



**TOWN OF HIGHLAND BEACH
PROPOSED ORDINANCE**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, CONSOLIDATING AND UPDATING THE TOWN'S REGULATIONS FOR THE PROTECTION OF THE OCEAN RIDGE; AMENDING ARTICLE V, "SEAWALLS; BULKHEADS; RETAINING WALLS," OF CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-127, "CONSTRUCTION," TO REMOVE CONFLICTING REGULATIONS; AMENDING ARTICLE V, "NATURAL RESOURCES," OF CHAPTER 30, "ZONING CODE," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 30-83, "BULKHEADS, SEAWALLS, AND GROINS," TO CLARIFY AND UPDATE THE REGULATIONS APPLICABLE TO ALL CONSTRUCTION ACTIVITIES EAST OF STATE ROAD A1A; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Section 6-127 of the Town Code of Ordinances contains regulations that render certain lots within the Town unbuildable due to a prohibition against construction east of the Coastal Construction Control Line (CCCL) when such construction is regulated by the Florida Department of Environmental Protection (FDEP) and a seawall requirement that is inconsistent with FDEP rules and permitting standards; and

WHEREAS, as currently drafted, Section 6-127 of the Town Code supersedes all conflicting regulations, including the Zoning Code regulations enacted for the protection of the ocean ridge as set forth in Section 30-83 of the Town Code, which recognize FDEP's authority regarding the CCCL; and

WHEREAS, at the recommendation of Town Staff, the Town Commission wishes to repeal the portions of Section 6-127 addressing the protection of the ocean ridge and revise Section 30-83 to update the existing regulations to ensure compliance with both FDEP rules and regulations and the applicable floodplain regulations and ensure that any such construction activities address changes in elevation relative to adjacent properties; and

1 **WHEREAS**, the Town Commission determines that the revisions to Section 30-83 of the
2 Town Code of Ordinances are neither more restrictive nor more burdensome than the Town's existing
3 land development regulations and are consistent with the Town's comprehensive plan; and

4 **WHEREAS**, the Town Commission determines that the adoption of this Ordinance benefits
5 the health, safety, and welfare of the residents and taxpayers of the Town of Highland Beach.

6 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
7 **TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:**

8 **Section 1.** The foregoing facts and recitations contained in the preamble to this Ordinance
9 are hereby adopted and incorporated by reference as if fully set forth herein.

10 **Section 2.** The Town Commission hereby amends Article V, "Seawalls; Bulkheads;
11 Retaining Walls," of Chapter 6, "Buildings and Structures," by amending Section 6-127 read as follows
12 (additional language underlined and deleted language ~~stricken through~~):

13 **Sec. 6-127. Construction.**

14 (a) *Generally.* Whenever any property owner, including persons, firms, partnerships,
15 corporations or combinations thereof who has legal or equitable title in and to
16 real property situated within the town abutting or adjacent to any natural or
17 artificial canal, stream or other body of water desires to construct and/or erect
18 seawalls, bulkheads, retaining walls, revetments, rubble mound structures, groins
19 or other aggregate materials, the town manager shall, after receiving the
20 application, notify the planning board. The petitioner shall submit plans to the
21 building department. The planning board shall review the application as a special
22 exception, and shall either approve, approve with conditions, or deny the
23 application.

24 (b) *Location on Intracoastal Waterway.* The bulkhead line along all shores of the
25 Intracoastal Waterway within the town shall be coincident with the right-of-way
26 lines established for the Intracoastal Waterway, now of record in Plat Book 17,
27 of the county records, except in locations where existing walls or bulkheads are
28 located landward of such lines. In the latter case, the existing bulkheads shall be
29 deemed to be the bulkhead line or the extension thereof up to but not beyond the
30 right-of-way line of the Intracoastal Waterway in such manner as to produce the
31 greater advantage to the lands affected; provided, however, that in relating height

planes to bulkhead lines, the right-of-way line of the Intracoastal Waterway shall determine.

(c) *Approval required for groins and breakwaters.* In addition to the requirements for a special exception, no groin, breakwater or other similar obstruction shall be erected or constructed in the waters of the Atlantic Ocean unless approved by the planning board as being consistent with the peace, health, safety and welfare of the town, its inhabitants, and the owners of property abutting on the Atlantic Ocean, and with the approval of all federal, state and county agencies with jurisdiction over such construction activities.

(d) *Protection of ocean ridge.* Regulations for the protection of the ocean ridge are set forth in section 30-83(d) of this code.

~~(1) — No quantity of soil, sand or rock shall for any purpose be removed or moved from the natural ocean ridge within one hundred twenty (120) feet of the easterly survey line or the vegetation line (as established in subsection (d)(3) below), whichever lies the furthest west, in such manner or extent as to result in the lowering of the elevation of any portion of an east to west profile of such ocean ridge below elevation plus eighteen (+18.00) feet above mean sea level except for the purposes of constructing a seawall with elevation of not less than sixteen (16) feet or a swimming pool with deck elevation of not less than plus eighteen (+18.00) feet above mean sea level. Such seawall or swimming pool shall be constructed a minimum of fifty (50) feet west of the easterly survey line or the vegetation line, whichever lies the furthest west.~~

~~(2) — The exterior wall of any structure aboveground shall be constructed not less than fifty (50) feet west of the easterly survey line or the vegetation line, whichever line lies the furthest west. The foundations of such structures shall not be commenced until the contemplated seawall has been completed east of the proposed structure and approved by the building official. When such seawall has been completed, sand, soil and rock can be moved and removed below elevation plus eighteen (+18.00) feet above mean sea level; however, as a prerequisite to the issuance of a certificate of occupancy for a structure located on a plot where excavation~~

~~has been accomplished below elevation plus eighteen (+18.00) feet above mean sea level and east of State Road A1A, the final grade must be restored in the area of the ridge to a minimum of plus eighteen (+18.00) feet above mean sea level.~~

(3) ~~— The vegetation line referred to in this article shall be determined by visual inspection and set by the town engineer or other duly authorized individual at the time site or building plans are presented for preliminary or final approval, and such line shall be the eastward edge of a sustained, living and continuous beach vegetation line running in a straight line and approximately parallel to the easterly survey line.~~

(4) ~~— There shall be no removal of any soil, sand, rock or vegetation from any lot east of State Road A1A, except:~~

a. ~~— A permit shall have been issued for construction of a reinforced concrete seawall with a finished elevation of sixteen (16) feet above mean sea level.~~

b. ~~— This permit shall require drawings by an engineer licensed by the state and approved by the town engineer.~~

c. ~~— This permit shall be issued only upon a concurrent building permit for a permanent building west of the wall having been approved.~~

d. ~~— The wall shall be located at least fifty (50) feet west of the easterly survey line or the vegetation line, whichever lies furthest west along the entire width of the property.~~

e. ~~— In addition, no building permit for either a seawall or a building to be built on the ocean ridge between State Road A1A and the ocean shall be issued until the plans for such construction have been approved by the appropriate agencies of both the state and county.~~

f. ~~— When a seawall or any structure is to be erected, sheet piling must be driven to maintain the dune and the protective vegetation. Erection of the seawall must be to the west of the sheet piling.~~

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~~(5) — The foundation of the building shall not be commenced until the seawall has been completed and no part of the completed building shall extend above or easterly of the seawall.~~

~~(6) — The ground floor (containing apartments and/or public living areas) of all buildings and the final grade between buildings and between a building and the side property line shall in no case be less than eighteen (18) feet, and if the elevation of adjoining properties is higher than eighteen (18) feet the final grade shall be sloped up to such level or an adequately strong wall constructed to retain the higher grade of the adjoining property.~~

~~(7) — Where alignment of existing seawalls or structures makes it impractical to comply with the setback established by chapter 30 of this Code, the planning board, may authorize an adjustment of the wall to meet existing conditions, but in no event shall any part of the building extend east of the state coastal construction control line.~~

~~(8) — Basements for structures will be permitted west of the seawall as part of a structure for which seawall and building permits shall have been issued.~~

~~(9) — In the event of the construction of a building on the top of the ridge without first having erected a seawall, basements will be permitted only if they are at least one hundred twenty (120) feet west of the easterly survey line or vegetation line, whichever lies furthest west. The structure may follow the slope of the dune, but no excavating shall be permitted below eighteen (18) feet above mean sea level within one hundred twenty (120) feet west of the easterly survey line, or the vegetation line, whichever lies furthest west.~~

~~(10) — None or any of the above work shall be done or any permit for a seawall be issued without prior approval of the planning board.~~

(11 e) Beach cleaning vehicles. Beach cleaning vehicles shall be allowed on the beaches between low tide and mean high water vegetation line (littoral zone). Such vehicles shall be allowed west of the littoral zone only upon written consent of the owners. The written consent shall be on file in the town hall and a copy retained by the driver of the vehicle. Except for beach cleaning vehicles, no motorized or trailer equipment of any kind shall be permitted to operate on the beach east of a seawall in place or under construction without town commission

approval. In an emergency threatening life or property, the town manager or designee may give immediate approval for the use of emergency vehicles on the beach, to be followed up by other appropriate approvals within five (5) business days.

~~(12) — The terms and conditions of subsection (d), where in conflict with the provisions of any other chapter of this Code, shall take precedence.~~

Section 3. The Town Commission hereby amends Article V, “Natural Resources,” of Chapter 30, “Zoning,” by amending Section 30-83 to read as follows (additional language is underlined and deleted language ~~stricken through~~):

Sec. 30-83. - Bulkheads, seawalls, and groins.

(a) *Compliance.* All bulkheads, seawalls, groins, and similar structures shall comply with the requirements of this section.

(b) *Establishment of bulkhead line along the Intracoastal Waterway.* The bulkhead line along all shores of the Intracoastal Waterway within the town shall be coincident with the right-of-way lines established for the Intracoastal Waterway, as provided in Plat Book 17, Palm Beach County Records, except in locations where existing walls or bulkheads are located landward of said lines. In the latter case, the existing bulkheads shall be deemed to be the bulkhead line, or the extension thereof, up to but not beyond the right-of-way line of the Intracoastal Waterway in such manner as to produce the greatest advantage to the lands affected.

(c) *Approval required.* Bulkheads, seawalls, retaining walls, groins, breakwaters, and similar structures shall obtain approval as provided in this section.

(1) *Non-Atlantic Ocean.* A bulkhead, seawall, or retaining wall shall not be constructed in any water, canal, or lake, or on land abutting thereon, unless the following approvals, as applicable, have been obtained:

- a. U.S. Army Corps of Engineers;
- b. Florida Department of Environmental Protection;
- c. Palm Beach County; and
- d. other agencies as may be required.

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- (2) *Atlantic Ocean Improvements.* A groin, breakwater, or other similar improvement shall not be constructed in the waters of the Atlantic Ocean unless the following approvals, as applicable, have been obtained:
- a. Town commission;
 - b. U.S. Army Corps of Engineers;
 - c. Florida Department of Environmental Protection;
 - d. Palm Beach County; and
 - e. Other agencies as may be required.
- (d) *Protection of Ocean Ridge.* There shall be no removal of any soil, sand, rock, vegetation, or other related elements from any lot east of SR A1A except as provided below:
- (1) FDEP approval. Approval for the removal of such materials has been approved by the Florida Department of Environmental Protection (“FDEP”) through the issuance of a Coastal Construction Control Line (“CCCL”) permit pursuant to Chapter 161, Florida Statutes. ~~Town approval. Approval for the removal, as part of a seawall, retaining wall, or similar structure has been granted by the town.~~
 - (2) *Other approvals.* Approval for the removal of such materials has been obtained, as ~~applicable required~~, from the ~~Department of Environmental Protection~~, Palm Beach County, and other applicable federal, state, or local agencies.
 - (3) *Removal requirements.* The removal shall occur only in conjunction with the following:
 - a. A town building permit for permanent construction in the coastal area included within the coastal construction control line; and
 - b. ~~A building permit for construction of a reinforced concrete seawall with a finish elevation consistent with applicable state requirements~~ A town building permit and planning board approval for the construction of a seawall where a seawall is required by the FDEP CCCL permit and the seawall complies with the conditions of such permit. Where the FDEP CCCL

permit does not require a seawall, no seawall permit shall be required as a condition for the removal of such materials.

(4) *Construction limits.* ~~Construction shall not extend above or easterly of the seawall~~ Where a seawall has been permitted and constructed, no part of any building or structure shall extend above or easterly of the seawall. Where FDEP has authorized construction without a seawall, the eastern construction limit shall be as established by the FDEP CCCL permit.

(5) *Disturbance.* If the dune or coastal ridge is disturbed during construction, the final grade between a building and the side property line shall be restored to the natural elevation of adjoining properties. ~~However, the minimum elevation of the final grade shall be not less than eighteen (18) feet above mean sea level. In the event that the adjoining property is lower, some type of retaining construction shall be erected so as to prevent erosion and to keep surface runoff water within the property.~~

(e) *Exception.* Where alignment of existing seawalls or structures makes it impractical to comply with the provisions of this section, the town commission on advice from the planning board, may authorize an adjustment of the wall to meet existing conditions. ~~However, construction shall be consistent with coastal construction requirements established by the Department of Environmental Protection. A valid FDEP CCCL permit shall constitute a sufficient basis for approval under this section, subject to all applicable zoning requirements of this chapter.~~

(f) *Lowest floor.* The lowest floor of all buildings or structures shall comply with all applicable Florida Building Code requirements and the town's floodplain regulations.

(~~g~~ h) *Basements.* Basements shall be permitted subject to ~~the requirements of this section~~ to all applicable Florida Building Code requirements and the town's floodplain regulations.

(~~g~~ h) *Temporary barriers.* Before lot clearing can commence, a temporary barrier, such as a fence, shall be erected as required by the Department of Environmental Protection to preserve the integrity of the dune.

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Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. Sections 2 and 3 of the Ordinance shall be made a part of the Town Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

Section 7. Effective Date. This Ordinance shall be effective immediately upon adoption at second reading.

The foregoing Ordinance was moved by _____, seconded by _____ and upon being put to the vote, the vote was as follows:

Mayor Natasha Moore	_____
Vice Mayor David Stern	_____
Commissioner Judith Goldberg	_____
Commissioner Don Peters	_____
Commissioner Jason Chudnofsky	_____

PASSED on first reading at the Regular Commission meeting held on this _____ day of _____, 2026.

The foregoing Ordinance was moved by _____, seconded by _____ and upon being put to the vote, the vote was as follows:

Mayor Natasha Moore	_____
Vice Mayor David Stern	_____
Commissioner Judith Goldberg	_____
Commissioner Don Peters	_____
Commissioner Jason Chudnofsky	_____

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on this _____ day of _____, 2026.

Natasha Moore, Mayor

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1 ATTEST:

2 **REVIEWED FOR LEGAL SUFFICIENCY**

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6 _____ Leonard G. Rubin, Town Attorney

7 Town Clerk Town of Highland Beach