

ORDINANCE NO. 01-2021

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA AMENDING CHAPTER 21-WATERWAYS, ARTICLE II. DOCK AND PIER CONTROL OF THE CODE OF ORDINANCES OF THE TOWN OF JUPITER INLET COLONY, FLORIDA IN ORDER TO SUBSTANTIALLY AMEND SAID ARTICLE; BY AMENDING SECTION 21-16 IN ORDER TO ADD AND AMEND DEFINITIONS; BY AMENDING SECTION 21-18 IN ORDER TO AMEND LENGTH, WIDTH AND CONFIGURATION PROVISIONS AND TO REVISE EXHIBITS AND ILLUSTRATIVE SKETCHES; BY AMENDING SECTION 21-23 IN ORDER TO AMEND AND CLARIFY THE VARIANCE PROCEDURE; BY AMENDING SECTION 21-24 IN ORDER TO AMEND THE NONCONFORMING USE AND STRUCTURE PROVISIONS; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA, AS FOLLOWS:

SECTION 1. CHAPTER 21 WATERWAYS, Article II Dock and Pier Control, Sections 21-16 through 21-24, inclusive, of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida are hereby amended as follows:

Sec. 21-16. - Definitions.

The following words and phrases, when used in this Aarticle, shall have the meanings respectively ascribed to them:

Boatlift shall mean any structure used to store a vessel out of the water, including the lift structural elements and foundation piles.

Commercial dock means a dock or pier which is used to produce income and shall include any dock or pier not defined herein as a private dock.

Dock means a fixed or floating structure, including mooring piles, used for the purpose of berthing buoyant vessels either temporarily or indefinitely, or for a finite period.

Mean high-water means the average height of all daily the high-water heights over a nineteen-year period, or for shorter periods of observation, the average height of the high waters after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen-year value. Alternatively,

mean high-water may mean the average height of the high waters as established and accepted by the United States Army Corps of Engineers.

Mean high-water line means the intersection of the tidal plane of mean-high water with shore.

Mean low-water means the average height of ~~all daily~~-the low-water heights over a nineteen-year period, or for shorter periods of observation, the average height of the low waters after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen-year value. Alternatively, mean low-water may mean the average height of the low waters as established and accepted by the United States Army Corps of Engineers.

Mean low-water line means the intersection of the tidal plane of mean low-water with the shore.

Mooring piling means a post, pillar, piling or stake used for the purpose of berthing buoyant vessels either temporarily or indefinitely, or for a finite period, whether or not used in conjunction with a dock.

Pier means a fixed or floating structure, on or over submerged lands which is used primarily for fishing, swimming, or viewing the waterway. A pier shall not include a dock.

Private dock means a dock or pier which is used for the private leisure purposes of a resident of a single or multi-family dwelling unit located on a contiguous riparian parcel, and which does not produce income.

Submerged lands means lands lying in or below the public waters of the state waterward of the mean ~~high-water~~-high-water line.

Three-foot mean low water line means the line formed by the intersection of a plane three (3) feet below the tidal plane of mean low water with the shore.

~~*Waterway width* means, with respect to any dock or pier to which the measure applies, the straight line distance from the point at which the center line of the dock or pier intersects the mean high water line, measured to the nearest point on the mean low water line of the opposite shore of the waterway. A representative illustrative sketch depicting the manner of determining "waterway width" is on file in the clerk's office, and designated as Exhibit "A."~~

Sec. 21-17. - Scope.

This Aarticle shall apply within the public waters of the state comprising the Loxahatchee River and all creeks, canals or waterways or tributaries connected therewith, located within the geographical boundaries of the municipality lying eastward or downstream of the Florida East Coast Railway bridge over the Loxahatchee River at or near the Atlantic Intracoastal Waterway including Jupiter Inlet in Palm Beach County, Florida.

Sec. 21-18. - Length, width and configuration.

- (a) No dock or pier shall be constructed which extends waterward from the mean high-water line in excess of the least of the following distances:
- (1) Seventy-five (75) feet; or
 - (2) ~~Ten (10) percent of the waterway width; or~~
 - (32) The length authorized by both state and federal permit approvals. The distance from the point at which the dock or pier intersects the mean high water line measured in a straight line to the nearest point on the three foot mean low water line; provided, however, the foregoing limitation shall not prohibit a dock which does not extend waterward from the mean high water line in excess of six (6) feet.
- (b) No dock or pier shall be constructed with a maximum width in excess of ten (10) feet on either the access or terminal platform sections.
- (c) No dock or pier shall be located less than twenty-five (25) feet from the riparian rights line waterward extension of the an adjacent property line of any adjoining riparian property owner. For purposes of illustration of this subsection only, an illustrative sketch is ~~on file in the clerk's office, and designated as eExhibit "BA."~~ Any dock or pier shall be deemed to comply with this subsection if the waterward end of the center line of the dock or pier is equidistant from the nearest points at which the property lines of adjoining property owners intersect the mean high water line. For purposes of illustration only of this subsection, an illustrative sketch is on file in the clerk's office, and designated as exhibit "C."
- (d) Mooring pilings may not be located within ten (10) feet of the riparian rights line waterward extension of an adjacent property line of any adjoining riparian property owner, nor more than fifteen (15) feet waterward of a line of any dock used with the same riparian property. If more than one dock is used with the same property, the endpoint of the dock extending further from the mean ~~high water~~ high-water line shall be used. For the purpose of illustrating the provisions of this subsection, an illustrative sketch is ~~on file in the clerk's office, and designated as eExhibit "DB."~~
- (e) Boatlifts may not be located within ten (10) feet of the riparian rights line of an adjacent property, nor more than fifteen (15) feet waterward of a line of any dock used with the same riparian property. If more than one dock is used with the same property, the endpoint of the dock extending further from the mean high-water line shall be used. For purpose of illustrating the provisions of this subsection, an illustrative sketch is designated as Exhibit "B."
- (ef) All sections or areas of any dock or pier which intersect at any angle with the main portion of a dock or pier extending from the shoreline may not exceed a total combined length of twenty-five (25) feet, excluding the access pier. For the purpose of illustrating this subsection, an illustrative sketch is ~~on file in the clerk's office, and is designated as eExhibit "C E."~~

(fg) The total area of all docks and piers located on any riparian parcel shall not exceed five hundred (500) square feet.

(gh) No building or structure other than an approved dock or pier shall be permitted to be located waterward of the mean high-water line.

NOTE: Exhibits A-C are attached to this Ordinance and are specifically incorporated herein by reference.

Sec. 21-19. - Commercial docks prohibited.

No commercial docks shall be permitted within the area to which this article applies.

Sec. 21-20. - Boathouses and boat shelters restricted.

No boathouse or boat shelter shall be permitted to be located waterward of the mean ~~high-water~~ high-water line.

Sec. 21-21. - Parking of watercraft.

No person shall anchor, moor or park in a stationary position or cause or permit or allow any other person under his control or command, to anchor, moor or park in a stationary position any vessel or watercraft of any description used or capable of being used as a means of transportation on water, within the area to which this article applies for a period of time in excess of seventy-two (72) continuous hours during any consecutive thirty-day period, unless such vessel is located at a dock with the consent of the owner of such dock.

Sec. 21-22. - Discharges from vessels.

No person shall discharge or permit, or allow any other person on a vessel under his control or command, to discharge any human or animal excreta from any head, toilet or similar facility on any vessel, or throw, discharge, deposit or leave, or cause or permit to be thrown, discharged, deposited, or left from any vessel any refuse matter of any description into the waters located within the area to which this article applies.

Sec. 21-23. - Variances.

(a)Application(s) for variances and variance hearings shall be in accordance with the procedures established ~~by article II of chapter 22 in subsection (c).~~ However, no variance shall be granted unless such variance will not be contrary to the public interest, unless owing to special conditions, a literal enforcement of the provisions of this aArticle would result in unnecessary and undue hardship. In order to

authorize any variance from the terms of this aArticle, the Town eCommission must find with respect to the proposed project as follows:

- (1) No hazardous condition would be created;
- (2) The flow of water would not be impeded or interfered with;
- (3) No obstruction to navigation would occur;
- (4) It would not interfere with traditional public uses of the waterway, including but not limited to swimming, fishing or boating;
- (5) It would not create an appreciable obstruction of waterway views or would otherwise detract from aesthetic values;
- (6) It would not appreciably disrupt, interfere with, or disturb marine or benthic life;
- (7) It would not contribute to the pollution of the waterway or the degradation of its condition;
- (8) It would not interfere with the lawful rights of riparian owners;
- (9) It would be consistent with any other applicable laws, rules or plans.

(b) No variance shall be required from the Town Commission for proposed docks, piers and/or mooring pilings that are not in compliance with the provisions of Sections 21-18(c) and (d) of the Town Code; provided, the applicant has obtained a permit from the State of Florida Department of Environmental Protection (DEP), approval by the United States Army Corps of Engineers and the adjacent upland riparian owner(s) have signed a Letter of Concurrence for Setback Waiver in accordance with Section 18-21.004(3)(d) of the Florida Administrative Code consenting to the issuance of a setback variance.

(c) The following procedures shall apply to the filing and consideration of a variance by the Town Commission:

- (1) A request for a variance shall be commenced by the filing of an application with the Town. The filing fee shall be established by a Resolution of the Town Commission.
- (2) The application for variance shall be scheduled for hearing before the Town Commission.
- (3) No less than ten (10) days prior to the hearing before the Town Commission, the Town shall mail a Notice to adjacent upland riparian property owners advising of the variance application and the time and place of the hearing scheduled to consider the same.
- (4) The Town Commission shall consider the application for variance by utilizing the criteria set forth in subsection (a). The Town Commission may either grant, grant with conditions or deny the variance application.

Sec. 21-24. - Nonconforming uses and structures.

The use of any structure, land, dock or pier that does not conform to the requirements of this aArticle, to the extent it can be ~~said~~ shown to have existed prior to July 6, 1981 or has been constructed or installed in accordance with a permit issued by either the Town or the State of Florida Department of Environmental Protection, shall be ~~termed~~ deemed a legally nonconforming use or structure. Such nonconforming use or structure shall be allowed to continue subject to the requirements that any alteration, remodeling, or additions thereto shall ~~be such as~~ to conform with the provisions of this aArticle in all respects. ~~Upon~~ In the event the renovation, repair, destruction, or removal of any legally nonconforming use or structure, ~~when such action constitutes over~~ exceeds 50% of the value of the existing structure, ~~under this article shall thereafter require that then all~~ renovation, repair and replacement, subsequent structures or uses including docks, and piers, mooring piles or boatlifts, shall conform with the provisions of this Article. All ~~docks, piers, mooring pilings, boatlifts, commercial docks and private docks~~ constructed after July 6, 1981, shall be constructed in accordance herewith. Such ~~docks, piers, mooring pilings, boatlifts, commercial docks, or private docks~~ constructed after July 6, 1981, other than in the manner described herein shall be deemed to be nonconforming to this article. The commission shall be empowered to require the immediate ceasing and removal of such nonconforming construction upon notice in writing to the constructing party and adjacent landowner and, in the event of noncompliance with such notice, the commission shall be herewith empowered to make immediate application to the county circuit court for a temporary restraining order, temporary and permanent injunction and mandatory injunction to stop such nonconforming construction and to require the removal of such nonconforming structures already constructed in contravention to this article.

~~(b) Attorney's fees, costs and damages occasioned by construction or by action of the landowner at whose direction such construction was undertaken or continued shall be recoverable by the municipality in such litigation in such sums as are awarded by the county circuit court or by any other court having jurisdiction thereof, shall become a lien upon the land of the landowner causing such nonconforming use to be constructed, maintained or not removed after timely notice.~~

SECTION 2. Specific authority is hereby granted to codify and incorporate this Ordinance into the existing Code of Ordinances of the Town of Jupiter Inlet Colony, Florida.

SECTION 3. That all Ordinances or parts or Ordinances, 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 by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its passage and adoption.

FIRST READING this 12 day of April, 2021.

SECOND READING and FINAL PASSAGE this 10 day of May, 2021.

TOWN OF JUPITER INLET COLONY, FLORIDA

Mayor-Daniel J. Comerford, III

Vice-Mayor Milton J. Block

Commissioner Lisa H. Hines

ATTEST:

Commissioner Cynthia Keim

Town Clerk Jude M. Goudreau

Commissioner Richard D. Busto

EXHIBIT "A"

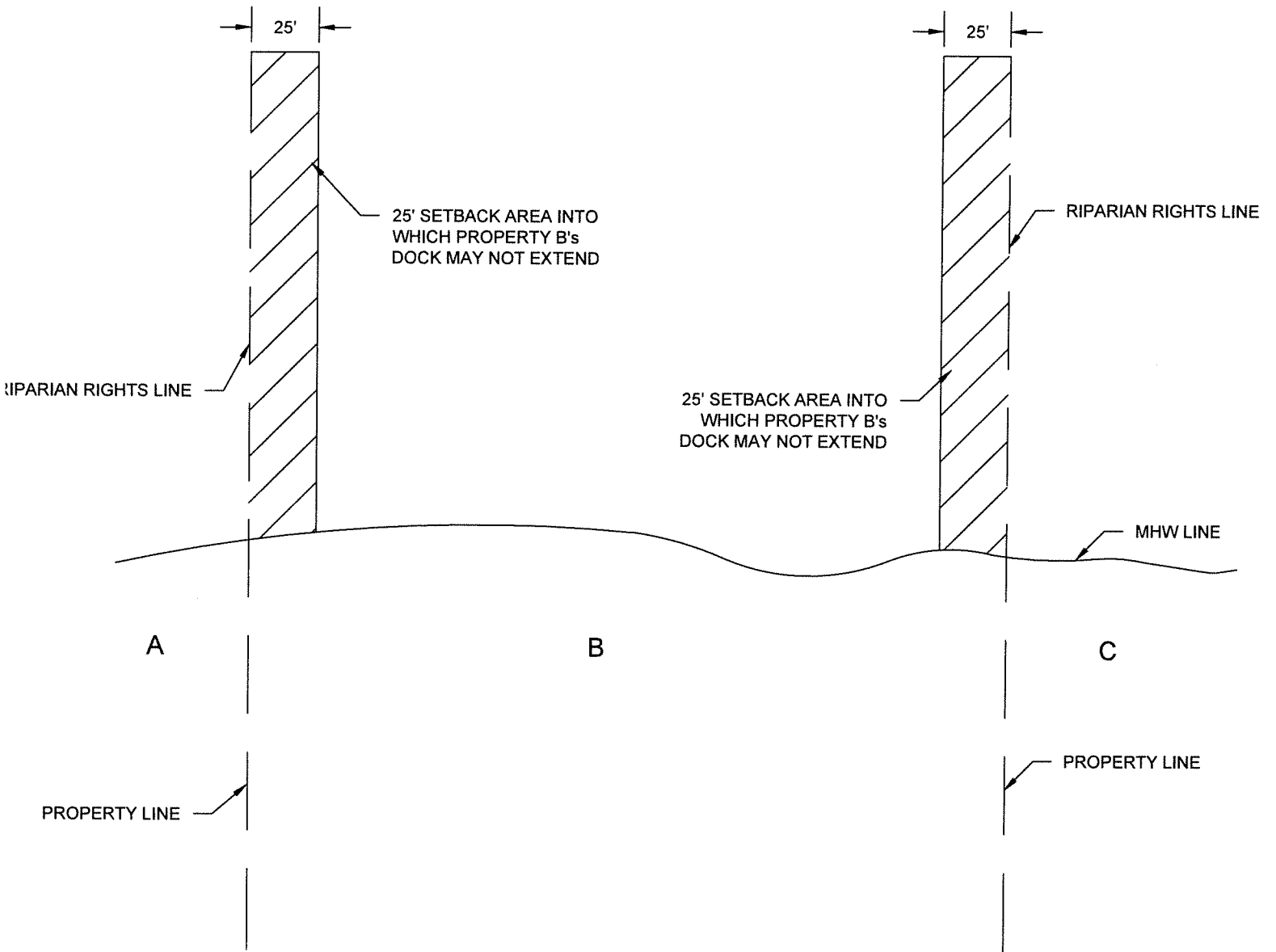


EXHIBIT "B"

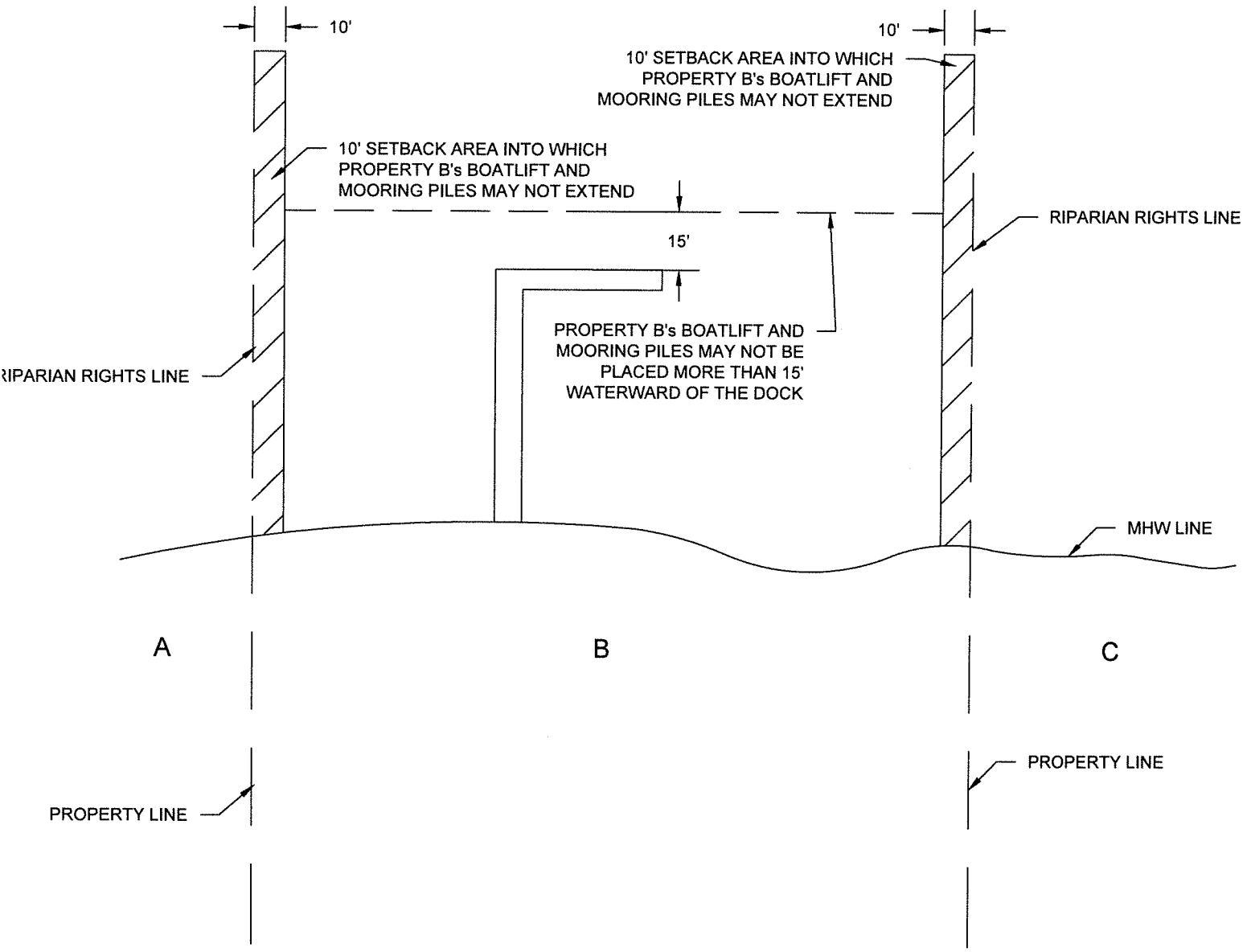


EXHIBIT "C"

