

ORDINANCE NO. 2023-0999

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 14, ENTITLED "BUILDINGS AND BUILDING REGULATIONS," ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 14-5. – STORAGE OF LP GAS, NO. 2 FUEL OIL AND DIESEL FUEL" TO PERMIT GASOLINE FUEL DELIVERY FOR BOATS DOCKED AT RESIDENTIAL PROPERTIES; AMENDING PERMIT AND INSURANCE REQUIREMENTS; PROVIDING FOR SAFETY REQUIREMENTS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Code currently permits the delivery of No. 2 fuel oil and diesel for boats or vessels at residential properties, but not gasoline deliveries for boats or vessels at residential properties;

WHEREAS, the City Commission has considered permitting the delivery of gasoline for boats or vessels at residential properties over several meetings; and,

WHEREAS, at its March 28, 2023, meeting, the City Commission forwarded the issue of permitting gasoline delivery for boats or vessels at residential properties to the City's Marine Advisory Board to review and provide recommendations to the City Commission; and,

WHEREAS, at its June 1, 2023, meeting, the City's Marine Advisory Board voted to recommend that the City Commission permit the delivery of gasoline for boats or vessels docked at residential properties and to update the current regulations for fuel deliveries to residential properties in the City's Code; and,

WHEREAS, the City Commission has considered the recommendations of the Marine Advisory Board, information from the City Administration including the City's Fire Chief, and public input, and finds it is in the best interest of the residents and citizens of the City to amend the City Code of Ordinances relating to the fuel delivery for boats or vessels docked at residential properties within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA:

Section 1: That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: Chapter 14, entitled "Buildings and Building Regulations," Article I, entitled "In General," Section 14-5, entitled "Storage of LP gas, No. 2 fuel oil and diesel fuel," is amended as set forth below:

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Sec. 14-5. – Storage of LP gas, No. 2 fuel oil and diesel fuel; bunkering at residential properties.

- (a) Only LP gas and No. 2 fuel oil that is to serve uses as described in subsection (b) may be stored upon property zoned for residential use.
- (b) The use of LP gas and No. 2 fuel oil shall be as follows:
 - (1) The use of LP gas is restricted to:
 - a. Heating any residential structure located on the property;
 - b. As a residential accessory for the heating of water in any pool or spa located on such property;
 - c. To power generators on the property for verifiable power outages only, and for testing purposes for such generators as provided in subsection (b)(4);
 - d. Ornamental lighting or fireplaces; or
 - e. Stoves, oven, water heaters, clothes dryers, barbecues, or similar appliances.
 - (2) The use of No. 2 fuel oil is restricted to:
 - a. Heating any residential structure located on the property;
 - b. As a residential accessory for the heating of water in any pool or spa located on such property.
 - (3) The use of diesel fuel is restricted to:
 - a. To exclusively power generators on the property for verifiable power outages only, and for testing purposes for such generators provided in subsection (b)(4) below.
 - (4) Generators are allowed to operate once a week for testing purposes only and shall not exceed 15 minutes per testing session or per manufacturers specifications. Generators shall be installed so as to be in compliance with the noise provisions of chapter 30, article III, of this Code.

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(c) No other flammable or combustible liquid such as gasoline, or kerosene may be stored on such property with the exception of that needed for maintenance of equipment, which shall be stored in authorized containers comprising of no more than a total of ten gallons, or as provided in subsection (e) of this section.

(d) LP gas, No. 2 fuel oil and diesel fuel shall be stored on residential properties as follows:

- (1) The container or containers storing LP gas shall not exceed the total capacity of 750 gallons, which shall be the maximum amount that may be stored on any one residential property, regardless of the number of residential lots that comprise such. Any LP gas tank that exceeds 100 gallons shall be installed underground, no closer than five feet from the nearest neighboring property line. No one tank shall exceed 500 gallons.
- (2) The container or containers storing No. 2 fuel oil and diesel fuel shall not exceed the capacity of 250 gallons, which shall be the maximum amount that may be stored on any one residential property, regardless of the number of residential lots that comprise such. All No. 2 fuel oil and diesel fuel tanks shall be double walled construction. If located above ground, no more than two containers shall be authorized on any residential property, the combined total capacity of which shall not exceed 250 gallons.
- (3) If stored above ground, all containers and fuel pumps for LP gas, No. 2 fuel oil and diesel fuel shall be completely shielded from view from the street or any canal adjacent to the location of such storage containers. All storage tanks, fuel pumps and the parts connected to the storage of such LP gas, No. 2 fuel oil and diesel fuel shall be properly anchored and otherwise comply with all of the provisions of such applicable building codes, safety codes and fire codes. No provision is allowed for transfer of any such fuel for any purpose other than as provided for in this section.
- (4) The property owner of any property on which an LP gas, No. 2 fuel oil and diesel fuel is installed underground shall be required to record notice of such installation, which shall include the location of the tank(s) on the property, in the public records of Broward County, Florida, prior to final inspection and approval of the installation by the city. If such tank(s) is/are removed, notice of such removal shall be immediately recorded in the public records of Broward County, Florida, by the property owner.

(e) With respect to this subsection, the term "bunkering" (which may be referred as fuel delivery) shall be defined as the transfer of No. 2 diesel fuel and/or gasoline from any truck ~~or tank trailer~~ to a boat or vessel at a residential property. The intent of this subsection is to provide regulations for the safe bunkering of boats or vessels at residential properties, for such boats or vessels usually moored at the property and not

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those boats that may be brought to the property for the purpose of bunkering. In order to allow residents to fuel delivered to their boats or vessels with No. 2 diesel fuel and/or gasoline from trucks ~~or tank trailers~~ directly into their boats or vessels at their residential properties in the city, the fueling of such boats or vessels may be authorized only upon compliance with all of the following provisions:

- (1) Bunkering shall occur only for boats or vessels located dockside, either in the water or on a lift above water, and for boats or vessels which are usually moored or docked at the property and not for vessels or boats brought to the property to receive No. 2 diesel fuel and/or gasoline and which are moored or docked elsewhere. No bunkering shall be permitted for boats or vessels on trailers or stored on a property on a surface other than water, or for boats or vessels rafting adjacent to a boat or vessel moored at a dock.
- (2) Bunkering shall be permitted only where a minimum of one hundred (100) gallons of No. 2 diesel fuel and/or gasoline are being delivered.
- (3) ~~(4)~~ Any person or entity engaged in bunkering within the City must obtain a permit in advance.
 - a. An application for permit for bunkering operations shall be completed filled and filed annually with the fire department of the city, and shall be subject to the final approval by the fire chief or designee. The form of application and required information will be determined by the fire chief or designee; provided that the applicant shall provide copies of all licenses and permits required by law to transport and deliver No. 2 diesel fuel and/or gasoline.

By applying for a permit for bunkering operations the applicant approves and authorizes the city's fire department to inspect any truck used in bunkering operations at any time, including the inspection of any and all equipment used or required to be used in such bunkering operations. The application fee for the permit for bunkering operations shall be as provided in Appendix A to this Code.
 - b. ~~a.~~ Each truck ~~or tank trailer~~ that is to be used to deliver No. 2 diesel fuel or gasoline, or both, in a bunkering operation within the city shall also be annually inspected by the city's fire department and receive a permit approved by the fire chief or designee of the city for each such vehicle each year. Each vehicle approved by the fire chief or designee and used for bunkering operations in the city shall openly display a decal issued by the city. The permit fee per vehicle shall be provided in Appendix A to this Code.

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c. All applicants for a permit for bunkering operations shall be required and provide evidence to the city's fire chief or designee that they belong to a spill containment organization for their delivery trucks in the event that a spill should occur, and the applicant shall remain a member of such spill containment organization at all times that it is engaged in bunkering operations within the city.
~~By applying for a permit for bunkering operations the applicant approves and authorizes the fire department of the city to inspect any truck or tank trailer used in bunkering operations at any time, including the inspection of any and all equipment used or required to be used in such bunkering operations.~~

d. The application for a permit for bunkering operations and the rules and regulations governing bunkering operations shall be those proposed by the fire chief of the city and approved by the city commission.

In the event of a spill of a fuel spill during bunkering operations, such spill shall be cleaned in accordance with the directions of the state department of environmental control and/or the U.S. Coast Guard and/or the fire chief of the city.

e. In order to guarantee the cleanup of No. 2 diesel fuel spills during bunkering operations, Bunkering operations shall require insurance required by this subsection (d):

1. The applicant for a permit for bunkering operations shall provide the city with a current certificate of insurance evidencing the policies in place that satisfy the minimum insurance requirements of this subsection (d). A holder of a bunkering operations permit shall be required to maintain the minimum insurance required by this subsection (d) at all times when engaging in bunkering operations within the city, and to ensure that the city's fire chief or designee is in possession of the current certificate of insurance evidencing the minimum insurance required by this subsection (d) while any bunkering operations permit is in effect.
2. The following shall be the minimum insurance coverage requirements for bunkering operations:
 - A. eComprehensive general liability coverage in the amount of \$1,000,000 each occurrence, \$2,000,000 general aggregate;
 - B. Automobile liability insurance of \$1,000,000 combined single limit; and,

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C. Umbrella liability of \$4,000,000.00 each occurrence and \$4,000,000.00 aggregate~~4,000,000.00~~300,000.00 single limits and personal property in the amount of ~~\$2,000,000.00~~50,000.00 which shall remain in effect at all times and shall be renewed annually. Notice of cancellation of all such policies shall be provided to the city. In the event of a spill of No. 2 diesel fuel, such spill shall be cleaned in accordance with the directions of the state department of environmental control and/or the U.S. Coast Guard and/or the fire chief of the city.

D. Proof of Workers Compensation insurance as may be required by law.

3. In the event of cancellation or expiration of the minimum insurance coverage required by this subsection (d) of a comprehensive general liability policy without overlapping coverage by another insurer, the holder of the bunkering operations permit may not deliver any further No. 2 diesel fuel and/or gasoline within the city limits until such time as a certificates of insurance evidencing existing coverages~~new comprehensive liability insurance policy~~ shall be delivered to the city. The city must be provided copies of all new or re-issued certificates of insurance for the insurance required by this section.

~~— In the event of a No. 2 diesel fuel spill, a new application for bunkering permit operations and inspection of all such company's vehicles delivering No. 2 diesel fuel in the city shall be required including all fees incident thereto.~~

(4) ~~(2) All applicants for a permit for bunkering operations shall be required and provide evidence to the fire chief of the city that they belong to a spill containment organization for their delivery trucks in the event that a spill should occur, and the applicant shall remain a member of such spill containment organization all times that it is engaged in bunkering operations within the city. In addition, all trucks used in bunkering operations within the city shall be required to carry onboard at all times an adequate supply of fuel spill kits and products to clean a minimum of ten (10)-fifty (50) gallons.~~

(5) All spills of 10 gallons or more of No. 2 diesel fuel and/or gasoline must be reported immediately to the city's fire department. In addition:

- a. such spill shall be cleaned in accordance with the directions of the state department of environmental control and/or the U.S. Coast Guard and/or the fire chief or designee.
- b. a new application for bunkering permit operations and inspection shall be required for all vehicles and equipment used for bunkering operations within the city by the company involved in the spill, including the payment of all applicable fees.

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(6) The property owner and the permitted bunkering operator~~applicant~~ performing the bunkering operations shall be responsible for any costs of ~~performing the bunkering operations shall be responsible for any costs of~~ cleaning up a ~~No. 2 diesel~~ any fuel spill of No. 2 diesel fuel or gasoline. ~~that may exceed the limits of any comprehensive general liability insurance policy provided above.~~

(7) No fuel other than No. 2 diesel fuel or gasoline may be delivered to boats or vessels docked at residential properties in the city.

(8) The maximum capacity of any truck permitted to be used to deliver No. 2 diesel fuel and/or gasoline to boats or vessels for the purpose of bunkering shall be 5000 gallons.

(9) ~~(3) Delivery of any fuel, nor may any No. 2 diesel fuel be delivered for use by any motor vehicles in the residential districts of the city is prohibited.~~

(10) Delivery of any fuel from boat or vessel to boat or vessel is prohibited.

(11) ~~(4) Any company operating under an authorized bunkering permit shall comply with all directives of the city's fire chief or designee as may be issued due to the inspection of any one or more of the truck~~stanks~~ or tank~~trailer~~s delivering No. 2 diesel fuel and/or gasoline.~~

(12) Receiving delivery of No. 2 diesel fuel and/or gasoline for boats or vessels from any company that lacks the required City permits and inspections for bunkering operations pursuant to this section is prohibited. A violation of this subsection may be enforced against a property owner pursuant to its code enforcement process.

(13) Violations by companies engaged in bunkering operations shall be enforced as follows:

- a. The fire chief shall have the authority to suspend a permit issued pursuant to this section should the fire chief determine that a permit holder has violated this section. An initial suspension may be for a period of no more than sixty (60) days. A second suspension may be for no more than one hundred and twenty (120) days. Regardless of whether the fire chief exercises the authority to suspend permits for an initial or second violation, if a third violation occurs, the permit shall be suspended for the remainder of the permit's validity, and a new permit may not be issued by the city for one calendar year from the date of the fire chief's determination of a third suspension. A permit holder may appeal a suspension by filing a request for an appeal with the city clerk no more than ten (10) days after receipt of the fire chief's written notification of suspension. The city's special magistrate shall consider the appeal at its next scheduled hearing date unless the applicant requests a later hearing. In any such appeal the appellant shall have the

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burden of demonstrating that no violation of this section occurred. A permit holder may not engage in bunkering operations in the city while an appeal is pending. In order to resume bunkering operations following a suspension, a permit holder must proceed through the permit application process for review and approval by the city's fire chief and pay a reinstatement fee as provided in Appendix A to this Code.

- b. In addition, by applying for a permit for bunkering operations the applicant agrees to be subject to fines for violations of this section that may be levied by the city's code enforcement board or code enforcement special magistrate, upon notice and hearing pursuant to the city's code enforcement process. Failure to comply with an order entered by the city's code enforcement board or code enforcement special magistrate shall result in an automatic suspension of a permit until such time as the order is complied.
- c. a. If a company is determined by the city to be engaged in bunkering operations without a city permit, the company shall be notified in writing and provided thirty (30) days to apply for a permit with the city. Any such application shall be subject to payment of double the application fee. The company may not engage in bunkering activities until the permit is issued. Should the company not timely apply for a permit, the company will be prohibited from obtaining a permit from the city for a period of two (2) calendar years.

(f) In the event of a conflict between the provisions of this section and regulations of the National Fire Protection Association (NFPA), the most restrictive regulation shall apply.

Section 3: All Ordinances and Resolutions or parts of Ordinances and Resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

Section 4: If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 5: It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Land Development Code and Ordinances of the City of Lighthouse Point, Florida.

Section 6: This Ordinance shall become effective upon passage and adoption.

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PASSED AND ADOPTED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THIS 1st DAY OF July, 2023.

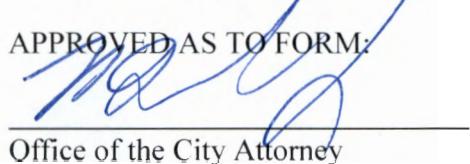
PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA THIS 8th DAY OF August, 2023.


Sandy Johnson, Commission President

ATTEST:


Kathryn Sims, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney

Commission President Sandy Johnson

Yes No Absent

Commission Vice President Michael S. Long

Commissioner Jason D. Joffe

Commissioner Everett Marshall III

Commissioner Patty Petrone