



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: October 23, 2013

SUBJECT: **ORDINANCE AMENDMENT – BOAT DOCKS AND MARINE STRUCTURES**

BACKGROUND

On December 18, 2012, the Planning Board voted to move forward, as the applicant, with an Ordinance Amendment proposing to remove boat dock/marine structures applications from the purview of the Planning Board. The proposed Ordinance was referred to the Planning Board by the Land Use and Development Committee on December 19, 2012.

On April 3, 2013 the Planning Board discussed the Ordinance and continued the matter to May 28, 2013, in order for the Ordinance to be revised to include boiler plate conditions imposed in previous applications. On May 28th, 2013, the Planning Board transmitted the attached Ordinance to the City Commission with a favorable recommendation.

On July 17th, 2013, the City Commission referred the subject Ordinance to the Land Use and Development Committee for further discussion and consideration.

ANALYSIS

Originally, the subject Ordinance proposed to transfer the regulatory authority of boat and dock projections from the Planning Board to the Marine Authority. After a discussion with the Marine Authority, however, it was concluded that a more appropriate avenue would be to remove the requirement for Board review of most projections altogether. The reason for this is that the authority of the County (DERM), as well as the State (DEP) entails a very high degree of regulatory review and analysis.

At the April 3, 2013 meeting, the majority of the Planning Board directed staff to revise the Ordinance, removing the transfer of authority to the Marine Authority, and to include boilerplate conditions from previous approvals within the Ordinance. The revised Ordinance contains these revisions.

Currently, the City Code limits such projections to more than ten (10%) percent of the width of a canal or waterway, up to a maximum of 40', and fifteen (15%) percent for those canals or waterways exceeding 100 feet in width, up to a maximum of 40'. Pursuant to Section 66-113 and Section 142-1132 (l) of the Code, the Planning Board reviews applications for docks, mooring piles, piers and related marine structures, which exceed the following thresholds:

- Any projection greater than 40' into a waterway or canal;
- An extension from a lot zoned for residential use into any part of Biscayne Bay or other waterway in excess of 1,000 feet in width, a distance no greater than 125 feet;
- An extension from a lot zoned for business use into Biscayne Bay or other waterways a distance not greater than 250 feet.

Staff believes that with the codification of certain design standards, the above noted additional projections could be approved administratively, subject to the review of all applicable County and State regulatory authorities. Staff would also suggest that the mooring of any type of vessel or watercraft be prohibited along either side of a walkway leading from the seawall to a boat dock.

Additionally, given the very successful impact that Conditional Use review has had on the portion of the Boat Show along Indian Creek, staff would further suggest that the Planning Board retain jurisdiction for marine structure projections adjacent to the WD-1 and WD-2 Waterway Districts. The City's Special Events Department is also in favor of continued Planning Board oversight of events such as this.

CONCLUSION

The Administration recommends that the Land Use Committee provide appropriate policy direction and refer the attached Ordinance to the City Commission, with a favorable recommendation.

JLM/JMJ/RGL/TRM
Attachment

BOAT DOCKS & MARINE STRUCTURES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 66, "MARINE STRUCTURES, FACILITIES AND VEHICLES," ARTICLE IV, "VESSELS," SECTION 66-113, "LIMITATION ON PROJECTION OF STRUCTURES; PUBLIC HEARING," AND CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," SECTION 142-1132, "ALLOWABLE ENCROACHMENTS WITHIN REQUIRED YARDS," MODIFYING THE PROCEDURES FOR APPROVAL OF DOCKS THAT EXTEND BEYOND THE PERMITTED DISTANCE INTO A WATERBODY; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Code provides for the regulation of docks, including limitations on the location and size of docks within the City, as permitted by State law; and

WHEREAS, the Planning Board, at its meeting dated December 18, 2012, by a vote of 7-0, has requested that the jurisdiction over approval of the distance that such docks may extend beyond that permitted in the City Code, which is provided for in section 66-113 generally at 40 feet, subject to other applicable provisions, be transferred from that Board to another Board; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 66, "Marine Structures, Facilities and Vehicles," Article IV, "Vessels," Section 66-113. - Limitation on projection of structures; public hearing" is hereby amended as follows:

Sec. 66-113. - Limitation on projection of structures; public hearing.

(a) Boat slips, docks, wharves, dolphin poles, mooring piles or structures of any kind shall not be constructed or erected that extend into any canal or waterway in the city more than ten percent of the width of such canal or waterway at a specific location measured from the seawall or property as shown by recorded plat line if no seawall exists; but if a canal or waterway is more than 100 feet in width, the structure may extend into such canal or waterway a distance not greater than 15 percent of the width of such canal or waterway at that specific location, but not to exceed a distance greater than 40 feet; ~~However, as provided in section 66-114 subsequent to conditional use process as provided in section 142-1132(f),~~ subject to the review and approval of the applicable state and county authorities, a dock, wharf, dolphin pole, mooring pile or other structure may extend from a lot zoned for residential use into any part of Biscayne Bay or other waterway in excess of 1,000 feet in width, a distance no greater than 125 feet and may extend from a lot zoned for business use into Biscayne Bay or other waterways a distance not greater than 250 feet. It is further provided that any boat, ship or vessel of any kind shall not be docked or moored so that its projection into the waterway would be

beyond the permissible projections for such docks, wharves, dolphin poles, mooring piles or other structures, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. ~~subsequent to conditional use process as provided in section 142-1132(l).~~ Notwithstanding the foregoing, in the event any a dock, wharf, dolphin pole, mooring pile or other structure is proposed to extend greater than 40 feet from a seawall adjacent to, or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with chapter 118, article IV of the City Code, shall also be required.

(b) Permits for erection of any of the above facilities must be obtained from the building division, the state internal improvement fund, if necessary, and if abutting navigable streams, the approval of the U.S. Corps of Engineers must be secured.

SECTION 2. that Chapter 142, "Zoning Districts And Regulations," Section 142-1132, "Allowable Encroachments Within Required Yards," is hereby amended as follows:

Sec. 142-1132. - Allowable encroachments within required yards.

* * *

(f) Marine structures. In all districts, seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half feet. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the county department of environmental resource management. If a dock or any kind of marine structure/equipment whether it is or is not attached to a dock projects more than 40 feet into the waterway or it extends beyond the maximum projection permitted under section 66-113, ~~it shall be a conditional use and reviewed by the planning board pursuant to chapter 118, article IV.~~ the review and approval of the applicable state and county authorities shall be required. In the event any dock, boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind are proposed to extend greater than 40 feet from a seawall adjacent to, or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with chapter 118, article IV of the City Code, shall also be required.

SECTION 3. Repealer.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 4. Codification.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to

accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2013.

MAYOR

ATTEST:

CITY CLERK

**APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION**

City Attorney

Date

First Reading: _____, 2013

Second Reading: _____, 2013

Verified by: _____
Richard G. Lorber, AICP, LEED AP
Acting Planning Director

Underscore denotes new language.

~~Strikethrough~~ denotes deleted language.