices.

(Code 1964, § 26A-4(B), (C))

#### **Sec. 15-74. Plans for marine elevators, boat lifts and davits.**

Plans for marine elevators, boat lifts and davits shall show the following:

- (1) The design of the foundation. If general specifications as issued by the contractor are used to portray the information required for a permit, the design of the foundation shall bear the seal of a professional engineer.
- (2) The lift capacity of the marine elevator, boat lift or davits and the dead weight of the vessel for which it is to be used.

(Code 1964, § 26A-4(A)(5))

#### **Sec. 15-75. Nonliability of city for construction or maintenance.**

It is understood that the specifications set forth in this article are minimum guideline specifications and that due to the uncertainties and special conditions inherent in the construction of seawalls, docks, boat lifts and davits the ultimate responsibility for the proper design thereof rests with the state-licensed engineer who shall sign and seal the design prints submitted for building permits. The ultimate proper construction on such approved engineer's design shall rest with the contractor employing proper construction procedures and techniques in erecting such seawall, dock, boat lift or davits, and the ultimate responsibility for the maintenance of such seawall, dock, boat lift or davits as a safe structure shall thereafter rest with the owner thereof, it thus being the express intent of the city that the property owner, the designing engineer and the contractor, individually or collectively, will be held accountable for any degree of functional or structural failure and that the minimum specifications referred to above are promulgated by the city as a purely governmental function mandated by the South Florida Building Code for which the city assumes no obligation or responsibility; nor does the city, by the issuing of a construction permit, inspecting or failure to inspect such construction, or any other act, assume any obligation or responsibility to anyone for the structural or functional adequacy of a seawall, dock, boat lift or davits which, by their very nature, are subject to special and varying conditions which warrant special design, construction and maintenance procedures and techniques. Accordingly, in issuing any such permit, the city does not assume any responsibility for the accuracy or reliability of the information shown by the construction plans or with their conformity to either the minimum specifications set forth above or with any ascertainable approved minimum governmental standard.

(Code 1964, § 26A-4(E))

**Sec. 15-76. Penalties.**

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment for a period not to exceed sixty (60) days or both.

(Code 1964, § 26A-6)

**Secs. 15-77--15-89. Reserved.**

**ARTICLE V.**

**LAKE AND CANAL EXCAVATIONS\***

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\* **Cross References:** Buildings and building regulations, Ch. 5; planning and development, Ch. 19; platting, Ch. 20; utilities, Ch. 26; zoning, Ch. 27; catch basins in subdivisions, § 20-180; canals, ditches and swales in subdivisions, § 20-181 et seq.

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**DIVISION 1.**

**GENERALLY**

**Sec. 15-90. Definition.**

For the purpose of this article, "excavation" shall mean the digging, stripping or removal by any process of natural materials or deposits from their natural state and location, such materials and deposits to include rock, stone, minerals, shell, sand, marl, muck [muck] and soil, but not including sod. "Excavation" shall not include dredging or excavating for foundations, roadbeds, small lily ponds or goldfish pools (as such terms are commonly understood), fences or swimming pools (permitted elsewhere within the city's comprehensive zoning ordinance) wherein no materials are removed from the premises, except surplus not required for backfill or grading of the premises.

(Code 1964, § 10-2; Ord. No. 2256, § 6, 7-25-01)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 15-91. Compliance required.**

No person shall dig, construct or effect any excavation within any area of the city without comply with the provisions of this chapter.

(Code 1964, § 10-1)

**Sec. 15-92. Permit--Required; renewal; submission of plans; fee.**

(a) Prior to beginning excavation, as defined in this article, a permit valid for one (1) year shall be obtained from the building department of the city. This permit will be renewed for one-year periods provided excavation has progressed in accordance with this article.

(b) Prior to issuing the permit, the applicant shall submit plans prepared in accordance with section 15-93 below, showing in detail the work to be performed.

(c) Any extension beyond the excavation limits shown on the permit drawing shall be treated as new excavation, and a new permit applied for.

(d) Excavating permit fees shall be as follows:

(1) Original permit fee--Fifty dollars (\$50.00);

(2) Renewal permit fee--Twenty-five dollars (\$25.00).

(Code 1964, § 10-3)

**Cross References:** Permit fees, § 5-21 et seq.; planning and development, Ch. 19; platting, Ch. 20; streets, sidewalks, bridges and other public places, Ch. 23; utilities, Ch. 26.

### **Sec. 15-93. Same--Application; accompanying plans.**

Applications for original excavation permits shall be accompanied by detailed plans showing clearly the work to be done, and shall include the following:

(1) A plot plan showing the property owned or controlled by the applicant with reference to streets, highways and contiguous platted areas;

(2) Cross-sections to show approximate elevation and grades at the final outside boundaries of excavation, and the bottom depth and side slopes;

(3) A final grading plan to show the ground elevations of the land immediately adjacent to the side of the excavation and all of bounding streets or roads;

(4) Upon completion of the excavation, and when there is a question that the excavation is in accordance with the plans approved, a topographical survey may be required showing elevations and cross-sections of the final excavation and adjacent land at one-hundred-foot intervals;

(5) The plans, maps, elevations and cross-sections required by this section shall be made by a state-registered engineer or land surveyor.

(Code 1964, § 10-4)

### **Sec. 15-94. Performance bond.**

An applicant for a permit under this article shall post a good and sufficient performance bond as established by the mayor guaranteeing the completion of all or portions of the planned work in accordance with this chapter.

(Code 1964, § 10-5)

### **Sec. 15-95. Compliance with zoning regulations.**

The land area exposed by the extraction and removal of natural material or deposits shall be left suitable

for future use and development purposes in accordance with the final grading plan, and in accordance with any zoning regulations applicable thereto. New excavation shall be a permissible use only in a zoning district wherein such use is permissible.

(Code 1964, § 10-6)

**Cross References:** Zoning, Ch. 27.

### **Sec. 15-96. Warning signs.**

During the excavating operations, the premises shall be suitably posted with warning signs of such character and location as to warn the public concerning possible hazards.

(Code 1964, § 10-7)

**Cross References:** Signs and advertising, Ch. 22.

### **Sec. 15-97. Reserved.**

**Editors Note:** Section 1 of Ord. No. 1761, adopted Jan. 9, 1991, rescinded former § 15-97, which pertained to the angle of slope limitations, and derived from Code 1964, § 10-8.

### **Sec. 15-98. Construction requirements.**

(a) The grading, leveling and sloping of the final banks shall be on a progressive basis as the project develops and the excavation progresses.

(b) The limits of excavation shall be clearly defined by stakes set and maintained in the field.

(c) Dynamite shall not be used except in accordance with state regulations and this Code.

(d) The hours of operation should be limited to those provided for in section 16-3.

(e) A dust control method approved by the building department shall be implemented to minimize dust from all excavation access roads lying within five hundred (500) feet of a public highway or occupied residential area.

(Code 1964, § 10-9)

### **Sec. 15-99. Liability insurance.**

Every owner and/or operator of any excavation shall be insured against liability arising from any activities or operations incidental to excavation conducted pursuant to any permit or approval given for such excavation by the city. The insurance shall be so written as to indemnify and save harmless the city from any claims for damages arising from the operation and shall be as follows:

(1) The limits of public liability provided by such policy or policies shall be no less than five hundred thousand dollars (\$500,000.00) for injuries, including wrongful death, to any person, subject to the same limits for each person, and an amount not less than one million dollars (\$1,000,000.00) for damages on account of all occurrences.

(2) Property damage insurance shall carry liability limits for at least three hundred thousand dollars (\$300,000.00) for damage on account of any one (1) occurrence and one million dollars

(\$1,000,000.00) for damages on account of all occurrences.  
(Code 1964, § 10-10)

**Sec. 15-100. Completion or termination of excavation; requirements.**

(a) Upon completion of the project, the property shall be dressed up so that it will be left in a presentable condition.

(b) Whenever excavation operations on any property shall have been completed, abandoned or permanently discontinued, then all plants, buildings, structures, (except fences) and equipment shall be entirely removed from such property and all stockpiles, topsoil, refuse or waste materials shall be removed, redistributed on the premises or backfilled within the pit, within thirty (30) days after such completion.  
(Code 1964, § 10-11)

**DIVISION 2.**

**WATERWAY DREDGING**

**Sec. 15-101. Definitions.**

For the purpose of this division, "dredging" shall be defined as the unearthing, cleaning, deepening or widening of a tidal or non-tidal waterway through the act or condition of making a cavity, hole or trench by means of digging, stripping, hollowing out or removing soils or any other deposits in their natural state and location.  
(Ord. No. 2256, § 7, 7-25-2001)

**Sec. 15-102. Compliance required.**

This division shall not apply to the Plantation Acres Improvement District, or its successor, to the Old Plantation Water Control District or its successor, the South Florida Water Management District, the Army Corps of Engineers, Broward County, or to any other local governmental agency or entity. No other person or entity shall perform dredging within any area of the city without first complying with the provisions of this division.  
(Ord. No. 2256, § 7, 7-25-2001)

**Sec. 15-103. Permit requirements; renewals; fees.**

(a) Prior to commencement of any dredging as defined in this division, a permit shall be obtained from the building department of the city. The permit shall be valid for a period of one (1) calendar year and may be renewed for one-year periods at the discretion of the building official provided dredging has progressed in accordance with this division.

(b) Prior to issuing the permit, the applicant shall submit plans prepared in accordance with this division, showing in detail the work to be performed.

(c) Any dredging beyond the limits shown on the permit drawings shall be treated as new dredging

and a new permit shall be required.

(d) Dredging permit fees shall be as follows:

(1) Original permit fee--Fifty dollars (\$50.00);

(2) Renewal permit fee--Twenty-five dollars (\$25.00);

(e) Dredging inspections shall be charged at twenty dollars (\$20.00) per inspection.

(Ord. No. 2256, § 7, 7-25-2001)

#### **Sec. 15-104. Permit application; plan submission.**

Applications for original dredging permits shall be accompanied by detailed plans clearly identifying the work to be performed and shall include, but not necessarily be limited to, the following information:

(1) A site plan identifying boundaries of the property owned or controlled by the applicant and upon which dredging activities are proposed. Adjacent public right-of-way, dedicated easements, contiguous platted areas and any other property restrictions shall be included on the site plan;

(2) Cross-section details indicating design elevations for bottom depth, side slopes and top of berm or bank,

(3) A final grading plan indicating finish ground elevations of the land immediately surrounding the proposed area(s) to be dredged and all bordering streets or roadways.

(4) Upon completion of dredging operations, the applicant shall submit to the building official a topographic survey prepared by a Florida registered land surveyor and mapper showing elevations of all final dredging and adjacent land elevations at minimum one-hundred-foot intervals or as directed by the building official to adequately verify conformance with the permitted plans.

(5) Where dredging work is to be conducted in right-of-way owned or controlled by the City of Plantation, the Plantation Acres Improvement District, the Old Plantation Water Control District, the South Florida Water Management District, Broward County, or any other local or state agency or entity, consent of such government as evidenced by a permit or letter approval shall be required.

(Ord. No. 2256, § 7, 7-25-2001)

#### **Sec. 15-105. Performance bond.**

Except for a governmental entity dredging pursuant to its authority, an applicant for a permit under this article shall post a good and sufficient performance bond as established by the mayor guaranteeing the completion of all of the planned work in accordance with this chapter.

(Ord. No. 2256, § 7, 7-25-2001)

### **Sec. 15-106. Compliance with zoning regulations.**

The land area exposed by dredging operations shall be left suitable for future use and development purposes in accordance with the final grading plan and in accordance with any zoning regulations applicable thereto.

(Ord. No. 2256, § 7, 7-25-2001)

### **Sec. 15-107. Warning signs.**

Prior to commencement with dredging operations, the entire work area shall be properly secured and posted with warning signs of such character and location as to warn the public of possible hazards.

(Ord. No. 2256, § 7, 7-25-2001)

### **Sec. 15-108. Minimum construction standards and design criteria.**

It is understood that the specifications set forth below are general minimum specifications, and that special conditions may warrant special design and construction procedures and techniques. Thus, the city building official or city engineer may accept a letter of certification signed and sealed by a Florida registered professional engineer attesting that the dredging work meets the general standards of this section, though it does not meet all of the other technical standards of construction. In applying for and accepting dredging permits, the designing engineer and contractor agree that they shall be responsible to affected persons for any structural or functional failures created by a negligent design or negligent dredging operations. The city does not assume any responsibility for correcting or forcing the correction of any structural or functional failures; nor does the city, by issuing a construction permit, inspecting the construction or other act, assume any obligation or responsibility for the structural or functional failure, adequacy, or adverse consequence of any property affected.

- (1) Areas to be dredged shall be designed and constructed to be structurally sound and stable.
- (2) Dredging shall be designed with stabilized side slopes to minimize shoaling into the waterway. Native rock rip-rap, geotextiles or other suitable measures may be used subject to the regulations of other governing agencies. Stabilization shall extend along the side slopes to an elevation one foot minimum above the design mean low water (tidal) or seasonal water table (non-tidal)
- (3) Bottom elevations for tidal waterways shall be designed to a minimum five (5.0) feet below the established mean low water (MLW) elevation datum plane.
- (4) Bottom elevations for non-tidal waterways shall be designed using sound engineering principles to achieve the intended purpose. Unless special conditions warrant special design and construction procedures affecting waterway bottom depth, non-tidal waterways shall be designed with a minimum bottom depth of three (3) feet below the seasonal low water table elevation referenced to national geodetic vertical datum (NGVD). If dredging is part of a stormwater management system, bottom elevations shall be designed to comply with engineering department minimum design criteria and any governing outside agency criteria. Where criteria conflicts, the more stringent requirement shall apply.

- (5) For tidal waterways, side slopes shall not exceed three feet horizontal to one foot vertical (3:1).
- (6) For non-tidal waterways, side slopes shall not exceed three feet horizontal to one foot vertical (3:1) up to one (1) foot above the seasonal low water table elevation. From one (1) foot above the seasonal low water table elevation to top of bank, side slopes shall not exceed four feet horizontal to one foot vertical (4:1).
- (7) Channel dredging of side slopes shall be prohibited within ten (10) feet of adjacent or adjoining seawalls, with exception that the design engineer may submit a design with accompanying calculations and any other data as required by the city engineer or city building official for consideration that demonstrate special conditions warranting special design and construction procedures and techniques as provided for in this section which allow for a closer channel side slope dredge. This section will not prevent a dock access dredge from being effected if requested by the dock owner (the city engineer or city building official may permit a dock access dredge and may require a design engineer's certificate and dock/seawall owner hold harmless agreement).

(Ord. No. 2256, § 7, 7-25-2001)

#### **Sec. 15-109. Construction requirements.**

- (a) Final grading of side slopes shall proceed in a manner consistent with the progress of the development and as dredging operations progress.
- (b) The limits of dredging shall be defined by field staking or other approved methods and maintained until all work is completed.
- (c) Explosives of any sort shall not be used.
- (d) Dredging operations shall be limited to those hours provided for in section 16-3.
- (e) Dust and sedimentation control measures for all dredging operations must be submitted to the building department for approval prior to commencement with construction. Dust control shall be required for all portions of the project within five hundred (500) feet of a public roadway or occupied residential or business area.

(Ord. No. 2256, § 7, 7-25-2001)

#### **Sec. 15-110. Liability insurance.**

Every dredging operation contractor shall be insured against liability arising from any activities or operations incidental to dredging conducted pursuant to any permit or approval given by the city for such dredging operations. The insurance shall be so written as to list the City of Plantation and all other local governmental entities, agencies, or political subdivisions with an interest in the waterways being dredged as an additional insured as to any claims for damages for personal and bodily injury, death, and property damage arising from the dredging operation. The required limits and coverages of insurance shall be as follows or in such different types as is determined appropriate by the city risk management department:

- (1) The limits of commercial general liability insurance provided by such policy or policies shall be no less than one million dollars (\$1,000,000.00) for injuries, including wrongful death, to any person, subject to the same limits for each person each occurrence, and an amount not less than one million dollars (\$1,000,000.00) for damages on account of all property damage for each occurrence.

In the event the contractor will make use of watercraft and waterborne equipment to use for canal dredging and/or seawall repair, the commercial general liability policy must not exclude for bodily injury or property damage arising out of the ownership, maintenance, use or entrustment to others of any watercraft owned or operated by or rented or loaned to the contractor or any subcontractor, regardless of policy tier. Use includes operation and "loading or unloading". If the commercial general liability policy contains the aforesaid exclusion, the contractor shall provide a marine general liability policy covering all operations of the aforesaid watercraft and/or waterborne equipment with limits not less than one million dollars (\$1,000,000.00) for bodily injury or property damage.

- (2) Business auto liability with limits of one million dollars (\$1,000,000) each accident. Coverage must apply to "ANY AUTO".
- (3) Workers Compensation--Coverage A, Florida Statutory and Coverage B, Employers Liability at one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) by disease and one million dollars (\$1,000,000) disease policy aggregate. The city shall reserve the right to require coverage for benefits mandated by the United States Longshore & Harbor Workers Act (USL&H), if said act applies and therefore the coverage provided by the contractor, and any subcontractor regardless of the insurance tier, shall provide (USL&H) on at least "if any" basis. If the operation involves the use of tugs, then the workers compensation policy shall be amended to offer the Jones Act coverage to its crew.

All policies shall be underwritten by insurance companies licensed to do business in the state. Insurance carriers shall have a financial security rating of not less than A-IX by the latest edition of A.M. Best Rating Guide.

All policies should include an agreement to be primary with waiver of subrogation in favor of the additional insureds. Additional insured status would not apply to Workers Compensation. However, a waiver of subrogation would be required.

All insurance requirements imposed on the primary contractor shall be automatically imposed on any subcontractors used by the contractor, as a matter of contract between the primary contractor and subcontractor. (Ord. No. 2256, § 7, 7-25-2001)

#### **Sec. 15-111. Completion or termination of dredging; requirements.**

- (a) Upon completion of the project, the property shall be restored to existing or better conditions prior to construction.
- (b) Whenever dredging operations on any property have been completed, permanently discontinued

or abandoned, then all buildings, structures (except permanent fences) and equipment shall be entirely removed from the property. All stockpiles, topsoil, refuse, spoil or waste materials shall be removed, redistributed on the premises or backfilled within dredged areas within thirty (30) days after such completion, discontinuation or abandonment.

(Ord. No. 2256, § 7, 7-25-2001)

#### **Sec. 15-112. Jurisdiction.**

The building official and city engineer have jurisdiction to enforce each and every provision of this section. They may, from time to time, agree as between themselves which department of the city will handle application, plan review, inspections, etc., or they may do so concurrently.

(Ord. No. 2256, § 7, 7-25-2001)

#### **Secs. 15-113--15-115. Reserved.**

### **ARTICLE VI.**

#### **ACTIVITIES**

#### **Sec. 15-116. Fishing from bridges.**

It shall be unlawful for any person to fish from or under, or to loiter on or under, any bridge within the city.

(Code 1964, § 17-10)

**Cross References:** Offenses, Ch. 17; streets, sidewalks, bridges and other public places, Ch. 23.

#### **Sec. 15-117. Restriction on fishing in water bodies without permission from owner.**

It shall be unlawful for any person to fish from any lake, canal or waterway (or their banks) or other area without permission from the owner (or easement holder) of such lake, canal, or waterway (or their banks) or other area.

(Code 1964, § 17-10.01; Ord. No. 2293, § 3, 1-29-2003)

**Cross References:** Offenses, Ch. 17; zoning, Ch. 27.

#### **Sec. 15-118. Swimming, wading, bathing.**

It shall be unlawful for any person to swim, wade or bathe in the waters of any canals, lakes or rock pits located within the limits of the city.

(Code 1964, § 17-29)

**Cross References:** Offenses, Ch. 17; zoning, Ch. 27.