



**Town Commission
Jarvis Hall 4505 N. Ocean Drive**

Regular Town Commission

Regular Town Commission

Tuesday, January 25, 2022, 6:30 PM
Jarvis Hall 4505 N. Ocean Drive

1. CALL TO ORDER, MAYOR CHRIS VINCENT

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Rabbi Bentzion Singer

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

5. PRESENTATIONS

6. PUBLIC COMMENTS

7. PUBLIC SAFETY DISCUSSION

- 7.a. VFD December 2021 Report
[Agenda Cover.pdf](#)
[Ex. 1 - VFD December 2021 Report.pdf](#)

8. TOWN MANAGER REPORT

- 8.a. Town Manager Report for January 25, 2022
[Agenda Cover.pdf](#)
[Ex. 1 - United Way Letter.pdf](#)

9. TOWN ATTORNEY REPORT

10. APPROVAL OF MINUTES

11. CONSENT AGENDA

12. OLD BUSINESS

- 12.a. Downtown Discussion
[Agenda Cover .pdf](#)
[EX 1-Downtown Parking Zone Map.pdf](#)
- 12.b. Ocean Plaza
[1-25-22AM Ocean Plaza Final.pdf](#)
[Ex1 AM PROPOSED PLAZA USE POLICIES.pdf](#)
[Ex2 Minutes 2014-05-12 Special Workshop.pdf](#)
[Ex3 Reso 2014-18 adopting plaza policies 5 23-.pdf](#)

13. NEW BUSINESS

14. COMMISSIONER COMMENTS

15. ORDINANCES 1st Reading

- 15.a. ORDINANCE 2022-01: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN’S CODE OF ORDINANCES BY CREATING CHAPTER 9, "FLOOD PREVENTION AND CONTROL," ARTICLE XI, "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION" TO ESTABLISH TIDAL FLOOD PROTECTION AND BARRIER INFRASTRUCTURE STANDARDS THAT ACCOUNT FOR PROJECTED SEA LEVEL RISE, AND PROVIDE FOR ABATEMENT OF NUISANCE FLOODING AND REAL ESTATE SALE DISCLOSURES; PROVIDING FOR

SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

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[EX 1 2022-01 Tidal Sea Level Rise ORD 3K26976.pdf](#)

[EX 2-](#)

[ARTICLE XXV. __RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION](#)

[EX 3- BC_SeawallModelingStudy_Aug2018.pdf](#)

16. ORDINANCES 2nd Reading

- 16.a.** ORDINANCE 2021-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THESEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” SECTION 30-11, “DEFINITIONS” TO DEFINE “TOBACCO PARAPHERNALIA STORES;” AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE Or AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” SECTION 30-11, “DEFINITIONS” TO DEFINE “TOBACCO PARAPHERNALIA STORES;” AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

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[Ex 1-ORD 2021-10 B_uses_8.27.21_version WITH AMORTIZATION.pdf](#)

[EX 2-ORD 2021-10 B Uses Ordinance SECOND READING VERSION SLT 11.23.21.pdf](#)

[EX 3- Email Regarding Signage.pdf](#)

[Ex4 Photograaphs of Grateful J's.pdf](#)

[Ex5 Photograaphs of Holllywood Tobacco.pdf](#)

- 16.b.** ORDINANCE 2021-15 AN ORDINANCE OF THE TOWN OF LAUDERDALEBY-THE-SEA, FLORIDA, AMENDING CHAPTER 14 "OFFENSES," ARTICLE I "IN GENERAL," SECTION 14-33," "SALE OF NICOTINE VAPORIZERS OR LIQUID NICOTINE" TO CONFORM TO CHANGES IN STATE LAW, AND REQUIRING BUSINESSES SELLING TOBACCO PARAPHERNALIA TO CONCEAL THEIR INVENTORY FROM OUTSIDE OF THEIR PREMISES; AND PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

[Agenda Cover .pdf](#)

[Ex 1-Ord 2021-15 2021Nicotine Products Code Amend. -draft for 1st read 11.23.21-FINAL.pdf](#)

17. RESOLUTIONS “ PUBLIC COMMENTS

18. QUASI JUDICIAL PUBLIC HEARINGS

19. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES

NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted By: Chief Judson Hopping, VFD

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title: VFD December 2021 Report

Recommendation: Accept/Approve

Attachments: Ex.1 – VFD December 2021 Report



Lauderdale-By-The-Sea Volunteer Fire Department

Overview

During the month of December 2021, the Volunteer Fire Department continued its focus on fire prevention for high-rise buildings and commercial properties. There were 13 annual fire inspections: 3 re-inspections and no complaints.

Responses:

The Volunteer Fire Department responded to 51 fire rescue calls within the limits of our contract.

- Of the 44 emergency fire calls dispatched, there were 15 fire alarms, 2 fire/smoke investigations, 1 outside fire, 2 gas leaks, 2 electrical/utility fires, 4 vehicle accident w/injuries, 1 marine accident, 1 elevator rescue, 4 open water drownings, and 12 "other" fires.
- There were 106 medical 911 calls for December 2021. The department was dispatched to 15 of those calls, of which, 5 were canceled; E12 assisted 10 - M12/212 on 10 of them.

Training:

The Volunteer Fire Department had 9 Regular in-town, and 27 Associate out-of-town members for a total of 36 active members.

For the month of December, there were 3 fire drills, 2 D/E classes, 2 Ocean rescue drills, 10 fire inspections, and 2 car seat installations.

- 144 Hrs - Fire drills, & In-house D/E training
- 16 Hrs - Ocean Rescue training
- 69.5 Hrs - Annual High-Rise Fire Inspections
- 2 Hrs - Public Awareness; Car Seat Installation

A total of 231.5+ hours were spent in the month of December on training.

In closing, the Volunteer Fire Department will continue to improve and increase its members training, as required by ISO and established state training curriculums. We continue to recruit new members through the fire academies, our website, and local town events.

Respectfully,

Judson Hopping,
Fire Chief



Town of Lauderdale-By-The-Sea Fire Department Monthly Report December 2021

	Regular In - Town	Associate Out of Town
Active Member	9	27
Fire 1 non-certified	1	2
Fire 1 Certified	1	1
Fire II Certified	7	19
CPR/1 st Responder	5	11
EMT-B (FL)	2	10
Paramedic (FL)	2	6

Emergency 911 Calls

Fire/Rescue	44
Total Medical 911 calls	106
Medical calls V.F.D. Not Dispatched	91
Medical calls V.F.D. Dispatched	15
Medical calls Canceled by COD/M12	5
Medical calls V.F.D. provided care/assisted	10

Training

231.5+ Total Hrs.

Firefighter & In-house D/E training drills	144 Hrs
Ocean rescue maintenance/training drills	16 Hrs.
Annual High-Rise Fire Inspections	69.5 Hrs.
Public Awareness; Car Seat Installation	2 Hrs.

Station Hours

Firefighter Station Watch	1,687.75+ Hrs
Ocean Rescue patrol	109 Hrs
Chief on Duty/Command	744 Hrs

2,540.75+ Total Hrs.

LBTS Volunteer Fire Department - December 2021, Active Roster

Last Name	First Name	LBTS FF No.	Membership	*Town Resident	Rank	Fire Certifications	EMS Certification	MTD Calls	YTD Calls
Acevedo	Manuel	189639	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	1	4
Agostinone	Valentina	188744	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	6	13
Aubrey	Keith	163	Regular Member		Firefighter	Firefighter II	Paramedic (FL)	4	20
Benrubi	Aaron	173349	Associate Member		Driver Engineer	Firefighter II	Paramedic (FL)	7	16
Bias	Jonathan	81298	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	7	20
Bosco	Michael	171605	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	11	19
Cabrera	Ricardo	177336	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	10	13
Carlton	Ryan	186384	Associate Member		Lieutenant	Firefighter II	EMT-B (FL)	0	17
Cosenza	Vincent	169533	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	6	14
Cowles	James	186248	Regular Member	*	Firefighter	Firefighter I	CPR for healthcare provider	35	80
DeZayas	Mauricio	186553	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	0	0
Edouard	Myriam	708	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	6	16
Fixman	Daniella	190965	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	12	16
Frew	Jake	182810	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	6	11
Frew	Maria	174735	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	5	9
Hernandez	Rosa	190618	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	8	13
Hopping	Judson	054	Regular Member		Fire Chief	Firefighter II - D/E - Officer I	EMT-B (FL)	6	24
Horan	Sean	177190	Regular Member		Trainee	Trainee	CPR for healthcare provider	6	21
Kane	Mark	155	Associate Member		Captain	Firefighter II-D/E - Officer I	EMT-B (FL)	13	39
Ledezma, Jr.	Fabian	179295	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	3	11
Louvaris	John	078	Regular Member		Deputy Chief	Firefighter II-D/E - Officer II	CPR for healthcare provider	36	105
Maggard	Dylan	165765	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	5	13
Manjlin	Andrew	735	Associate Member		Driver Engineer	Firefighter II - D/E	Paramedic (FL)	2	11
Nemia	John	190426	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	3	20
Nunez	Christopher	191886	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	7	12
Obregon	Chelsea	192558	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	0	0
Paine	Kyle	173	Regular Member		Firefighter	Firefighter II	EMT-B (FL)	0	3
Paine	Riley	704	Regular Member		Battalion Chief	Firefighter II-D/E - Officer II	Paramedic (FL)	32	76
Paine	Stephen	140	Regular Member		Fire Marshal	Firefighter II	CPR for healthcare provider	21	37
Piper	Kyle	184815	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	4	13
Ritchey	Dylan	160895	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	5	7
Ruiz	Rodrigo	174946	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	5	14
Samler, Jr.	Thomas	187730	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	6	23
Silverstone	James	025	Regular Member	*	Driver Engineer	Firefighter II	CPR for healthcare provider	6	23
Stewart	Theodore	190140	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	1	12
Warden	Stephanie		Associate Member		Trainee	Trainee	CPR for healthcare provider	0	0

Monthly Activity Report - December 2021

Date	Fire/Rescue Calls	Event Description	Start Time	End Time	No. of FF
03-Dec-21	1438 South Ocean Blvd.	Accident w/injuries	10:56:00 AM	11:54:00 AM	7
03-Dec-21	1 Commercial Blvd.	Other fire - svc call missing pt on beach - found @hotel	4:18:00 PM	4:52:00 PM	5
05-Dec-21	4408 El Mar Drive	Drowning - DLE on scene children were safe	1:42:00 PM	1:50:00 PM	3
05-Dec-21	1 Commercial Blvd.	Other fire - svc call on the beach	1:50:00 PM	2:39:00 PM	3
05-Dec-21	1800 South Ocean Blvd.	Accident w/injuries - pedestrian hit by vehicle	6:48:00 PM	6:52:00 PM	3
05-Dec-21	1800 South Ocean Blvd.	Other fire - svc call	9:53:00 PM	10:25:00 PM	3
05-Dec-21	1800 South Ocean Blvd.	Other fire - washdown	10:51:00 PM	11:19:00 PM	3
06-Dec-21	4300 El Mar Drive	Other fire - svc call	12:35:00 PM	1:59:00 PM	5
06-Dec-21	250 Avalon Avenue	Other fire - svc call	2:40:00 PM	2:50:00 PM	5
06-Dec-21	1480 South Ocean Blvd.	Fire alarm	2:48:00 PM	3:02:00 PM	5
07-Dec-21	5200 North Ocean Blvd.	Fire alarm	10:08:00 AM	10:21:00 AM	5
07-Dec-21	4433 El Mar Drive	Gas leak	7:40:00 PM		6
08-Dec-21	234 Hibiscus Avenue	Electrical Utility fire	11:48:00 AM	12:31:00 PM	6
08-Dec-21	1900 South Ocean Blvd.	Fire alarm	6:03:00 PM	6:20:00 PM	6
09-Dec-21	4220 El Mar Drive	Fire alarm	7:22:00 AM	7:30:00 AM	6
10-Dec-21	5200 North Ocean Drive	Fire alarm	12:37:00 PM	1:13:00 PM	7
10-Dec-21	4600 El Mar Drive	Open water drowning - swimmer out of water - no medical needed	2:01:00 PM	2:14:00 PM	9
12-Dec-21	1779 South Ocean Blvd.	Other fire - svc call knock box	2:47:00 AM	3:12:00 AM	4
12-Dec-21	4540 North Ocean Drive	Elevator rescue	9:42:00 AM	9:56:00 AM	5
12-Dec-21	1 Commercial Blvd.	Other fire - svc call	4:37:00 PM	5:51:00 PM	4
12-Dec-21	4900 North Ocean Blvd.	Fire alarm, commercial structure	11:44:00 PM	12:03:00 AM	4
13-Dec-21	4318 El Mar Drive	Fire alarm	12:16:00 PM	1:50:00 PM	6
14-Dec-21	1501 South Ocean Blvd.	Fire alarm	8:19:00 AM	8:41:00 AM	5
16-Dec-21	4200 El Mar Drive	Open water drowning - missing pt found	10:52:00 AM	11:15:00 AM	5
16-Dec-21	299 E. Commercial Blvd.	Boat accident/intracoastal	4:01:00 PM	4:04:00 PM	6
18-Dec-21	6002 North Ocean Drive	Smoke investigation	10:35:00 PM	10:51:00 PM	6
19-Dec-21	4320 El Mar Drive	Fire alarm	3:57:00 PM	4:19:00 PM	3
19-Dec-21	6002 North Ocean Drive	Fire investigation	9:01:00 PM	9:22:00 PM	3
20-Dec-21	4013 North Ocean Drive	Electrical utility/fire	7:05:00 PM	7:20:00 PM	11
21-Dec-21	3900 North Ocean Drive	Fire alarm	1:48:00 AM	2:14:00 AM	6
21-Dec-21	5200 North Ocean Drive	Fire alarm	6:27:00 PM	6:41:00 PM	6
22-Dec-21	1 Commercial Blvd.	Accident w/injuries	10:29:00 AM	10:37:00 AM	6
22-Dec-21	1800 South Ocean Blvd.	Fire alarm	4:15:00 PM	4:31:00 PM	8
22-Dec-21	4504 Bougainvillea Drive	Outside fire	9:45:00 PM	9:47:00 PM	7
23-Dec-21	North Ocean Blvd.	Accident w/injuries	11:20:00 AM	12:04:00 PM	4
23-Dec-21	1216 Commercial Blvd.	Auto gas leak/odor	3:24:00 PM	4:40:00 PM	6
24-Dec-21	4900 North Ocean Blvd.	Fire alarm	9:02:00 AM	9:14:00 AM	5
24-Dec-21	1800 South Ocean Blvd.	Fire alarm	9:42:00 AM	10:07:00 AM	5
27-Dec-21	Washingtonian & Poinciana	Other fire - suspicious incident	12:30:00 PM	12:33:00 PM	5
28-Dec-21	4431 W. Tradewinds Ave.	Fire alarm	12:38:00 PM	12:54:00 PM	4
29-Dec-21	263 Commercial Blvd.	Other fire - animal bite	5:28:00 PM	6:08:00 PM	4
30-Dec-21	4050 North Ocean Drive	Other fire - svc call	4:56:00 AM	5:10:00 AM	5
30-Dec-21	4244 El Mar Drive	Drowning - OR212 assisted M12 w/ pt care & transport	11:19:00 AM	12:52:00 PM	6
31-Dec-21	2000 South Ocean Blvd.	Other fire - svc call; unable to open breaker panel to restore power	9:13:00 PM	9:25:00 PM	4
Total Calls				44	

Date	First Responder	Event Description	Start Time	End Time	No. of FF
01-Dec-21	Commercial Blvd.	medical, E12 on scene - M12 checked pt - no checking	8:49:00 PM	8:57:00 PM	9
03-Dec-21	North Ocean Drive	medical, E12 assisted M12	2:12:00 PM	2:22:00 PM	4
05-Dec-21	South Ocean Blvd.	medical, E12 canceled en route by M12	7:25:00 AM	8:25:00 AM	3
09-Dec-21	Hibiscus Avenue	medical, E12 assisted M12	11:46:00 AM	12:38:00 PM	4
12-Dec-21	North Ocean Drive	medical, E12 assisted M12	10:56:00 AM	11:35:00 AM	4
12-Dec-21	South Ocean Blvd.	medical, E12 assisted M12	10:11:00 PM	10:34:00 PM	4
17-Dec-21	South Ocean Blvd.	medical, E12 assisted M12	11:55:00 AM	12:14:00 PM	6
25-Dec-21	Imperial Lane	medical, E12 canceled by M12	7:17:00 AM	7:28:00 AM	3
26-Dec-21	North Ocean Blvd.	medical, OR212 assisted M12	4:39:00 PM	5:30:00 PM	2
26-Dec-21	Neptune Avenue	medical, E12 assisted M12	2:55:00 AM	3:09:00 AM	1
26-Dec-21	North Ocean Drive	medical, E12 assisted M12	9:58:00 PM	10:20:00 PM	3
28-Dec-21	North Ocean Drive	medical, E12 assisted M12	9:10:00 AM	9:38:00 AM	5
31-Dec-21	South Ocean Blvd.	medical, E12 assisted M12	2:50:00 PM	3:15:00 PM	3
31-Dec-21	South Ocean Blvd.	medical, E12 cleared by M12	3:49:00 PM	4:54:00 PM	3
31-Dec-21	South Ocean Blvd.	medical, B12 canceled en route M12	7:06:00 PM	7:12:00 PM	1
Total Calls				15	

Date	Public Service	Event Description	Start Time	End Time	No. of FF
01-Dec-21	Anglin Square at the Beach	Filled 20 barriers for town's Christmas By The Sea event	9:00:00 AM	11:30:00 AM	4
01-Dec-21	Station 12	Decorated tower ladder for town's Christmas By the Sea event	11:00:00 AM	5:00:00 PM	6
01-Dec-21	Anglin Square at the Beach	Christmas by the Sea town event w/santa	5:30:00 PM	10:00:00 PM	8
22-Dec-21	Station 12	Installed a rear facing car seat	11:30:00 AM	12:30:00 PM	1
24-Dec-21	various	Santa deliveries Christmas Eve	6:00:00 PM	9:00:00 PM	4
29-Dec-21	Station 12	Installed a rear facing car seat	12:00:00 PM	1:00:00 PM	1

Date	Public Service	Event Description	Start Time	End Time	No. of FF
01-Dec-21	Anglin Square at the Beach	Filled 20 barriers for town's Christmas By The Sea event	9:00:00 AM	11:30:00 AM	4
01-Dec-21	Station 12	Decorated tower ladder for town's Christmas By the Sea event	11:00:00 AM	5:00:00 PM	6
01-Dec-21	Anglin Square at the Beach	Christmas by the Sea town event w/Santa	5:30:00 PM	10:00:00 PM	8
22-Dec-21	Station 12	Installed a rear facing car seat	11:30:00 AM	12:30:00 PM	1
24-Dec-21	various	Santa deliveries Christmas Eve	6:00:00 PM	9:00:00 PM	4
29-Dec-21	Station 12	Installed a rear facing car seat	12:00:00 PM	1:00:00 PM	1

Date	Drill/Training	Event Description	Start Time	End Time	No. of FF
02-Dec-21	1850 South Ocean	Pre-planning fire inspection @Crane Crast	10:00:00 AM	12:00:00 PM	4
03-Dec-21	276 Commercial Blvd.	Pre-planning fire inspection @Benlhana's Restaurant	10:00:00 AM	12:30:00 PM	4
06-Dec-21	Station 12	Driver/engineer class; pumping	6:00:00 PM	10:00:00 PM	9
07-Dec-21	3900 North Ocean Drive	Pre-planning fire inspection @Fountain Head Condo	10:00:00 AM	12:30:00 PM	4
08-Dec-21	4608 El Mar Drive	Pre-planning fire inspection @White Cap Apts.	10:00:00 AM	11:00:00 AM	5
09-Dec-21	4316, 4318, & 4320 El Mar Drive	Pre-planning fire inspection @Orlana Condos	10:00:00 AM	1:00:00 PM	3
11-Dec-21	Station 12	vehicle mtg.	10:00:00 AM	12:00:00 PM	4
14-Dec-21	4300 El Mar Drive	Pre-planning fire inspection @Winter Colony	10:00:00 AM	11:00:00 AM	4
16-Dec-21	Station 12	Engine company ups; 2 story building fire attack/ forced entry & hose deployment	6:00:00 PM	10:00:00 PM	10
16-Dec-21	4228 El Mar Drive	Pre-planning fire inspection @El Mar Condo	10:00:00 AM	11:00:00 AM	4
16-Dec-21	Station 12	In-house D/E class w/Chief Caldero	6:00:00 PM	10:00:00 PM	2
17-Dec-21	4001 North Ocean Drive	Pre-planning fire inspection @Ocean Medical Center	10:00:00 AM	11:30:00 AM	4
18-Dec-21	Station 12	jetski/fuel cans	9:00:00 AM	11:00:00 AM	4
20-Dec-21	Station 12	Christmas tree demonstration & clean-up	6:00:00 PM	10:00:00 PM	13
27-Dec-21	Station 12	Ground ladders, equipment & 2 min. SCBA	6:00:00 PM	8:00:00 PM	4
28-Dec-21	1530 South Ocean Blvd.	Pre-planning fire inspection @Ocean East Condo	10:00:00 AM	11:30:00 AM	4
30-Dec-21	6000 North Ocean Blvd.	Pre-planning fire inspection @Starlite Tower condo	10:00:00 AM	11:30:00 AM	5

Date	Ocean Rescue	Event Description	Start Time	End Time	No. of FF
02-Dec-21	Beach	Ocean rescue patrol; 09-9:30a, 12-1p & 2-3p	12:00:00 PM	2:30:00 PM	2
03-Dec-21	Beach	Ocean rescue patrol; 9:00-9:30a, 12:30-1:30p & 3-4:30p	12:00:00 PM	3:00:00 PM	2
05-Dec-21	Beach	Ocean rescue patrol; 10-11a & 1:50p-2:50p	11:00:00 AM	12:15:00 PM	2
06-Dec-21	Beach	Ocean rescue patrol; 12:15-1:15p & 4-5p	3:30:00 PM	5:00:00 PM	2
07-Dec-21	Beach	Ocean rescue patrol; 9-10a, 2-3p & 4-5p	12:00:00 PM	3:00:00 PM	2
08-Dec-21	Beach	Ocean rescue patrol; 8:30-9a, 12:30-13:30p, & 3-4:30p	1:30:00 PM	4:30:00 PM	2
09-Dec-21	Beach	Ocean rescue patrol; 9-45-11a, 1:30-3:30p & 4:30-5:15p	11:00:00 AM	3:00:00 PM	2
10-Dec-21	Beach	Ocean rescue patrol; 9:30-10a & 4:30-5p	9:30:00 AM	10:30:00 AM	3
11-Dec-21	Beach	Ocean rescue patrol; 10-12n, 2:30-4p & 4:30-5p	10:00:00 AM	2:00:00 PM	2
12-Dec-21	Beach	Ocean rescue patrol; 11-12:30p, 4-5p	12:00:00 PM	2:30:00 PM	2
13-Dec-21	Beach	did not go out until 09:50-11a & 2:30-3:30p	11:00:00 AM	12:00:00 PM	4
14-Dec-21	Beach	Ocean rescue patrol	11:00:00 AM	3:00:00 PM	2
15-Dec-21	Beach	Ocean rescue patrol; 1:30-12n, 1-2p & 5-5:45p	11:00:00 AM	1:15:00 PM	2
16-Dec-21	Beach	Ocean rescue patrol; 9:30-10a & 3:30-4:30p	11:00:00 AM	12:30:00 PM	2
18-Dec-21	Beach	Ocean rescue patrol; 11-1:30p & 3-4:30p	11:00:00 AM	3:00:00 PM	2
19-Dec-21	Beach	Ocean rescue patrol; 9-10a, 10:45-11:45a, 1:30-2:30p & 4-5p	12:00:00 PM	4:00:00 PM	2
20-Dec-21	Beach	Ocean rescue patrol; 9:30-10:30 & 4-5p	9:30:00 AM	10:30:00 AM	4
21-Dec-21	Beach	Ocean rescue patrol; 9:45-11a	9:45:00 AM	11:00:00 AM	2
22-Dec-21	Beach	Ocean rescue patrol; 10-11a & 2-3:15p	11:30:00 AM	1:45:00 PM	2
26-Dec-21	Beach	Ocean rescue patrol; 10-11a & 4:45-5:45	10:00:00 AM	12:00:00 PM	2
31-Dec-21	Beach	Ocean rescue patrol; 10-11a, 12-1p & 4:30-5:30p	11:00:00 AM	2:00:00 PM	2

*Ocean Rescue patrol consist of checking poles/life rings, educating public on flags, rips currents & any fire related issued near or on the beach.

Unit Response Time 3- Month Average

Dec-21

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	48	51	0	4
Response Time	0:05:12	0:05:13	0:00:00	0:00:00

Total Average Response Time :

4:48

Nov-21

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	39	46	2	6
Response Time	0:05:39	0:05:41	0:00:00	0:00:00

Total Average Response Time :

4:36

Oct-21

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	25	33	3	4
Response Time	0:04:55	0:04:54	0:00:00	0:00:00

Total Average Response Time :

4:13



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted By: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Reports

Agenda Section: Town Manager Report

Subject Title: Town Manager Report for January 25, 2022

Explanation: Following is the Town Manager's report for January 25, 2022.

1. March 8th Town Commission Meeting Cancellation

The 1st regular Town Commission meeting in March is scheduled for Tuesday March 8th which is election day. Because Jarvis will be utilized for the election, the meeting will need to be cancelled. In the past, a special Commission Meeting has been held prior to the regular Commission meeting to verify election results and seat the new Commission.

Required Action: Cancel the March 8th Town Commission Meeting and set a Special Commission meeting on March 22nd for 6:00 p.m.

2. United Way of Broward County Mayors' Gala

The United Way will be holding their annual Mayors' Gala Event on Saturday April 30, 2022. In the past, we have donated \$2,000 to the event. Individual tickets are \$250. Another opportunity would be Auction sponsorship at \$5,000 provides four tickets and ½ page ad. The United Way is also requesting a gift contribution to be used as a prize for their silent auction. We will ask our local businesses if they are interested in contributing gift certificates to this cause.

Required Action: Provide staff direction regarding the donation.

3. Tennis Courts

In 2020, the Town restriped one of its tennis courts so that it could also be utilized for pickle ball. Our courts are popular and so we encourage players to review the rules for play. At a resident's suggestion, these rules are not only available by the courts, but they have also been sent to court key holders and are posted on the Town's website. Court key holders receive a copy of the rules when they purchase the key.

4. Sea Lord Annex Update

The Town has issued a Stop Work Order for rooftop or exterior work being done at 4132 Ocean Drive (Sea Lord Annex). This Order was issued because there were deviations between the approved plans and the structure under construction. Staff has met with the owner, architect and builder and they will submit revised elevations along with an updated narrative to explain the proposed modifications as well as the items that exceed the Code's height limitations. Town staff will review the submittal to determine compliance with the Town's Charter and will

determine if the determination is minor or major. Until such time, the construction on the property will be limited to interior work only.

5. Dancing By The Sea

Dancing By the Sea returns for its 8th season this Sunday January 23 with Danny Carter hosting free dance lessons in Connie Hoffmann Ocean Plaza from 5 - 7 PM. Danny and his DJ will be hosting dance classes on the 2nd and 4th Sunday of each month through May.

And don't forget - we are also hosting free morning yoga classes in El Prado Park from 7 - 8 AM on Tuesdays and Thursdays through April.

Attachments:

Ex. 1 - United Way Letter



January 11, 2022

Dear Linda,

United Way of Broward County is excited and honored to hold our annual Mayors' Gala Event on Saturday, April 30, 2022, with JM Family Enterprises and J M Lexus as Title Sponsors and Broward Health as Presenting Sponsor. Taking place at the Seminole Hard Rock Hotel & Casino and honoring 10 years of our Women United's Magnolias, this much-anticipated in-person event expects to draw 750 attendees, including business leaders, city officials and major corporations from South Florida. Proceeds from this charity gala will benefit our General Campaign.

We would like to invite you to be part of Mayors' Gala by contributing a gift that can be used as a prize for our silent auction – something that shows off the **BEST** of your city and why you are so proud of it. Do you hold events or have local tourist attractions for which you can provide tickets? How about outstanding restaurants, hotel stays, golf courses or fitness programs within your limits? Or maybe, it is your mayor who defines your city; can they spend a day with the prize winner to show how the city runs?

In exchange for your donation, your city will receive recognition at the gala and in the event journal, and your company logo on our website, on social media and in a special silent auction preview e-blast to 50,000 recipients. We will also go "live" online with the silent auction one week prior to the event to maximize fundraising and generate excitement.

We hope you will join in this wonderful opportunity to showcase your city and to UNITE our entire Broward County community. **Our deadline to receive the items is October 1, 2021.** For more information, please contact Joanne Lopez at 954-453-3743 or jlopez@unitedwaybroward.org.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Lopez".

Joanne Lopez
United Way of Broward County

Ansin Building | 1300 South Andrews Avenue | Fort Lauderdale, Florida 33316
UnitedWayBroward.org | 954.462.4850

A copy of the official registration and financial information may be obtained from the division of consumer services by calling 1-800-435-7532 within the state. Our registration number is CH536. Registration does not imply endorsement, approval or recommendation by the state. UWBC does not use paid solicitations and 100% of each contribution is received by UWBC.



UNITED WAY OF BROWARD COUNTY'S

TITLE SPONSOR



**JM Family
Enterprises**



JM LEXUS
YOUR **PLUS** DEALER

PRESENTING SPONSOR



BROWARD HEALTH

QUASAR SPONSOR



HOLLYWOOD, FL

THE MAYORS'

★ NEXTGEN UNITED ★



★ WOMEN UNITED ★

★ TOCQUEVILLE SOCIETY ★

SUPERSTARS <i>Sponsorship Opportunities</i>	SAPPHIRE \$15,000	TOPAZ \$10,000	RUBY \$5,000
Number of tables	1 VIP	1	1
Two VIP reception tickets	★		
Recognition from podium	★	★	
Recognition at event, and in all pre/post media	★	★	
Company logo on virtual invite	★	★	
Prominent placement of corporate name and/or logo in all event publications and publicity*	★	★	
Logo recognition on applicable event related E blasts, social media, event website, and signage	★	★	★
Full-page color ad in event program* (5" wide x 8" high)	★	★	★

STARBURSTS

Naming Sponsorships

Premier Entertainment Sponsor \$25,000
See Sapphire level recognition above

Beverage Sponsor \$10,000 Wine, Bubbly, Liquor, Beer 4 Tickets, ½ page Ad Topaz Recognition	Band Sponsor \$10,000 PRIVATE STOCK 4 Tickets, ½ page Ad Topaz Recognition
Cocktail Reception Sponsor \$7,500 Ruby Recognition The Southern Group - SOLD	Photo Booth Sponsor \$7,500 Custom Recognition JM Lexus - SOLD
Auction Sponsor \$5,000 4 Tickets, ½ page Ad Ruby Recognition	Auction Sponsor \$5,000 4 Tickets, ½ page Ad Ruby Recognition
Media Partner 4 Tickets, ½ page Ad Ruby Recognition	Social Media Partner 2 Tickets, ½ page Ad Ruby Recognition

★ **DONATE A STAR**
\$50 \$100 \$250 \$500

TICKETS
\$250 PER PERSON

**FOR MORE INFORMATION AND SPONSORSHIP OPPORTUNITIES,
CALL TONY HOPPER AT 954.453.3733 OR EMAIL THOPPER@UNITEDWAYBROWARD.ORG**

*Listings in promotional materials, press releases and program or subject to publication deadlines.
Camera ready digital art for all sponsors ads must be received no later than April 5, 2022



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted by: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Old Business

Agenda Section: OLD BUSINESS

Subject Title: Downtown Discussion

Explanation: In 2013, the Downtown area was redeveloped to increase the size of the sidewalks, add public plazas, and make the area more pedestrian friendly. Angled parking spaces were removed and replaced with parallel parking spaces. At the time, the businesses and general community were concerned about the reduction of parking spaces and whether the removal of the spaces would make the downtown less viable. Of course, this concern was unwarranted, and the Town's downtown area was transformed from a sleepy area filled with vacant storefronts to a vibrant area bustling with pedestrians who have a choice to dine from a variety of restaurants with sidewalk cafés.

In 2020, the world was faced with addressing the Covid-19 Pandemic. In an effort to prevent the spread of the virus, Broward County initially required restaurants to close on premise dining and eventually, allowed on premise dining but at a reduced indoor capacity. At that time, the Commission directed staff to block off selected parking spaces on A1A, Commercial Boulevard, and El Mar Drive and to allow restaurants to utilize this space for additional outdoor dining so that restaurants could meet the social distancing mandates and help prevent them from closing. As the pandemic has continued, outdoor dining remains extremely popular and the use of the parking spaces for additional outdoor sidewalk space was considered.

With the increased popularity of the outdoor dining, the Commission asked staff to explore what options are available to make the parking space reduction permanent. Steven Fett, one of the landscape architects of the original Downtown project, was hired to produce conceptual rendering of possible options for the downtown area. These were presented at the October 4, 2021, Commission Meeting. Feedback was provided by both the Commission and public. A second meeting was held on October 27, 2021, with the public meeting in small groups to review full scale plans and develop detailed recommendations reflecting the consensus at each table, each of which was then discussed in the larger group. These concepts ranged from temporary to permanent solutions with different features, including seating, lighting and landscaping. After this meeting, the following four options emerged.

- 1. Remove all parking spaces on Commercial Blvd., A1A, and the curbside spots along El Mar Drive.** This option would provide the most amount of space available for the expansion of the Town's sidewalks. However, it would also require the Town to eliminate 35 parking spaces, 5 of which are ADA/handicapped. In the downtown area, the Town has one public ADA spot in the El Mar parking lot. The only businesses in the area to have ADA parking are Aruba and the Pier. When redeveloping the buildings in the area, the redevelopment depended on the public

handicap parking spaces for compliance with ADA requirements. Without these public ADA spaces, each business would have to include at least one ADA parking space in their final design. The annual revenue at the new parking rate of \$3.00 per hour will yield on average \$12,000 per space annually. This option would result in an estimated annual reduction of \$420,000 in parking revenue.

This is not a valid option because the Town's ADA parking spaces ensure the downtown businesses are compliant with ADA parking requirements.

Alternatively, the Commission could consider removing all but the five ADA parking spaces that we have downtown to ensure compliance with ADA regulations. This option would have the largest impact to the parking fund, approximately \$180,000 annually, while still maintaining compliance.

It should be noted that ADA customers are provided with free parking for a maximum of three hours. Our ADA spaces are used regularly and there is not a significant reduction in the funds collected for these spaces.

2. **Remove parking spaces along Commercial Boulevard only.** This option would provide additional sidewalk area on Commercial Boulevard; however, it would not address the issue of back out parking which has been mentioned as a possible hazard to both vehicular and pedestrian traffic. Two ADA spaces would need to be relocated to El Mar Drive to maintain the existing number of handicap parking in the downtown area. This option would remove 14 parking spaces and result in an estimated reduction of \$168,000 in annual parking revenue. ADA parking for the downtown businesses would not be affected.
3. **Remove parking spaces along Commercial Blvd. and back out parking spaces on A1A north of Commercial Boulevard.** Taco Craft and Coast Boutique have expressed safety concerns related to the parking spaces in front of their business on A1A and support the removal of these spaces. The property owner fronting A1A to the south has requested to keep the back out spaces as the existing businesses are dependent on parking. This option allows for significant additional sidewalk area for public right-of-way and potential outdoor dining expansion, and it would maintain access to the businesses south of Commercial Blvd who have expressed interest in maintaining the back out parking due to the nature of their business. It would also maintain the use of parking spaces on El Mar Drive to relocate the handicap parking spaces. This option would eliminate 18 spaces, 3 of which are ADA spaces that would need to be relocated to El Mar Drive. Option 3 would result in an estimated reduction of \$216,000 in annual parking revenue. It should be noted that the removal of back out parking on A1A would be permanent as the current back out parking is grandfathered by FDOT as FDOT no longer allows back out parking on A1A.
4. **Maintain the original configuration of the right of way and remove the use of parking spaces for dining.** This would maintain the existing right-of-way area, the parking spaces would revert to use for public parking and restaurants would be limited to their original sidewalk café configuration. This option would not address the potential back out parking/traffic congestion issue. There would be no negative impact to the parking fund.

Some additional information that is relevant to the final decision includes:

1. **Parking Spaces:** The number of parking spaces in the downtown broken down by street are:

Commercial Boulevard (east of A1A) = 14
El Mar Drive (adjacent to sidewalks) = 14
A1A Parking (north of Commercial) = 4
A1A Parking (south of Commercial) = 5

2. At \$3.00/hour, the estimated revenue collected annually per parking space is \$12,000 based on historic experience.
3. The Town charges the restaurants \$18 per square foot for sidewalk café area. This fee for sidewalk cafés east of A1A was established in 2014. The Commission elected not to charge this rate for the sidewalk cafés or for the temporary use of the parking spaces during the pandemic. If this rate were applied to the conversion of the parking spaces, a redeveloped parking space would produce approximately \$3,250 in sidewalk café fees annually (27% of the parking revenue).
4. The Town currently has five ADA parking spots to serve the businesses in the downtown. These parking spots cannot be removed because they are necessary for the Downtown to be compliant with ADA requirements. Otherwise, there is only one ADA spot in the El Mar public parking lot. Aruba and the Pier are the only businesses that provide ADA parking spaces east of A1A. All other businesses would not be compliant with ADA parking requirements.
5. Back out parking on A1A cannot be replaced once it is removed because it violates state law and only exists now because it is grandfathered.
6. Existing pavers are stained and integrating the new pavers with the old may be tricky. The consultant will provide material suggestions if an option to remove parking spaces is selected.

Staff is seeking direction on which option the Commission would prefer. Once direction has been provided, staff will begin to develop a scope of work to bring back to the Commission for approval. This scope will include the development of a final design, construction drawings, options for materials to be used, and a cost estimate for the project.

The Commission allocated \$350,000 to the Downtown renovation in the FY22 Capital Fund. We are exploring the following options for funding the remaining costs of these options:

- We have initiated discussions with the MPO and Broward County to determine if Surtax funds would be available for this project and await a response.
- Another funding alternative would be to allocate the ARPA funds that the Town received for COVID projects. Staff is currently researching to see if this project is considered an eligible expense.
 - As a reminder, the Town's ARPA allocation was \$1.6 million for FY22, and we will receive the same amount in FY23. This year's ARPA allocation has been tentatively assigned to the Codrington Drive drainage project. However, Representative LaMarca has submitted Codrington for a direct appropriation from the State. If he is successful, the FY22 ARPA allocation will be available to be re-purposed.
 - Our FY23 ARPA fund allocation has not yet been assigned to a particular project and could be used if this project is an eligible expense.

- There is approximately \$5.5 million in the parking fund that could be used to support this project because the funds are unrestricted.
- There is also approximately \$6 million in the general fund that could be allocated.

Recommendation: Provide direction on which option the Commission would prefer.

Attachments:

Ex. 1 - Parking map

Reviewed by Town Attorney:

☒	Yes	☐	No
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PARKING LOTS

TOWN STAFF PARKING

EMPLOYEE PARKING

RESIDENTIAL PARKING

UNDER CONSTRUCTION

STREET PARKING

A1A

EL MAR DR

EL MAR LOT

212

213

214

215

216

217

218

219

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221

222

223

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208

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ATHENA
BY
THE
SEA

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102
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COUNTRY
HAM & EGGS

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113

OCEAN 101

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VILLAGE PUMP

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COMMERCIAL BLVD

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MULLIGANS

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BATHROOMS

ZONE 3



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted by: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Old Business

Agenda Section: Old Business

Subject Title: Ocean Plaza



Figure 1 – Ocean Plaza

Explanation: As discussed in the previous agenda memorandum, the downtown area was transformed in 2013 with the creation of the Ocean and Dune plazas and the widening of the sidewalks. Following the completion of this renovation, the then Town Manager Connie Hoffmann requested direction from the Commission to create policies for the use of the Ocean and Dune plazas at a Commission workshop meeting (**Exhibit 1** – Agenda memorandum, **Exhibit 2** – Meeting Minutes). In her words:

“Our intent is for these to be lively public spaces that are there, first and foremost, for the enjoyment of our residents and visitors...”

At the workshop, staff presented draft policies for the use of these plazas and the pavilion. These policies were later approved by the Commission at their May 27, 2014 meeting through the adoption of Resolution 2014-18 (**Exhibit 3**). The policies include the following:

- Town Businesses are limited to 4 rentals per year per business for events open to the general public.
- The fee for businesses is \$850 per day or night.
- Liability and liquor liability insurance is required as are indemnification agreements.
- Holiday use is not guaranteed.

- Town special events are given priority.

In 2020, the Commission decided to open the downtown parking areas for restaurant use to help offset the devastating impact that the COVID19 pandemic was having on businesses in the Town. In addition to the parking areas, the Commission authorized the adjacent restaurants' use of the Ocean Plaza for additional outdoor dining. In the early stages of the pandemic, both Aruba Beach Café and Anglin Café utilized this plaza for its patrons. When the initial restrictions were relaxed, Anglin Café decided not to use the plaza as their small restaurant only had outdoor seating and the plaza was inconvenient to serve.



Figure 2 – Aruba Beach Café utilizing Ocean Plaza

Aruba Beach Café's owner, Peggy Mohler, has asked the Commission to consider the restaurant's continued use of the Ocean Plaza. While this request is similar to the previous agenda item regarding the expansion of the sidewalks in the current parking areas, it is significantly different in that the request is to utilize public space instead of street right-of-way. For this reason, staff has prepared a separate agenda memorandum for this discussion by the Commission.

There are several options for the Commission's consideration:

1. Allow Aruba to continue to use Ocean Plaza as it is currently configured;
2. Allow a reduced area to be utilized by Aruba;
3. Limit the use of the Plaza to certain times of the year; or
4. Enforce Resolution 2014-18 and allow local businesses to use the plaza no more than 4 times a year.

Recommendation: Provide direction on which option the Commission would prefer. If the Commission agrees to allow the continued use of the Plaza in any configuration or time frame, staff suggests:

1. An annual fee be required for the use of the plaza;
2. The use be approved annually by the Commission; and
3. Similar requirements for insurances and liability be required for the restaurants utilizing the plaza.

Attachments:

- Ex. 1 May 12, 2014 Agenda Memorandum
- Ex. 2 May 12, 2014 Minutes
- Ex. 3 Resolution 2014-18

Reviewed by Town Attorney:

☒	Yes	☐	No
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Item No. _____

Agenda Item Memorandum

Administration

Department

Connie Hoffmann

Department Director

COMMISSION MEETING DATE - TIME	Deadline to Town Clerk
☒ May 12, 2014 – Workshop Meeting 6:00 PM	

SUBJECT TITLE: POLICIES FOR THE USE OF THE OCEAN AND DUNE PLAZAS

EXPLANATION: Commission direction is sought on policies that will govern the use of the new Ocean and Dune plazas by entities other than the Town. Staff's thinking is that we need to limit the commercial use of the plazas, at least through the rest of the fiscal year, until we get a sense of how much use they are going to receive by the general public and how the seasons affect the degree to which the public uses them.

So far we have only allowed three events in the two plazas. The first was the party Aruba threw to celebrate the completion of the plaza. The second was the Chamber of Commerce's Spring Arts & Crafts fair. Town staff and BSO both felt that use was too intense for the plazas and completely dominated the space, blocking views of the ocean. We would not recommend that the Arts & Craft Show be allowed to use both plazas in the future. The third event was the Easter morning service, which caused no problems.

Our intent is for these to be lively public spaces that are there, first and foremost, for the enjoyment of our residents and visitors. As the Commission is aware, the Town is sponsoring dance instruction on late Sunday afternoons twice monthly through May. We will be experimenting with other types of wholesome Town-sponsored entertainment in the plazas that is not designed to draw a large crowd, but is intended to add to the ambience of the Town and make Anglin's Square even more enjoyable. We envision doing some of this in the summer when the Village Grille and 101 Ocean have discontinued their entertainment.

We do think that allowing people who have a talent or skill that people general find interesting or amusing to "perform" in the plazas via licensing will help keep them lively. We seek the Commission's direction on that in the proposed policies.

For the most part, we would prohibit commercial sale of goods in the plazas.

We do not anticipate scheduling many events or activities under the pavilion. While it has the benefit of being a covered space, the boat benches are very heavy and not easily moved around or out of the pavilion to accommodate an event. In addition, we feel there should be a public spot where the public can sit and observe the ocean, even when events are going on around them.

Suggested policies and issues we seek input on are contained in the exhibit to this agenda item.

EXHIBIT: PROPOSED POLICIES FOR THE USE OF THE OCEAN & DUNE PLAZAS

Reviewed by Town Attorney

☒ Yes ☐ No

(The proposed policies.)

**LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
SPECIAL WORKSHOP
Jarvis Hall
4505 Ocean Drive
Monday, May 12, 2014
6:00 P.M.**

1. CALL TO ORDER—MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 6:00 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Town Attorney Susan L. Trevarthen, and Deputy Town Clerk Tedra Smith.

2. PUBLIC COMMENTS

Mayor Sasser opened the meeting to public comment.

Arthur Makenian, President of the Hillsboro Lighthouse Preservation Society, explained that this Society is a nonprofit volunteer organization dedicated to the care and maintenance of the Lighthouse. The Society was reaching out to the four surrounding cities and townships, including Lauderdale-By-The-Sea, for financial assistance in the amount of \$4,200 each.

John Boutin, owner of the Windjammer Resort, stated that “kite boards” should be included in the definition of watercraft, as they move at a very high speed. He also felt motorized vessels and competition between vendors could affect the relaxed atmosphere of the beach.

Bill Ciani, private citizen, stated that he hoped individuals will be able to launch watercraft within a designated area. He emphasized the importance of diving and water sport activity within the Town.

With no one else wishing to speak, Mayor Sasser closed the public comment portion of the meeting.

3. DISCUSSION ITEM

a. Prohibition of launching watercraft from the beach or operating watercraft from the watercraft prohibited zone (Connie Hoffmann, Town Manager)

Town Manager Connie Hoffmann recalled that the Commission had previously discussed amending Town Code to allow the launching of kayaks from the beach. At present, Code prohibits launching of any watercraft other than surfboards, skim boards,

or windsurfers, or operating any watercraft within the protected swimming area or within 300 ft. of the pier. This led to a wider discussion of watercraft, including rafts and paddleboards. Included in the Commissioners' backup materials are questions designed to provide direction for the Town Attorney and Town Staff in crafting prospective Code amendments.

Commissioner Brown suggested that the Code be simplified to allow any non-motorized watercraft to be launched from the beach, as he felt it is impossible to designate a specific launching area or control where people enter the beach. Vice Mayor Vincent agreed, stating that users of watercraft often police one another.

Commissioner Sokolow advised that the Town should use care in defining wind-powered watercraft, and asserted that he opposes launching motorized watercraft from the beach. Commissioner Dodd also felt care should be taken in defining powered watercraft, and concluded that corridors separating swimmers from watercraft could be designated so everyone may enjoy the ocean.

The Commissioners discussed the issue further, including whether or not there should be size limitations on watercraft. Mayor Sasser commented that he did not have an issue with watercraft such as kayaks, paddleboards, and wind-powered vessels.

Town Attorney Trevarthen confirmed that boat storage is not currently allowed on the beach, and that another statute prohibits aerial launching or landing of vehicles from the beach.

It was clarified that the Commission was in favor of allowing non-motorized watercraft to be launched from the beach. Town Manager Hoffmann asked if this meant launching would also be allowed near the pier.

The Commission further discussed the designation of launching sites for watercraft, noting that Code currently prohibits boats or other watercraft from being operated within 100 yards (300 ft.) north, south, or east of, or beneath, the pier. It was agreed that this distance would be maintained as a safety consideration. The requirement that watercraft be kept 100 ft. away from bathers would not be necessary, and it will remain unlawful to engage in kite surfing instruction on the beach.

b. Policies for the use of the Ocean and Dune Plazas (Connie Hoffmann, Town Manager)

Town Manager Hoffmann advised Staff has drafted proposed policies regarding the use of the new plazas downtown for the Commission's consideration. These policies would limit the number of times a given business could use the plazas within one year, define the types of events for which the plazas could be used, and set rental fees for plazas. Suggested policies and rental fees are included in the Commission's backup materials.

She noted the Commission was also being asked if they would like to require licensing for artistic or entertainment-oriented use of the Plazas. Such uses are currently prohibited as soliciting if the artist or performer is requesting payment for their activities. She noted that a caricature artist periodically shows up on weekends. A magician recently showed up and the people sitting in the plazas appeared to enjoy his show. He had been cautioned that he could perform and accept unsolicited gratuities but, under the code, he could not actively solicit payment. Town Manager Hoffmann explained that if the Town licenses these uses, some quality control could be exercised. If they do not require licensing, code enforcement became an issue. Right now, the Town was only taking action if the activity was causing a problem.

Commissioner Brown clarified that if allowing a business to rent one of the plazas meant that business could fence off or restrict public entry into the space for closed events, he would be opposed to it. He was, however, in favor of Town-sponsored events in the plazas that are open to the public. He suggested that this could begin on a trial basis in June and July, when the weekend musical events are not scheduled. Commissioner Sokolow agreed that the plazas should not be rented to private organizations or individuals, but maintained for the use of residents and visitors, with the possible exception of an event that could benefit the Town.

Mr. Ciani asked if the Town planned to take a position on artists performing or working in front of a local business, whether closed or open. Town Manager Hoffmann thought the artists could be licensed to operate within the two plazas rather than on the sidewalk.

Mayor Sasser observed that there was consensus among the Commissioners with respect to prohibiting private events. He asked to know the will of the Commission regarding moving the weekend musical events to the plazas from their current location. Commissioner Sokolow pointed out that while he did not oppose this, some events might wish to charge an admission fee, which could be difficult. He concluded that at least initially, this should be limited to a very few times per year.

Commissioner Brown did not agree, stating that he did not want to see restaurant and/or bar activity in the plazas. He reiterated that the plazas should remain open to the general public. He also recommended flexibility, as it may be necessary to modify policy over time. Mayor Sasser agreed that commercially-funded activities should be limited to a few times per year at first. Commissioner Dodd agreed that the plazas should be kept open to the general public, but advised he would not be in favor of moving the regular musical events to the plazas, as these spaces did not lend themselves easily to these events.

Town Attorney Trevarthen requested more feedback from the Commission regarding outside sponsorship of events, whether by nonprofits or by businesses. Mayor Sasser observed that in-Town businesses should be considered for sponsorship of plaza events, but did not feel this was appropriate for outside businesses. Commissioner

Sokolow agreed with this. Commissioner Brown felt that if the Town allowed private organizations to sponsor events in the public space, they should not distinguish between local and outside organizations.

Town Attorney Trevarthen recommended that regulations on the use of the plazas be strict in the beginning but become more flexible over time, as needed. She also advised that regulation should be based on clearly enforced rules rather than any arbitrary decisions. Town Manager Hoffmann agreed, noting that allowing businesses from other communities, which may compete with Town businesses, to rent the plazas would not be well-received.

It was noted that the definition of events open to the public may include allowing the public to purchase tickets. Mayor Sasser commented that the potential sale of tickets is a gray area, as this might involve cordoning off a portion of the plaza.

It was decided that at present, sponsored events in the plazas would be limited to in-Town businesses and/or nonprofit organizations, with the applications for use of the plazas to come before the Commission for approval for at least the first year. Outside nonprofit organizations would be allowed one event per year.

Commissioner Brown returned to the issue of regulating individual artists or performers who wish to work in the plazas, asking if these individuals would need to be licensed or even invited by the Town. He felt this would be a more likely use than business-sponsored events, due to the size of the plazas.

Vice Mayor Vincent asked if it would be legally possible to prohibit a performer or artist who is not soliciting money from working in the plazas. Town Attorney Trevarthen replied that no such performers have been prohibited or cited thus far, although it is not uncommon for municipalities to have procedures in place for doing so. She advised that any such procedures must be very objective, and that there are procedural models in other cities that the Town can look to for guidance. Circumstances would include issues such as obstruction, noise, safety, and similar considerations, or in the event of a performer who is actively soliciting money rather than accepting donations.

Commissioner Brown proposed hiring Town-sponsored entertainers and establishing a modest fund for this purpose. This could result in better-quality performances than unsolicited artists, as well as provide control over specific types of entertainment. Town Attorney Trevarthen agreed that this would allow the Commission the maximum amount of control and discretion over performers, although she noted that this could come with greater demand on Staff.

Commissioner Sokolow recommended charging nominal license fees to performers for a specific time period in order to find out what type of responses it generated; however, he was not in favor of the Town spending significant funds to bring entertainers to the plazas. Vice Mayor Vincent and Commissioner Dodd concurred with this suggestion.

Town Attorney Trevarthen noted that this would mean the Town has less discretionary control over the entertainment in the plazas.

Commissioner Brown expressed concern with controlling non-entertainers who dress in costumes, as this has been problematic in other cities and locations and can lead to "strong-arm" tactics from these individuals for donations. He stated that he was not averse to the Town occasionally soliciting entertainers, particularly when no events are planned elsewhere in the Town. His primary concern was that the Police be allowed to control situations that could get out of hand.

Commissioner Dodd noted that if these individuals are required to apply for licenses, Town Staff could distinguish between entertainers and more opportunistic behaviors. He concluded that if more control is needed, or if the quality of performances is not what the Town wishes to see, licensing could be withdrawn in favor of sponsorship at a later time.

c. Special Event Procedures and Fees (Connie Hoffmann, Town Manager)

Town Manager Hoffmann explained that the Town is receiving more and more applications for special events, which can be time-consuming and often require the input of a member of senior Town Staff. She pointed out that when an approved event is actually staged, we do not have a Special Events Coordinator position and no individual Staff member is tasked with ensuring that events are held properly. She noted that, for larger events, the Assistant Town Manager often comes up to check the set up on weekends. She noted that applications are often submitted late and site plans can lack sufficient information forcing staff to keep asking for more specificity or finally redoing the site plans themselves. With the volume of special events increasing, this is becoming a problem. She requested the Commission's permission to enforce the rules for event procedures and fees more stringently, as the current lack of discipline places a greater burden on Staff.

Town Manager Hoffmann continued that the present event fee is only \$100, even for large or ongoing events. While there is a benefit to the Town from some of these events, they often include a money-making aspect for the organizer as well. She noted that the backup materials present suggestions for modifying event fees. Finally, for better control and public safety, Staff recommended having the Town and the Broward Sheriff's Office (BSO) oversee the policing and security activities on public property rather than the event sponsor supervising the off duty police details. The business or sponsor would be asked to reimburse the Town for the cost of the additional police presence.

Mayor Sasser asked if this greater control would mean the Town assumes additional liability for the events. Town Attorney Trevarthen advised that she has not been previously involved in this process, but would explore this question further with the assistance of BSO, which has its own legal counsel.

Lauderdale-By-The-Sea
Town Commission Special Workshop
May 12, 2014

Commissioner Sokolow stated he was supportive of Staff's proposals regarding event applications and fees, provided that they allow sufficient notice that rules will be enforced and that fees will increase, particularly for applicants who may have become used to less stringency and lower fees.

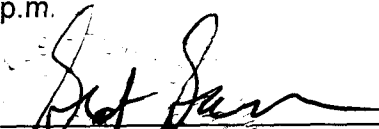
Mayor Sasser commented that the Town should keep regulations as simple as possible by enforcing the existing rules, and charging a higher fee for late applications. He agreed that fees should be based upon the size of the proposed events as well. Vice Mayor Vincent agreed, stating that following existing rules would be simpler than keeping track of overtime hours. He asserted that he was also in favor of the fee structure proposed in the backup materials.

The Commissioners agreed by consensus to double the fee for late applications in support of Town Staff. Mayor Sasser agreed that applicants should be advised that changes in fees, as well as adherence to the rules, are forthcoming.

Mayor Sasser concluded that from the present through Labor Day, ties would not be required at Town meetings.

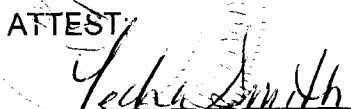
4. ADJOURNMENT

With no further business before the Commission, the workshop was adjourned at 8:24 p.m.



Mayor Scot Sasser

ATTEST:



Town Clerk Tedra Smith

10/24/14

Date

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**A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, ADOPTING POLICIES FOR THE USE
OF THE OCEAN AND DUNE PLAZAS AND THE BEACH
PAVILION BY ENTITIES OTHER THAN THE TOWN;
PROVIDING FOR CONFLICT AND FOR AN EFFECTIVE
DATE.**

WHEREAS, the Town Commission of the Town of Lauderdale-By-The-Sea (“Town”) desires to establish policies governing the use of the newly constructed Ocean and Dune Plazas in the two easternmost blocks of Commercial Boulevard by others, and for those policies to also apply to the Beach Pavilion at the eastern end of Commercial Boulevard; and

WHEREAS, the Town Commission finds that the policies, attached as Exhibit A, are the minimum necessary to assure that the use of these important public spaces is consistent with the purposes for which they were designed and constructed, is compatible with surrounding uses, and is in the best interest of the Town, its residents and visitors, and that the costs associated with such use are borne by the users.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA THAT:

SECTION 1. Recitals. The foregoing "WHEREAS" clauses are true and correct and hereby ratified and confirmed by the Town Commission and incorporated herein.

SECTION 2. Adoption of Policies. The Town Commission hereby adopts the “Policies For Use of the Ocean and Dune Plazas & The Pavilion By Entities Other Than The Town,” attached hereto as Exhibit A.

SECTION 3. Conflicts. All Resolutions or parts of Resolutions in conflict herewith, be it hereby declared null and void, and the same are repealed to the extent of such conflict.

SECTION 4. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, this 27th day of May, 2014.

MAYOR SCOT SASSER

ATTEST:

Acting Town Clerk Gerald Bryan

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

**POLICIES FOR USE OF THE OCEAN AND DUNE PLAZAS & THE PAVILION
BY ENTITIES OTHER THAN THE TOWN**

General philosophy: The beach pavilion, the Ocean Plaza, and the Dune Plaza are the premier public spaces in Town and were built for the enjoyment of our residents and visitors. They should therefore only be used for events that are open to the general public or are of significant benefit to the Town. The Town should collect fees and costs so that users bear the costs related to their events, rather than covering those costs from the Town's general fund.

The following policies and fees shall govern the use of the plazas and the Pavilion:

1. *Eligible users.* Use of the plaza for events open to the general public, shall be limited to:
 - a. Town commercial businesses (limited to 4 rentals per year per business)
 - b. Town-based non-profit organizations (limited to 2 rentals per year per organization)
 - c. Out of Town 501C Registered Non-Profit Organizations (limited to 1 rental per organization per year).
 - d. The plazas and pavilion will not be rented for events that are not open to the general public, although it is understood that there may be uses that require an admission fee or cost to the public.
 - e. The Town Commission may authorize the private use of the plazas by any user for an event that is deemed to be of significant benefit to the Town. (Example: a party hosted by the Town and the Convention & Visitors' Bureau whose purpose is to showcase the Town to visiting travel agents or dignitaries).
2. *Fees and costs.*
 - a. A rental fee will be charged for all such uses. The rental structure for events that are open to the general public shall be :
 - i. Town commercial business use - \$850 per day or per night
 - ii. Town-based non-profit organization - \$215 per day or night
 - iii. Out of Town 501C Registered Non-Profit Organization - \$425 per day or night
 - b. The rental fees above are per plaza. If an organization wants to utilize both plazas for their event, they must pay rent for each plaza.
 - c. Use of the plazas as part of a larger special event shall be subject to these rental fees, in addition to the special event permit fee.
 - d. The Town Manager shall estimate the cost of Town and BSO staff to service the event, and set an additional deposit that the renter must pay upfront.
 - e. If food and beverages are to be served, the deposit shall include a pressure washing fee.
 - f. Renters will be required in their rental agreement to clean up the plazas immediately after their use, pay all fees, pay the cost of any damage they do to the Town's property, and pay for all Town & BSO costs directly associated with the event. If such costs exceed the upfront payment for those services, the renter must reimburse the Town for the difference.

3. *Insurance.* Renters must provide liability insurance (and liquor liability insurance if liquor is being served in amounts set by the Town Manager) and execute indemnification agreements with the Town in a form acceptable to the Town Attorney.
4. *Potential use on holidays.*
 - a. The Town Commission will decide if they wish to make the plazas available for use of Town commercial businesses or Town-based non-profit organizations on specific holidays. Non-profit organizations that are not based in LBTS may not rent the plazas on holidays.
 - b. On those holidays the Commission designates, the Town will accept proposals for use six months in advance of the holiday and determine which proposals best fit the image and goals of the Town. After the Commission ranks the proposals in preferred order, staff will negotiate rental fees with the first ranked proposer and bring them back to the Commission for approval.
 - c. The same business or non-profit organization may not rent the same plaza on a specific holiday two years in a row if another business or non-profit wants the opportunity. The Town Manager shall determine whether others are interested in the opportunity, based on whether she or he has received written notice of such interest from an eligible business or organization no later than seven months prior to the holiday.
5. *Use on the same day as a special event.* Rentals will not be considered on days or evenings of Special Events with which they would interfere or conflict.
6. *Sales.* There shall be no sales of manufactured products (excluding food products) in the plazas during these events. Only hand-made artisan products may be sold in connection with such a rental. However, manufactured goods may be auctioned or sold at a charity event in the plaza. This restriction does not apply to the sale of food or food products.
7. *Cancellation for Town-sponsored event.* The Town reserves the right to cancel the rental up to 90 days in advance if the Town Commission decides to hold a Town-sponsored event in the plaza on that same date.



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted By: Jhanelle Campbell, Development Services Director

Submitting Department: Development Services

Item Type: Ordinances

Agenda Section: Ordinances- 1st Reading

Subject Title: ORDINANCE 2022-01 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY CREATING CHAPTER 9, "FLOOD PREVENTION AND CONTROL," ARTICLE XI, "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION" TO ESTABLISH TIDAL FLOOD PROTECTION AND BARRIER INFRASTRUCTURE STANDARDS THAT ACCOUNT FOR PROJECTED SEA LEVEL RISE, AND PROVIDE FOR ABATEMENT OF NUISANCE FLOODING AND REAL ESTATE SALE DISCLOSURES; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (**Exhibit 1**)

Explanation: On March 31, 2020, Broward County (the "County") Board of Commissioners adopted an ordinance establishing Article XXV "Resiliency Standards for Tidal Flood Protection" in the County Code of Ordinances (**Exhibit 2**). This Article requires affected municipalities, including Lauderdale-By-The-Sea, to adopt regionally consistent minimum standards and provides a basis for resilience investments across the County. The County's code serves as the model code and is the minimum requirement that the Town can approve and maintain compliance with the County's regulations.

The regional standard established by the County was informed by technical work undertaken with support from the U.S. Army Corps of Engineers (USACE) as part of the joint Broward County/USACE Flood Risk Management Study for Tidally Influenced Coastal Areas authorized under the Planning Assistance for States Program (**Exhibit 3**). These standards were first adopted in January 2020 in the County land use plan. Policy 2.21.7 of the County land use plan applies to all tidally influenced properties within the County. This policy states:

POLICY 2.21.7 In order to ensure coordination, consistency and maximum effectiveness of improvements necessary to mitigate high tide flooding associated with realized and additional sea level rise through the year 2070, tidally-influenced municipalities shall adopt within 24-months of the effective date of this Policy (February 13, 2020), regionally consistent top elevations for seawalls, banks and berms, and other appurtenant infrastructure (e.g., boat ramps) consistent with the findings and recommendations of the United States Army Corps of Engineers/Broward County Flood Risk Management Study for Tidally Influenced Coastal Areas. These standards shall be consistent with Chapter 39, Article XXV – Resiliency Standards for Flood Protection - of the Broward County Code of Ordinances, which shall serve as the model ordinance, and shall not be applicable to oceanfront beaches or shorelines seaward of the Coastal Construction Control Line.

Ordinance 2022-01 (**Exhibit 1**) amends Chapter 9 – Flooding of the Town’s Municipal Code to meet the requirements of Policy 2.21.7. In this summary, staff replaced the term tidal flood barriers to sea walls for ease of reference. Ordinance 2022-xx includes the following:

	Code Summary	Ordinance Line
1.	Purpose and Intent. Provides a standard for flood mitigation infrastructure through the year 2070 and ensures new shoreline structures and major improvements are designed at consistent standards.	Lines 48-55
2.	Applicability. The requirements apply to all new sea walls and fixed infrastructure (i.e., docks). It does not include oceanfront beaches.	Lines 56-70
3.	Definitions. Defines the following terms: bank, berm, green-grey infrastructure or materials, mooring structure, NAVD88, public nuisance, riprap, seawall, seawall cap, shoreline, substantial repair or rehabilitation, tidal flood barrier, tidally influenced area.	Lines 70 - 105
4.	Minimum Requirements. Establishes a minimum elevation of 5 feet NAVD88 for all new or substantially repaired seawalls, etc. Applications for barriers submitted prior to January 1, 2035 may be permitted at 4 feet NAVD88 if designed and constructed to accommodate a minimum elevation of 5 feet by January 1, 2050	Lines 109-116
5.	Maintenance of Tidal Flood Barrier. Requires all property owners to maintain sea wall in good repair. Failure to do so is a citable civil infraction. If cited by the town, property owner must complete the repairs within 365 days of receipt of the citation.	Lines 117-129
6.	Maintenance if Below 5 feet NAVD88. Requires property owners to improve sea walls under 5 feet NAVD88 elevation, if necessary, so that they do not impact adjacent property or public right-of-way. If necessary improvements are required, they must be completed within 365 days from receipt of the citation.	Lines 130-139
7.	Establishes design and construction requirements for sea walls.	Lines 140-154
8.	Requires a real estate disclosure for any contract for the sale of real estate located in tidally influenced areas of the Town to inform the buyer that the real estate is in a tidally influenced area and the owner may be required to meet minimum elevation standards or substantial repair or rehabilitation to abate nuisance flooding.	Lines 161-172

Dr. Jennifer Jurado, Broward County Chief Resilience Officer will be available for questions regarding the ordinance.

Recommendation: Staff recommends adoption of Ordinance 2022-01 on first reading.

Attachments:

Ex. 1 - Ordinance 2022-01

Ex. 2 - Article XXXV, Chapter 39, Broward County Code of Ordinances

Ex 3- USACE Report

Reviewed by Town Attorney:

☒	Yes	☐	No
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AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY CREATING CHAPTER 9, "FLOOD PREVENTION AND CONTROL," ARTICLE XI, "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION" TO ESTABLISH TIDAL FLOOD PROTECTION AND BARRIER INFRASTRUCTURE STANDARDS THAT ACCOUNT FOR PROJECTED SEA LEVEL RISE, AND PROVIDE FOR ABATEMENT OF NUISANCE FLOODING AND REAL ESTATE SALE DISCLOSURES; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, sea level rise is currently increasing the frequency, depth, and spatial extent of tidal flooding across tidally influenced areas of Broward County, including the Town of Lauderdale-by-the-Sea (the “Town”); and

WHEREAS, seawalls and shorelines that are below rising water levels allow the trespass of water onto adjacent properties, causing flooding threats to infrastructure, public health, and safety; and

WHEREAS, on January 7, 2020, Broward County (the “County”) enacted an amendment to the Broward County Land Use Plan creating Policy 2.21.7, requiring tidally influenced municipalities to enact regionally consistent minimum seawall and top-of-bank elevation standards within two (2) years; and

WHEREAS, on March 31, 2020, the County created Article XXV “Resiliency Standards for Tidal Flood Protection” within Chapter 39 of the Broward County Code of Ordinances (the “County Code”) ; and

WHEREAS, together, Policy 2.21.7 of the Broward County Land Use Plan and Article XXV of Chapter 39 of the County Code serve as the model code and planning foundation for municipal adoption of regionally consistent minimum standards and a basis for resilience investments across the community; and

WHEREAS, the Town is a tidally influenced municipality; and

33 **WHEREAS**, the Town Commission deems it in the best interest of the Town to adopt
34 this Ordinance.

35 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
36 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS**
37 **FOLLOWS:**

38 **Section 1. Recitals.** The foregoing “Whereas” clauses are ratified and confirmed as
39 being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby
40 made a specific part of this Ordinance

41 **Section 2. Amending Chapter 9.** Chapter 9, “Flood Protection and Control,” Article
42 XI, “Resiliency Standards for Tidal Flood Protection” is hereby created to read as follows:

43 [Underlining omitted]

44 **ARTICLE XI. RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION**

45 **Sec. 9-60. - Purpose and intent.**

46 The purpose of this article is to establish a consistent minimum elevation for tidal flood barriers
47 that will:

- 48 (a) Provide a standard for flood mitigation infrastructure that serves as a barrier to tidal
49 flooding, not seepage, by accounting for water levels predicted under combined conditions
50 of sea level rise, high tides, and high frequency storm surge through the year 2070; and
- 51 (b) Ensure new shoreline structures and major shoreline improvements are designed for
52 use as tidal flood barriers through application of consistent standards that account for
53 future predicted tidal flood conditions and coastal water levels associated with sea level
54 rise in accordance with current regional sea level rise projections, as updated and
55 adopted by the Broward County Board of County Commissioners.

56 **Sec. 9-61. Applicability.**

57 This article applies to all new tidal flood barriers, substantial repair or substantial rehabilitation
58 to shorelines and shoreline structures, and the installation of any fixed infrastructure attached
59 to tidal flood barriers (such as mooring structures). This article is not applicable to oceanfront
60 beaches or shorelines seaward of the Coastal Construction Control Line.

61 **Sec. 9-62. Definitions.**

For the purposes of this article, the following terms, phrases, words, and their derivation shall have the meanings given herein, except when the context clearly indicates a different meaning. In the interpretation and application of this article, the definitions provided for herein shall control over definitions that may be included in other documents or manuals, including, but not limited to, the Florida Building Code. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and the word “may” is permissive.

Bank. The level space separating a waterway from an inland area, often elevated and constructed of compacted soil.

Berm. An earthen mound designed with impermeability to resist the flow of tidal waters through it to an adjacent property or public right-of-way.

Green-grey infrastructure or green-grey materials. A combination of engineered and natural features that provide environmental qualities and ecosystem value.

Mooring structure. A boat dock, slip, davit, hoist, lift, floating vessel platform, mooring pile, or similar structure attached to land or to a seawall, to which a vessel can be moored.

North American Vertical Datum (NAVD88). The vertical control for datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

Public nuisance. A condition injurious to the public health or safety of the community or neighborhood, or injurious to any considerable number of persons, or a condition that obstructs the free passage or use, in the customary manner, of any public right-of-way.

Rip-rap. A foundation of unconsolidated boulders, stone, rubble, concrete without protruding rebar, or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

Seawall. A vertical or near vertical (often interlocking) structure placed between an upland area and a waterway or waterbody for erosion control.

Seawall cap. A concrete box structure (usually reinforced) that connects seawall panels,

piles, and anchoring system (if present) together at the top.

Shoreline. A tidally influenced area where land meets water.

Substantial repair or substantial rehabilitation.

(a) Any modification to the shoreline or a shoreline structure along more than fifty percent (50%) of the length of the property's shoreline; or

(b) Any modification, alteration, or installation of an appurtenant structure such as a mooring structure) that exceeds fifty percent (50%) of the cost of a tidal flood barrier along the property's shoreline.

Tidal flood barrier. Any structure or shoreline feature including, but not limited to, banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other infrastructure that impedes tidal waters from flowing onto adjacent property or public right-of-way, and located within or along a tidally influenced area. This definition is not meant to include rip-rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding.

Tidally influenced area. The real property adjacent to, or affected by, a waterway with water level changes in response to the daily tide.

Sec. 9-62. Minimum elevations for coastal infrastructure within tidally influenced areas.

(a) *Minimum requirements.* All new or substantially repaired or substantially rehabilitated banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other similar infrastructure shall be designed and constructed to perform as tidal flood barriers. Tidal flood barriers shall have a minimum elevation of five (5) feet NAVD88. Applications for new or substantially repaired or substantially rehabilitated tidal flood barriers submitted prior to January 1, 2035, may be permitted at a minimum elevation of four (4) feet NAVD88, if designed and constructed to accommodate a minimum elevation of five (5) feet NAVD88 by January 1, 2050.

(b) *Maintenance of tidal flood barrier.* All property owners must maintain a tidal flood barrier in good repair. A tidal flood barrier is presumed to be in disrepair if it allows tidal waters to flow unimpeded through or over the barrier and onto adjacent property or

public right-of-way. Failure to maintain a tidal flood barrier in good repair shall be a citable civil infraction, pursuant to Chapter 6.5 of this Code. The owner of the tidal flood barrier shall demonstrate progress towards repairing the cited defect, as determined by the Town, within sixty (60) days after receiving a citation and shall complete repairs within three hundred sixty-five (365) days after receipt of the citation. If the required repair or rehabilitation meets the substantial repair or substantial rehabilitation threshold, no later than three hundred sixty-five (365) days after receipt of the citation, the property owner shall design, obtain permits, cause to be constructed, and obtain final inspection approval of seawall improvements that meet the minimum elevation and design requirements.

(c) *Tidal flood barriers below a minimum five (5) feet NAVD88.* Tidal flood barriers below a minimum five (5) feet NAVD88 elevation shall be improved, designed, and constructed so as to prevent tidal waters from impacting adjacent property or public right-of-way. Causing, suffering, or allowing the trespass of tidal waters onto adjacent property or public right-of-way is hereby declared a public nuisance and a citable civil infraction, pursuant to Chapter 6.5 of this Code, requiring abatement. The owner shall demonstrate progress toward addressing the cited concern, as determined by the Town, within sixty (60) days after receipt of the citation and complete the construction of an approved remedy no later than three hundred sixty-five (365) days after receipt of the citation.

(d) *Design and construction requirements.*

(1) Tidal flood barriers shall be designed and constructed to prevent tidal waters from flowing through the barrier, while still allowing for the release of upland hydrostatic pressure.

(2) To the extent practicable, tidal flood barriers shall be designed and constructed to adjoin immediately proximate tidal flood barriers to close gaps and prevent trespass of tidal water.

(3) All tidal flood barriers undergoing substantial repair or substantial rehabilitation shall be constructed along the property's entire shoreline.

(4) All tidal flood barriers shall be constructed with natural limerock rip-rap, or other

approved habitat enhancement, at the waterward face of the structure.

(5) Property owners are encouraged to consider approaches and materials that enhance the biological value of traditional (flat surface) seawalls and flood barriers with the incorporation of living shoreline features, use of hybrid green-grey materials, and the use of biological forms, where practicable.

(e) *Other flood protection measures.* This section shall not be construed to require the installation of a seawall where other flood protection measures serve as an equally effective tidal flood barrier.

(f) *Automatic tidal flood barriers.* Tidal flood barriers capable of automatically being elevated in advance of high tides to prevent tidal flooding are permissible, provided that automation cannot require daily human intervention.

Sec. 9-63. Required disclosure in contracts for sale of real estate.

Real Estate Disclosure. In any contract for the sale of real estate located in tidally influenced areas of the Town executed after the effective date of this article, the seller shall include in the contract or a rider to the contract the following disclosure in not less than fourteen-point, capitalized, bold-faced type:

THIS REAL ESTATE IS LOCATED IN A TIDALLY INFLUENCED AREA. THE OWNER MAY BE REQUIRED BY COUNTY OR MUNICIPAL ORDINANCE TO MEET MINIMUM TIDAL FLOOD BARRIER ELEVATION STANDARDS DURING CONSTRUCTION OR SUBSTANTIAL REPAIR OR SUBSTANTIAL REHABILITATION OF SEAWALLS, BANKS, BERMS AND SIMILAR INFRASTRUCTURE OR WHEN REQUIRED TO ABATE NUISANCE FLOODING.

Section 3. **Codification.** This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section”, “article” or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 5. Conflicts. All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

Passed on the first reading, this ____ day of ____, 2022.

Passed and adopted on the second reading, this ____ day of ____, 2022.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____
Commissioner Sokolow	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

ATTEST:

Acting Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

PART II - CODE OF ORDINANCES
Chapter 39 - ZONING
ARTICLE XXV. RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION

ARTICLE XXV. RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION

Sec. 39-404. Purpose and intent.

The purpose of this article is to establish a consistent minimum elevation for tidal flood barriers that will:

- (a) Provide a standard for flood mitigation infrastructure that serves as a barrier to tidal flooding, not seepage, by accounting for water levels predicted under combined conditions of sea level rise, high tides, and high frequency storm surge through the year 2070; and
- (b) Ensure new shoreline structures and major shoreline improvements are designed for use as tidal flood barriers through application of consistent standards that account for future predicted tidal flood conditions and coastal water levels associated with sea level rise in accordance with current regional sea level rise projections, as updated and adopted by the Broward County Board of County Commissioners.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-405. Applicability.

This article applies to all new tidal flood barriers, substantial repair or substantial rehabilitation to shorelines and shoreline structures, and the installation of any fixed infrastructure attached to tidal flood barriers (such as mooring structures). This article is not applicable to oceanfront beaches or shorelines seaward of the Coastal Construction Control Line.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-406. Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivation shall have the meanings given herein, except when the context clearly indicates a different meaning. In the interpretation and application of this article, the definitions provided for herein shall control over definitions that may be included in other documents or manuals, including, but not limited to, the Florida Building Code. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive.

Bank means the level space separating a waterway from an inland area, often elevated and constructed of compacted soil.

Berm means an earthen mound designed with impermeability to resist the flow of tidal waters through it to an adjacent property or public right-of-way.

Green-grey infrastructure or green-grey materials means a combination of engineered and natural features that provide environmental qualities and ecosystem value.

Mooring structure means a boat dock, slip, davit, hoist, lift, floating vessel platform, mooring pile, or similar structure attached to land or to a seawall, to which a vessel can be moored.

North American Vertical Datum (NAVD88) means the vertical control for datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

Public nuisance means a condition injurious to the public health or safety of the community or neighborhood, or injurious to any considerable number of persons, or a condition that obstructs the free passage or use, in the customary manner, of any public right-of-way.

Rip-rap means a foundation of unconsolidated boulders, stone, rubble, concrete without protruding rebar, or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

Seawall means a vertical or near vertical (often interlocking) structure placed between an upland area and a waterway or waterbody for erosion control.

Seawall cap means a concrete box structure (usually reinforced) that connects seawall panels, piles, and anchoring system (if present) together at the top.

Shoreline means a tidally influenced area where land meets water.

Substantial repair or substantial rehabilitation means:

- (a) Any modification to the shoreline or a shoreline structure along more than fifty percent (50%) of the length of the property's shoreline; or
- (b) Any modification, alteration, or installation of an appurtenant structure (such as a mooring structure) that exceeds fifty percent (50%) of the cost of a tidal flood barrier along the property's shoreline.

Tidal flood barrier means any structure or shoreline feature including, but not limited to, banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other infrastructure that impedes tidal waters from flowing onto adjacent property or public right-of-way, and located within or along a tidally influenced area. This definition is not meant to include rip-rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding.

Tidally influenced area means the real property adjacent to, or affected by, a waterway with water level changes in response to the daily tide.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-407. Minimum elevations for coastal infrastructure within tidally influenced areas.

- (a) All new or substantially repaired or substantially rehabilitated banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other similar infrastructure shall be designed and constructed to perform as tidal flood barriers. Tidal flood barriers shall have a minimum elevation of five (5) feet NAVD88. Applications for new or substantially repaired or substantially rehabilitated tidal flood barriers submitted prior to January 1, 2035, may be permitted a minimum elevation of four (4) feet NAVD88, if designed and constructed to accommodate a minimum elevation of five (5) feet NAVD88 by January 1, 2050.
- (b) All property owners must maintain a tidal flood barrier in good repair. A tidal flood barrier is presumed to be in disrepair if it allows tidal waters to flow unimpeded through or over the barrier and onto adjacent property or public right-of-way. Failure to maintain a tidal flood barrier in good repair shall be a citable offense. The owner of the tidal flood barrier shall demonstrate progress towards repairing the cited defect within sixty (60) days after receiving a citation and shall complete repairs within three hundred sixty-five (365) days after receipt of the citation. If the required repair or rehabilitation meets the substantial repair or substantial rehabilitation threshold, no later than three hundred sixty-five (365) days after receipt of the citation, the property owner shall design, obtain permits, cause to be constructed, and obtain final inspection approval of seawall improvements that meet the minimum elevation and design requirements.

-
- (c) Tidal flood barriers below a minimum five (5) feet NAVD88 elevation shall be improved, designed, and constructed so as to prevent tidal waters from impacting adjacent property or public right-of-way. Causing, suffering, or allowing the trespass of tidal waters onto adjacent property or public right-of-way is hereby declared a public nuisance and a citable offense requiring abatement. The owner shall demonstrate progress toward addressing the cited concern within sixty (60) days after receipt of the citation and complete the construction of an approved remedy no later than three hundred sixty-five (365) days after receipt of the citation.
 - (d) Tidal flood barriers shall be designed and constructed to prevent tidal waters from flowing through the barrier, while still allowing for the release of upland hydrostatic pressure.
 - (e) To the extent practicable, tidal flood barriers shall be designed and constructed to adjoin immediately proximate tidal flood barriers to close gaps and prevent trespass of tidal water.
 - (f) All tidal flood barriers undergoing substantial repair or substantial rehabilitation shall be constructed along the property's entire shoreline.
 - (g) All tidal flood barriers shall be constructed with natural limerock rip-rap, or other approved habitat enhancement, at the waterward face of the structure.
 - (h) Property owners are encouraged to consider approaches and materials that enhance the biological value of traditional (flat surface) seawalls and flood barriers with the incorporation of living shoreline features, use of hybrid green-grey materials, and the use of biological forms, where practicable.
 - (i) This section shall not be construed to require the installation of a seawall where other flood protection measures serve as an equally effective tidal flood barrier.
 - (j) Tidal flood barriers capable of automatically being elevated in advance of high tides to prevent tidal flooding are permissible, provided that automation cannot require daily human intervention.

(Ord. No. 2020-11 , § 1, 3-31-20)

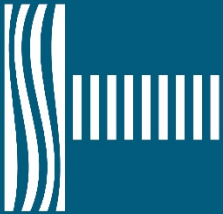
Sec. 39-408. Required disclosure in contracts for sale of real estate.

In any contract for the sale of real estate located in tidally influenced areas of Broward County executed after December 31, 2020, the seller shall include in the contract or a rider to the contract the following disclosure in not less than fourteen-point, capitalized, bold-faced type:

THIS REAL ESTATE IS LOCATED IN A TIDALLY INFLUENCED AREA. THE OWNER MAY BE REQUIRED BY COUNTY OR MUNICIPAL ORDINANCE TO MEET MINIMUM TIDAL FLOOD BARRIER ELEVATION STANDARDS DURING CONSTRUCTION OR SUBSTANTIAL REPAIR OR SUBSTANTIAL REHABILITATION OF SEAWALLS, BANKS, BERMS, AND SIMILAR INFRASTRUCTURE OR WHEN REQUIRED TO ABATE NUISANCE FLOODING.

(Ord. No. 2020-11 , § 1, 3-31-20)

Secs. 39-409, 39-410. Reserved.



ADCIRC Storm Event Modeling for the Broward County Flood Study

Broward County, FL

August 2018

Final Report

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ADCIRC Storm Event Modeling for the Broward County Flood Study

Broward County, Florida

Final Report

Prepared for

U.S. Army Corps of Engineers

Jacksonville District

by

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1.0 INTRODUCTION

The U.S. Army Corps of Engineers (USACE), Jacksonville District, in partnership with Broward County, Florida, is conducting a Flood Risk Management (FRM) Study to address flooding problems in specific tidally influenced coastal areas (not direct oceanfront) within the county. The Broward County FRM Study is evaluating nuisance flooding in the Hollywood Lakes area in the City of Hollywood, Florida and the Las Olas Boulevard area in the City of Ft. Lauderdale, Florida. Figure 1.1 shows the focus areas for the study. In all report figures, North is oriented to the top of the page. These areas are experiencing damaging nuisance or "sunny day" flooding events. These nuisance-flooding events can cause damage to residential neighborhood homes, and local business and commerce centers. The events can also interrupt critical county services and damage county and municipal infrastructure (evacuation routes, utility systems and structures, etc.). These damaging flooding events are compounded by the combined influence of higher than normal high tides coupled with rising sea levels. As a result, during abnormally high tides, coastal waters overtop existing sea walls in the study area.

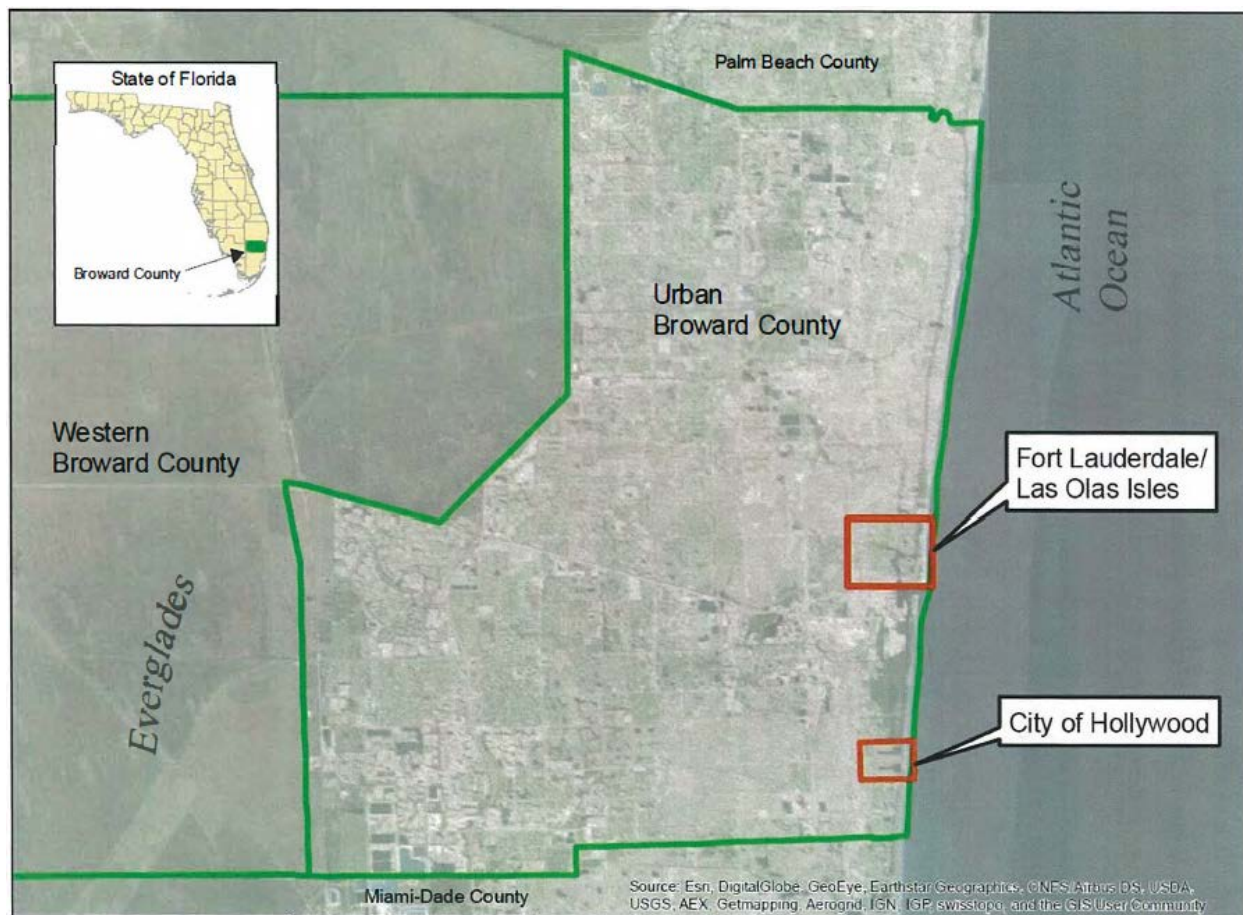


Figure 1.1 Broward County FRM Study Focus Areas (USACE Jacksonville)

Taylor Engineering provided support to the Broward County FRM by developing and applying SWAN+ADCIRC model mesh configurations and storm conditions to evaluate flooding and inundation patterns for various seawall configurations. The SWAN+ADCIRC modeling applied the validated mesh and storm forcing from the Federal Emergency Management Agency (FEMA) Region IV South Florida Storm

Surge Study (SFLSSS) (FEMA, 2017). The SWAN+ADCIRC modeling suite developed for this study allows examination of how different seawall elevations influence simulated flooding and inundation patterns for different storm forcing conditions. A comparison of the modeled maximum water level results for the existing seawall condition to the water level results for a raised seawall configuration allows examination of any potential effects of the seawall height on the storm surge inundation patterns.

Following this introduction, Section 2 describes the development of the SWAN+ADCIRC mesh alternatives. Section 3 describes the selection of the storm forcing. Section 4 provides the model results and discussion. Section 5 summarizes the findings from the study.

2.0 ALTERNATIVE MESH DEVELOPMENT

This portion of the study established the SWAN+ADCIRC mesh configurations, including the Existing Conditions mesh as well as the three seawall alternatives meshes (Alternatives 1, 2, and 3). The Broward FRM Study based its SWAN+ADCIRC meshes from the FEMA SFLSSS mesh, editing both mesh geometry and nodal attributes. The following sections detail the data used to guide mesh updates, the mesh geometry and nodal attribute edits for the Existing Conditions mesh, the nodal elevation interpolation scheme, and seawall alternatives mesh development.

2.1 Available Data

Data sources available within the Las Olas Boulevard area include 2015 LiDAR collected by the City of Fort Lauderdale as well as 3D polylines from the USACE delineating seawall alignments and elevations (FtLauderdale3DSeawalls20171206.shp). The USACE also created buffered polylines offset 5ft upland from the original polylines (FtLauderdale5ftOffset3DGenerated.shp). The buffered polylines extracted local maximum elevations from LiDAR data along areas of the seawall where no recent survey data are available.

Data available for the Hollywood Lakes area include point survey data along the seawalls (SAJ-Seawall_Survey_17-038.xyz) and a 2D polyline layer file delineating seawall alignments (Seawalls_FloodAreas_Hollywood_RMS.lpk). Data availability guided the extents of the project area and mesh edit boundaries. Where new data were not available, the Digital Elevation Model (DEM) developed for the FEMA SFLSSS provided topographic and bathymetric elevation data. Figures 2.1 and 2.2 show polyline data and survey point data available in the Las Olas Boulevard area (east and west portions). Figure 2.3 shows polyline data and survey point data available in the in the Hollywood Lakes area.

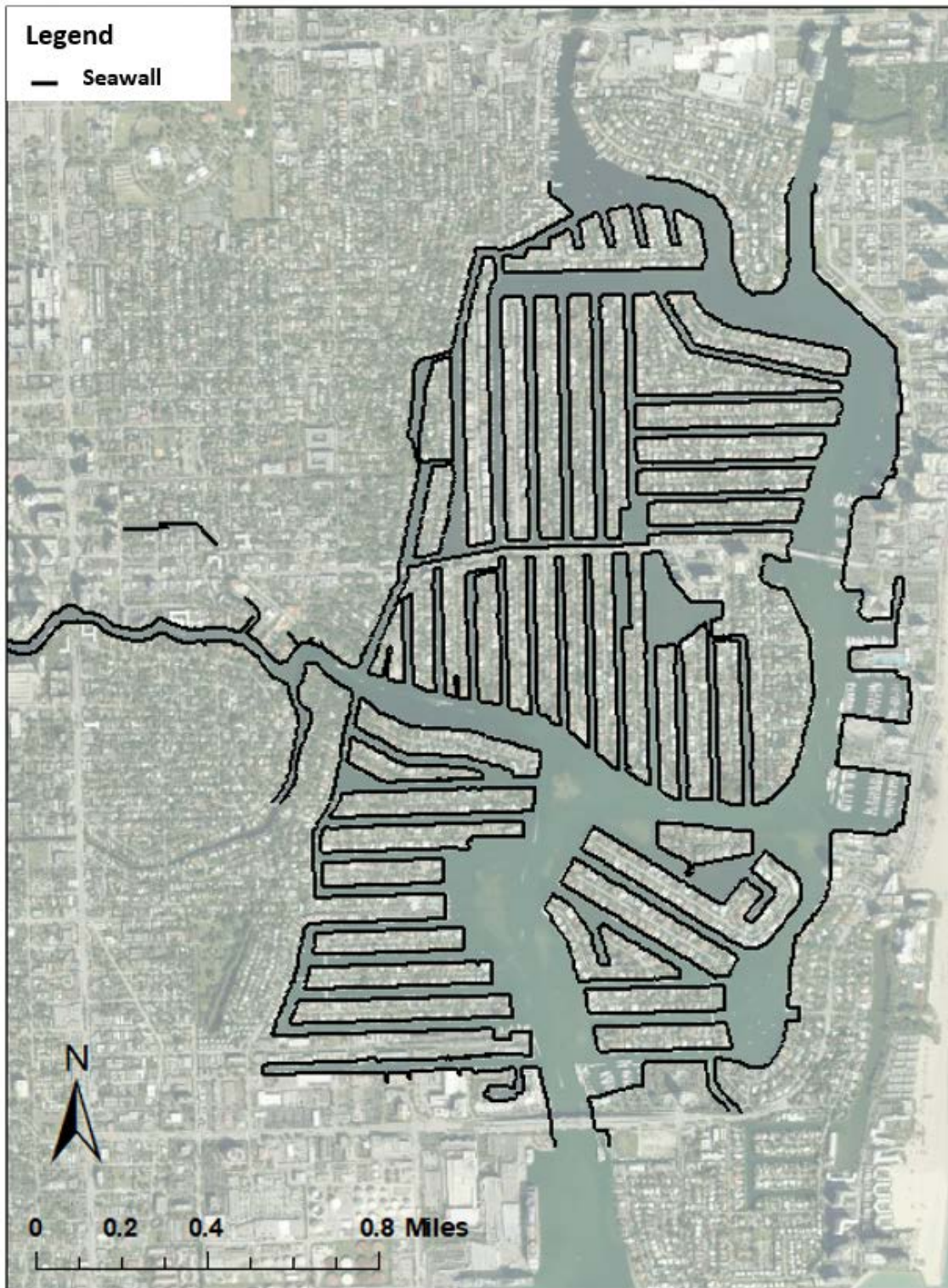


Figure 2.1 3D Polyline Seawall Data in Las Olas Boulevard Area (Eastern Area)

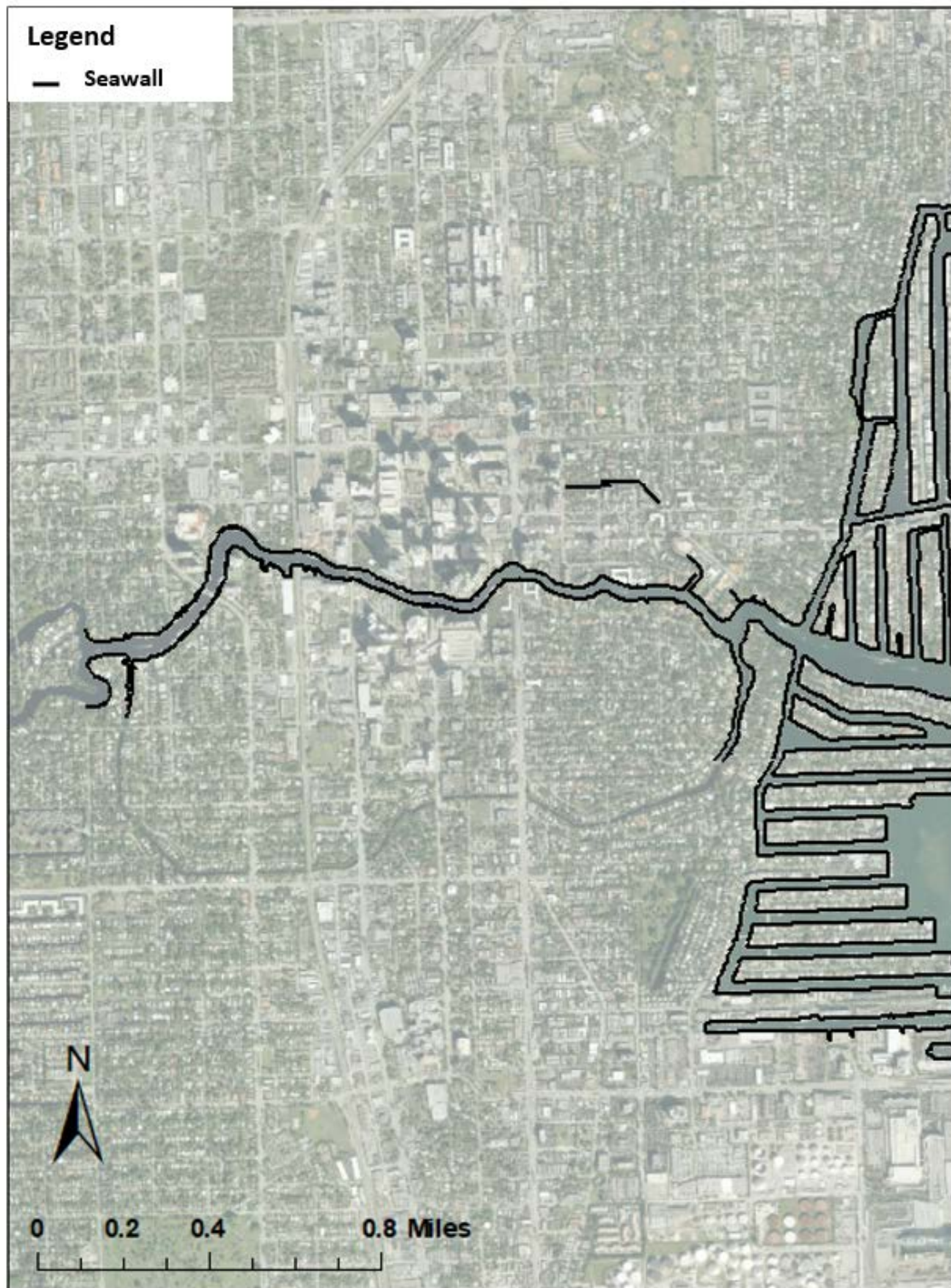


Figure 2.2 3D Polyline Seawall Data in Las Olas Boulevard Area (Western Area)

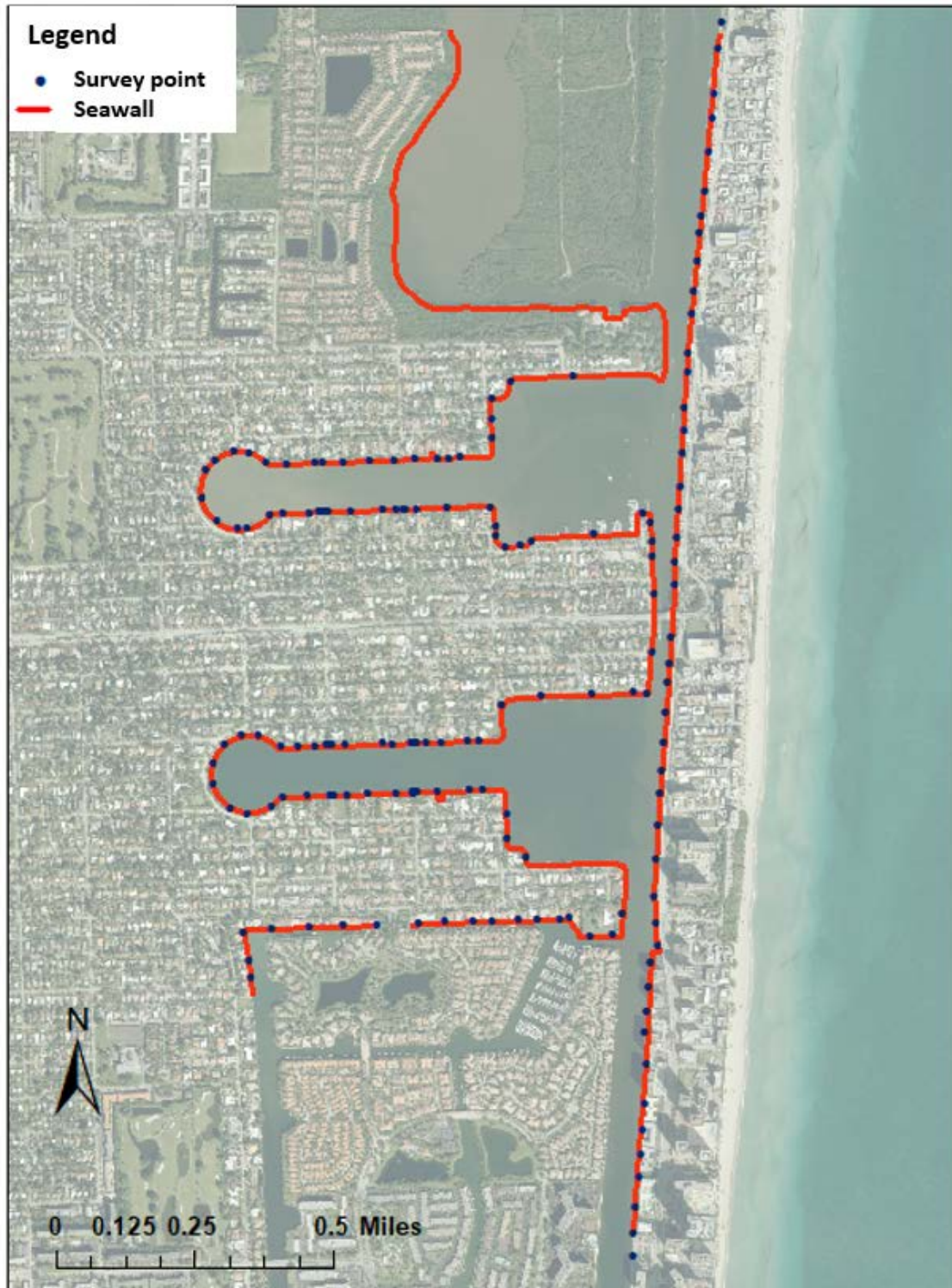


Figure 2.3 Survey Point Data and Seawall Alignments in Hollywood Lakes Area

2.2 Mesh Resolution Changes

In the SWAN+ADCIRC model, all three of an element's nodes must compute as "wet" for the element to become wet and to conduct storm surge and tidal flow. Because channels whose elements become dry at mean lower low water (MLLW) cause unrealistic hydraulic disruptions and numerical instabilities, the FEMA SFLSSS mesh aimed to include as many wet elements across narrow channels as possible. This goal necessitated placing lines of connected nodes just inside of the channel banks rather than on top of banks. Figures 2.4 and 2.5 show plan view and cross-section of this geometric configuration for a narrow channel that can accommodate two wet elements across the channel.

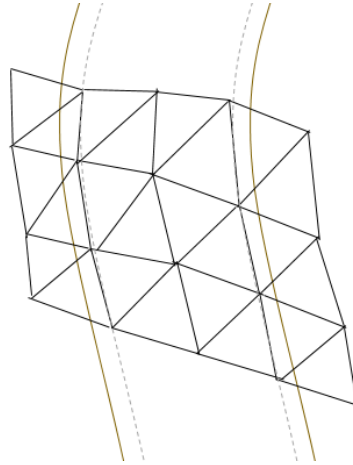


Figure 2.4 Plan View of Mesh Configuration in Narrow Channel as Applied in FEMA SFLSSS Mesh

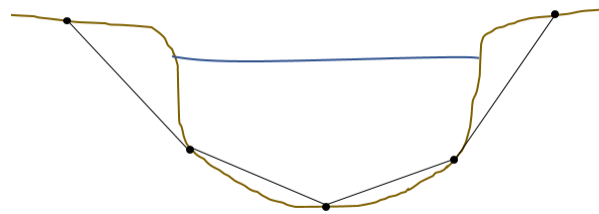


Figure 2.5 Cross-section of Mesh Configuration in Narrow Channel as Applied in FEMA SFLSSS Mesh

The FEMA SFLSSS mesh applied nodal spacing of 40 – 60 ft in the Las Olas Boulevard and Hollywood Lakes regions. The Broward FRM Study mesh edits typically preserved this resolution but altered horizontal mesh geometry to better represent seawalls. Specifics on mesh geometry changes vary throughout the project area depending on the terrain and canal alignments. Due to the narrow nature of the navigational canals throughout greater Fort Lauderdale, the Broward FRM Study generally captured canals with one or two wet elements across the canals, then placed seawalls upland of, but as close as possible to, the wet element inside the channel. This report will refer to such configuration as "adjusted seawalls." Figures 2.6 and 2.7 show plan and cross-sectional views of mesh geometry in an example of the narrowest channel the mesh can capture (~40 ft wide) with adjusted seawalls. In the plan view image, the dotted lines show wetted area within the channel with tide phase at MLLW.

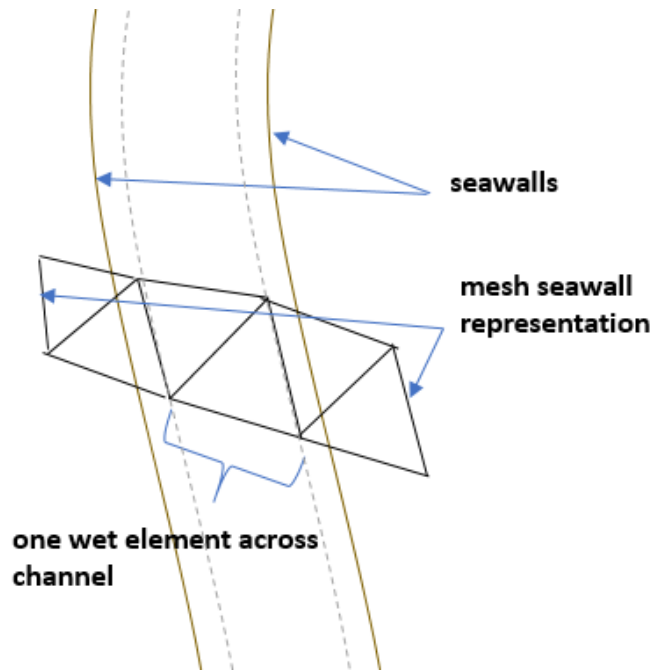


Figure 2.6 Plan View of Mesh Configuration in Narrow Channel with Adjusted Seawall

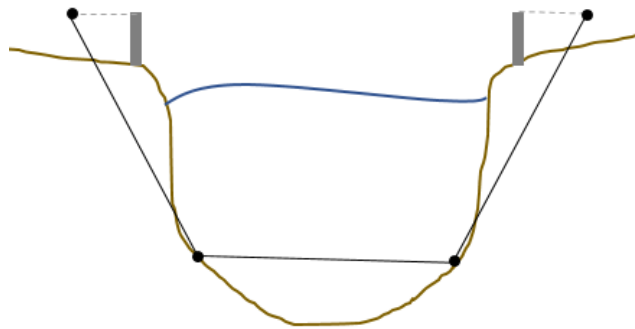


Figure 2.7 Cross-section of Mesh Configuration in Narrow Channel with Adjusted Seawall

Channels that can accommodate five full elements across at maximum resolution (hence minimum nodal spacing) place continuous lines of nodes on top of seawalls at their precise alignments as indicated by the input data polylines. In this scenario, the channels feature three wet elements and two dry elements across at MLLW; when water levels rise above the seawall nodes, the two dry elements become wet and allow flow to overtop into the floodplain. Figures 2.8 and 2.9 show plan and cross-sectional views of this mesh configuration.

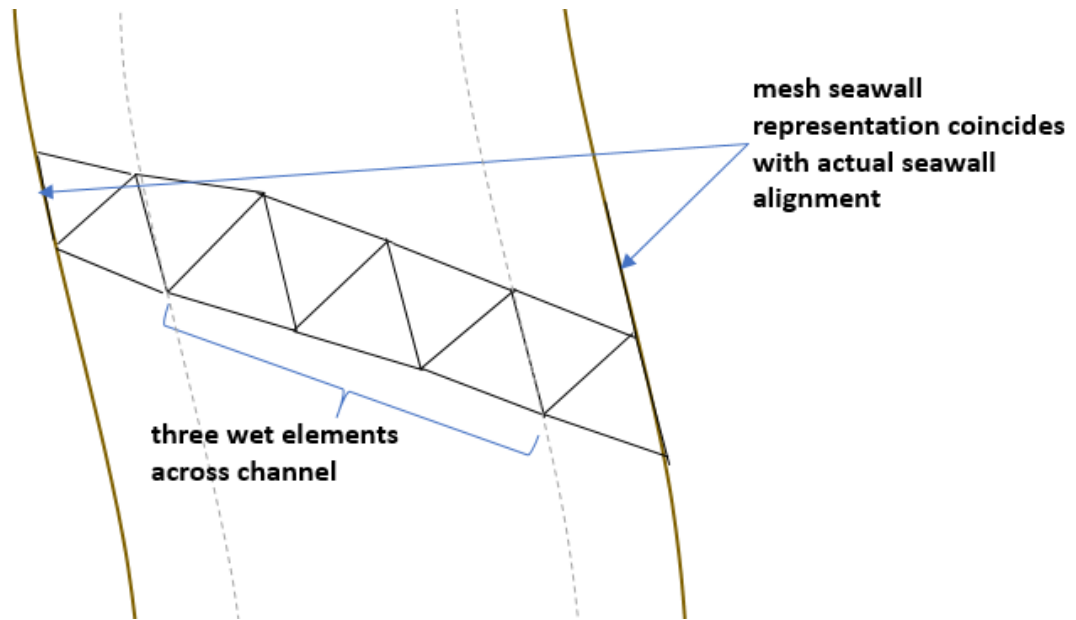


Figure 2.8 Plan View of Mesh Configuration in Wide Channel with Seawall

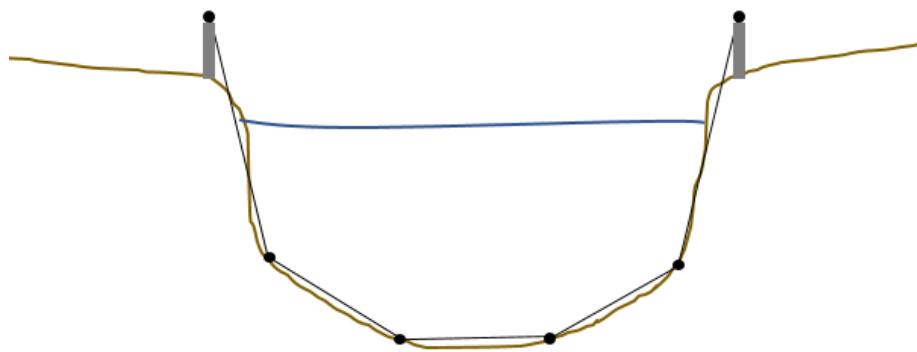


Figure 2.9 Cross-section of Mesh Configuration in Wide Channel with Seawall

The Broward FRM Study selected either adjusted seawall configuration as shown in Figure 2.6 or regular seawall configuration as shown in Figure 2.8 for channels wide enough to accommodate three or four elements across. The selection depended on demonstrated local instabilities occurring during the FEMA SFLSSS. If the area previously exhibited numerical instabilities, then the Broward FRM Study team maximized wet elements inside of the channel via the adjusted seawall configuration (Figure 2.6); otherwise, the team chose the Figure 2.8 configuration.

2.3 Interpolation Scheme

The Broward FRM Study updated the FEMA SFLSSS DEM with 2015 LiDAR data in downtown Fort Lauderdale/Las Olas Boulevard region of the project area. Hydrographic breaklines provided with the LiDAR data guided the boundary for insertion of the updated topography into the DEM. Due to the sparse nature of point and line survey data as compared to the density of the continuous surface of the DEM,

the team did not incorporate discrete point and line survey datasets directly into the DEM; instead, varying interpolation schemes applied these elevation data onto the nodes. The interpolation schemes include six categories as presented in Table 2.1. Three of the six pertain to nodes that represent seawalls; applying different interpolation types among seawall nodes provided the most accurate elevation mapping given the varying data sources and alignments.

Table 2.1 Mesh Node Interpolation Code

Code	Node Type	Data Source	Interpolation Method
1	Topographic	DEM	Area average based on element size
2	Bathymetric	DEM	Linear interpolation
3	Dune crest	DEM	Local maximum (10 ft radius)
4	Nodes < 60 ft from a survey point	Survey data	Near function
5	Nodes >= 60 ft from a survey point	Seawall TIN	Linear interpolation
6	Nodes falling outside a concave hull formed by survey dataset points	DEM	Local maximum (10 ft radius)

If a seawall node falls within one element length of a survey point, then the node directly assigns its elevation via Near function in ArcGIS. If a seawall node lies farther away, then elevation is interpolated from a triangulated irregular network (TIN) formed by seawall point/polyline data as well as by breaklines that prevent triangulation across canals or across islands. Seawall nodes lying completely outside of the area of survey data collection derive their elevations from the DEM. Figures 2.10 and 2.11 present node types within the Las Olas Boulevard area (east and west areas). Figure 2.12 presents the node types for the Hollywood Lakes area. Figures 2.13 and 2.14 present final interpolated mesh configuration for the Existing Conditions mesh.

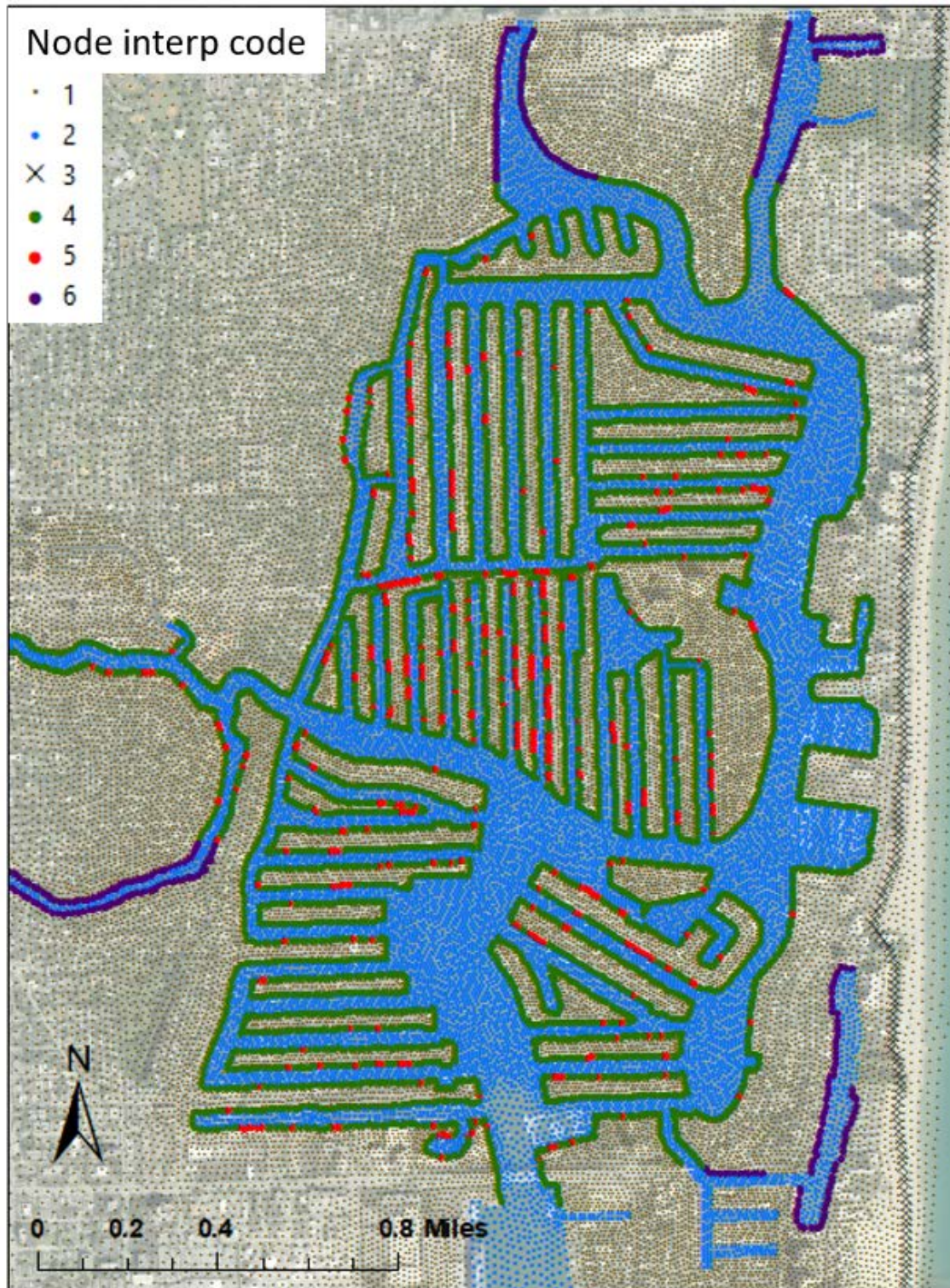


Figure 2.10 Mesh Node Elevation Interpolation Codes, Las Olas Boulevard (Eastern Area)

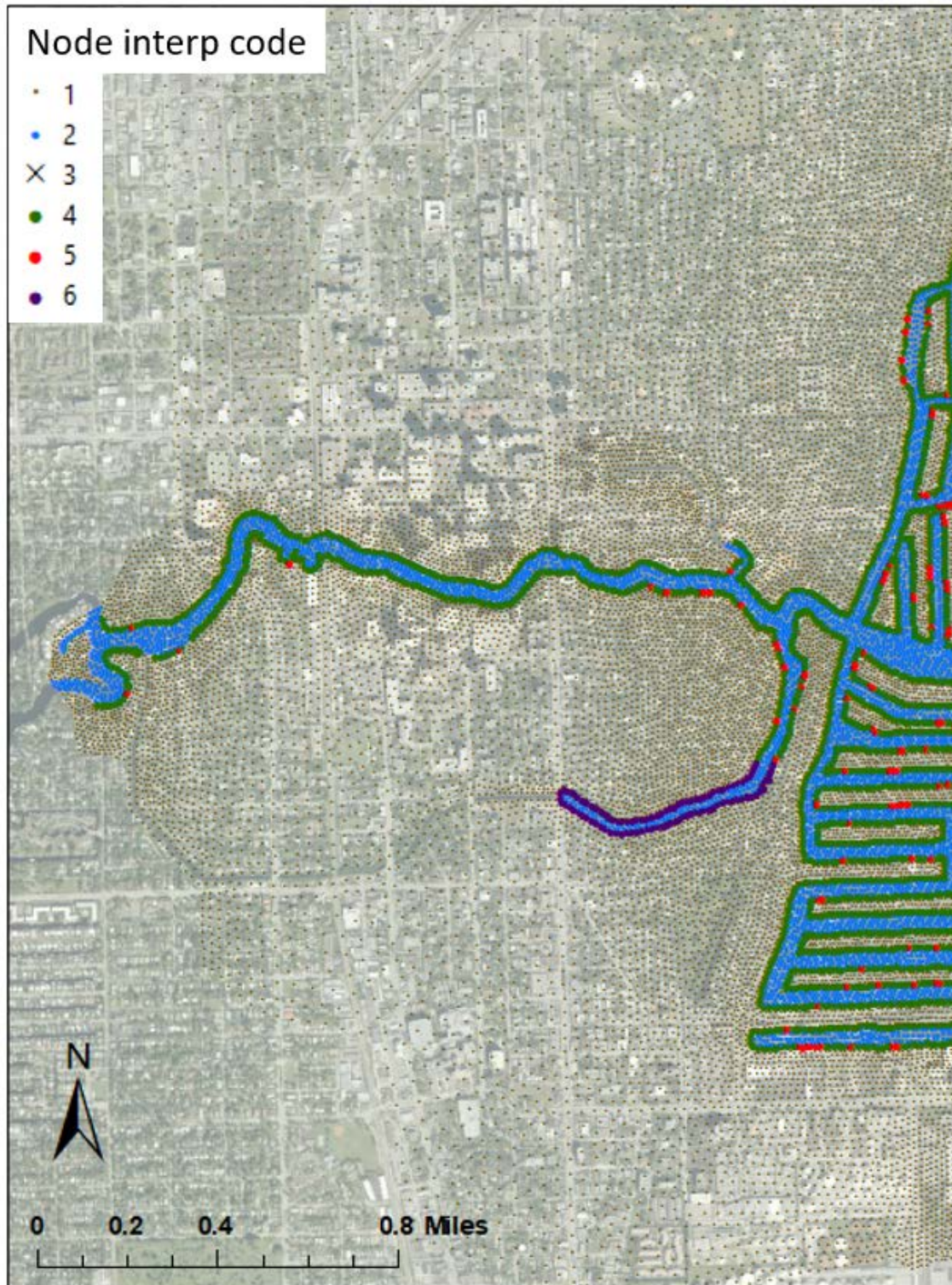


Figure 2.11 Mesh Node Elevation Interpolation Codes, Las Olas Boulevard (Western Area)



Figure 2.12 Mesh Node Elevation Interpolation Codes, Hollywood Lakes

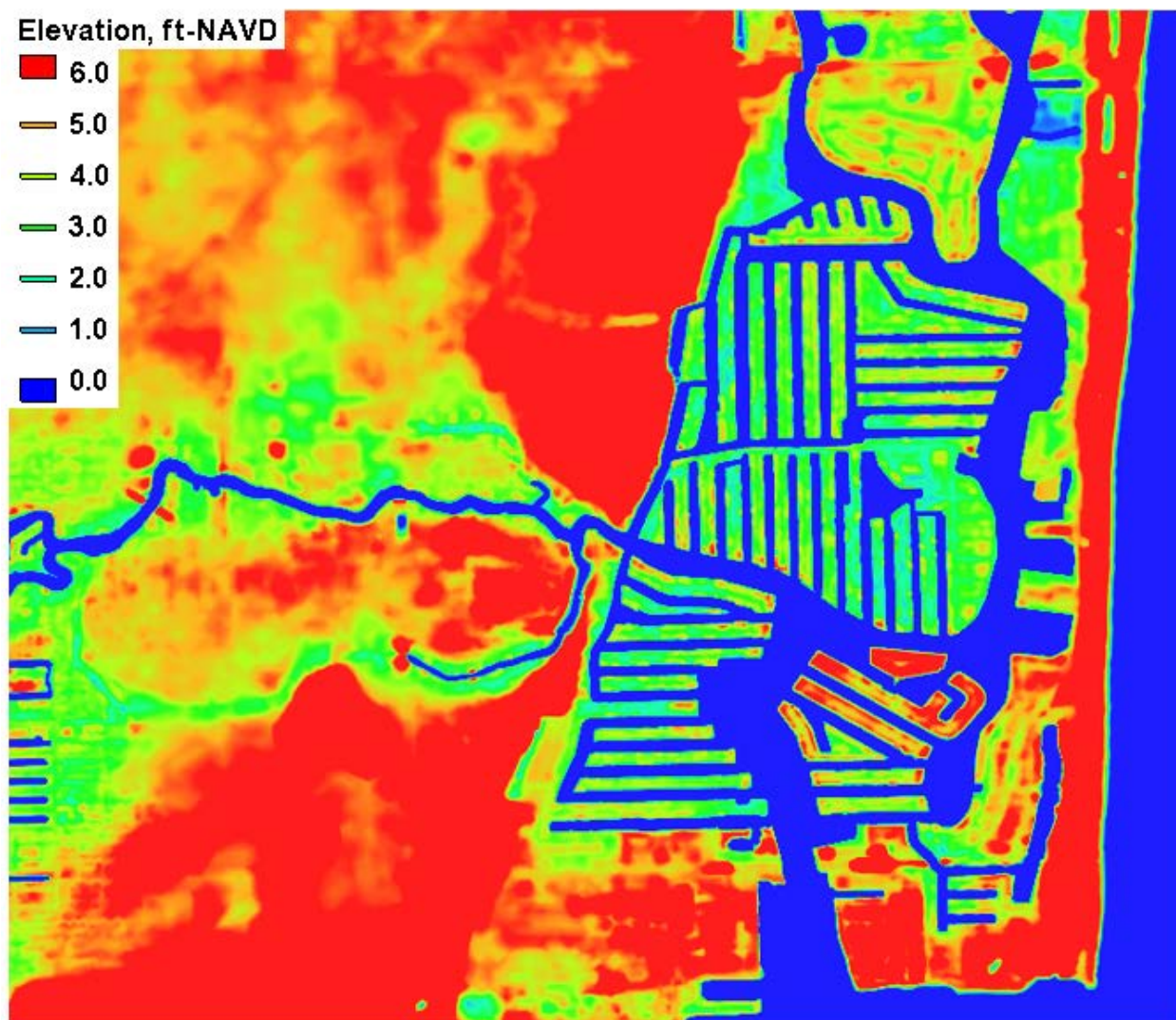


Figure 2.13 Existing Conditions Mesh Configuration, Las Olas Boulevard

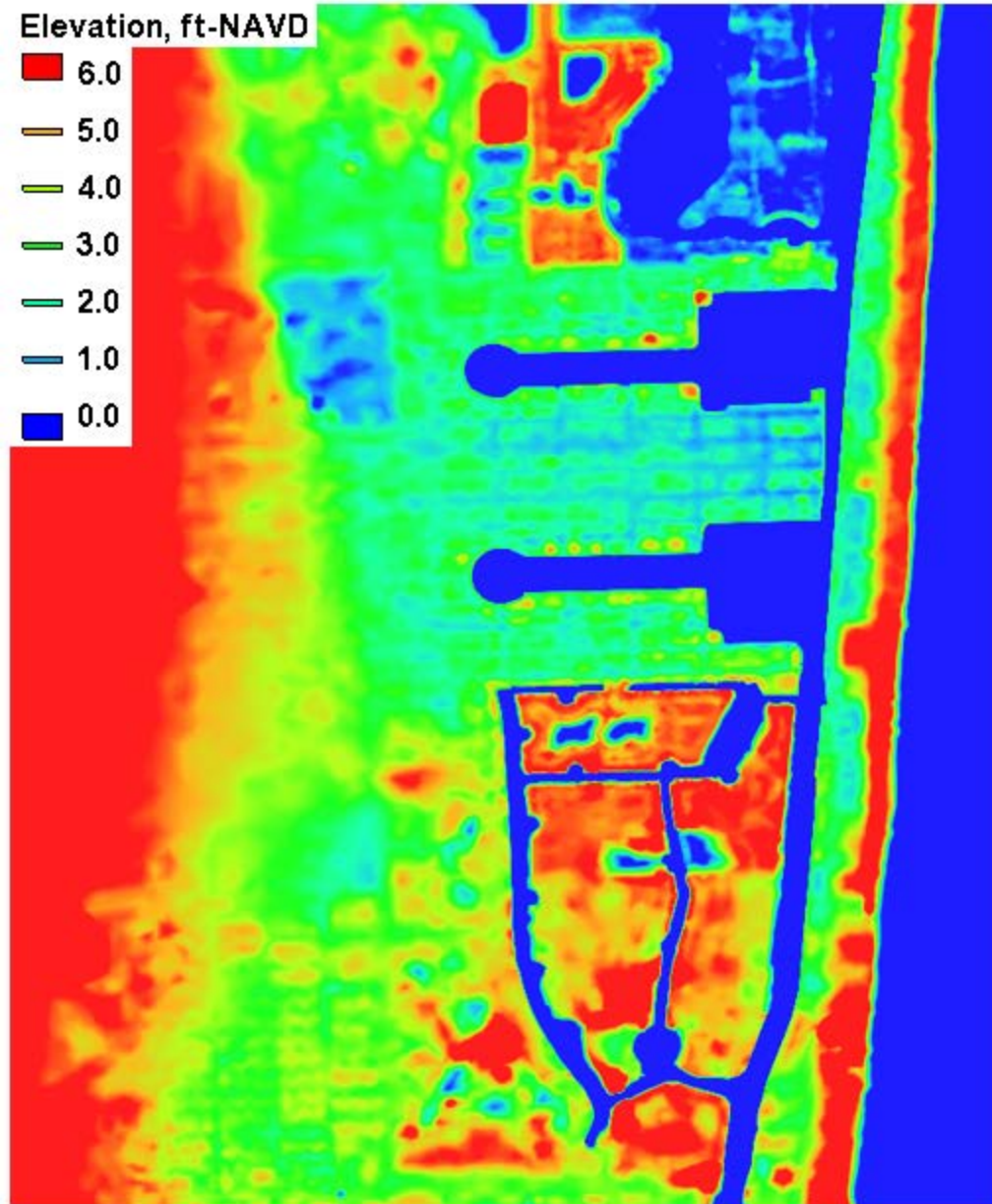


Figure 2.14 Existing Conditions Mesh Configuration, Hollywood Lakes

2.4 Seawall Alternatives

The Broward County FRM Study Existing and Alternative meshes applied identical horizontal mesh geometry. The seawall alternative meshes raised seawall nodes as indicated by Table 2.2 if their Existing Conditions configuration elevations were less than the seawall alternative elevation. Figures 2.15 through 2.20 show elevation contours of the Alternative 1, 2, and 3 mesh configuration in the Las Olas Boulevard and the Hollywood Lakes areas.

Table 2.2 Seawall Alternative Mesh Configurations

Seawall Alternative	Minimum Elevation (ft-NAVD)	
	Las Olas Boulevard	Hollywood Lakes
1	4	2.5
2	4	4
3	6	6

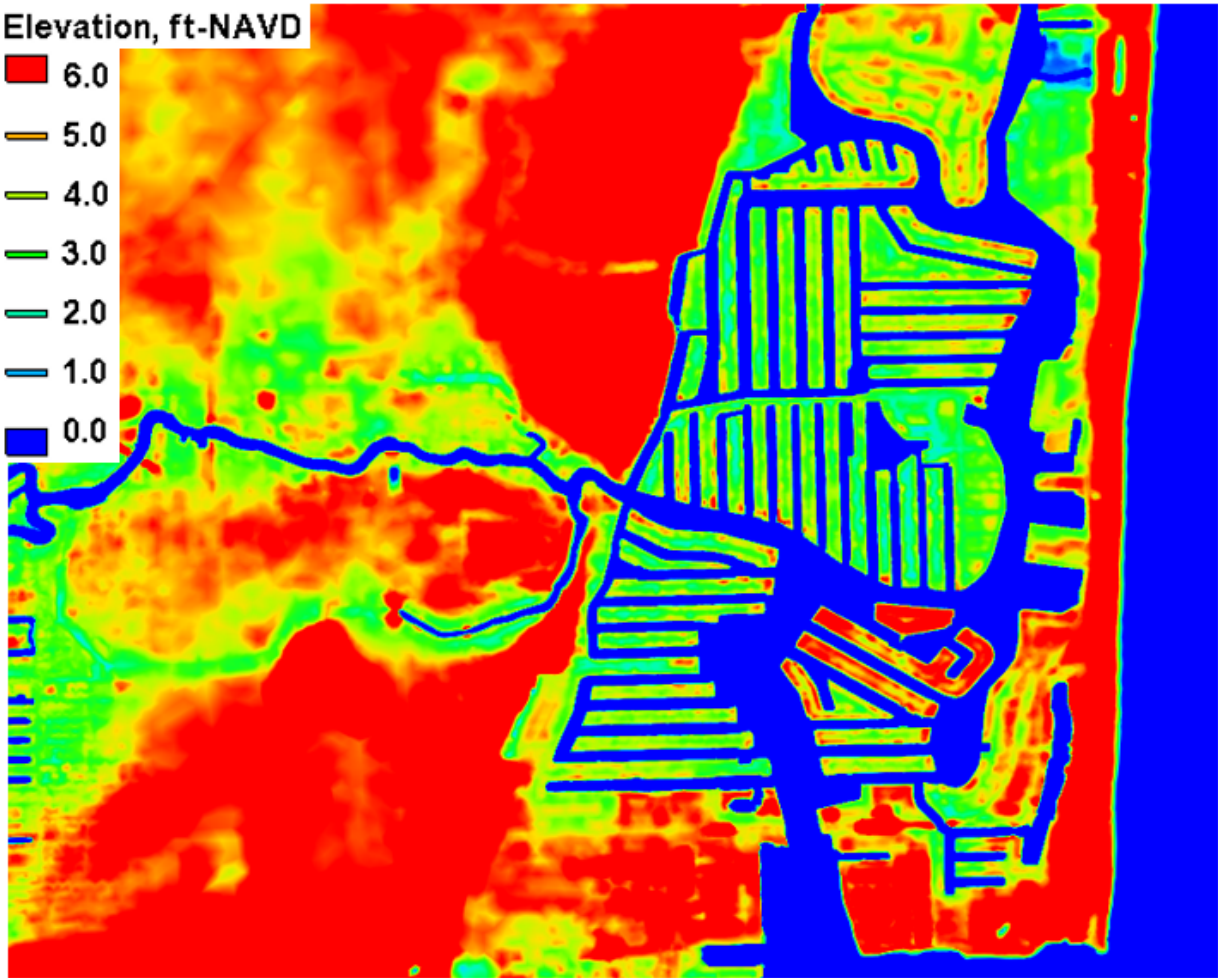


Figure 2.15 Alternative 1 Mesh Configuration, Las Olas Boulevard

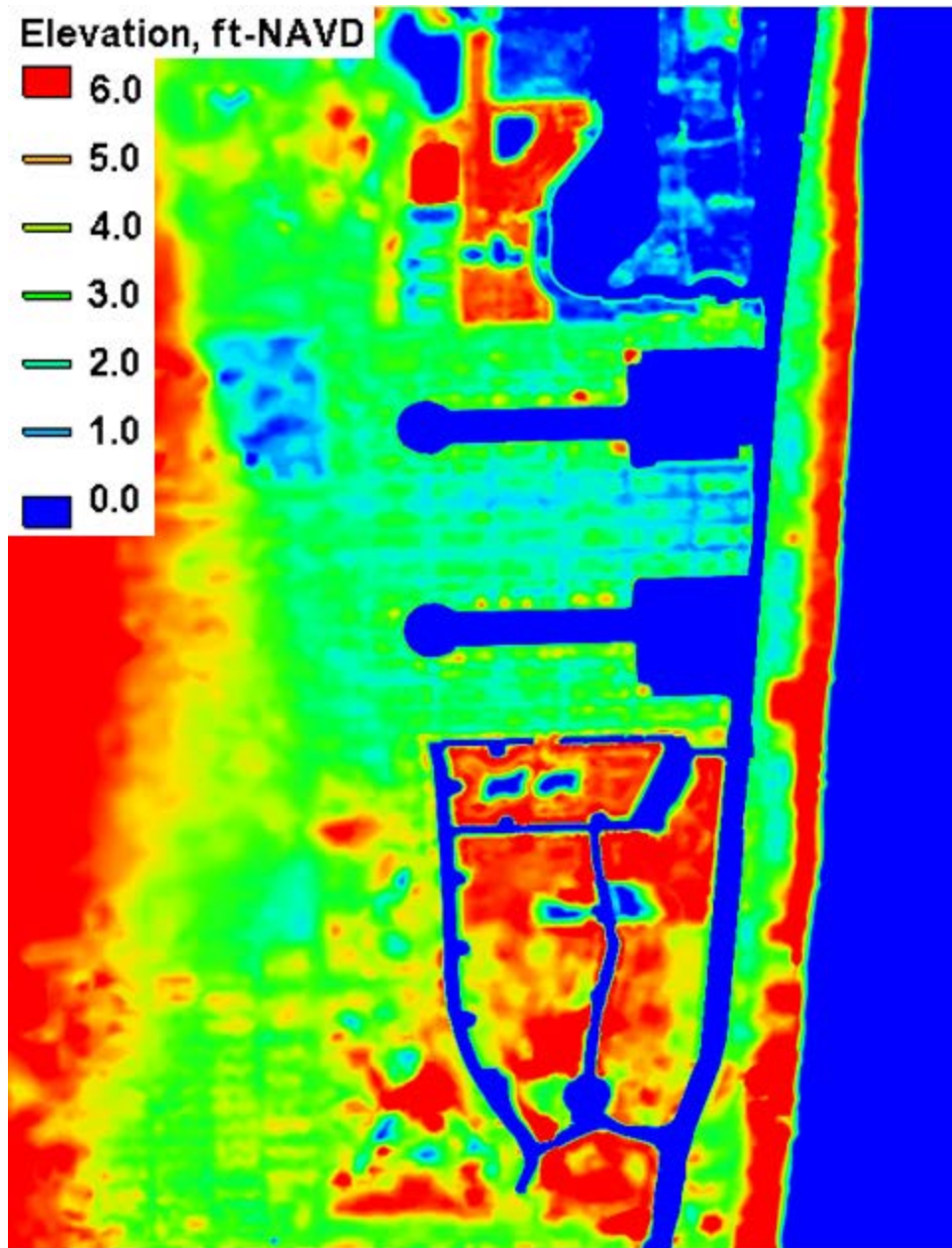


Figure 2.16 Alternative 1 Mesh Configuration, Hollywood Lakes

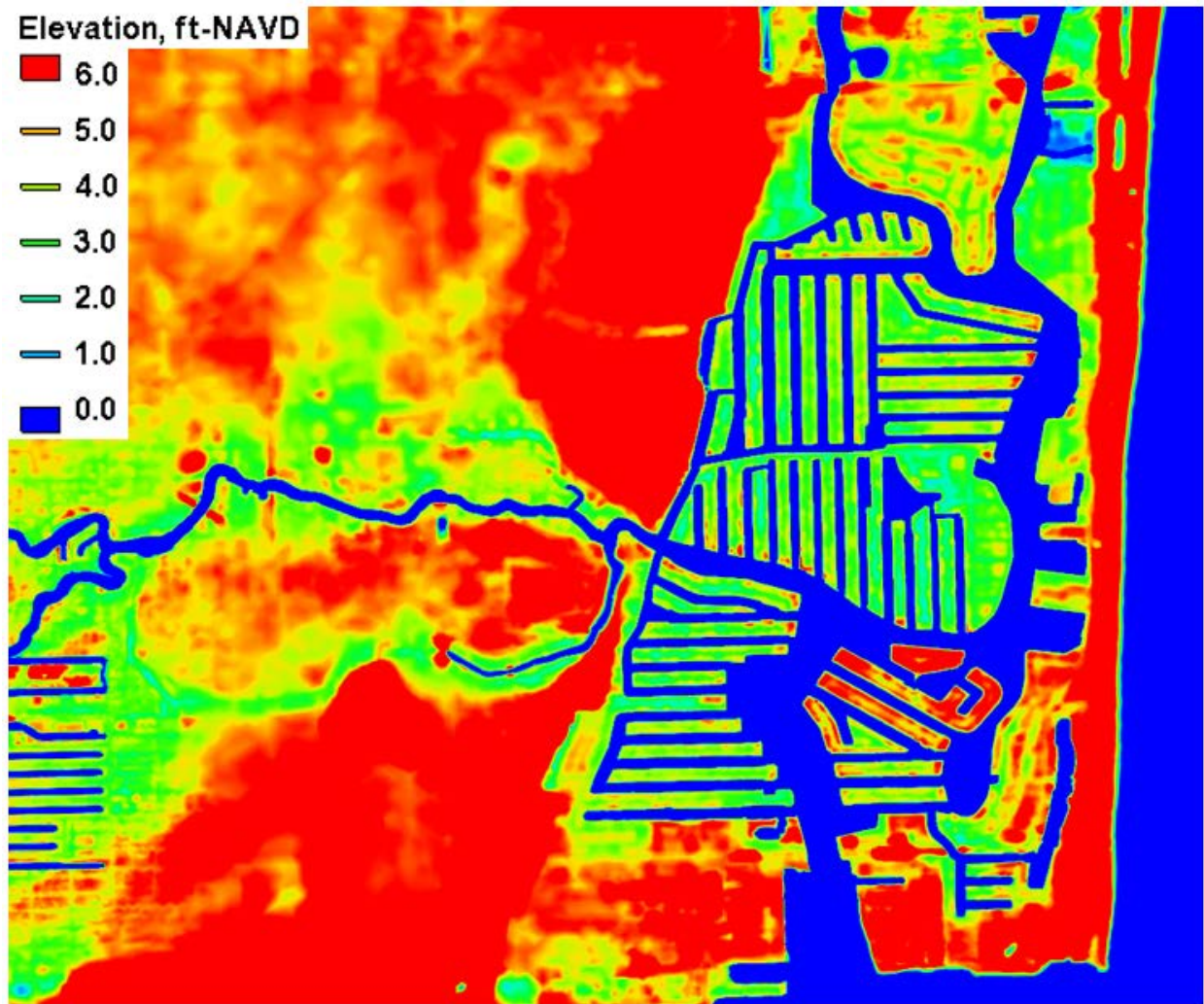


Figure 2.17 Alternative 2 Mesh Configuration, Las Olas Boulevard

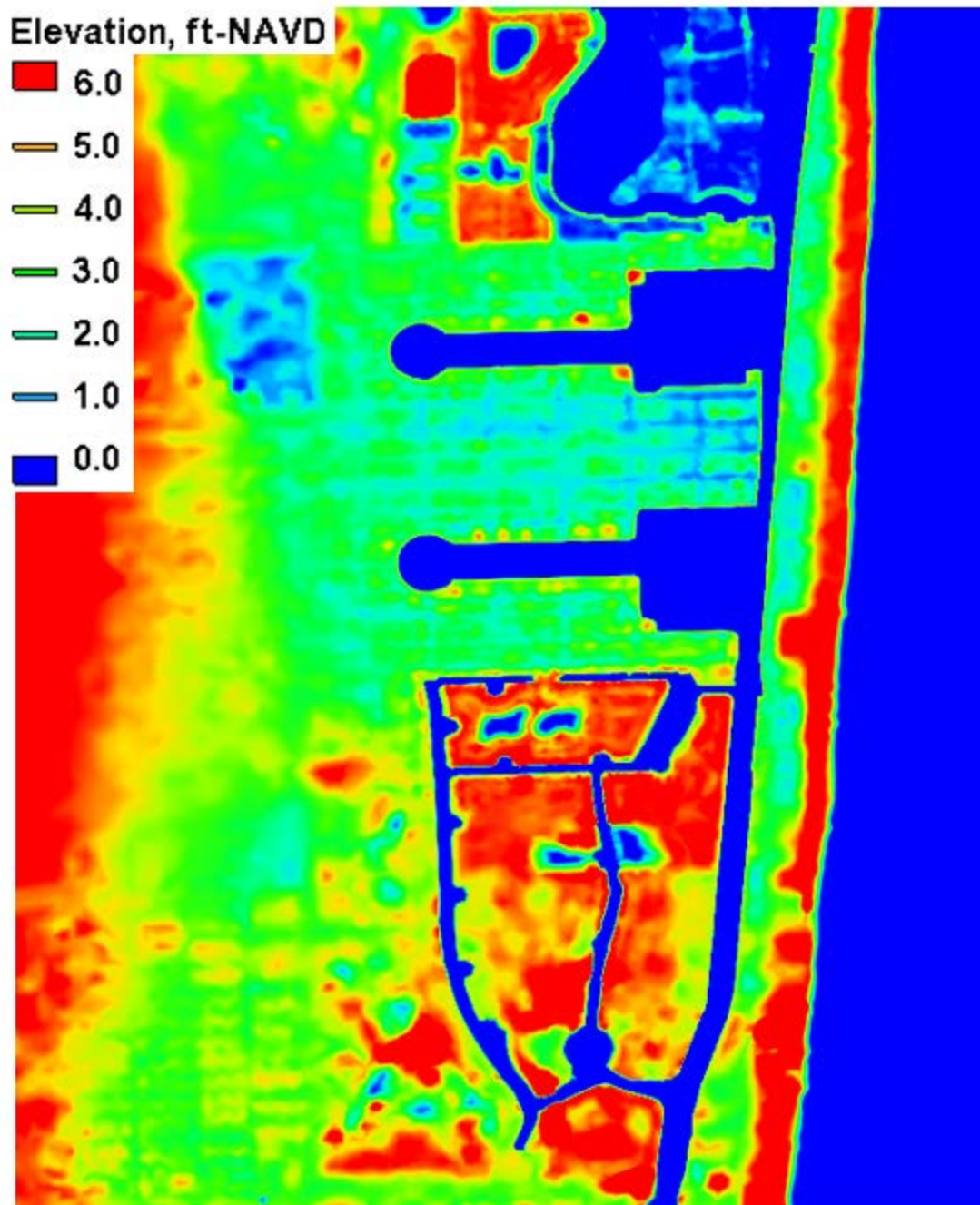


Figure 2.18 Alternative 2 Mesh Configuration, Hollywood Lakes

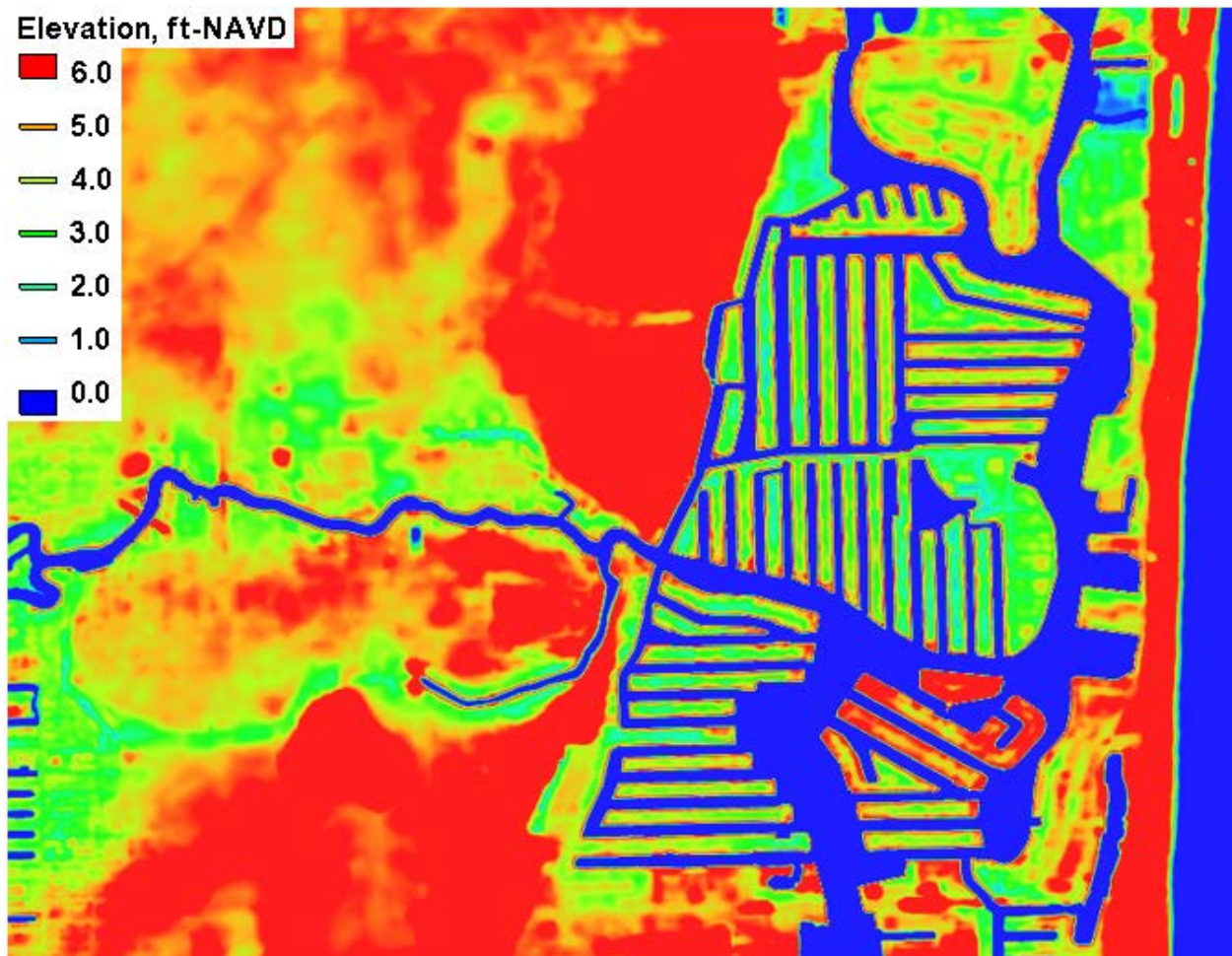


Figure 2.19 Alternative 3 Mesh Configuration, Las Olas Boulevard

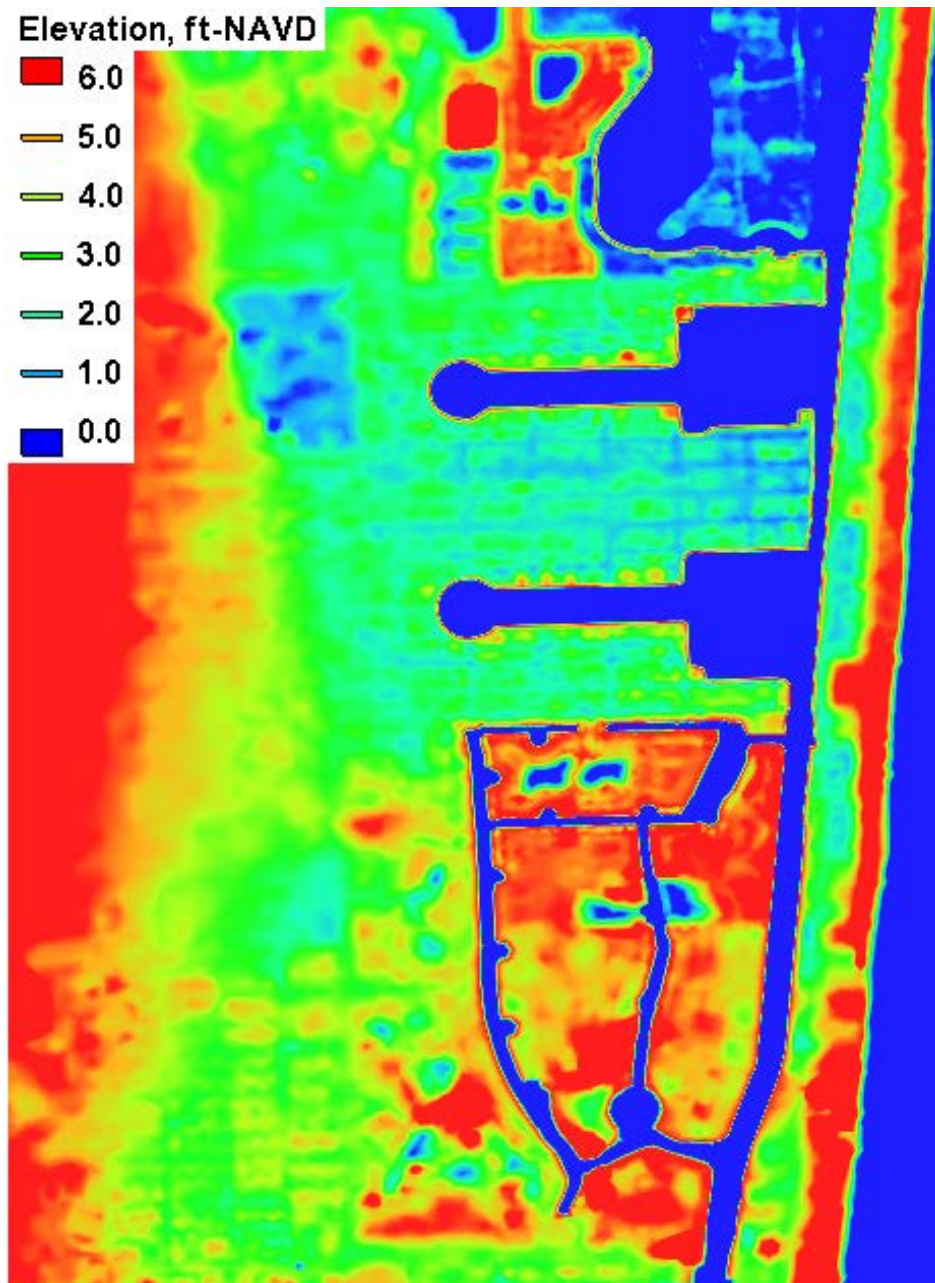


Figure 2.20 Alternative 3 Mesh Configuration, Hollywood Lakes

2.5 Nodal Attributes

Altering the SWAN+ADCIRC model mesh geometry requires corresponding updates to the nodal attribute data. Nodal attributes updated for the Broward FRM Study include *Manning's n* ; the wind stress reduction parameter *surface canopy coefficient*; and the *elemental slope limiter*.

The ADCIRC model inputs Manning's n values to parameterize bottom friction; typically, values derive from land use data compiled by the NOAA Coastal Change Analysis Program (C-CAP). Figures 2.21 and 2.22 present Manning's n in the Las Olas Boulevard and Hollywood Lakes areas. The surface canopy coefficient is mostly derived from NOAA C-CAP land use data, as is common to SWAN+ADCIRC modeling.

Surface canopy coefficient allows the user to turn off wind stress in heavily vegetated areas; the FEMA SFLSS found that using this parameter to disable wind stress over select overland locations prone to wetting and drying oscillations improved numerical stability. With wind stress disabled, storm surge inundation can still occur through local hydrodynamics; wind stress is never disabled within interior waterways. The Broward FRM Study disabled wind stress in specific areas to promote stability in several model runs. However, these areas lie west of the areas of interest in the study. Figures 2.23 and 2.24 show the existing and modified surface canopy coefficient settings for the existing and modified modeling conditions.

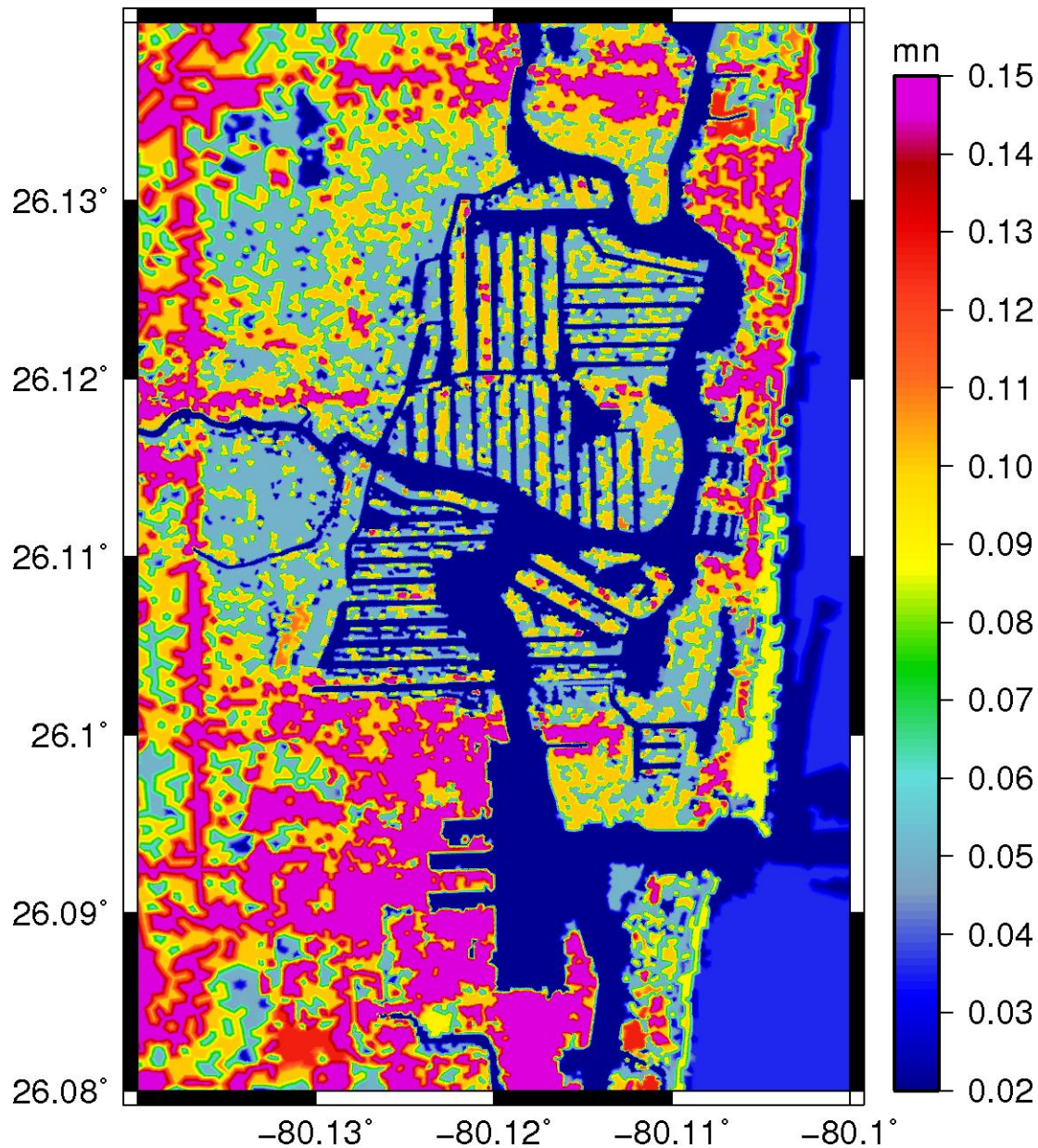


Figure 2.21 Manning's n , Las Olas Boulevard

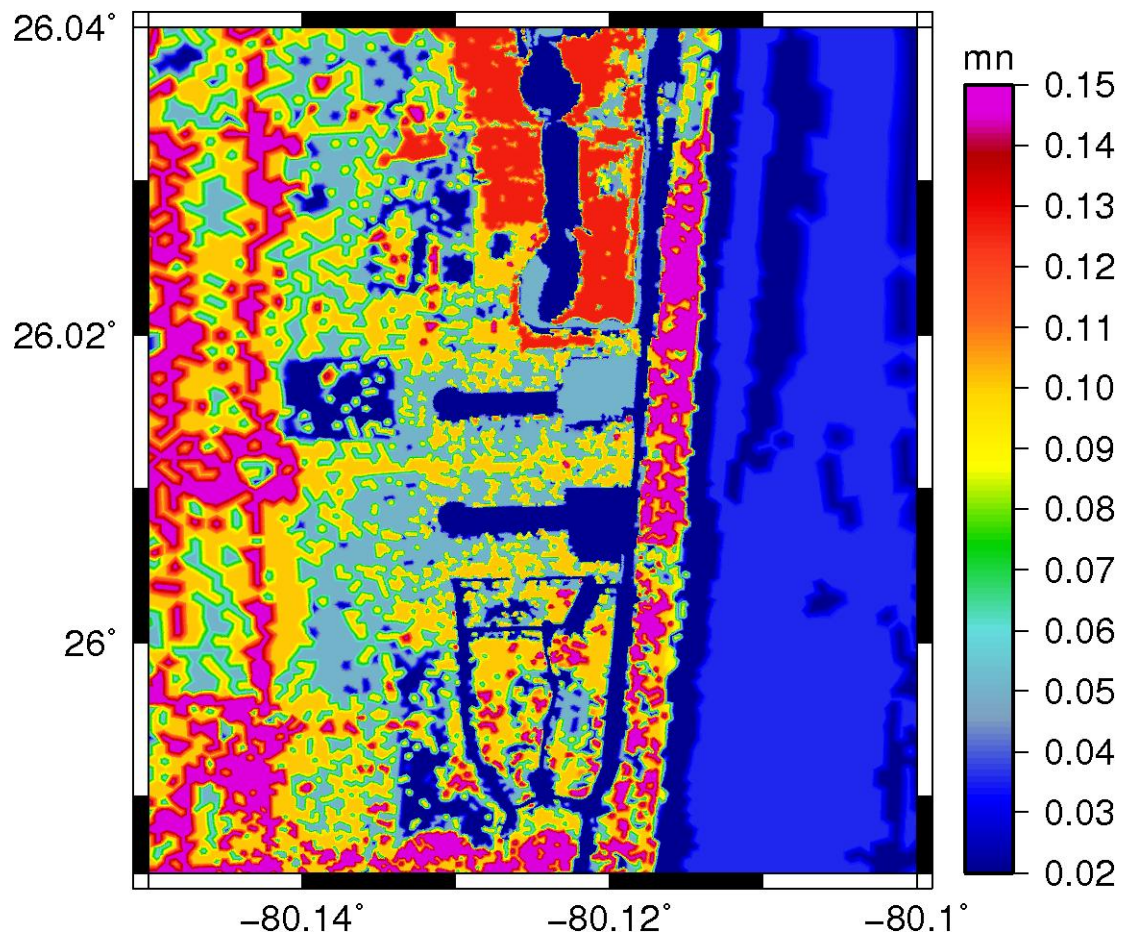


Figure 2.22 Manning's n , Hollywood Lakes

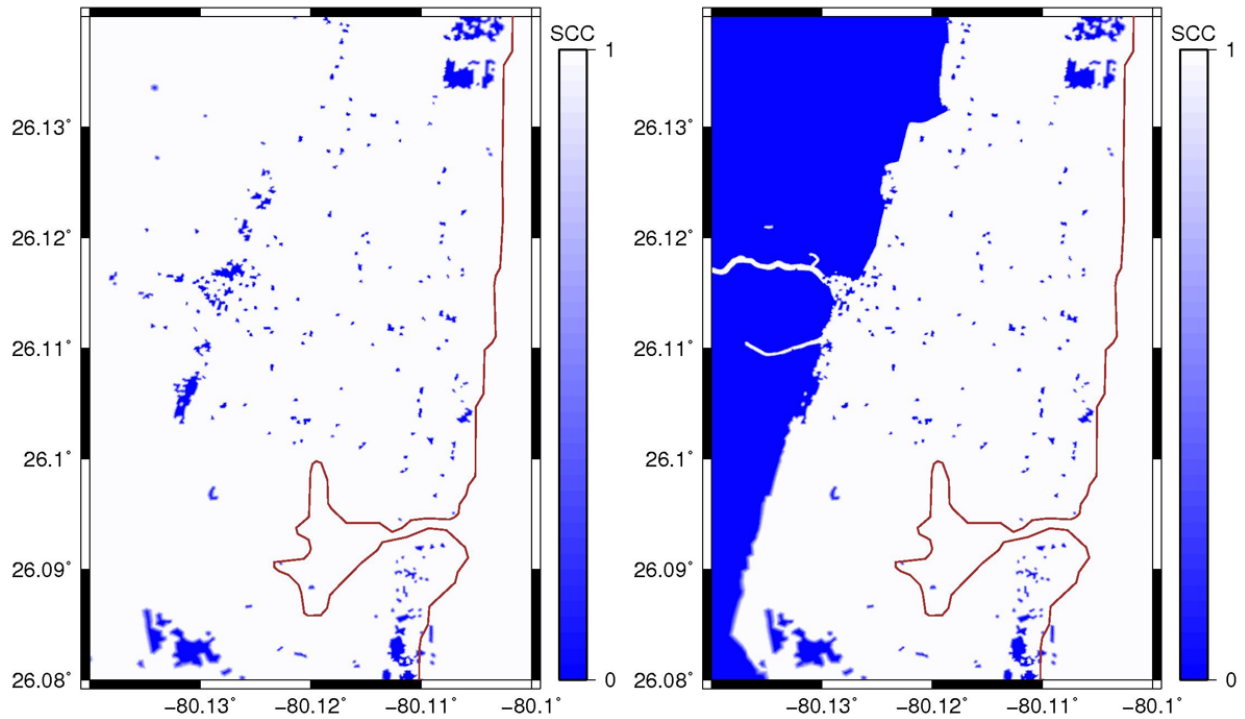


Figure 2.23 Surface Canopy Coefficient, Las Olas Boulevard; Existing Condition (left) and Modified (right)

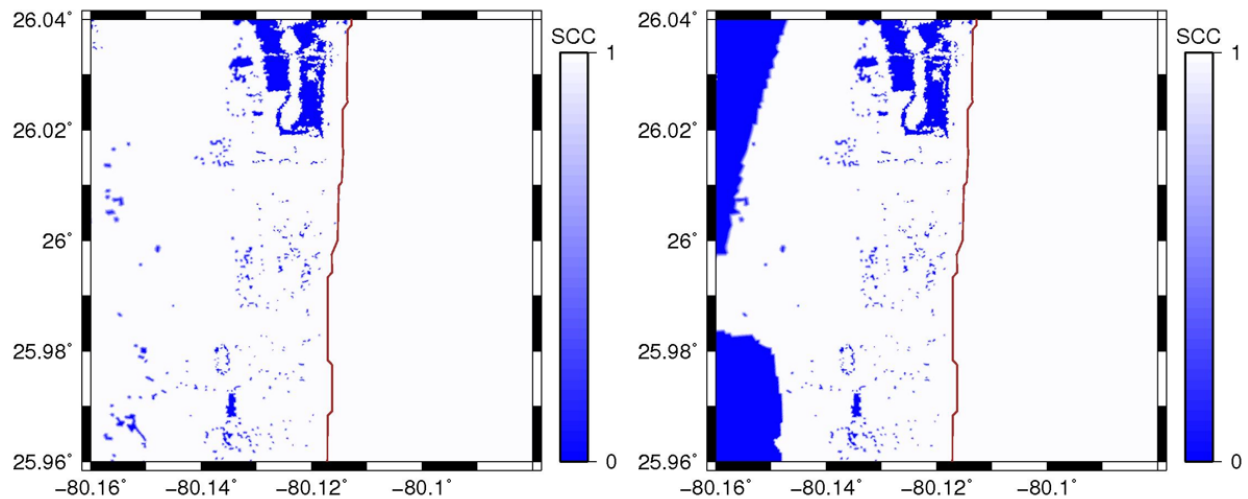


Figure 2.24 Surface Canopy Coefficient, Hollywood Lakes; Existing Condition (left) and Modified (right)

Finally, the SWAN+ADCIRC model user can apply the elemental slope limiter (ESL) nodal attribute to selectively limit the maximum water surface elevation gradient that can occur across an element. This nodal attribute improves numerical stability. The Broward FRM Study team initially applied ESL in the same locations as applied by the FEMA SFLSSS. Additional localized instabilities prompted the Broward FRM Study to further activate ESL in select locations. Section 5 further discusses application of ESL as well as sensitivity tests conducted to ensure that ESL only dampened instabilities rather than artificially dampening the surge signal. Figures 2.25 and 2.26 present ESL settings in the Las Olas Boulevard and Hollywood Lakes areas; red areas indicate that ESL was not applied, and the black line shows the inshore

waterway delineation to provide location reference. Notably, ESL only activates if the specified water surface elevation gradient is exceeded at any point during the simulation; if the gradient is not exceeded, the solution remains unchanged.

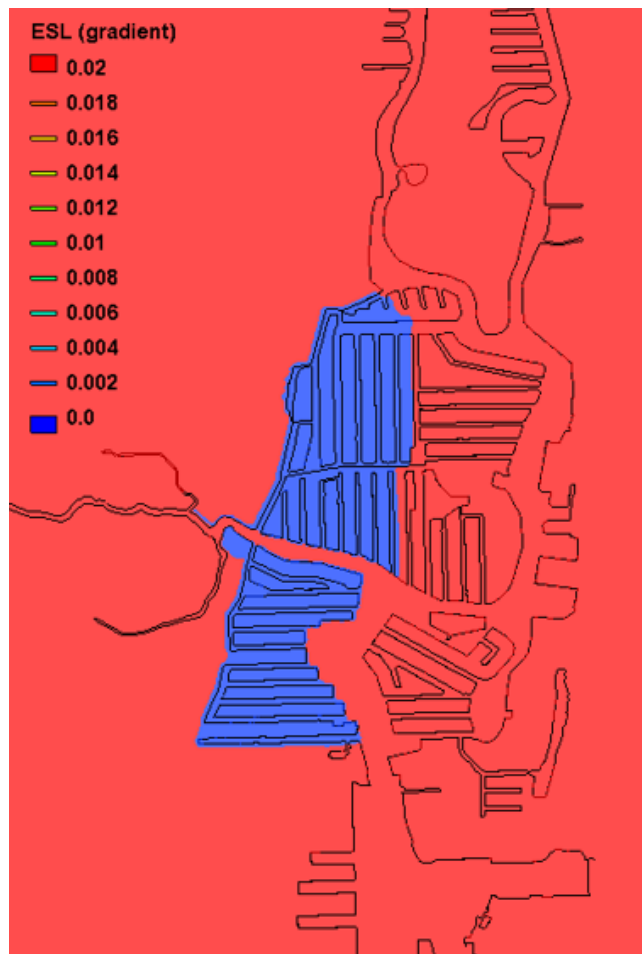


Figure 2.25 Elemental Slope Limiter (ESL), Las Olas Boulevard

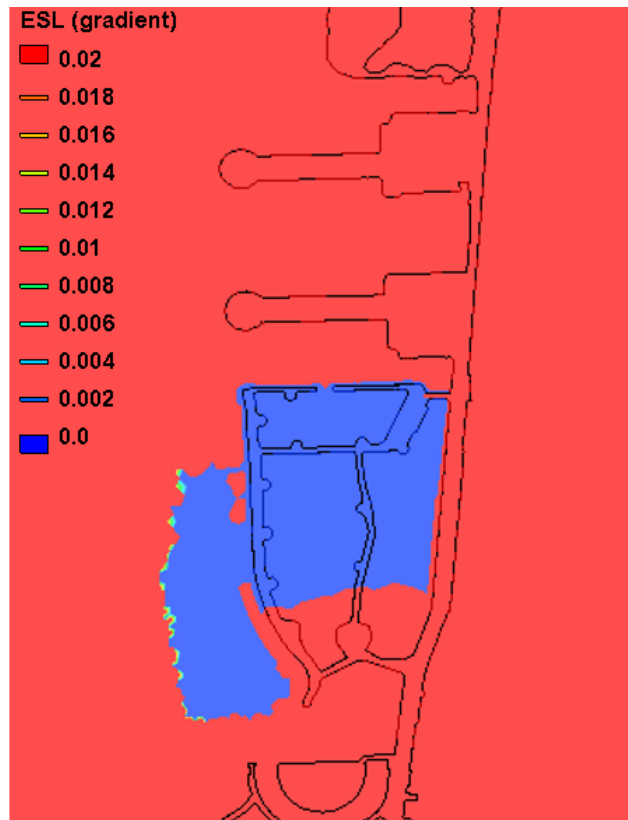


Figure 2.26 Elemental Slope Limiter (ESL), Hollywood Lakes

3.0 STORM SELECTION

3.1 Storm Selection Criterion

This portion of the study established the SWAN+ADCIRC model forcing conditions acting on the mesh alternatives described in Section 2. The study team applied the selected storm forcing conditions within the SWAN+ADCIRC model to allow examination of how different water levels (produced by different storms) interacted with various seawall height configurations in the Hollywood Lakes and Las Olas Boulevard areas. Discussions with USACE Jacksonville District and Broward County staff developed an approach for the storm selection process that included several considerations:

- Storms with various water levels ranging from an approximate 10% Annual Exceedance Probability (AEP) to an approximate 1% AEP
- Maximum storm surge occurs near high tide (approximately within 1 hour of high tide)
- Storm track places the storm landfall near Broward County (approximately 40 miles)

To examine the water level versus frequency conditions in the Hollywood Lakes and Las Olas Boulevard areas the study team reviewed several data sources. Historical measured data from NOAA Stations at Miami Beach (8723170), Virginia Key (Station 8723214), and Lake Worth Pier (8722670) allowed for examination of water levels around the 4% AEP and 10% AEP levels. Notably, the Miami Beach station record stops at approximately the same time the Virginia Key station record starts, so, due to their proximity, their records were combined into a single record. The NOAA data must be used with caution as the NOAA gages are located relatively far from the Broward FRM Study area and do not occur in inland

areas similar to the Hollywood Lakes and Las Olas Boulevard focus areas. Examination of the draft SFLSSS SWAN+ADCIRC production run results (FEMA, 2018a; FEMA, 2018b) allowed extraction of the 1%, and 2% AEP stillwater levels from the draft water level surfaces. These values, while not the final FEMA study values, provided a general value for the frequency associated with various water levels in the Hollywood Lakes and Las Olas Boulevard focus areas. The study team also reviewed water level data from the Florida Department of Environmental Protection (FDEP) (Wang, 2014) study that developed combined total storm tide frequency levels along coastal Broward County. However, the study team found the Wang (2014) water levels, developed to provide a basis for the regulatory Florida Coastal Construction Control Line (CCCL), provide much higher water levels as compared to the FEMA SFLSSS and NOAA data. Therefore, the Wang (2014) water levels were not applied within the storm selection process.

Table 3.1 presents the results of the water level versus annual exceedance probability analysis for the study. The NOAA data analysis, due to the record lengths available, provides estimates of the high-frequency water levels (20% to 5% AEP). The NOAA data analysis applied a multi-step process. The first step applied a sea level rise correction with the second step declustering the data. The next steps included application of a peak-over-threshold filter with the resulting data set fit to various distributions to determine the water level versus annual exceedance probability. The SFLSSS SWAN+ADCIRC model results, designed to provide low-frequency water level data, provide estimates of the 2% and 1% AEP levels. Tide data collected by the contractors for local government organizations in Broward County near Ft Lauderdale, FL show measured water levels near the highest predicted high-tide (“King Tides”) in October and November that exceed 2 ft-NAVD near the project area; however, review of local conditions indicates relatively strong local winds during these times that can elevate local water levels.

Table 3.1 Water Level (ft-NAVD88) Versus Annual Exceedance Probability (AEP) for NOAA and FEMA SFLSSS Draft Stillwater Elevation (SWEL) Data

Annual Exceedance Probability (AEP %)	NOAA Data Analysis (ft-NAVD)		FEMA SFLSSS Draft Stillwater Level (ft-NAVD)	
	Miami / Virginia Key	Lake Worth Inlet	Las Olas Boulevard (Average of 4 stations)	Hollywood Lakes (Average of 6 stations; 0.3 ft higher in South than North)
1	N/A	N/A	6.2	6.4
2	N/A	N/A	5.4	5.6
5	2.9	3	N/A	N/A
10	2.5	2.8	N/A	N/A
20	2.1	2.6	N/A	N/A

The study team determined tide phase associated with the landfall of each of the 392 synthetic tropical storms simulated during the SFLSSS SWAN+ADCIRC modeling. First the team identified the timing of simulated local maximum water level for each storm, and then identified water level at the corresponding time step within a tide-only simulation. The tide-only simulation applied identical astronomical tidal forcing as that applied during the 392 tropical storms. The study team thus identified storms that featured maximum water levels (including tide and storm effects) occurring near the tide-only high tide. This process allowed the selection of storms that featured maximum water level occurring near time of high tide (approximately within one hour of high tide).

The study team also examined the storm track for each of the 392 synthetic tropical storms in the SFLSSS SWAN+ADCIRC production run storm suite. The study team identified storms with tracks that placed landfall within Broward County or northern Miami-Dade County. Due to the counter-clockwise nature of tropical storm winds, tracks making landfall in these locations produce maximum storm surge in the project focus area. This step removed from consideration very strong (and rare) storms that made landfall at significant distances from the focus areas and maintained for consideration storms with tracks more relevant to Broward County. Importantly, the focus areas occur in inland areas with interior water bodies and channels providing conduits for water to move into both the Hollywood Lakes and Las Olas Boulevard focus areas; therefore, many different storm tracks and paths can produce elevated water levels in the focus areas.

3.2 Selection of Storms

Discussions with USACE Jacksonville and Broward County staff indicated that having storms that produced water levels near 3 ft-NAVD, 4.5 ft-NAVD, and 6 ft-NAVD would allow for examination of the effectiveness of the seawall height alternatives targeted for the study (existing conditions, 2.5 ft-NAVD, 4 ft-NAVD, and 6 ft-NAVD as discussed in Section 2). Based on the review of the three selection criteria in Section 3.1, the study team identified four storms from the SFLSSS SWAN+ADCIRC production run storm suite as the best candidates for application in models to evaluate the seawall configurations. The study team evaluated these four candidate storms as providing a range of maximum water levels that would allow evaluation of the seawall height alternatives, while meeting the tide and track considerations. The storms produced water levels ranging from approximately 3.3 ft-NAVD to 6.3 ft-NAVD in the Hollywood Lakes and Las Olas Boulevard focus areas. Importantly, the areas near Hollywood Lakes and Las Olas Boulevard feature numerous small canals, low-lying elevation areas, and connections to the Intra-coastal Waterway (ICWW) and the areas are separated by approximately 5.5 miles; these features allow for the same storm to have water levels that can differ by three to six inches within one of the focus areas and over six inches between the two study areas.

The water level values include an adjustment made to the SFLSSS initial water level to develop a Broward County-focused SWAN+ADCIRC initial water level that accounts for bringing the water levels up to the estimated 2018 mean sea level (MSL) condition near the focus areas. The Broward County FRM initial water level started with MSL for the North Dania Sound NOAA Benchmark Station (-0.87 ft-NAVD) and accounted for a steric effect from the NOAA SA and SSA tidal constituents equal to 0.45 ft which raises the local water level during hurricane season. The initial water level calculation also applied 0.31 ft of sea level rise based on the NOAA Lake Worth Pier sea level rise value (0.145 in/yr) to bring the water level up from the mid-point of the recent NOAA tidal epoch to 2018 conditions (25.7 years; 2018.2-1992.5). Thus, the Broward County FRM Study applied SWAN+ADCIRC model initial water level equal to -0.11 ft-NAVD [MSL (-0.87 ft-NAVD) + Steric Effect (0.45 ft) + Sea Level Rise since MSL Epoch (0.31 ft) = -0.11 ft-NAVD]. For reference, the South Florida region-wide SFLSSS applied an initial water level equal to -0.51 ft-NAVD

The study team selected SFLSSS Storms 276, 122, 61, and 60 for the Broward County FRM Study (storms listed in order of storm surge height produced near Las Olas Boulevard, from lowest to highest). Table 3.2 provides details on the storm features and water levels developed in the focus areas. Figure 3.1 shows the storm tracks.

- Storm 276 features a storm track that moves in a westerly direction, makes landfall approximately 13 miles south of the Hollywood Lakes focus area, and produces water levels of 3.7 ft-NAVD near Las Olas Boulevard and 3.2 ft-NAVD in Hollywood Lakes.

- Storm 122 features a storm track that moves in a westerly direction, makes landfall approximately 20 miles south of the Hollywood Lakes focus area, and produces water levels near 5.0 ft-NAVD near Las Olas Boulevard and 4.5 ft-NAVD in Hollywood Lakes. Storm 122 makes landfall further south of the project area than Storm 276 but features stronger wind speeds.
- Storm 60 features a storm track that moves in a northwesterly direction, makes landfall in central Biscayne Bay approximately 27 miles south of the Hollywood Lakes focus area, and produces water levels near 5.4 ft-NAVD near Las Olas Boulevard and 6.1 ft-NAVD in Hollywood Lakes.
- Storm 61 features a storm track that moves in a northwesterly direction, makes landfall in northern Biscayne Bay approximately 20 miles south of the Hollywood Lakes focus area, and produces water levels near 6.3 ft-NAVD near Las Olas Boulevard and 5.7 ft-NAVD in Hollywood Lakes.

Table 3.2 Storm Parameters and Approximate Maximum Water Levels Associated with Storm Selected for SWAN+ADCIRC Model Simulations

Storm	Forward Velocity	Radius to Maximum Wind	Maximum Wind Speed	Approximate Maximum Water Level Las Olas Boulevard	Approximate Maximum Water Level Hollywood Lakes
	(knots)	(nmi)	(knots)	(ft-NAVD)	(ft-NAVD)
276	10	25	58	3.7	3.2
122	10	13	114	5.0	4.5
60	10	14	114	5.4	6.1
61	10	14	114	6.3	5.7

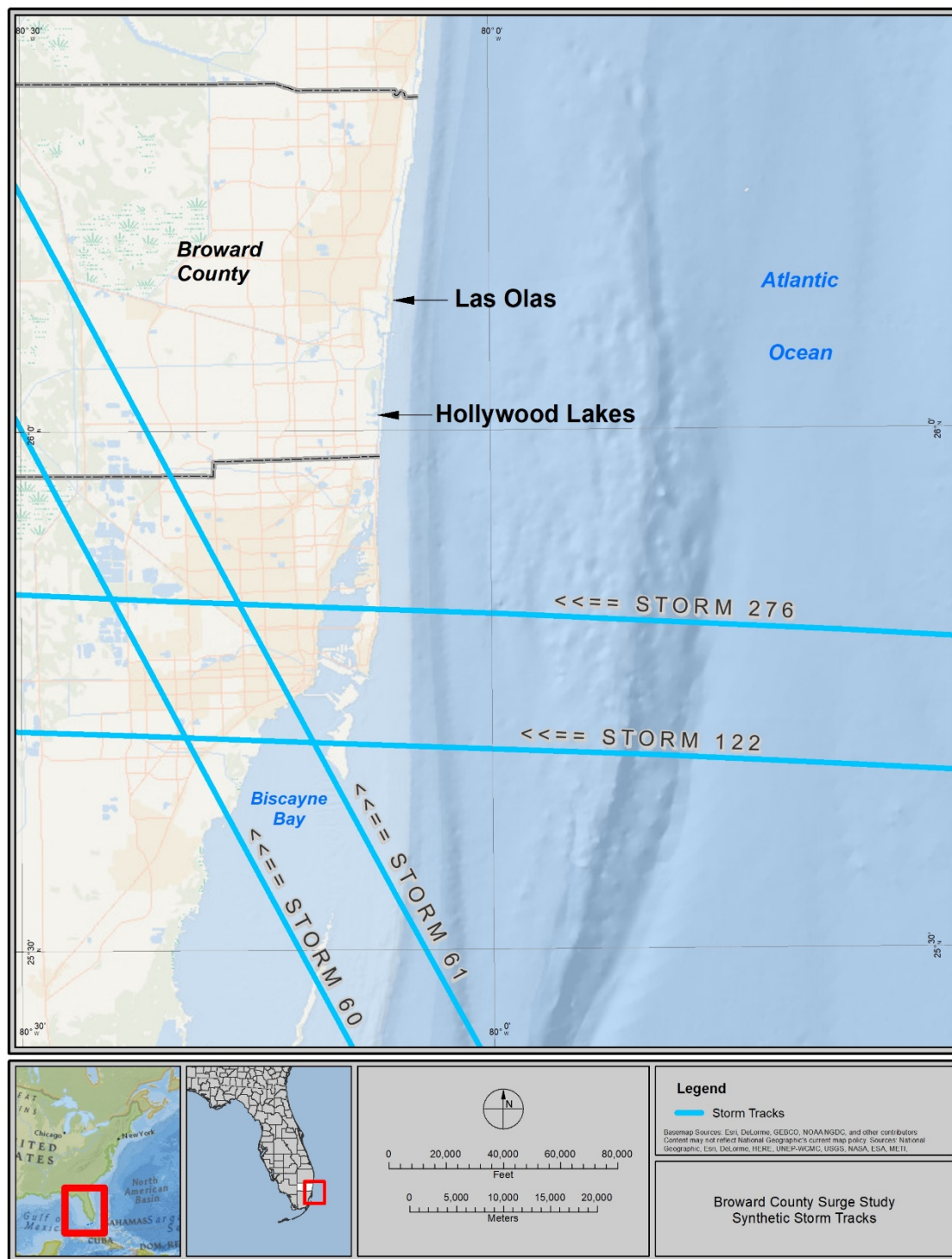


Figure 3.1 Storm Track for Each of the Storms Selected for Analysis in SWAN+ADCIRC Model

4.0 SWAN+ADCIRC MODEL VERIFICATION

The Broward County FRM applied a SWAN+ADCIRC model mesh and forcing that included both a validation phase and verification phase. The validation phase consisted of comparisons of simulated data to measured data for historical tropical storms, while the verification consisted of comparing model results from different computing resources. The validation phase for the mesh and model settings that provided the foundation for the Broward County FRM SWAN+ADCIRC model occurred during the FEMA Region IV SFLSSS (FEMA, 2017). The SFLSSS executed five historical tropical storms as part of the SWAN+ADCIRC model validation. For each validation storm, the SWAN+ADCIRC model results were compared with measured water level data (hydrographs and high-water marks (HWM)). Due to the absence of fixed wave measurement buoys in south Florida, the SFLSSS did not locate any wave measurements during the validation storms. The model-to-measurement water level comparisons showed the SFLSSS SWAN+ADCIRC model reasonably reproduced the measured water levels across the study area and the validation passed the multi-level FEMA review process.

The Broward County FRM also executed a model verification procedure to document that, with similar initial water level and storm forcing, the SWAN+ADCIRC model simulation results conducted on Taylor Engineering's high-performance computer (HPC) "Merlin" closely matched the SFLSSS results conducted on FEMA's "LiveOak" cluster hosted by WorldWinds, Inc. in Slidell, LA. The study team executed Storm 276 for the Broward County FRM on the Existing Conditions mesh using the Merlin HPC and compared the water level results to the SFLSSS results for Storm 276 (executed on the LiveOak HPC).

Figure 4.1 shows the model verification results near Las Olas Boulevard for Storm 276 executed on Merlin with the Broward County FRM Existing Conditions mesh and on LiveOak with the SFLSSS model mesh. Figure 4.1 shows almost identical results for the pre-storm tidal oscillations and storm surge, with maximum differences near 0.05 ft. Given the differences in HPC architecture and changes to the Broward County FRM mesh based on new seawall survey data, the small changes were expected. Figure 4.2 shows the model verification results in Hollywood Lakes for Storm 276 executed on Merlin with the Broward County FRM Existing Conditions mesh and on LiveOak with the SFLSSS model mesh. Figure 4.2 shows almost identical results for the pre-storm tidal oscillations and storm surge, with maximum differences near 0.05 ft. The verification results demonstrate the Broward County FRM SWAN+ADCIRC model with the Existing Conditions mesh and executed on the Merlin HPC produces similar results to the validated SFLSSS SWAN+ADCIRC model and mesh. With this testing complete, the study team moved on to simulate the different Broward County FRM mesh alternatives with the selected storm forcing conditions.

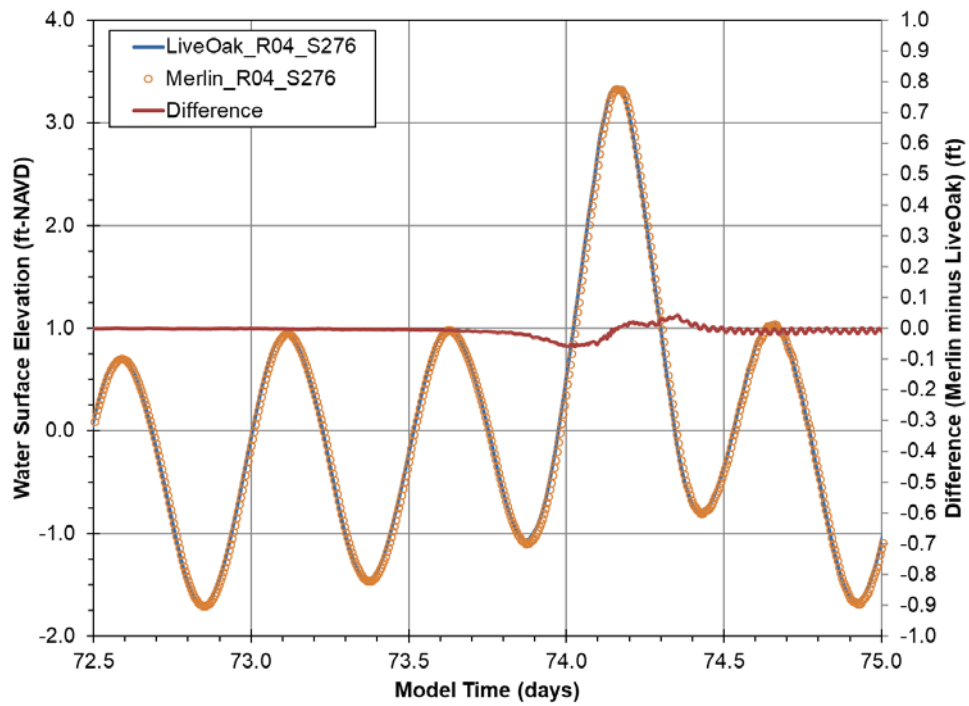


Figure 4.1 Verification for Broward County FRM SWAN+ADCIRC Model, Las Olas Boulevard Area

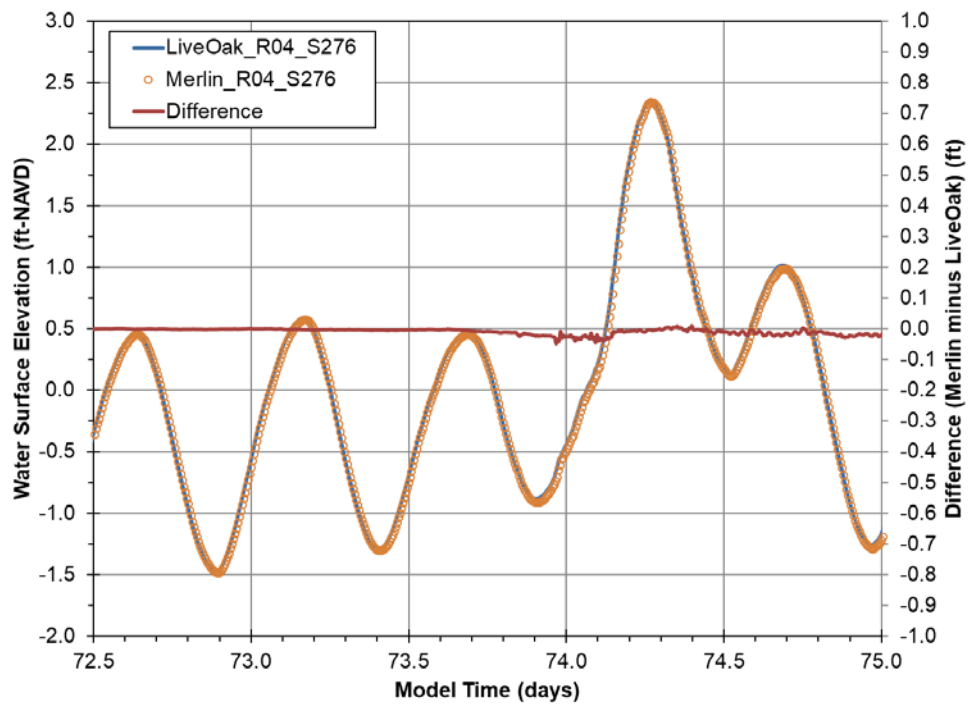


Figure 4.2 Verification for Broward County FRM SWAN+ADCIRC Model, Hollywood Lakes Area

5.0 SWAN+ADCIRC MODEL RESULTS AND DISCUSSION

With alternative seawall configurations developed as detailed in Section 2 and the storms selected in Section 3, the study team developed a model run matrix to assign the mesh configuration and storm forcing for a series of 12 simulations. The simulations were designed to provide water levels and inundation extents produced by various storms with different seawall heights (mesh alternatives) applied. Table 5.1 presents the SWAN+ADCIRC model simulation matrix with information on the storm forcing, mesh configuration, model attributes (surface canopy coefficient and ESL), and brief notes on the model results near Las Olas Boulevard and Hollywood Lakes.

Table 5.1 SWAN+ADCIRC Model Simulation Matrix with Notes on Results

Storm Number	Mesh Configuration	Surface Canopy Attribute Setting	ESL Attribute Setting	Seawall Overtopping Notes Las Olas Boulevard	Seawall Overtopping Notes Hollywood Lakes
Storm 276	Existing	base	sofl_v10	Overtopping	Overtopping
Storm 276	Alternative 1	base	sofl_v10	No overtopping	Overtopping
Storm 276	Alternative 2	base	sofl_v10	No overtopping	No overtopping
Storm 122	Existing	scc-v3c	sofl_v10g	Overtopping	Overtopping
Storm 122	Alternative 2	scc-v3c	sofl_v10g	Overtopping	Overtopping
Storm 122	Alternative 3	scc-v3c	sofl_v10d	No overtopping	No overtopping
Storm 60	Existing	scc-v3c	sofl_v10g	Overtopping	Overtopping
Storm 60	Alternative 2	scc-v3c	sofl_v10g	Overtopping	Overtopping
Storm 60	Alternative t3	scc-v3c	sofl_v10d	No overtopping	Unstable in ICWW south of South Lake
Storm 61	Existing	scc-v3c	sofl_v10g	Overtopping	Overtopping
Storm 61	Alternative 2	scc-v3c	sofl_v10g	Overtopping	Overtopping
Storm 61	Alternative 3	scc-v3c	sofl_v10g	Some overtopping, greatly reduced from Alternative 2	No overtopping, surge enters from south

During execution of the model simulations, the project team observed that some model simulations of Alternative 2 (4-ft minimum) and Alternative 3 (6-ft minimum) seawall elevations produced unstable SWAN+ADCIRC model behavior at the point of overtopping in specific mesh locations. The unstable model behavior caused a rapid increase in water level over a single 6-minute output time step; such results indicated unrealistic water levels changes. Importantly, this model behavior was not observed in the original SFLSSS simulations that applied the SFLSSS mesh (based on existing conditions from best-available data at the time of that study). The study team believes the model behavior resulted from the effect of water rushing over the narrow, elevated seawall and down the backslope created in the model mesh as water levels exceed the seawall elevation. For the areas near the ICWW, the instabilities likely relate to Courant–Friedrichs–Lewy (CFL) conditions (related to model time step, element size, and wave speed). However, near the one-element canals, the instabilities likely relate to wetting and drying oscillations. To achieve stability within the SWAN+ADCIRC model for those areas near seawall overtopping, the study team modified two nodal attributes – elemental slope limiter (ESL) and surface canopy coefficient (SCC). The study team had initially applied nodal attributes reflecting those applied to most production

simulations in the SFLSSS SWAN+ADCIRC modeling. These included SCC deriving from NOAA C-CAP land use data as detailed in Section 2, and ESL applied in select locations throughout the mesh to dampen instabilities experienced during early SFLSSS production run simulations. The initially applied ESL locations did not coincide with areas of interest in the Broward FRM Study. During the Broward FRM Study storm simulations, overtopping instabilities necessitated expansion in the application area of ESL; the final set of numerically stable storm simulations included several versions of the ESL nodal attribute application extent. The team began with SFLSSS dataset “sofl_v10”, with subsequent edits labeled sofl_v10a, sofl_v10b, etc. These edits were cumulative, with unstable nodes added to the ESL dataset with each consecutive edit. Sofl_v10g represents the most comprehensive ESL activation applied as displayed in Figures 2.25 – 2.26.

The Broward FRM Study instabilities also prompted disabling wind stress in select overland areas as described in Section 2. For these runs, the study team applied an SCC dataset with overland wind stress disabled as applied in model reruns to correct unstable results during the SFLSSS SWAN+ADCIRC modeling. The Broward FRM Study team did not further edit this dataset (titled “scc_v3”). Note that the overland areas with wind stress disabled are located west of areas of interest in the present study. Table 5.1 indicates the various SCC and ESL settings applied for each of the 12 simulations in the SWAN+ADCIRC Model Simulation Matrix.

5.1 Storm Surge Model Results; Las Olas Boulevard

Figures 5.1 to 5.24 present the maximum water level and maximum water depth in the Las Olas Boulevard area for the 12 simulations in the SWAN+ADCIRC model simulation matrix (order shown in Table 5.1). The plots allow for examination of how each seawall alternative affects the water levels and inundation areas for each of the four storms. The water depth plots calculate the depth as the maximum water level minus the ground elevation; therefore, the open ocean and small channels present as a depth over six ft.

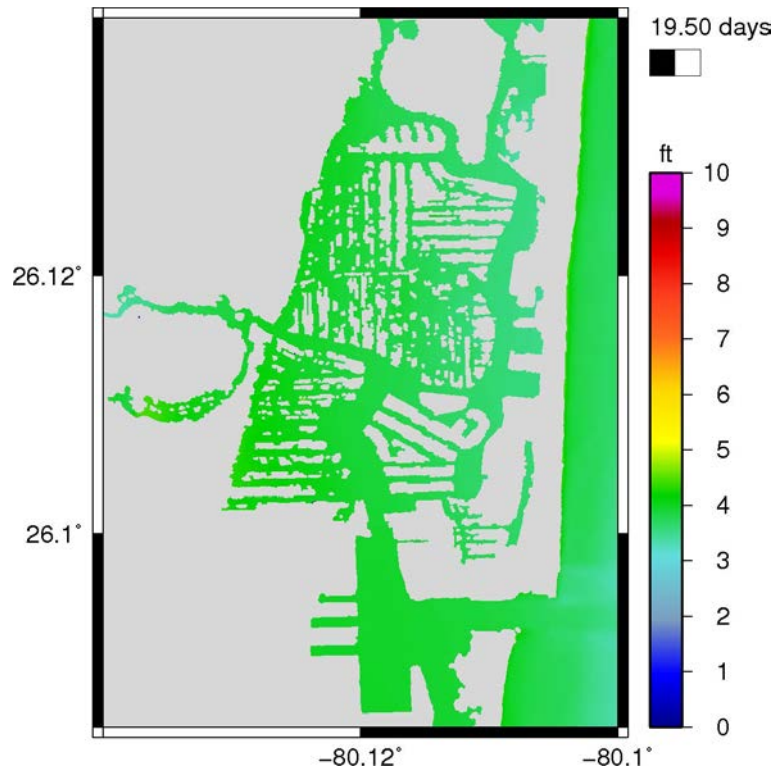


Figure 5.1 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 276; Existing Mesh Configuration

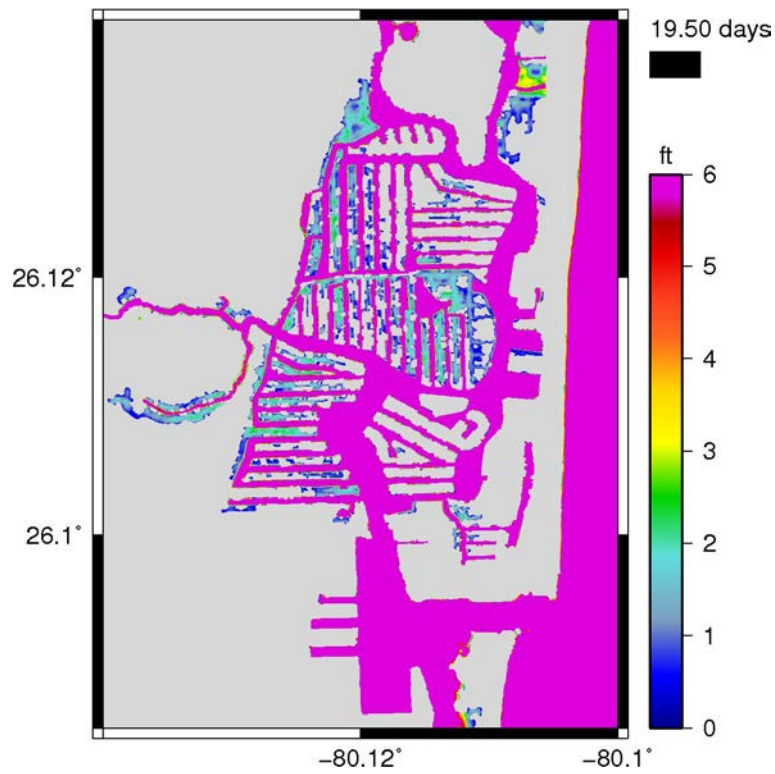


Figure 5.2 Maximum Water Depth, Las Olas Boulevard; Storm 276; Existing Mesh Configuration

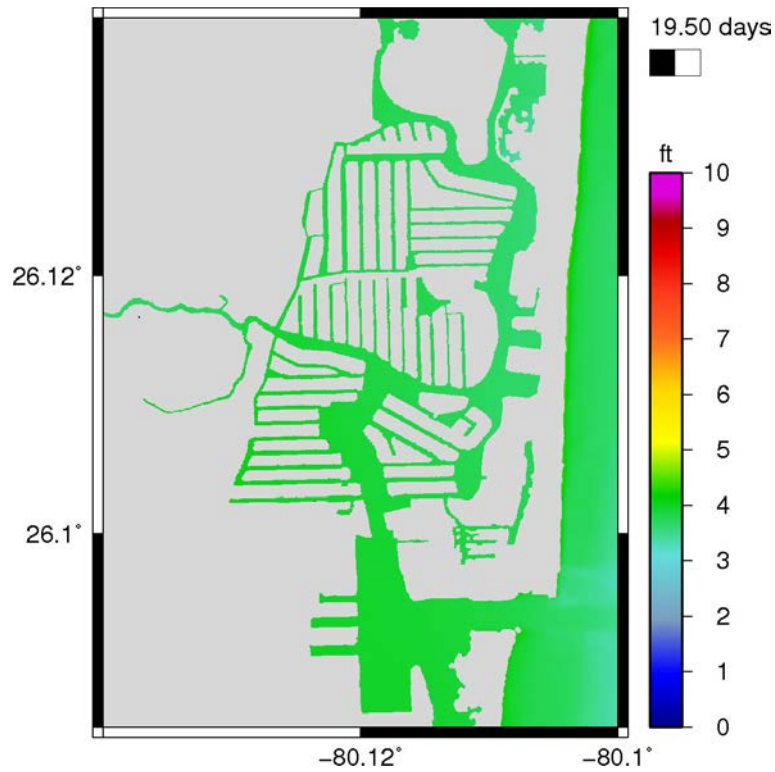


Figure 5.3 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 276; Alternative 1 Mesh Configuration

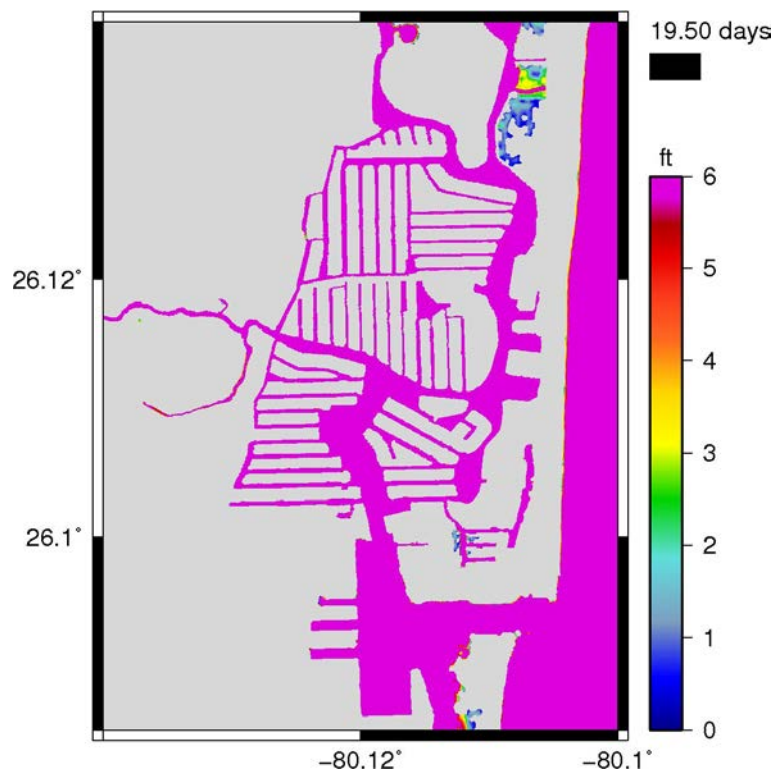


Figure 5.4 Maximum Water Depth, Las Olas Boulevard; Storm 276; Alternative 1 Mesh Configuration

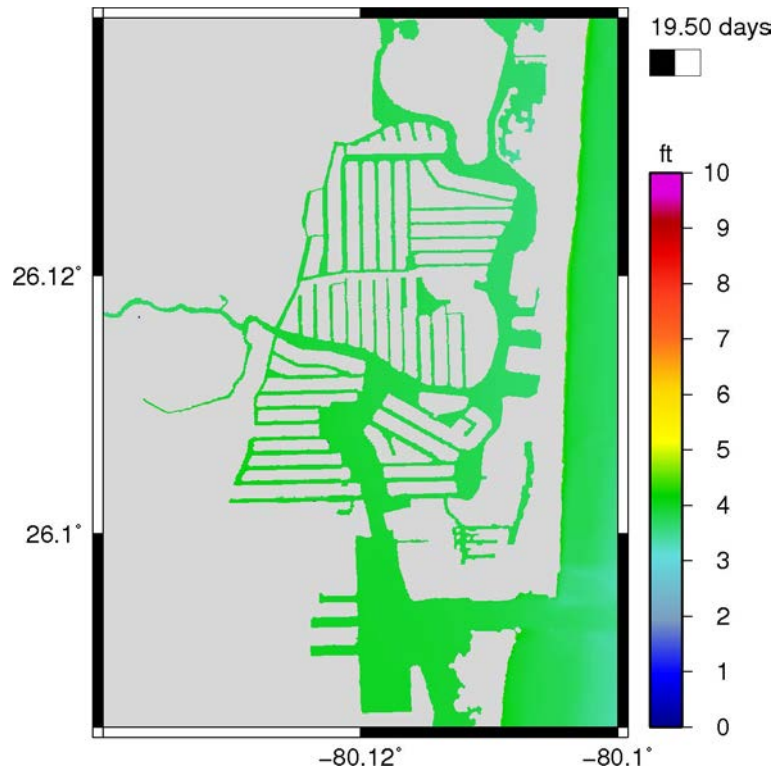


Figure 5.5 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 276; Alternative 2 Mesh Configuration

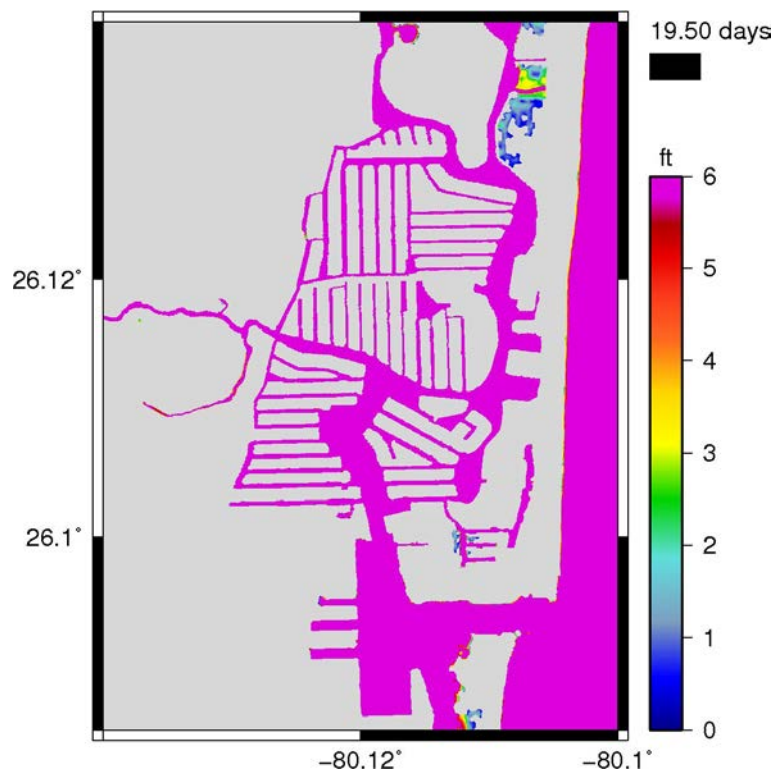


Figure 5.6 Maximum Water Depth, Las Olas Boulevard; Storm 276; Alternative 2 Mesh Configuration

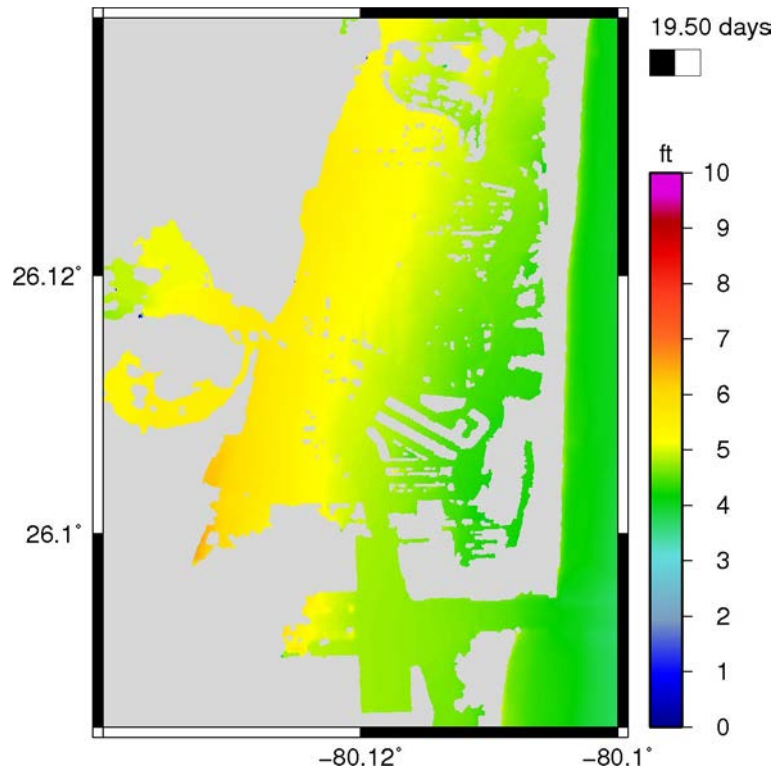


Figure 5.7 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 122; Existing Mesh Configuration

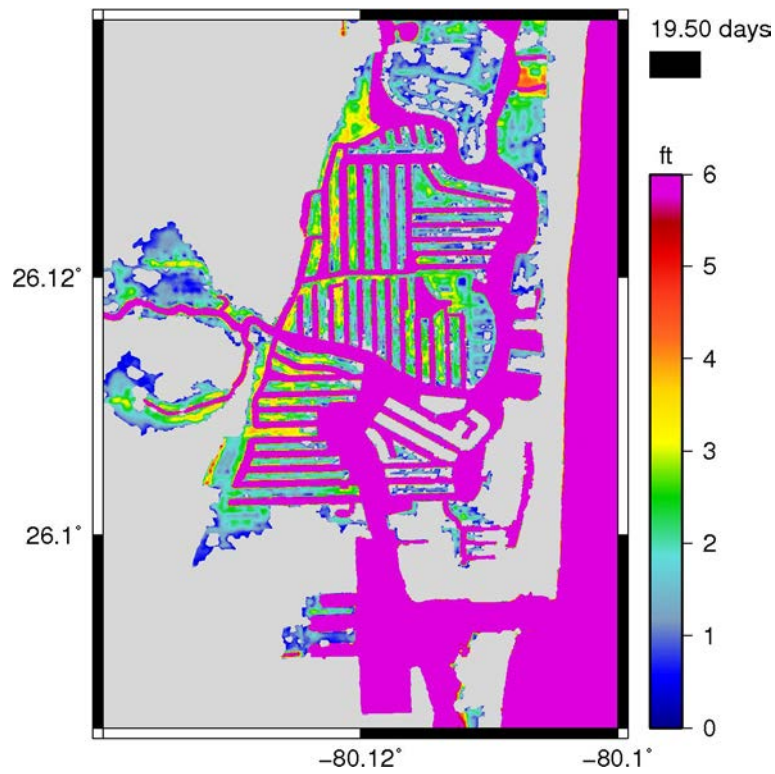


Figure 5.8 Maximum Water Depth, Las Olas Boulevard; Storm 122; Existing Mesh Configuration

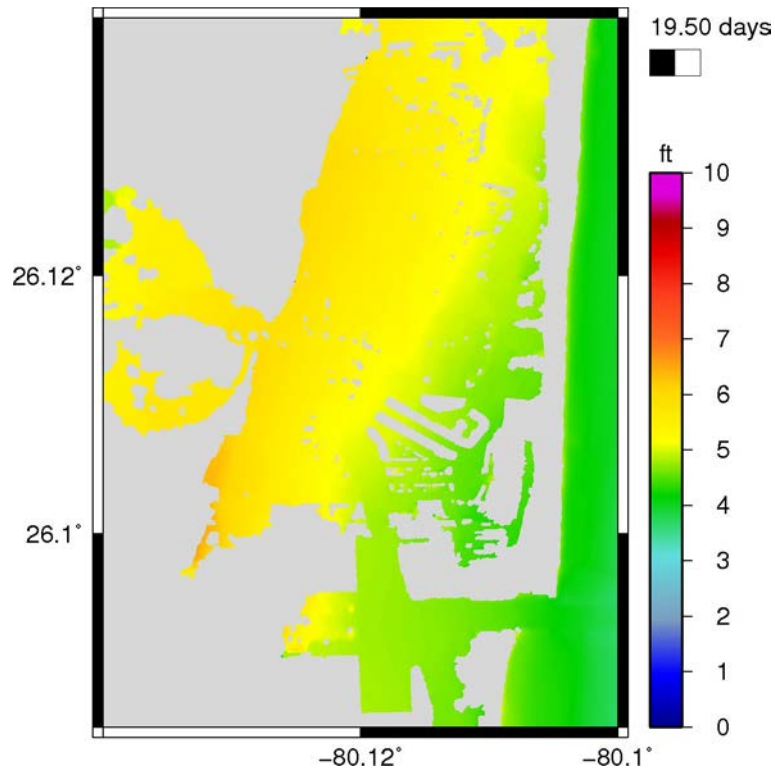


Figure 5.9 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 122; Alternative 2 Mesh Configuration

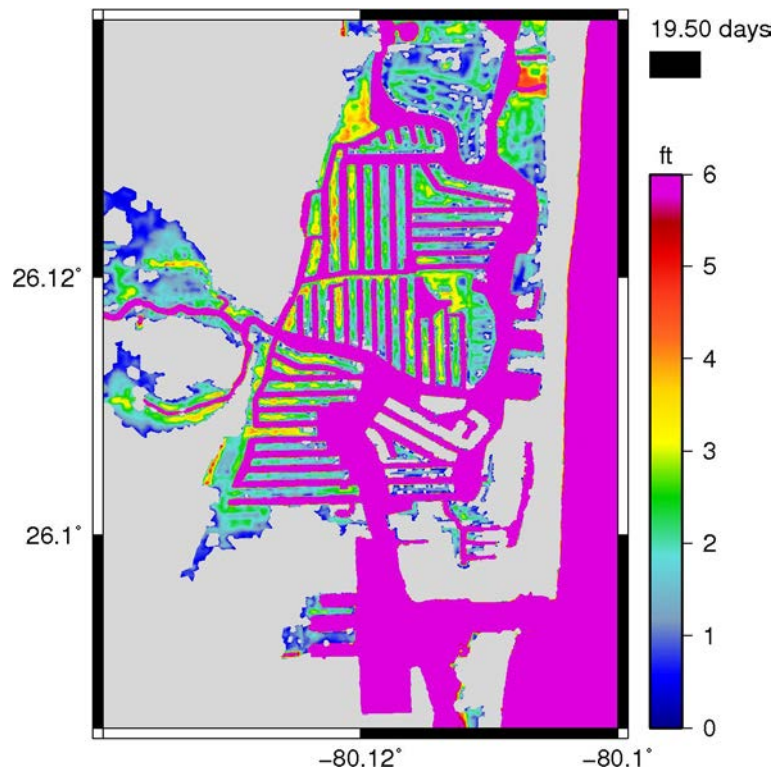


Figure 5.10 Maximum Water Depth, Las Olas Boulevard; Storm 122; Alternative 2 Mesh Configuration

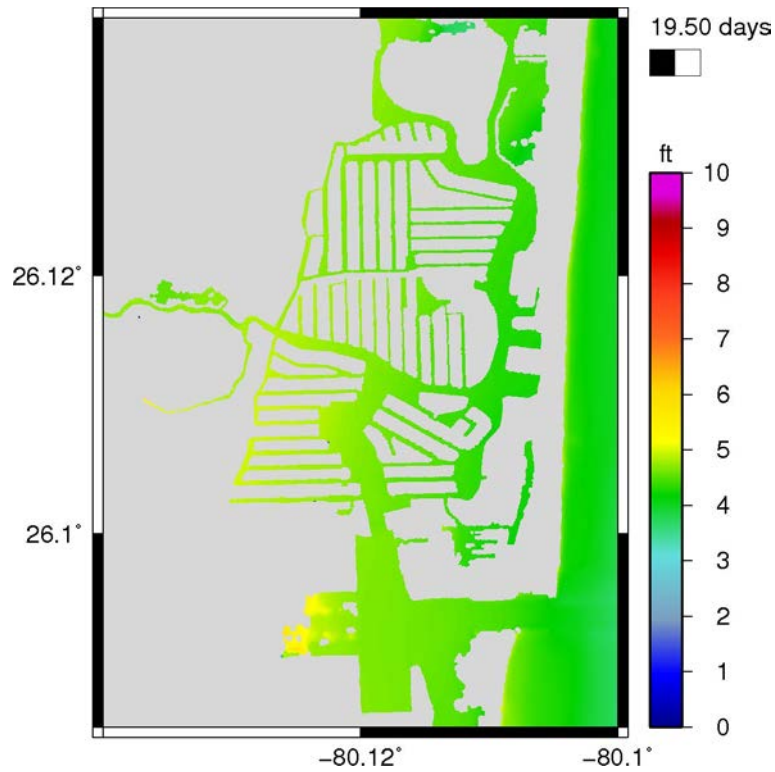


Figure 5.11 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 122; Alternative 3 Mesh Configuration

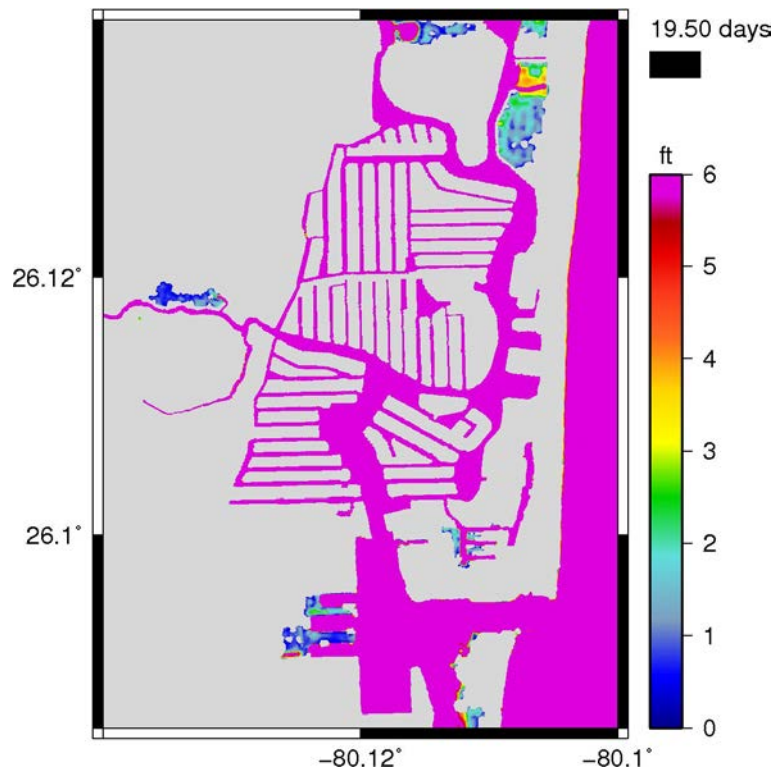


Figure 5.12 Maximum Water Depth, Las Olas Boulevard; Storm 122; Alternative 3 Mesh Configuration

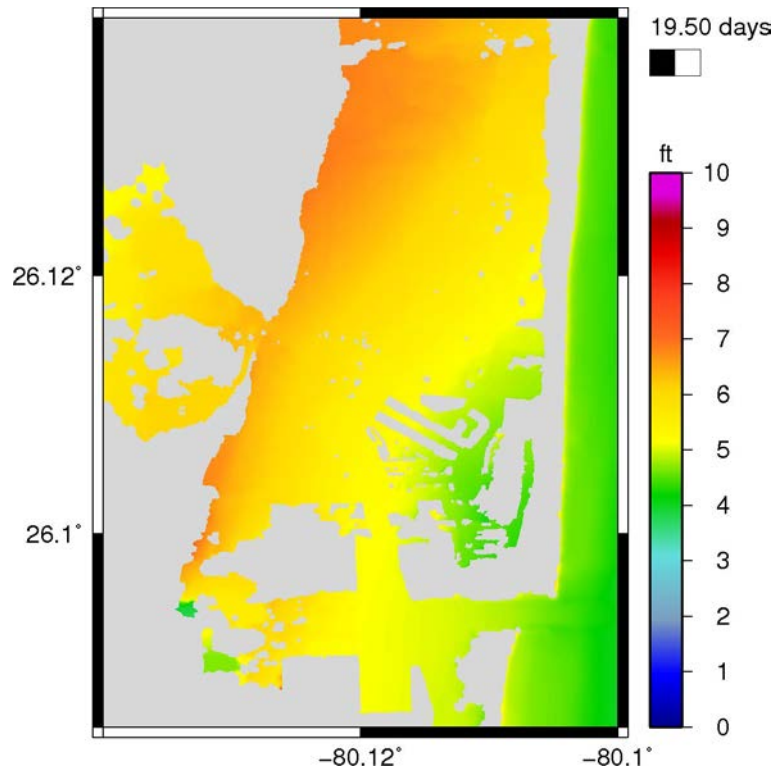


Figure 5.13 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 60; Existing Mesh Configuration

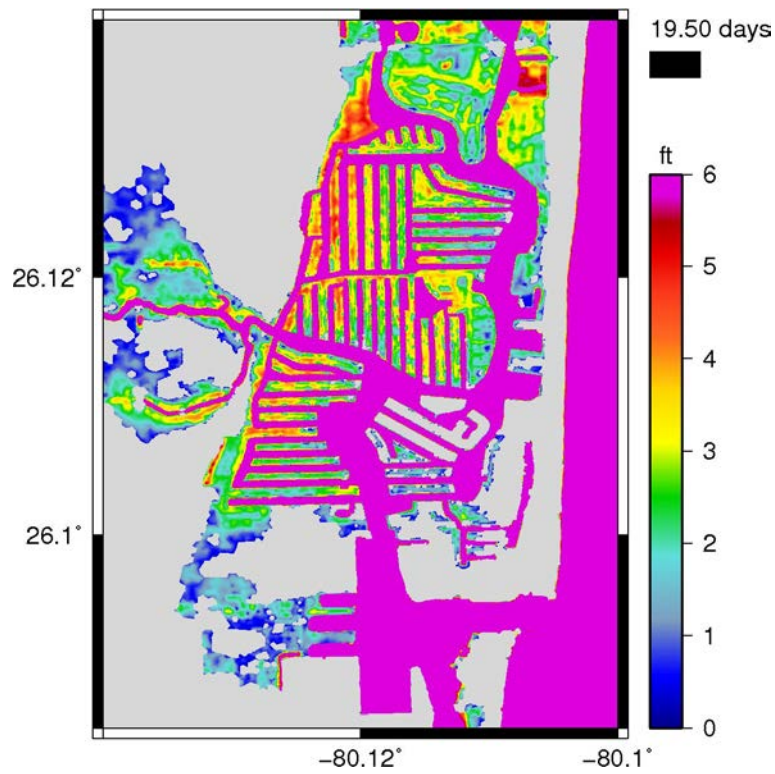


Figure 5.14 Maximum Water Depth, Las Olas Boulevard; Storm 60; Existing Mesh Configuration

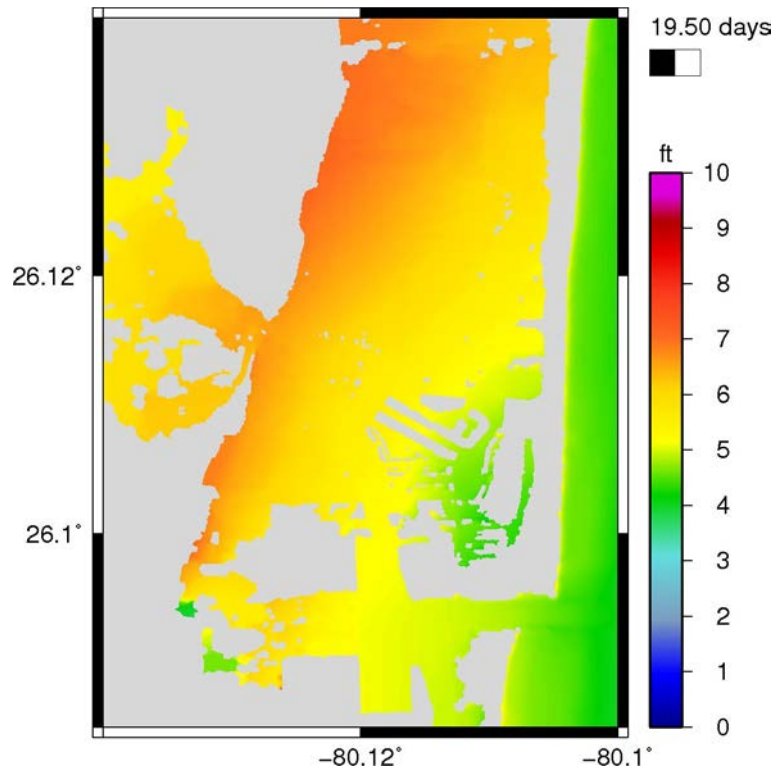


Figure 5.15 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 60; Alternative 2 Mesh Configuration

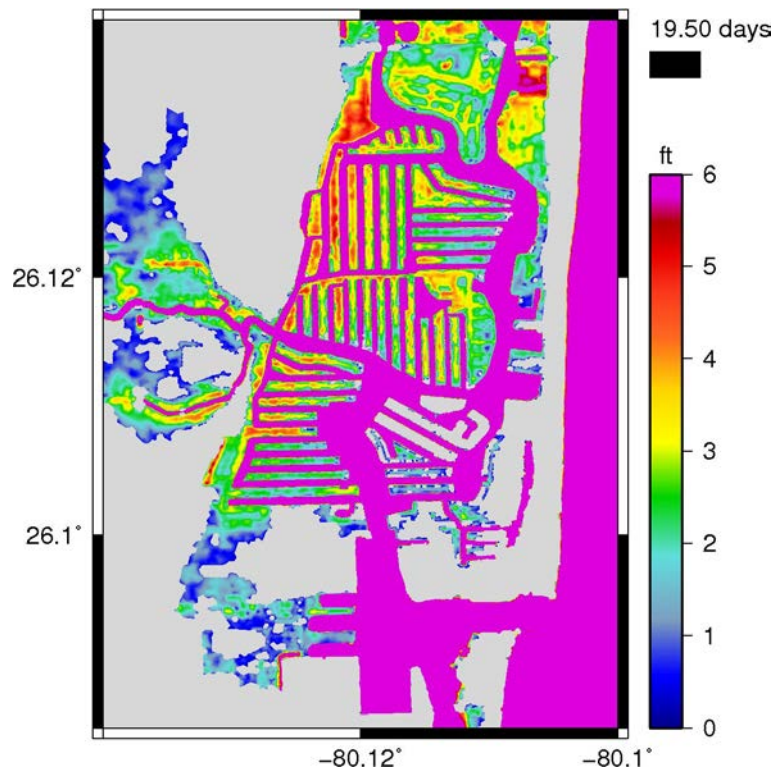


Figure 5.16 Maximum Water Depth, Las Olas Boulevard; Storm 60; Alternative 2 Mesh Configuration

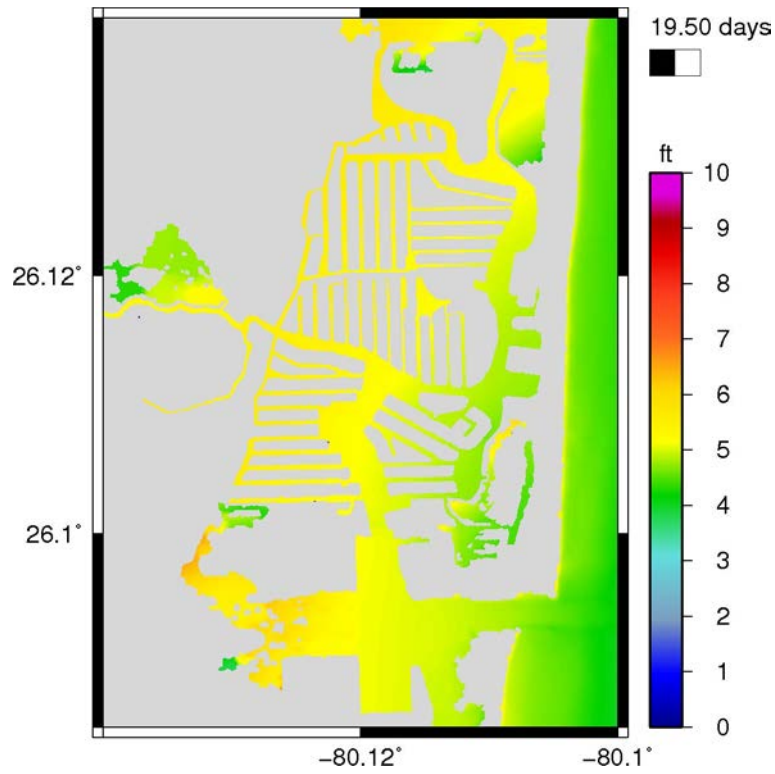


Figure 5.17 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 60; Alternative 3 Mesh Configuration

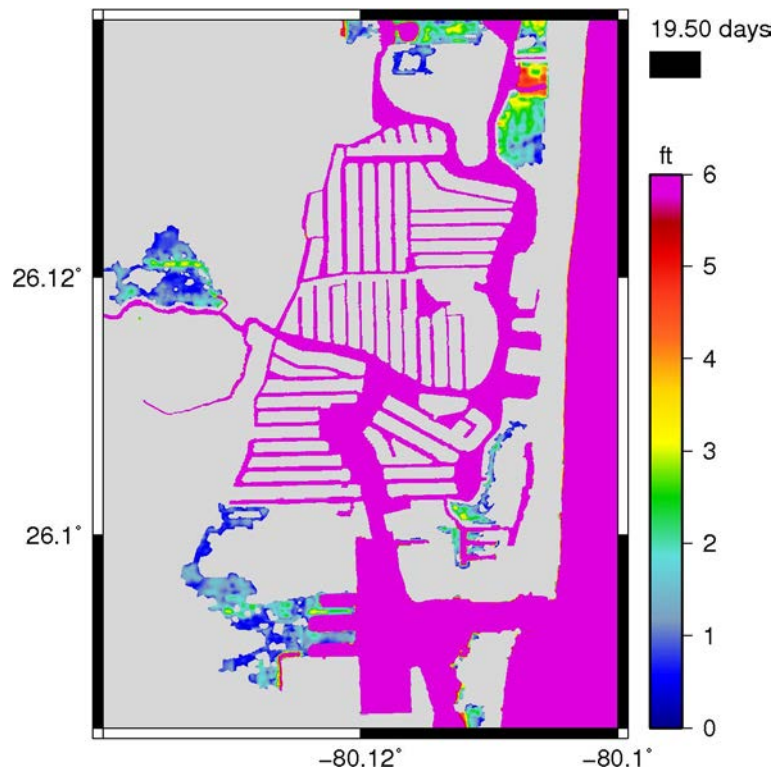


Figure 5.18 Maximum Water Depth, Las Olas Boulevard; Storm 60; Alternative 3 Mesh Configuration

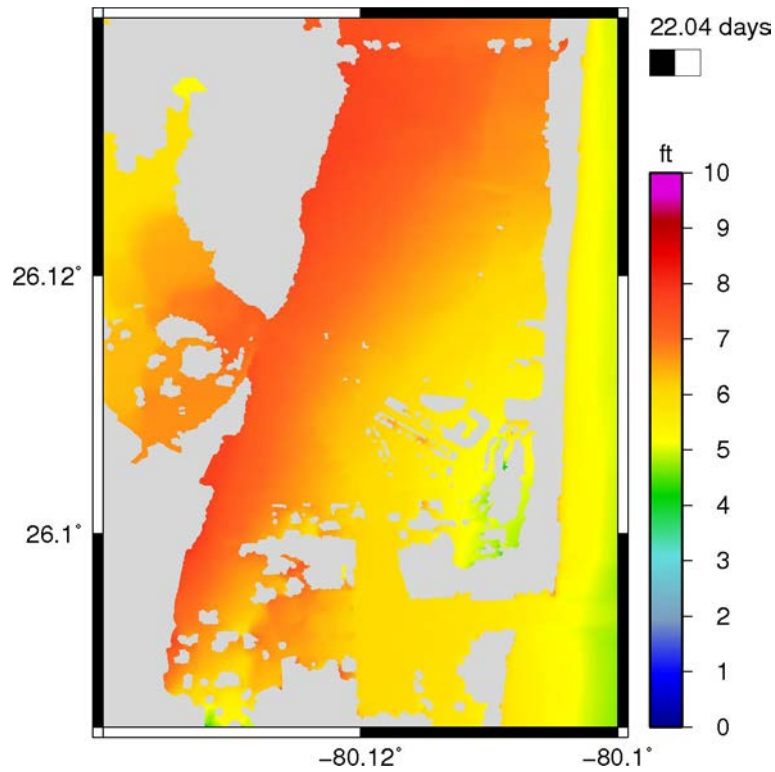


Figure 5.19 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 61; Existing Mesh Configuration

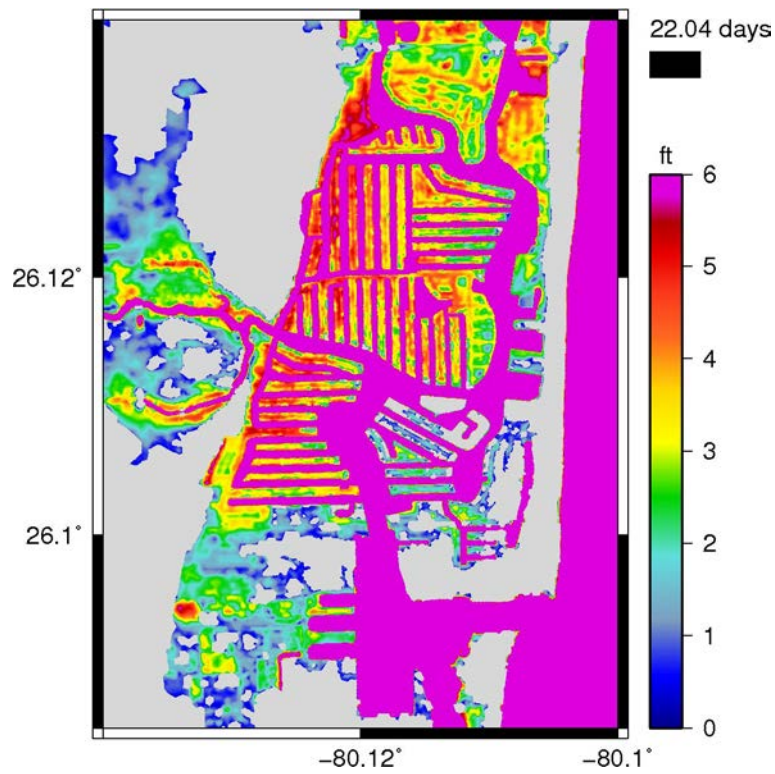


Figure 5.20 Maximum Water Depth, Las Olas Boulevard; Storm 61; Existing Mesh Configuration

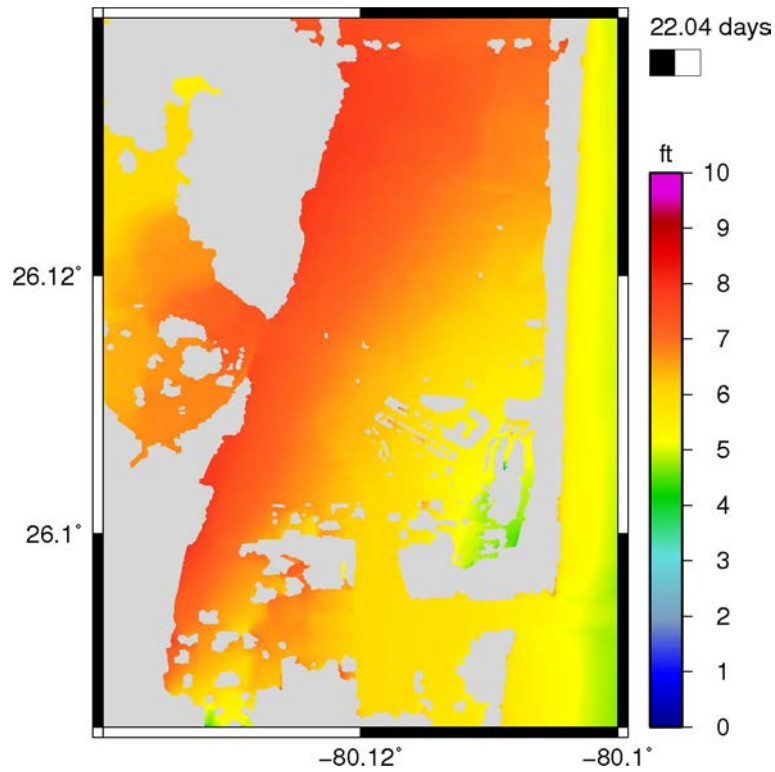


Figure 5.21 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 61; Alternative 2 Mesh Configuration

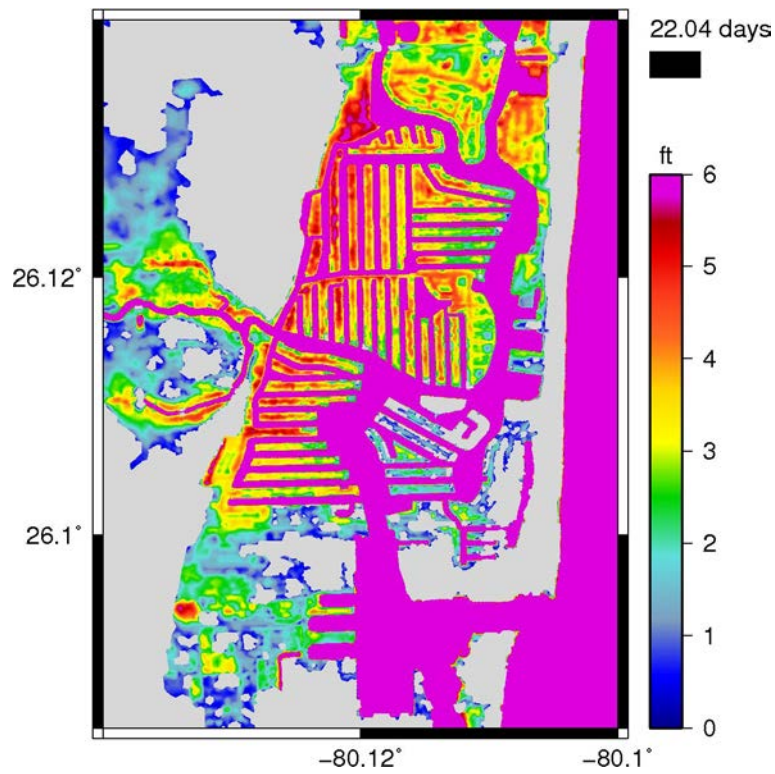


Figure 5.22 Maximum Water Depth, Las Olas Boulevard; Storm 61; Alternative 2 Mesh Configuration

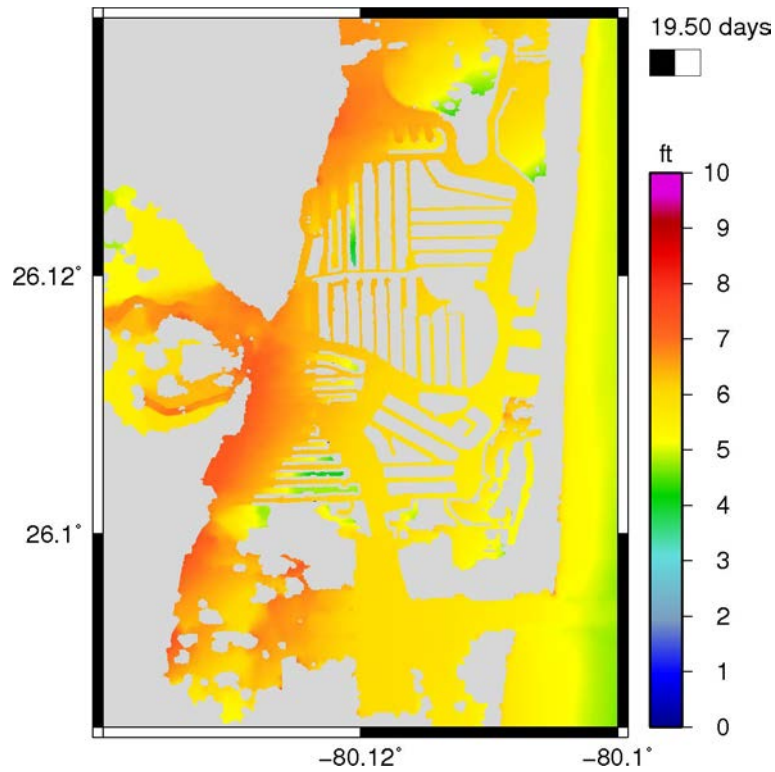


Figure 5.23 Maximum Water Surface Elevation (ft-NAVD), Las Olas Boulevard; Storm 61; Alternative 3 Mesh Configuration

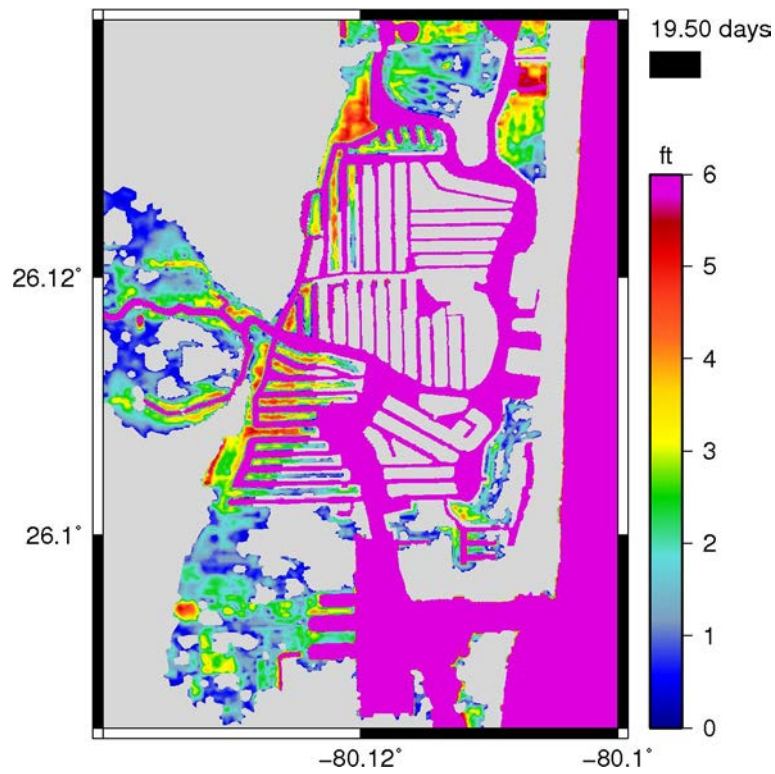


Figure 5.24 Maximum Water Depth, Las Olas Boulevard; Storm 61; Alternative 3 Mesh Configuration

5.2 Storm Surge Model Results; Hollywood Lakes

Figures 5.25 to 5.46 present the maximum water level and maximum water depth in the Hollywood Lakes area for the 12 simulations in the SWAN+ADCIRC model simulation matrix (order shown in Table 5.1). The plots allow for examination of how each seawall alternative affects the water levels and inundation areas for each of the four storms. The water depth plots calculate the depth as the maximum water level minus the ground elevation; therefore, the open ocean and small channels present as a depth over six ft.

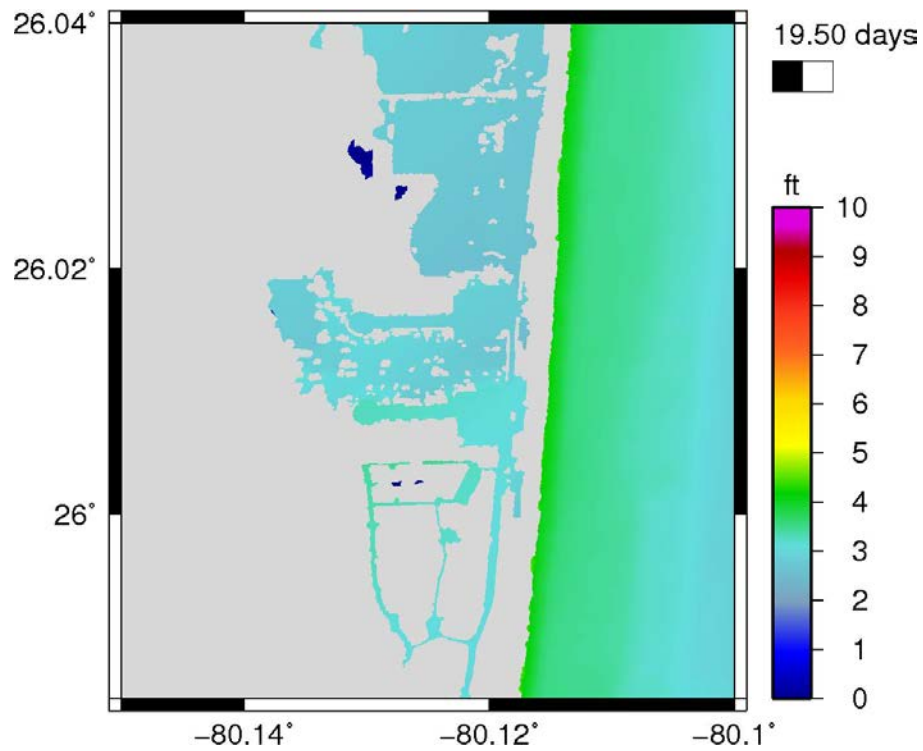


Figure 5.25 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 276; Existing Mesh Configuration

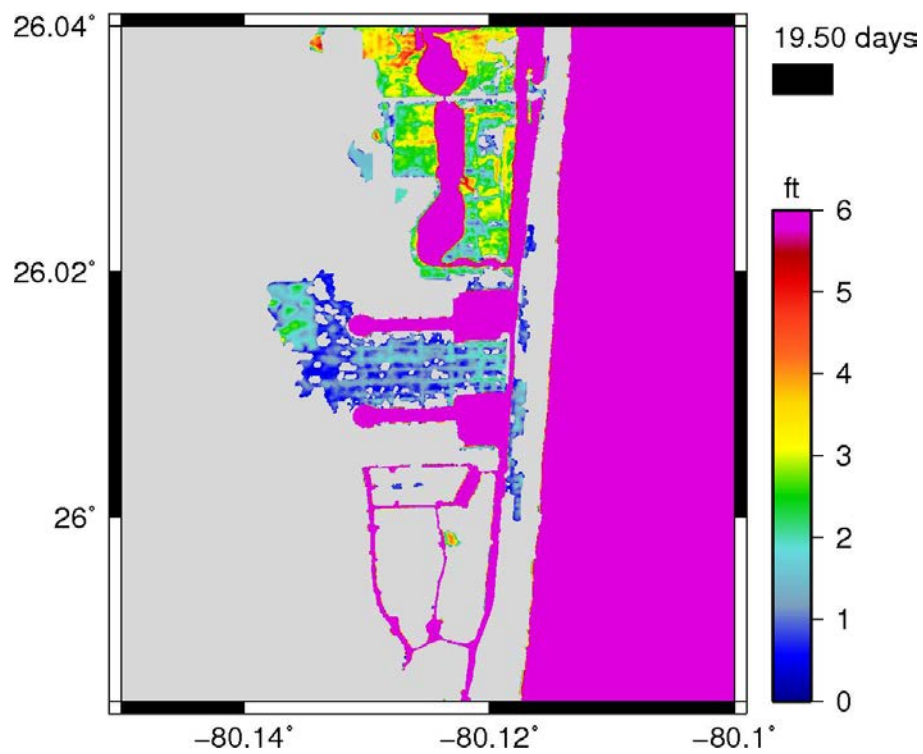


Figure 5.26 Maximum Water Depth, Hollywood Lakes; Storm 276; Existing Mesh Configuration

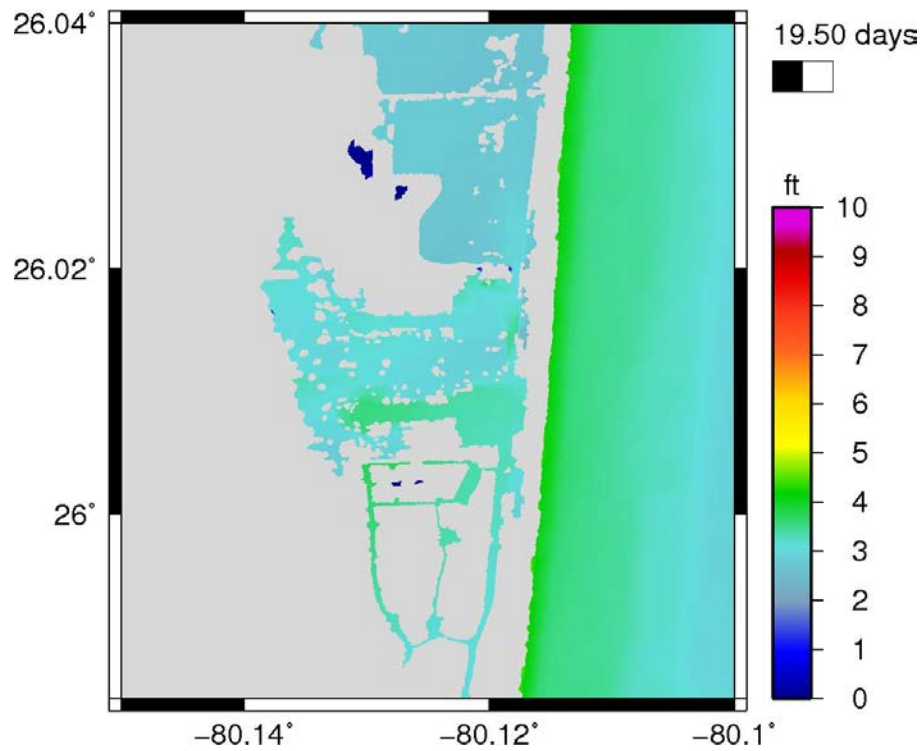


Figure 5.27 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 276; Alternative 1 Mesh Configuration

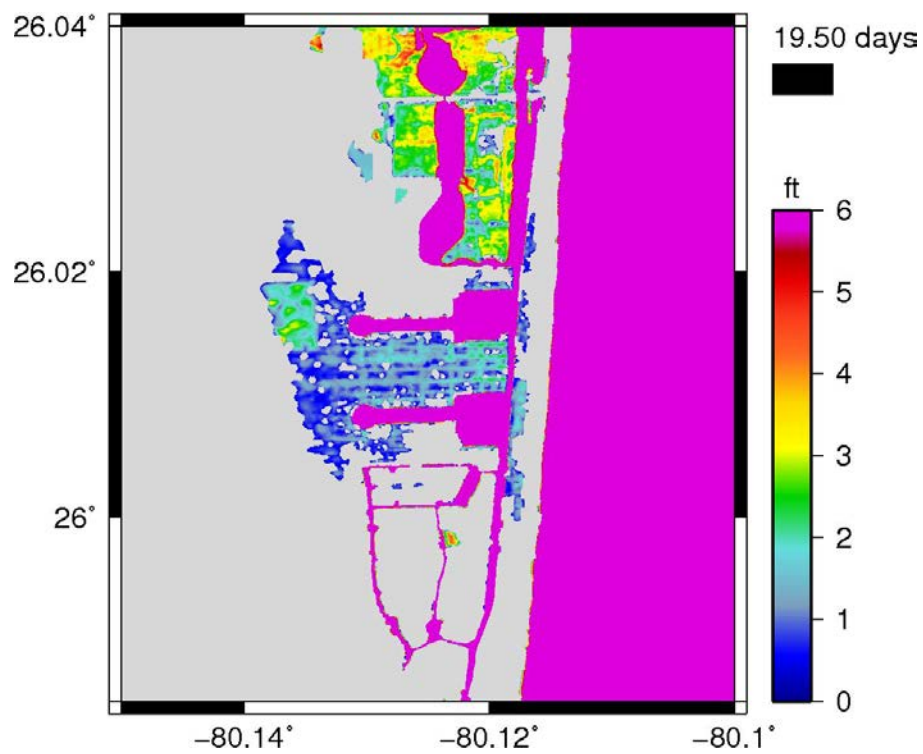


Figure 5.28 Maximum Water Depth, Hollywood Lakes; Storm 276; Alternative 1 Mesh Configuration

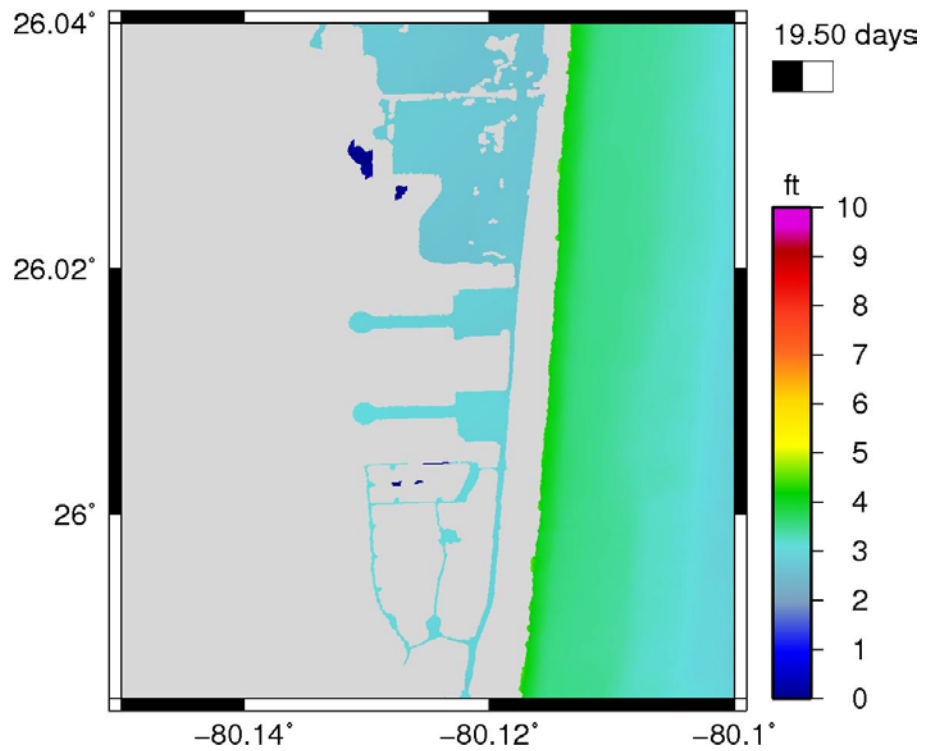


Figure 5.29 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 276; Alternative 2 Mesh Configuration

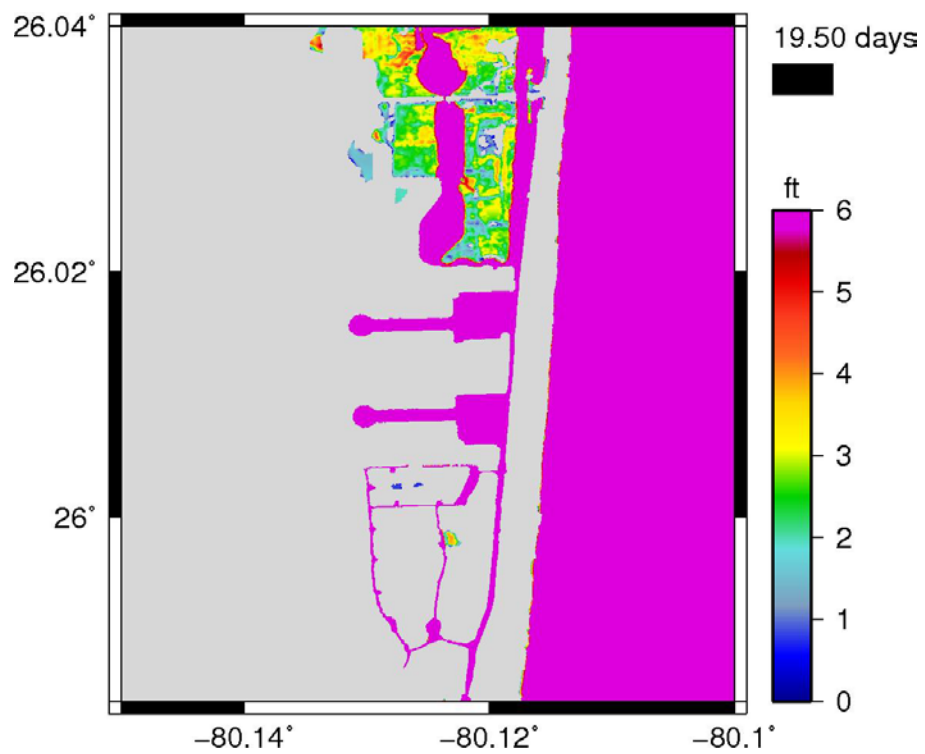


Figure 5.30 Maximum Water Depth, Hollywood Lakes; Storm 276; Alternative 2 Mesh Configuration

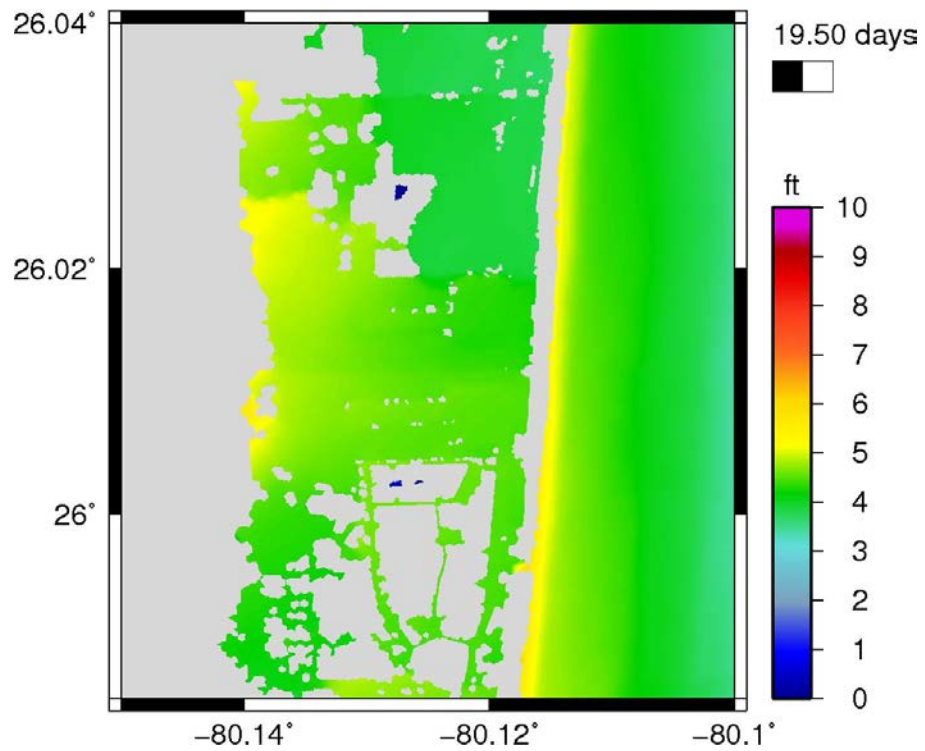


Figure 5.31 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 122; Existing Mesh Configuration

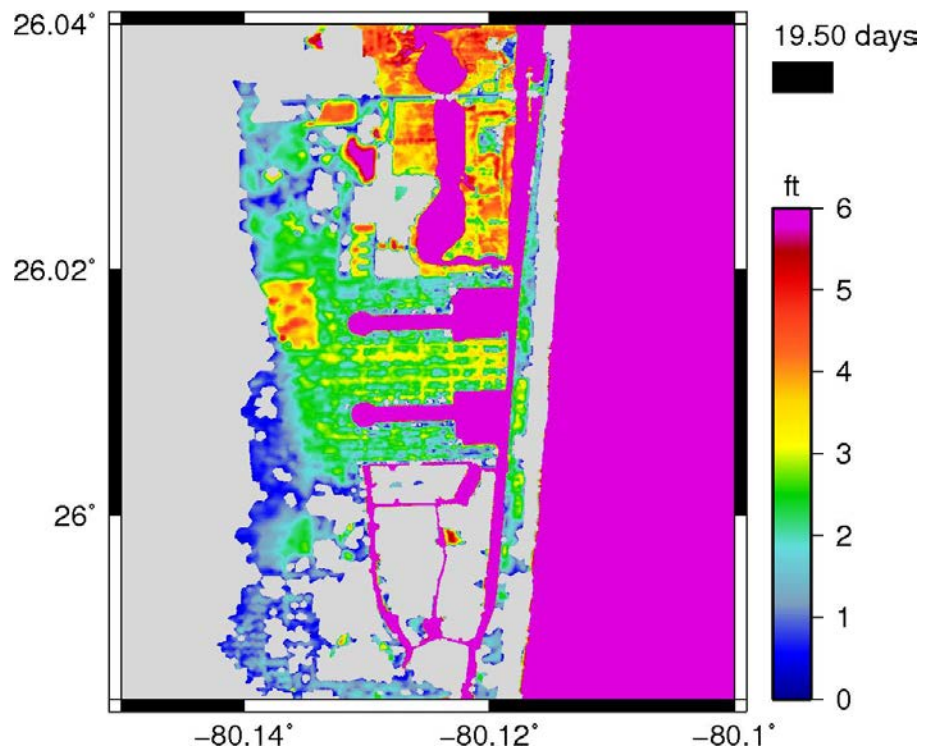


Figure 5.32 Maximum Water Depth, Hollywood Lakes; Storm 122; Existing Mesh Configuration

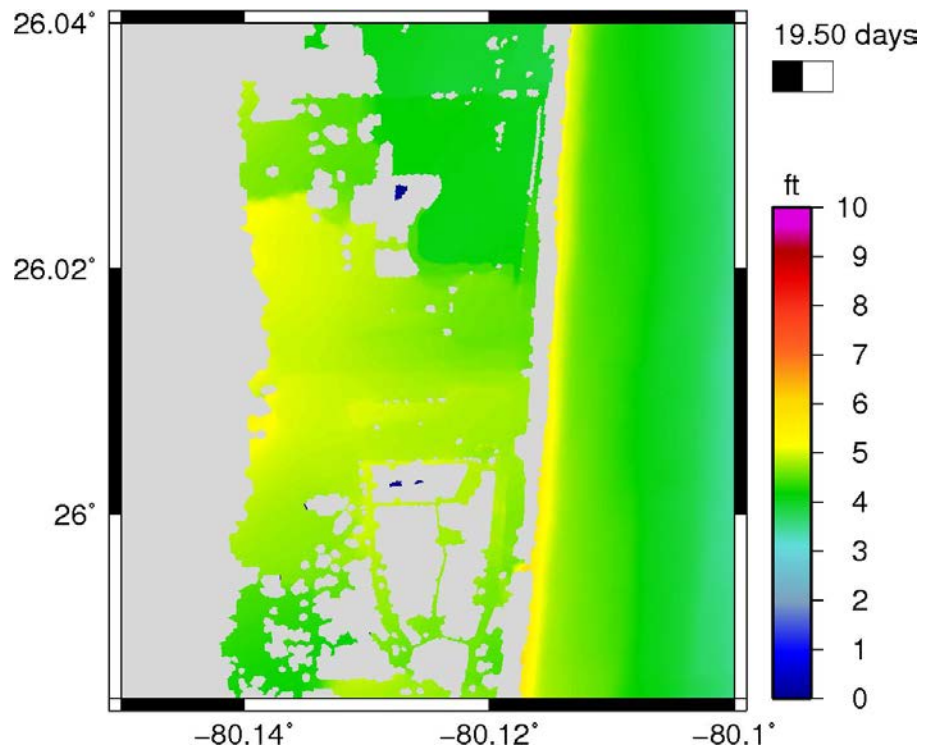


Figure 5.33 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 122; Alternative 2 Mesh Configuration

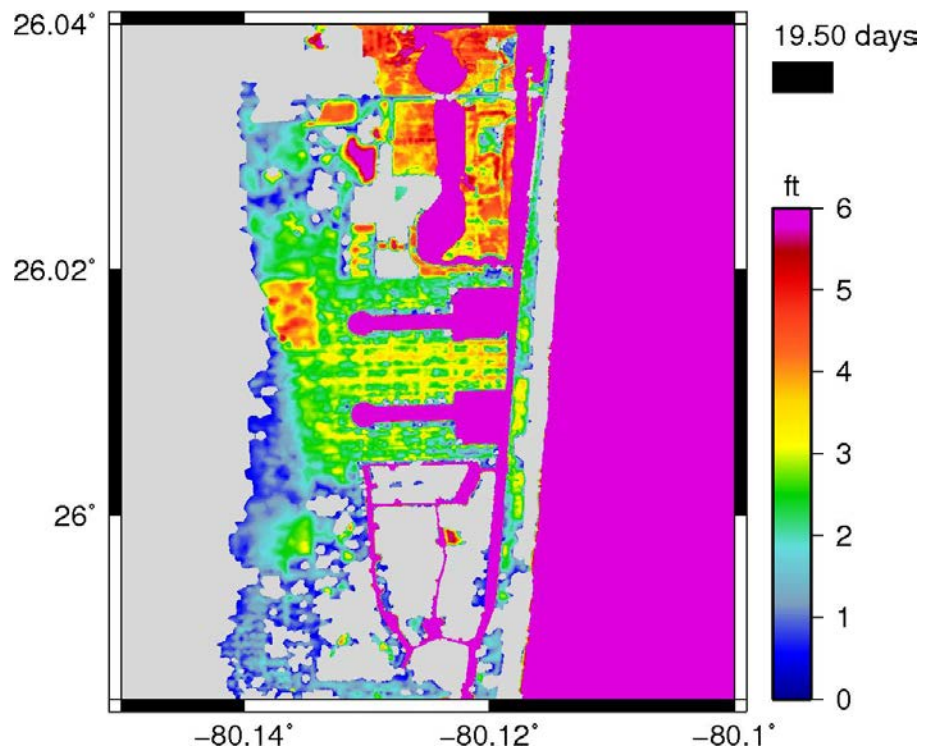


Figure 5.34 Maximum Water Depth, Hollywood Lakes; Storm 122; Alternative 2 Mesh Configuration

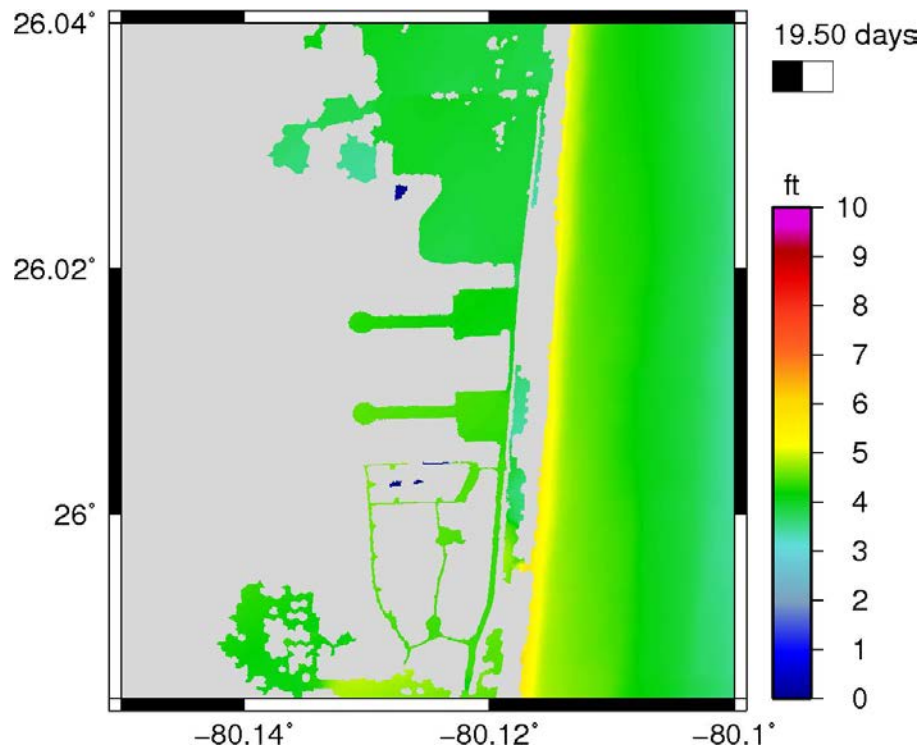


Figure 5.35 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 122; Alternative 3 Mesh Configuration

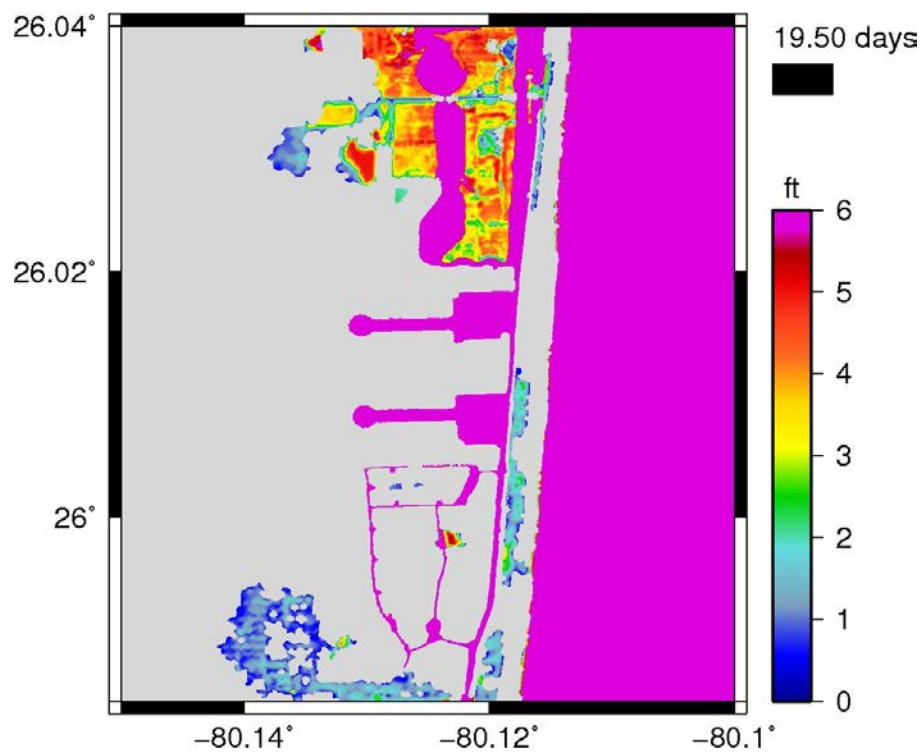


Figure 5.36 Maximum Water Depth, Hollywood Lakes; Storm 122; Alternative 3 Mesh Configuration

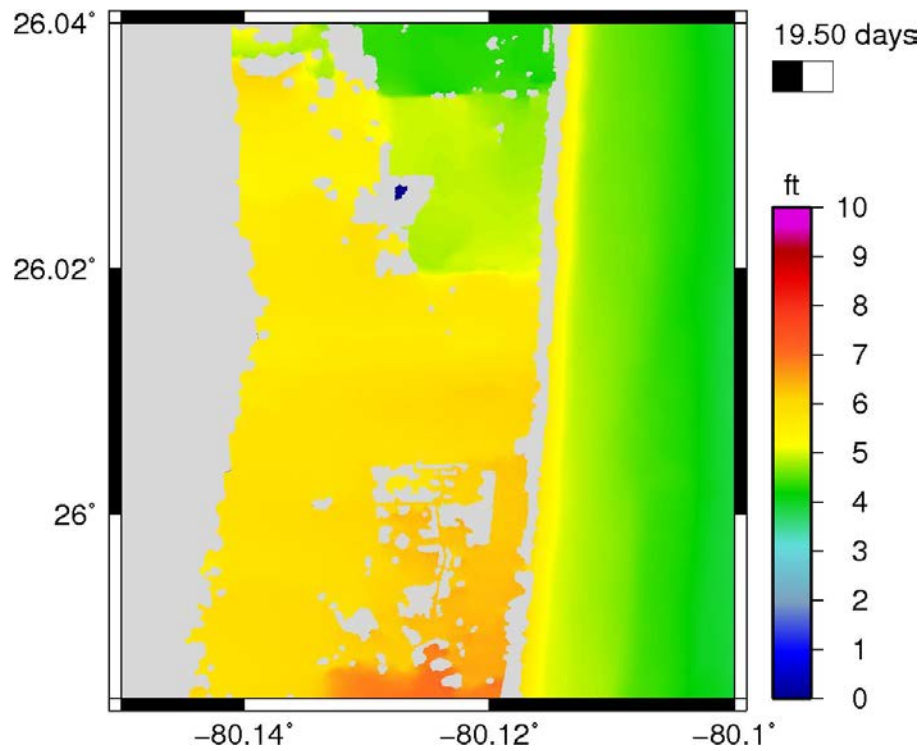


Figure 5.37 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 60; Existing Mesh Configuration

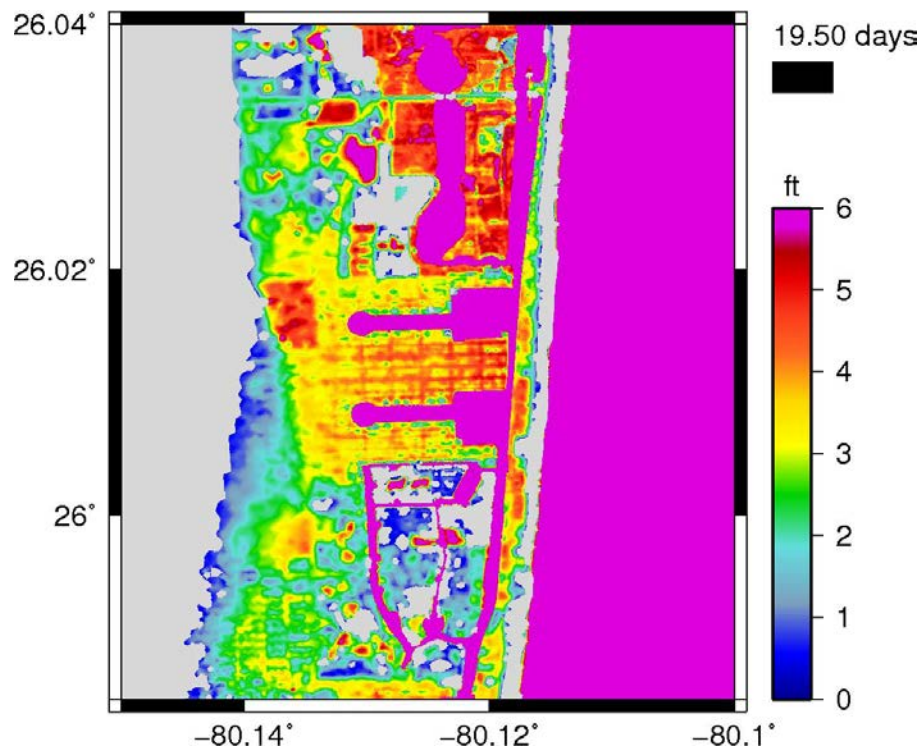


Figure 5.38 Maximum Water Depth, Hollywood Lakes; Storm 60; Existing Mesh Configuration

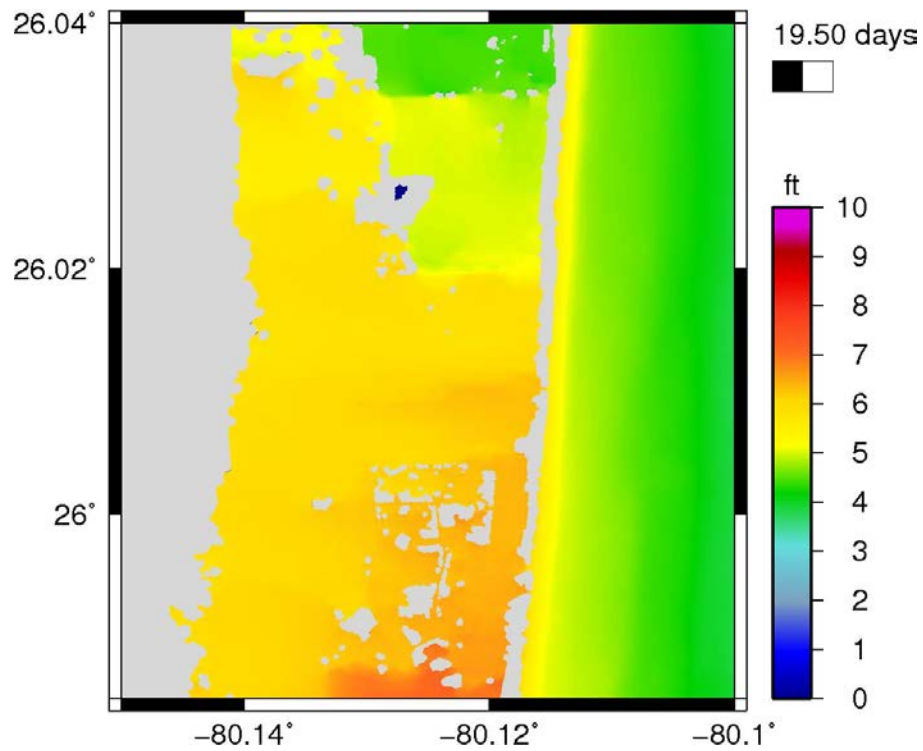


Figure 5.39 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 60; Alternative 2 Mesh Configuration

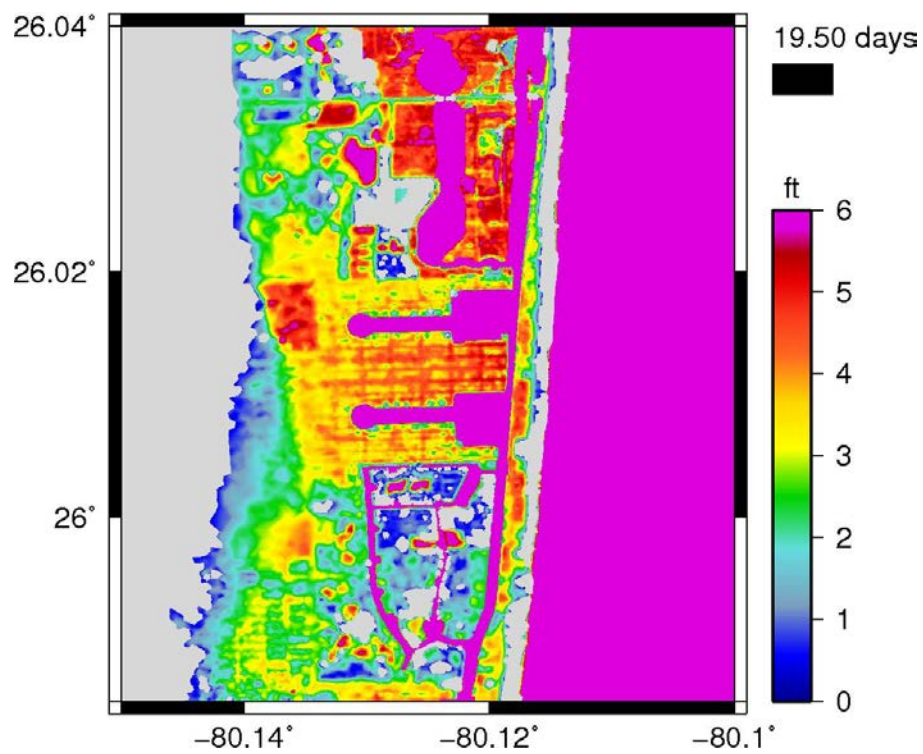


Figure 5.40 Maximum Water Depth, Hollywood Lakes; Storm 60; Alternative 2 Mesh Configuration

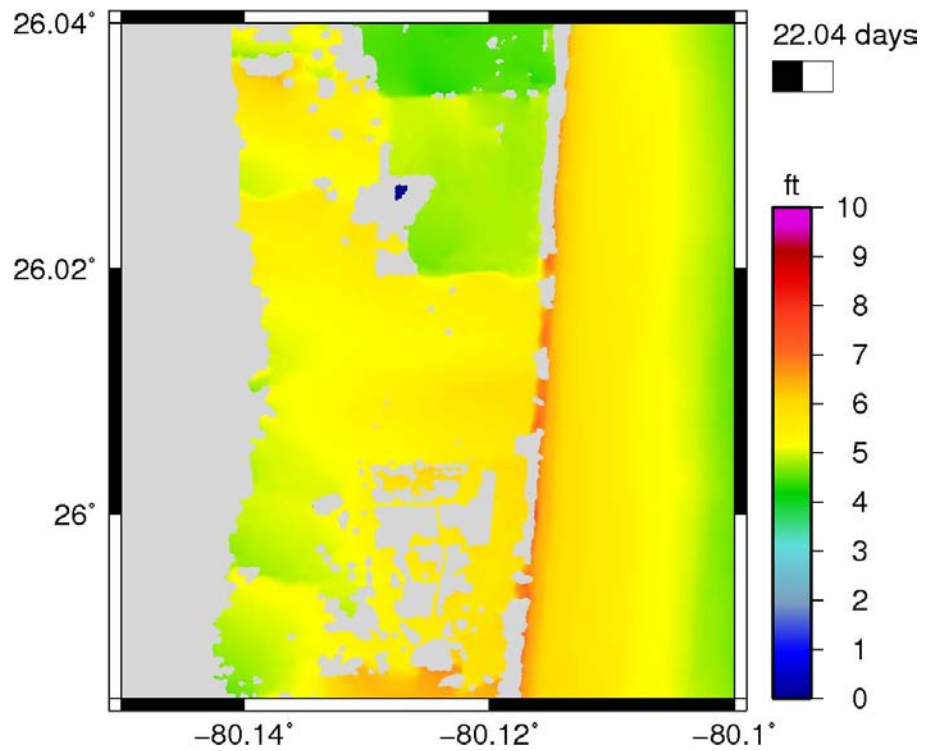


Figure 5.41 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 61; Existing Mesh Configuration

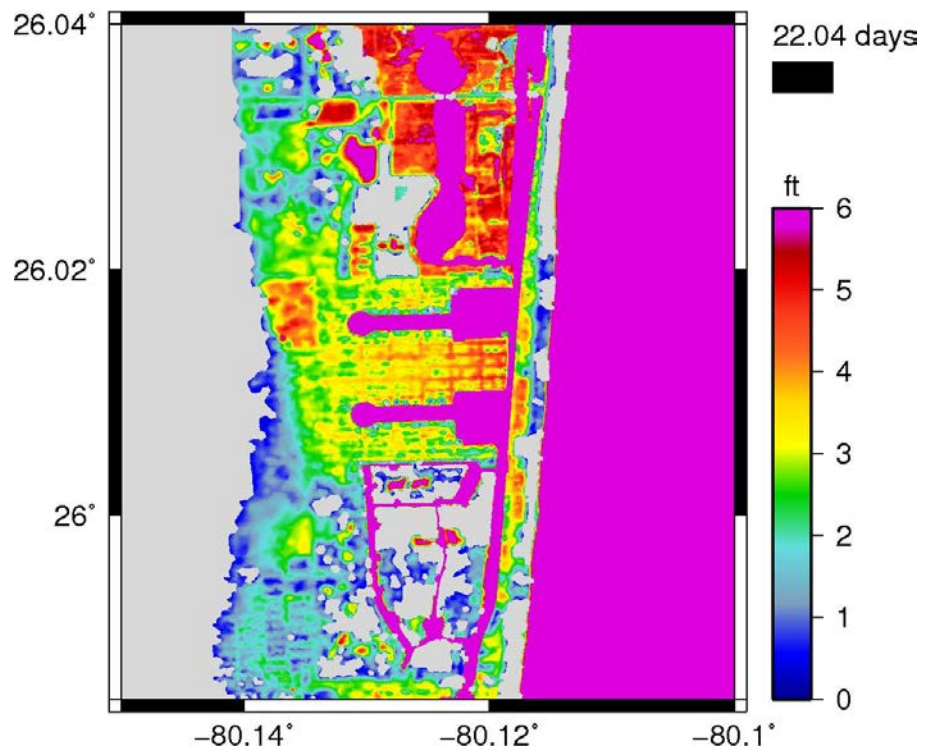


Figure 5.42 Maximum Water Depth, Hollywood Lakes; Storm 61; Existing Mesh Configuration

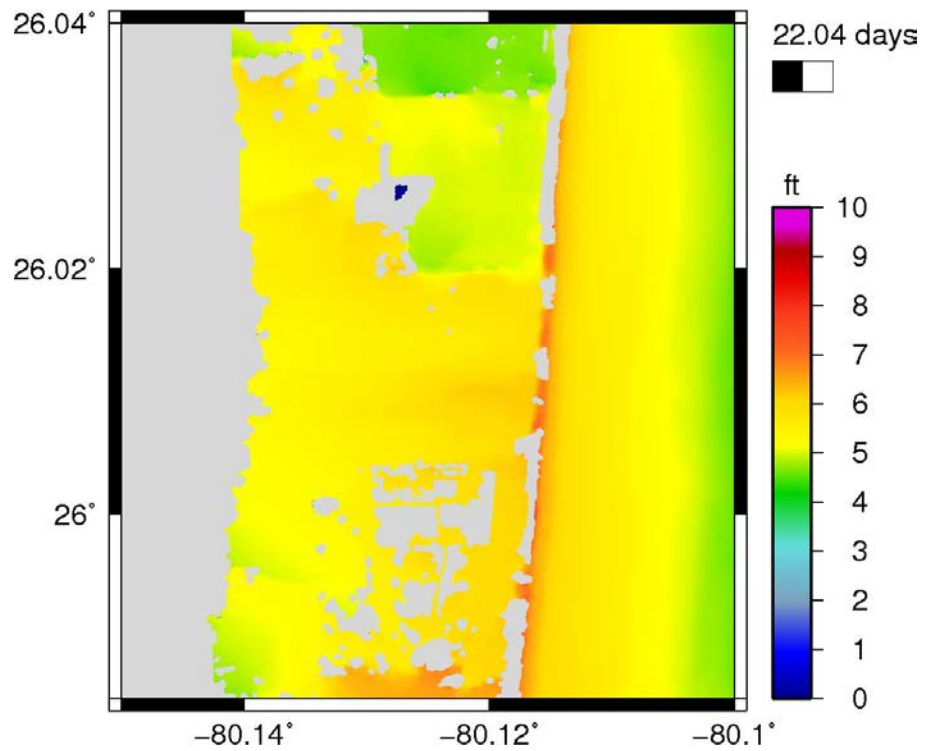


Figure 5.43 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 61; Alternative 2 Mesh Configuration

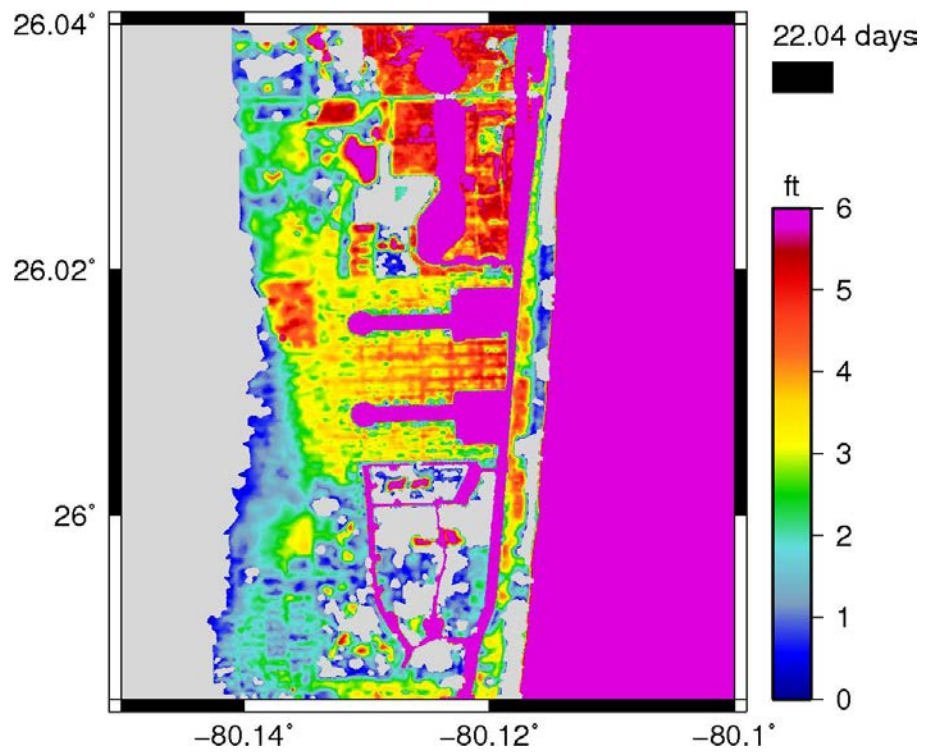


Figure 5.44 Maximum Water Depth, Hollywood Lakes; Storm 61; Alternative 2 Mesh Configuration

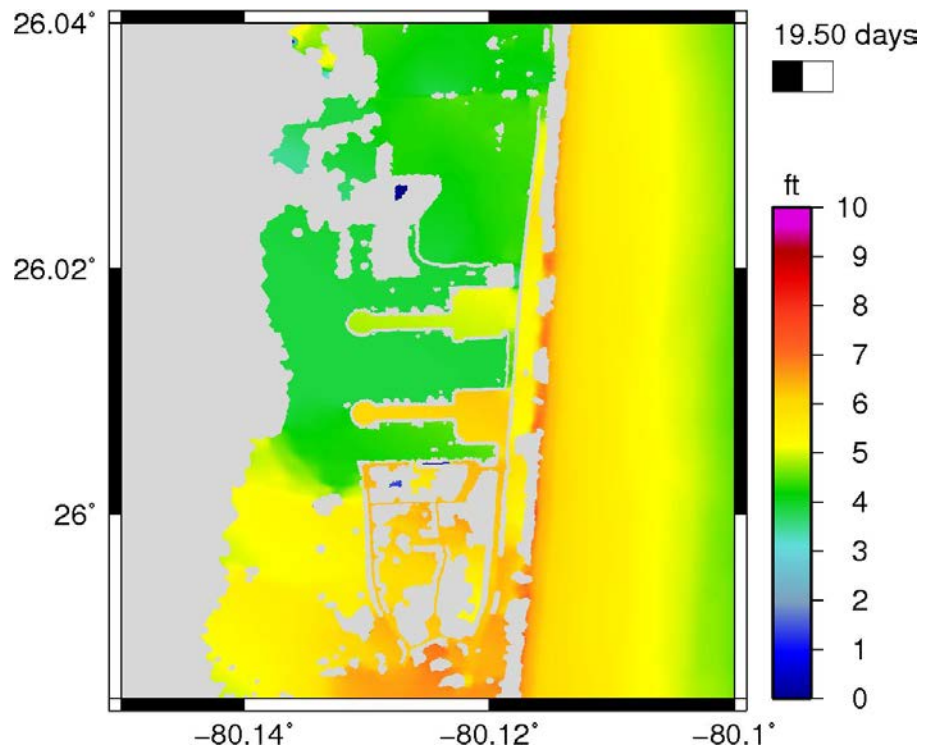


Figure 5.45 Maximum Water Surface Elevation (ft-NAVD), Hollywood Lakes; Storm 61; Alternative 3 Mesh Configuration

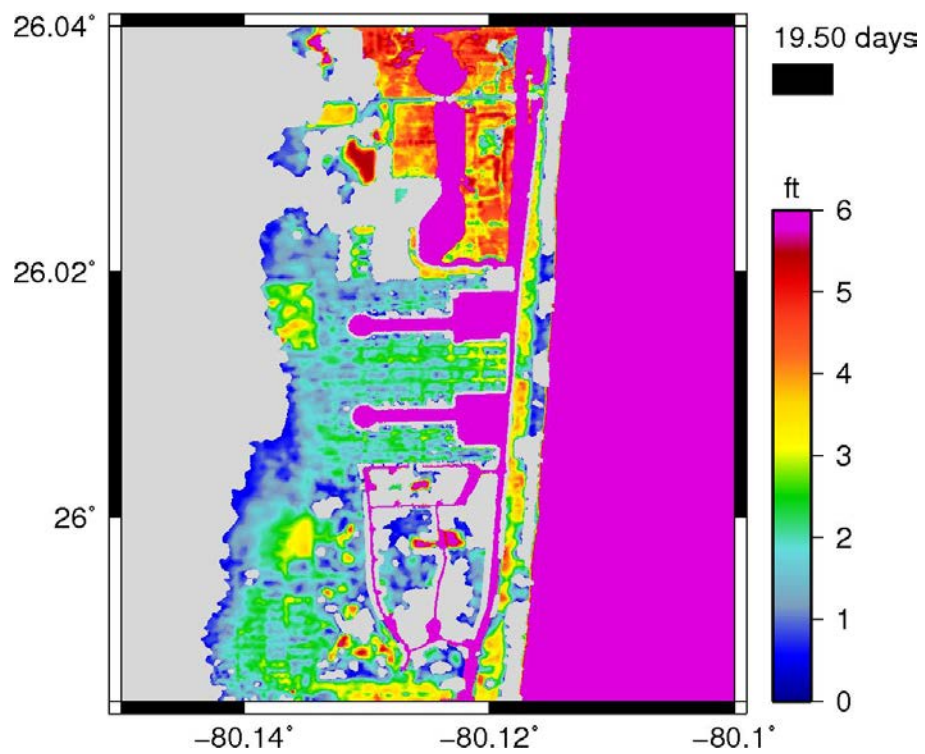


Figure 5.46 Maximum Water Depth, Hollywood Lakes; Storm 61; Alternative 3 Mesh Configuration

5.3 Storm Surge Model Results; Summary Plots

Examination of the SWAN+ADCIRC model results for a single storm across all simulated seawall elevation alternatives demonstrates how the various seawall elevations influence the inundation patterns. Plotting both Las Olas Boulevard and Hollywood Lakes on a single plot shows how different alternatives can create different water levels in the two Broward County FRM focus areas. Figure 5.47 shows the maximum water levels produced by Storm 276 for the Existing, Alternative 1, and Alternative 2 seawall elevations. Both Alternative 1 and Alternative 2 seawall configurations stop the inland inundation observed in the Existing Conditions Mesh simulation. For Storm 122, Figure 5.48 shows that only Alternative 3 can limit the inland inundation as both the Existing and Alternative 2 conditions have significant areas of inundation during this strong storm. Notably, Alternative 2 worsens the flooding in Hollywood Lakes when compared to Existing Conditions. Storm 60 (Figure 5.49) and Storm 61 (Figure 5.50) create water levels that produce significant inundation on both Las Olas Boulevard and Hollywood Lakes for the Existing Conditions and Alternative 2. For Storm 60, Alternative 3 provides seawall elevations that stop the inland inundation of Las Olas Boulevard; however, in Hollywood Lakes overtopping of the seawall occurs that produces a SWAN+ADCIRC model instability. For Storm 61, Alternative 3 seawall elevations greatly reduce, but do not completely stop the inland inundation of Las Olas Boulevard. Alternative 2 causes greater flood depths in Hollywood Lakes than Existing Conditions. For Storm 61, the inundation in the Hollywood Lakes area is not caused by seawall overtopping but is caused by flooding that propagates from south to north through overland areas and small canals as the storm produces a very large surge in northern Biscayne Bay that then moves north and “behind” the Hollywood Lakes seawalls. Additional animations for Storm 61 created to examine the water levels south of Hollywood Lakes indicate that the storm track and landfall location create a situation where surge piles up in Biscayne Bay on storm approach, with the elevated water levels then moving north through low-lying areas near the ICWW as the storm moves inland and features very strong winds directed to the north. Appendix A provides information on the maximum water level produced by each storm and seawall configuration at four locations (open water and inland for both Las Olas and Hollywood Lakes).

Examination of the SWAN+ADCIRC model results across all storms for a single seawall elevation alternative shows the “signature” of inundation for each specific storm. Figures 5.51 through 5.53 present the maximum water level conditions for the Existing Conditions, Alternative 2, and Alternative 3 for each storm simulated and showing both Las Olas Boulevard and Hollywood Lakes results. Figures 5.51 through 5.53 indicate the specific seawall alternatives may limit or stop inland inundation for a specific storm, but not provide protection from other storms. Notably, a plot for Alternative 1 is not presented because only Storm 276 was simulated with Alternative 1.

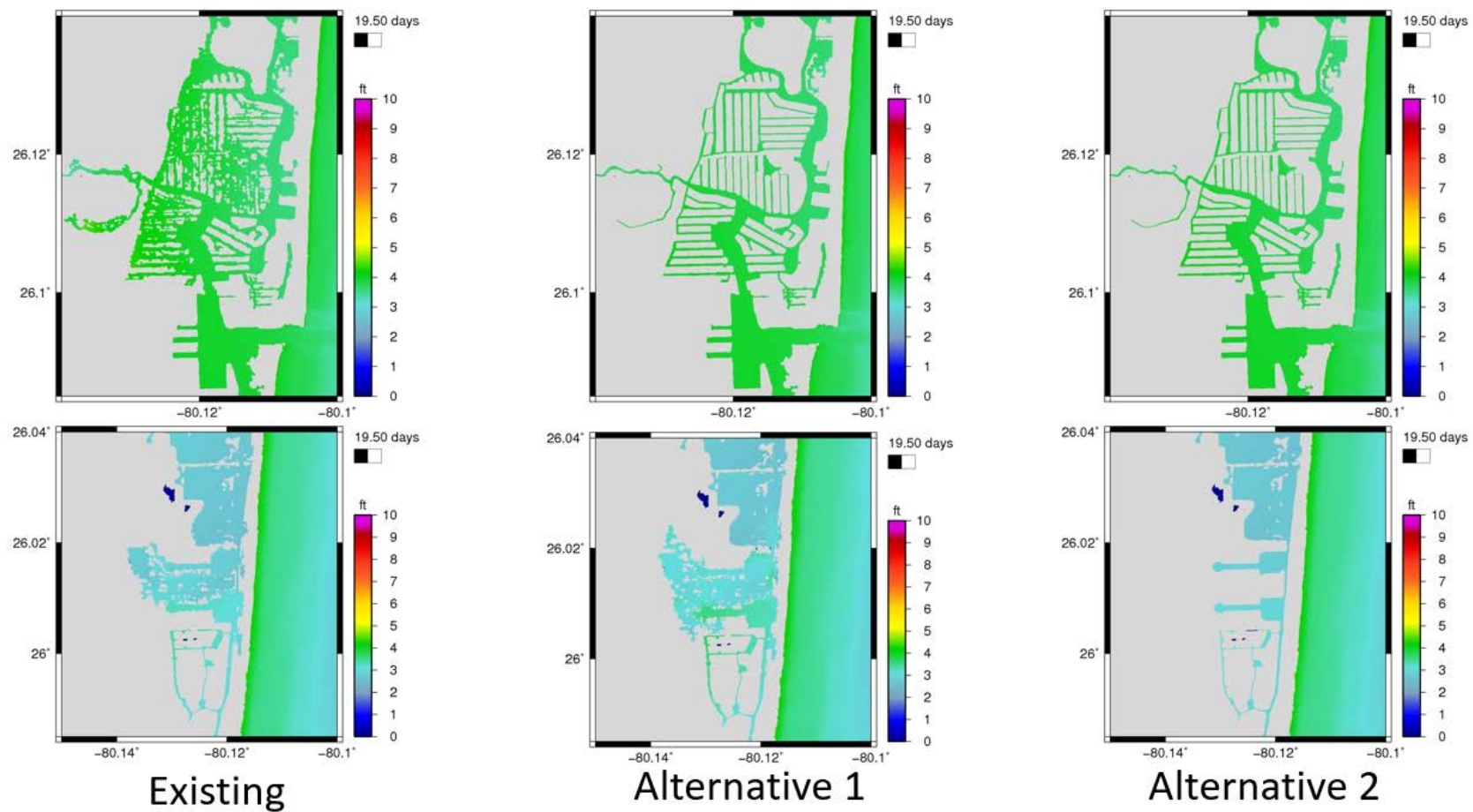


Figure 5.47 Maximum Water Surface Elevation (ft-NAVD) for Storm 276, Existing, Alternative 1, and Alternative 2 Mesh Configuration for Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

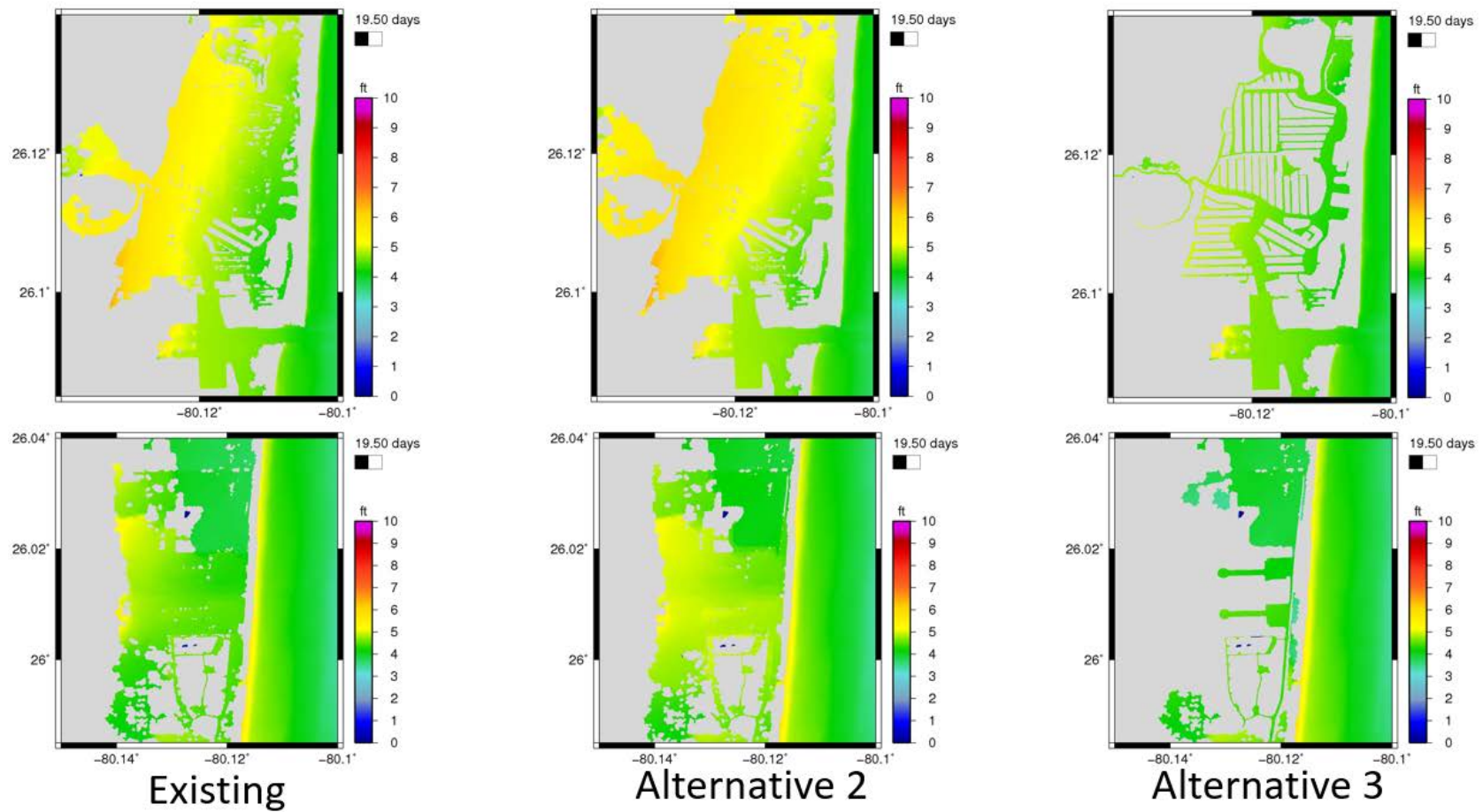


Figure 5.48 Maximum Water Surface Elevation (ft-NAVD) for Storm 122, Existing, Alternative 2, and Alternative 3 Mesh Configuration for Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

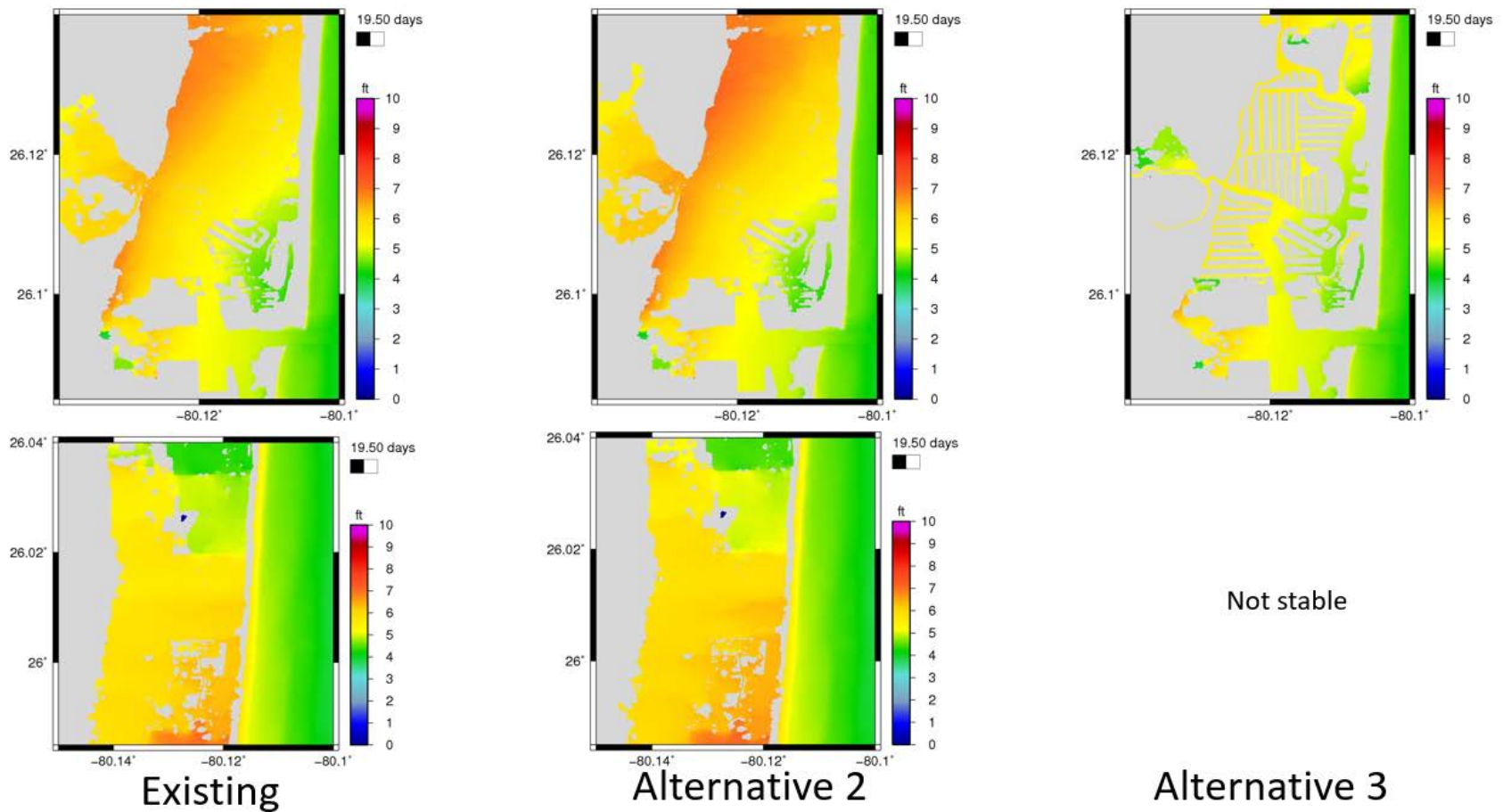


Figure 5.49 Maximum Water Surface Elevation (ft-NAVD) for Storm 60, Existing, Alternative 2, and Alternative 3 Mesh Configuration for Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

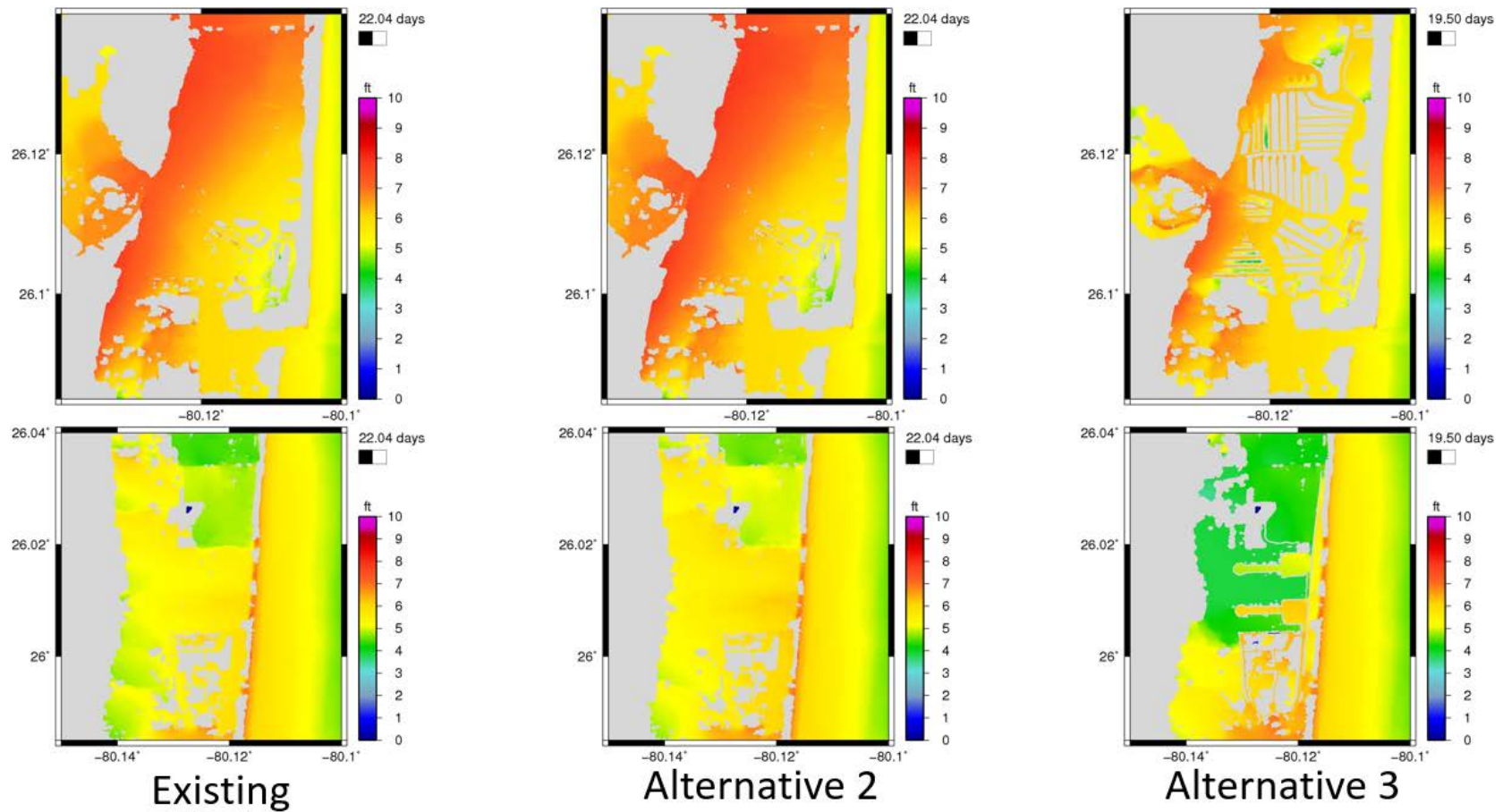


Figure 5.50 Maximum Water Surface Elevation (ft-NAVD) for Storm 61, Existing, Alternative 2, and Alternative 3 Mesh Configuration for Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

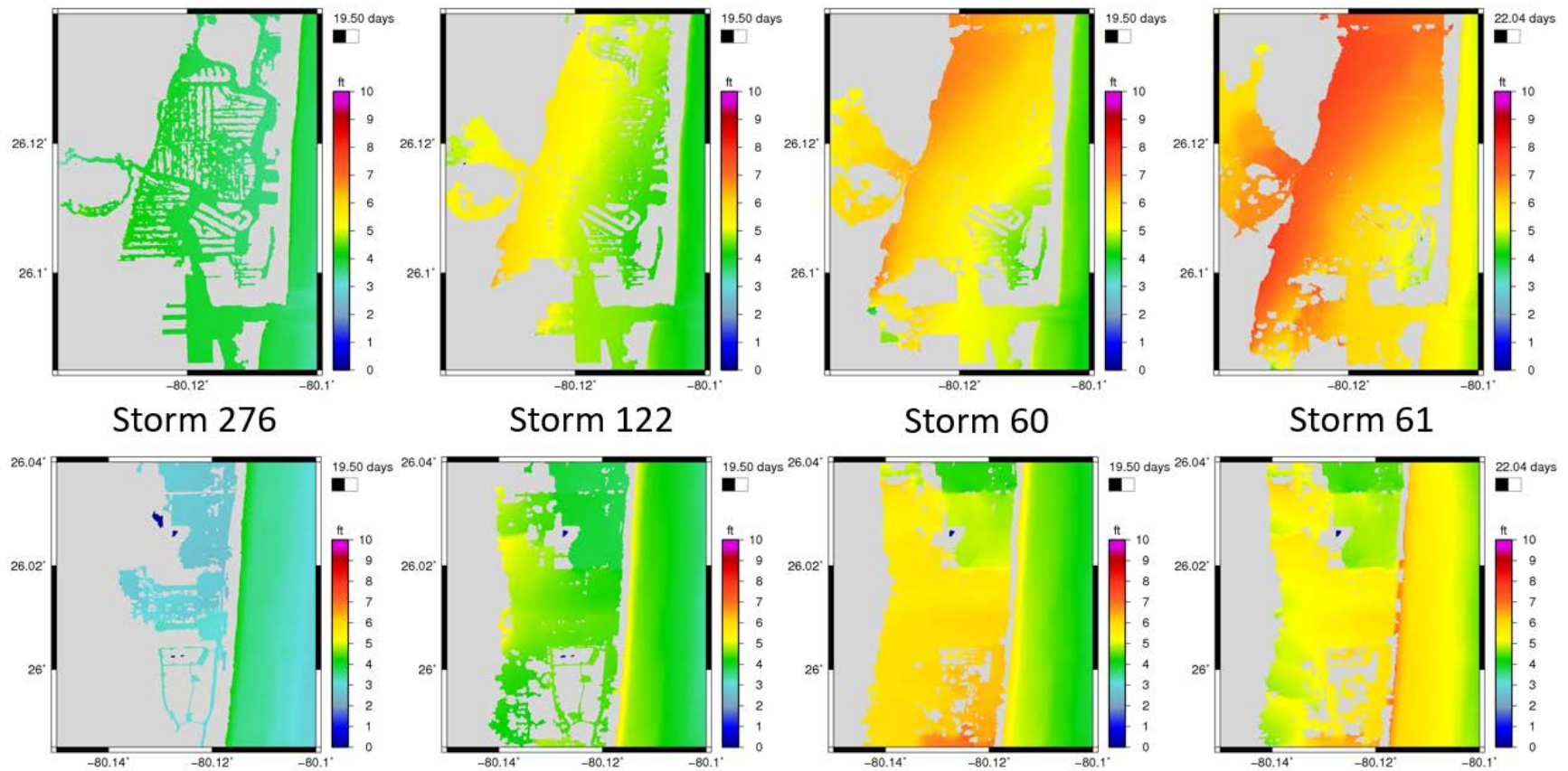


Figure 5.51 Maximum Water Surface Elevation (ft-NAVD) for Existing Mesh Configuration for Storms 276, 122, 60, and 61, Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

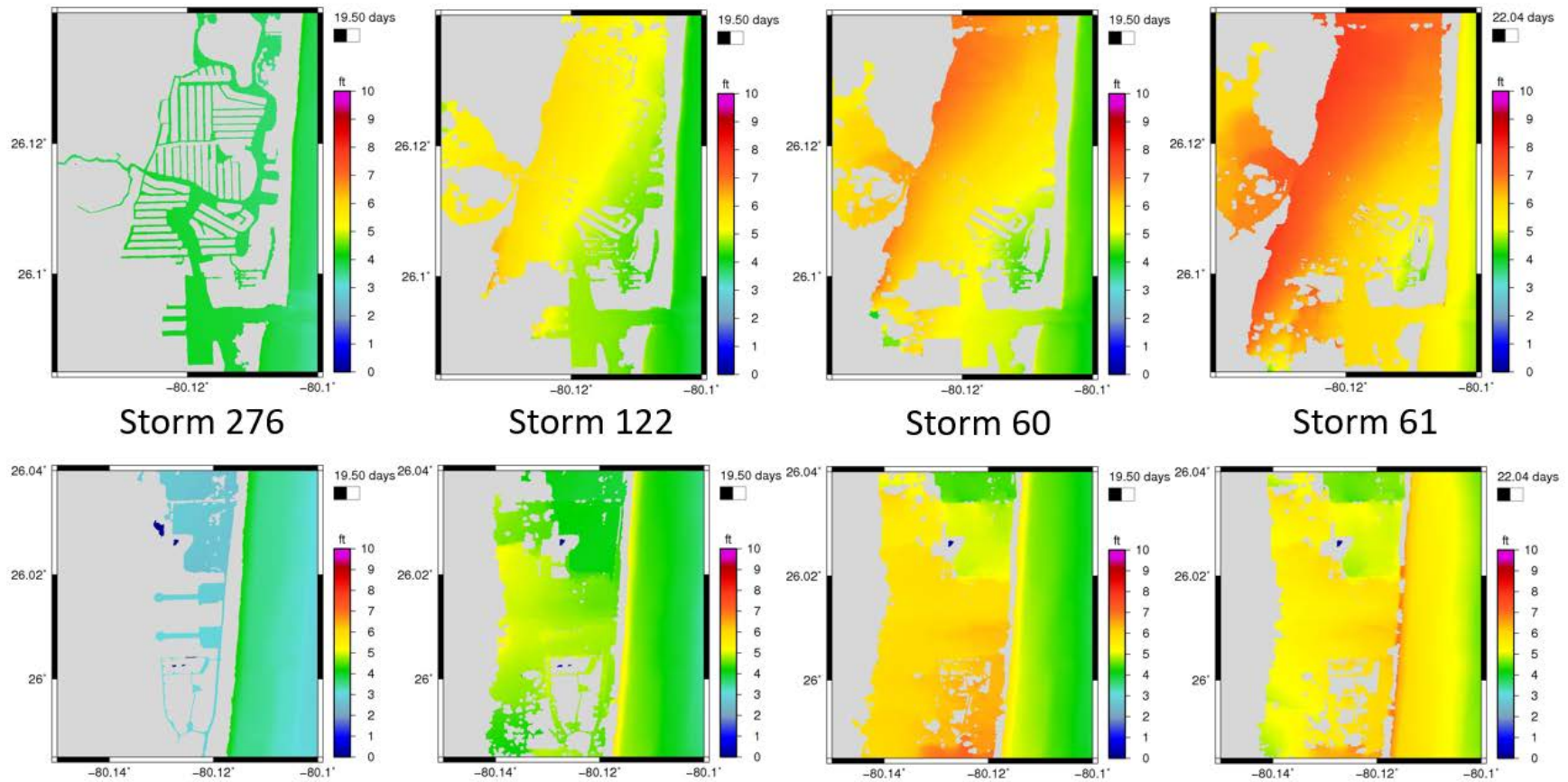
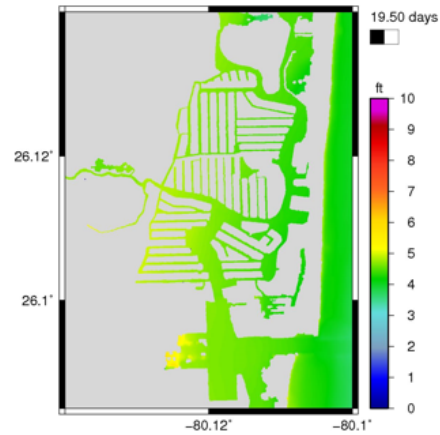


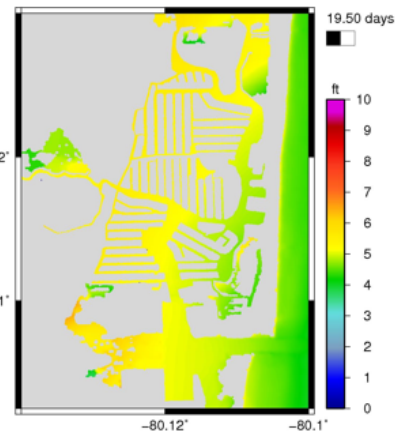
Figure 5.52 Maximum Water Surface Elevation (ft-NAVD) for Alternative 2 Mesh Configuration for Storms 276, 122, 60, and 61, Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

Not simulated;
no inundation
for Alternative 2

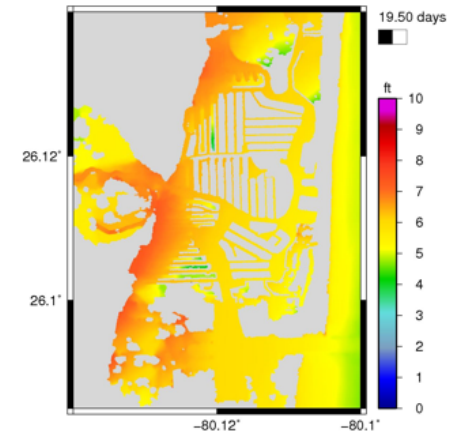
Storm 276



Storm 122

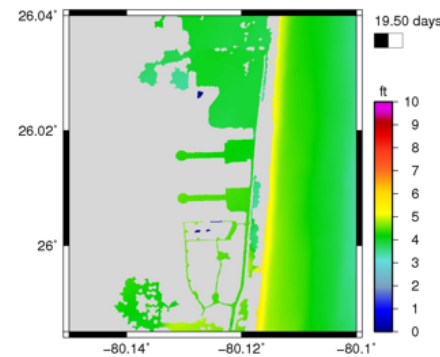


Storm 60



Storm 61

Not simulated;
no inundation
for Alternative 2



Not stable

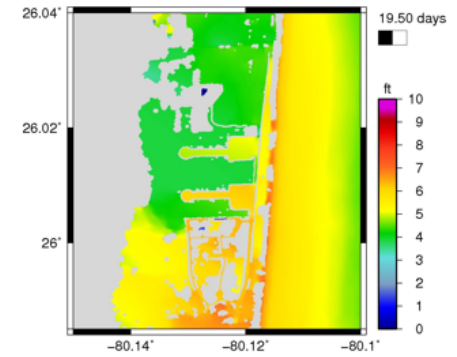


Figure 5.53 Maximum Water Surface Elevation (ft-NAVD) for Alternative 3 Mesh Configuration for Storms 276, 122, 60, and 61, Las Olas Boulevard (Top) and Hollywood Lakes (Bottom) Focus Areas.

5.4 Storm Surge Model Results; Quality Control

The technical team applied a multi-step review for each of the SWAN+ADCIRC model simulations. The first layer of review examined the model input and output files to verify the study team applied the correct SWAN+ADCIRC model mesh, mesh settings, and storm forcing. For the next level of review, the study team examined maximum water level and maximum depth plots for the Broward County area with focus on the water levels and depths near the Las Olas Boulevard and Hollywood Lakes areas. Figures 5.1 to 5.53 provide examples of the maximum water level and maximum depth plots. For the last level of review, for each storm the study team examined animations of the water levels and plots of water level time series at multiple locations. Many storm/seawall combinations required multiple simulations to obtain stable model results as overtopping of the raised seawall elevations in Alternative 2 and Alternative 3 produced some unstable model behavior at the commencement of flow over the seawall. To review these simulations, the technical team produced focused plots of water level, depth, and current velocity along with additional animations of water level and wind vectors to allow additional levels of detail for the review. Appendix B contains more details of model review process and results with additional figures.

6.0 SUMMARY

The U.S. Army Corps of Engineers (USACE), Jacksonville District, in partnership with Broward County, Florida is conducting a Flood Risk Management (FRM) Study to address flooding problems in specific tidally influenced coastal areas (not direct oceanfront) within the county. The Broward County FRM Study is specifically evaluating flooding in the Hollywood Lakes area in the City of Hollywood, Florida and the Las Olas Boulevard area in the City of Ft. Lauderdale, Florida. This report presents results of SWAN+ADCIRC model simulations executed to provide information on water levels and inundation produced by different combinations of storm forcing and seawall configurations. The simulation results indicate how the various storm forcing (chosen to provide different water levels in the focus areas) interact with four different seawall elevation configurations and what, if any, inland inundation occurs near Las Olas Boulevard and Hollywood Lakes. The results show that the various seawall height alternatives influence inundation patterns differently depending on the storm forcing and the seawall heights applied. Some seawall configurations stop inland inundation for the storms that produce the lower water levels, but do not stop inland inundation for the storms with the highest water levels. Another effect observed in the simulation results is that, after a storm passes, elevated seawalls can delay, or block, the flow of water out of inundated areas thereby increasing the duration of flooding (with recognition that the SWAN+ADCIRC model does not feature drains in the seawalls or stormwater system and pump effects that will promote drainage). Additional numerical modeling that accounts for inland stormwater system effects or drainage from areas landward of the seawalls could provide additional information on how inundation patterns change after strong storms pass by the project area.

7.0 REFERENCES

- Federal Emergency Management Agency (FEMA). (2017). *South Florida Storm Surge Study: Intermediate Data Submittal (IDS) Report 2, Section 1: Wave and Hydrodynamic Model Validation*. Prepared for FEMA Region IV. BakerAECOM.
- Federal Emergency Management Agency (FEMA). (2018a, in review). *South Florida Storm Surge Study: Intermediate Data Submittal (IDS) Report 3, Section 1: Production Runs*. Prepared for FEMA Region IV. BakerAECOM.
- Federal Emergency Management Agency (FEMA). (2018b, in review). *South Florida Storm Surge Study: Intermediate Data Submittal (IDS) Report 3, Section 2: Low Frequency Analysis*. Prepared for FEMA Region IV. BakerAECOM.
- Wang, S.Y. (2014). Inclusion of Tropical Storms for the Combined Total Storm Tide Frequency Restudy for Broward County, Florida. Engineering, Hydrology & Geology Program, Division of Water Resource Management, Florida Department of Environmental Protection. October 2014.

Appendix A: Maximum Water Depth at Selected Stations for Storm and Seawall Combinations

This Appendix contains additional information on the maximum water depth produced at four locations for each simulation of the various storm and seawall configurations. Figures A.1 to A.4 show the detailed location for each station applied in the analysis. The stations were selected so that an inland and open water location was applied for both the Las Olas and Hollywood Lakes areas (4 total stations). Table A.1 presents the detailed information for each station and storm and seawall configuration. The table lists the ground elevation for each station along with the maximum water depth that occurred for each simulation. Table A.1 shows, for each storm, how each of the seawall configurations influences the maximum water level that occurs. Importantly, the effect of the seawall configuration varies by location and Table A.1 provides snapshot at an inland and open water location for both the Las Olas Blvd area and the Hollywood Lakes area. The contour plots of maximum water depth in Chapter 5 provide more information on how the different seawall configurations influence the water levels for each storm simulation.

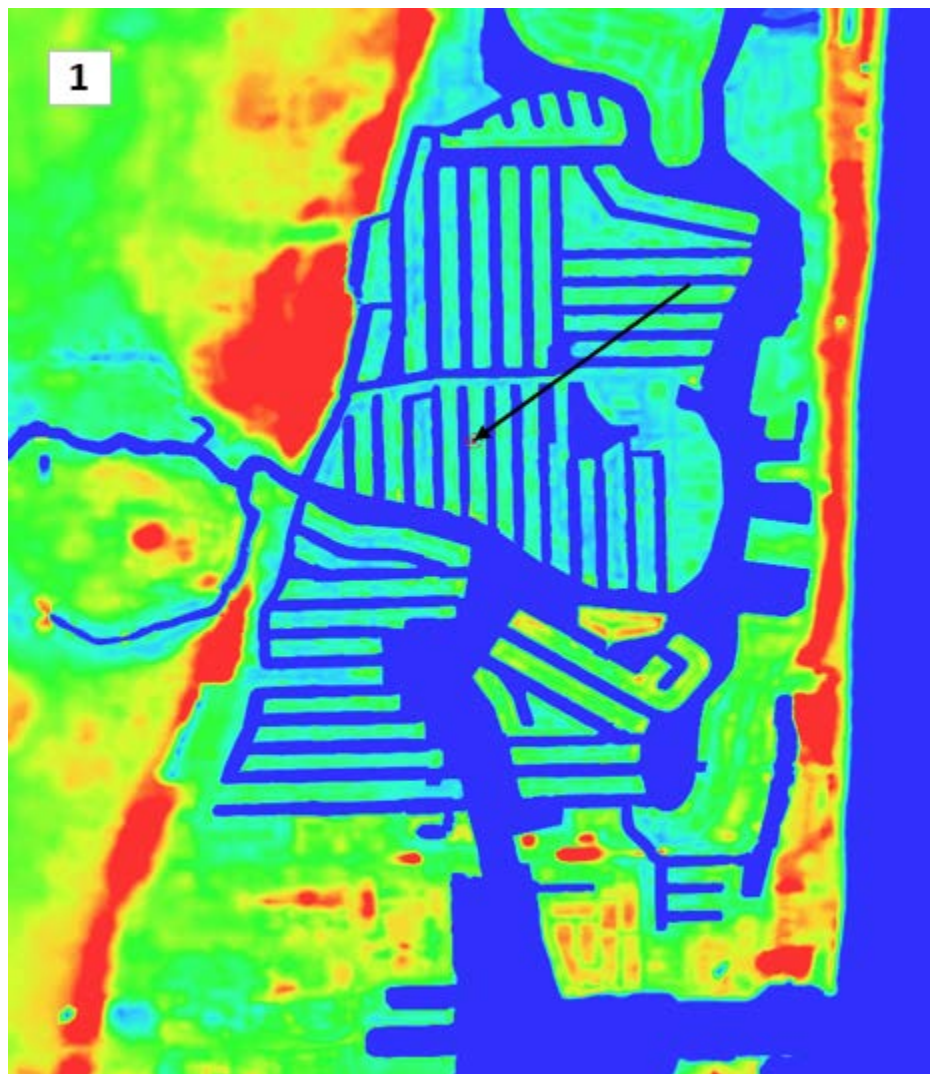


Figure A.1 Maximum Water Depth Analysis Station 1 Location; Las Olas Boulevard, Inland

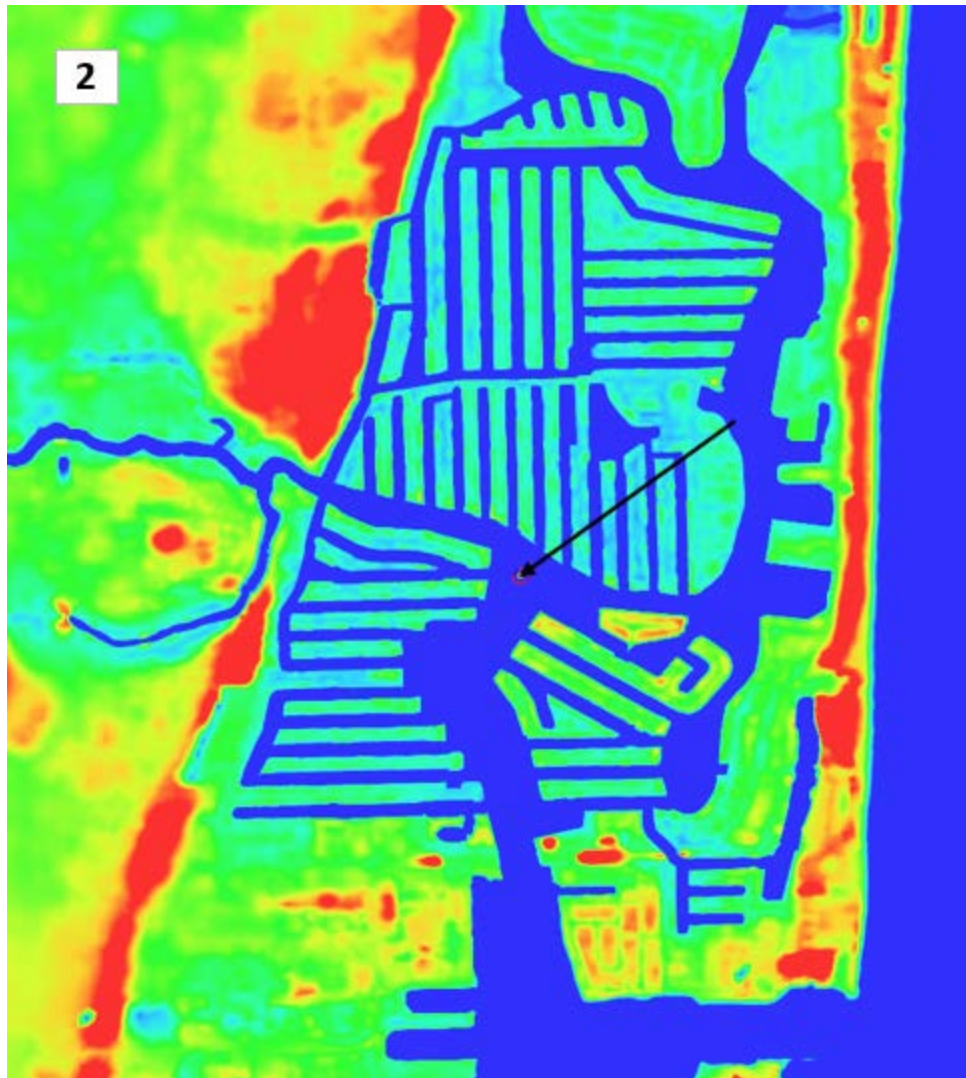


Figure A.2 Maximum Water Depth Analysis Station 2 Location; Las Olas Boulevard, Open Water

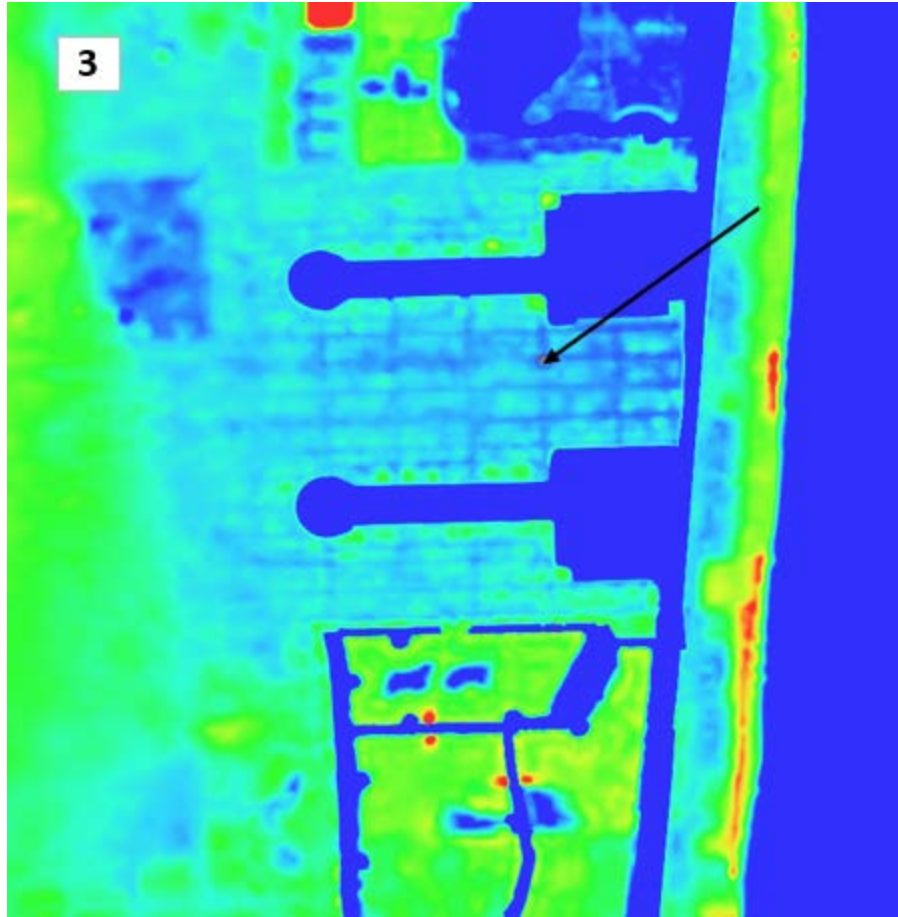


Figure A.3 Maximum Water Depth Analysis Station 3 Location; Hollywood Lakes, Inland

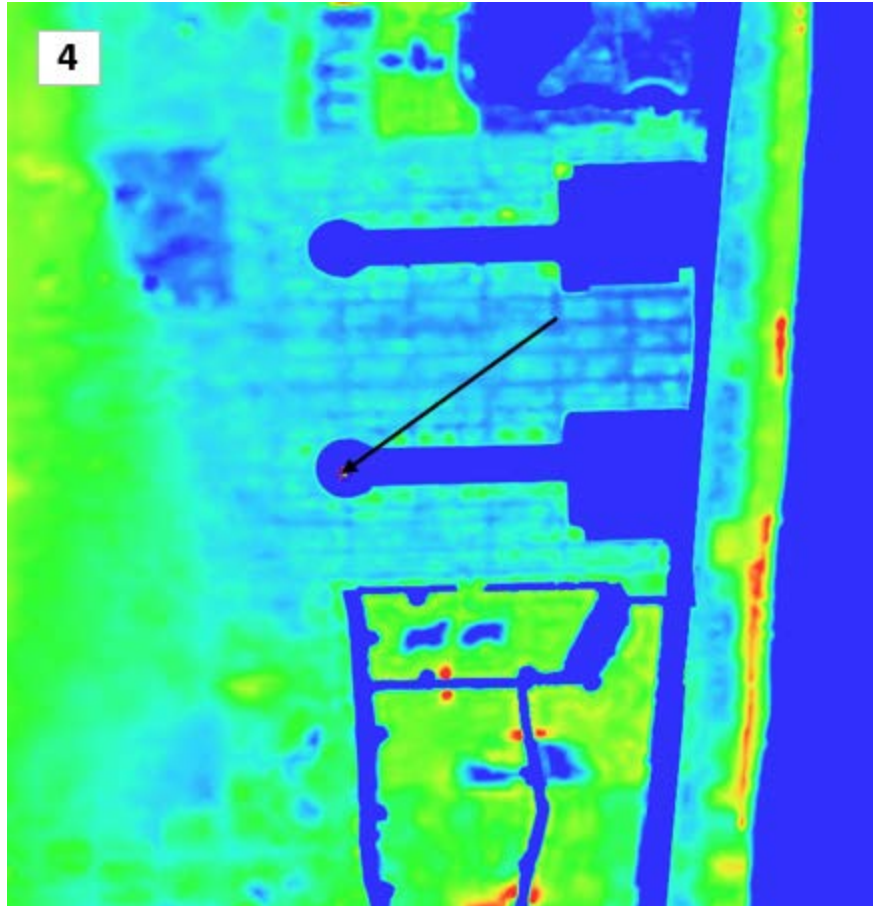


Figure A.4 Maximum Water Depth Analysis Station 4 Location; Hollywood Lakes, Open Water

Table A.1 Elevation and Maximum Water Depth for Select Stations and Storm and Seawall Configurations

Storm	Seawall Alternative	Maximum Water Depth (ft)			
		Station 1	Station 2	Station 3	Station 4
276	Existing	0.8	6.1	1.9	16.6
276	Alt 1	DRY	6.1	2.1	16.9
276	Alt 2	DRY	6.2	DRY	16.4
122	Existing	2.0	7.2	3.5	18.0
122	Alt 2	2.3	7.4	3.8	18.3
122	Alt 3	DRY	6.9	DRY	17.8
60	Existing	2.9	7.8	4.8	19.2
60	Alt 2	3.0	7.9	5.0	19.4
61	Existing	3.7	8.5	4.5	18.7
61	Alt 2	3.8	8.6	4.7	19.0
61	Alt 3	DRY	8.4	3.0	19.4
Elevation (ft-NAVD)		3.1	-2.3	0.9	-13.3

Appendix B:

Quality Control Review Procedure and Figures

This Appendix contains additional information on aspects of the technical team’s multi-step review for each of the SWAN+ADCIRC model simulations. As stated in the Main Report, the technical team applied a multi-step review for each of the SWAN+ADCIRC model simulations. The first layer of review examined the model input and output files to ensure the study team applied the correct SWAN+ADCIRC model mesh, mesh settings, and storm forcing. For the next level of review, the study team examined maximum water level and maximum depth plots for the Broward County area with focus on the water levels and depths near the Las Olas Boulevard and Hollywood Lakes areas. For the last level of review, for each storm the study team examined animations of the water levels and plots of water level time series at multiple locations.

Examination of the water level animations allowed the study team to understand how different mesh alternatives influenced the inundation timing and location for the various storm forcing. As an example, Figures B.1 and B.2 show the difference in location and timing of the inland inundation that occurs for the Storm 276 simulation with the existing seawall condition (Figure B.1) and the Alternative 1 seawall elevation (Figure B.2). For the existing conditions, the inundation in Hollywood Lakes starts earlier in the storm and at the south wall of North Lake (circled in red). For the Alternative 1 seawall condition, the inundation starts later in the storm (approximately 1.7 hours later when compared to existing seawall condition), at a higher water elevation, and along the north wall of South Lake (circled in red).

The study team reviewed water level animations for each of the final storm simulations and seawall alternatives. These reviews allowed the study team to view the propagation of the storm surge through the Broward County area and focus areas of Las Olas Boulevard and Hollywood Lakes. Each of the four storms had a different storm surge “signature” due to the differences in the landfall location, track angle, storm strength, and storm size. For each of the four storms applied in this study, some of the animations included the wind speed vectors to allow the reviewers to examine how the changing wind fields caused the surge to propagate through the focus areas. Storm 61 features a storm track that causes significant amounts of water to propagate from Biscayne Bay towards the north as the storms push water into Biscayne Bay before landfall and then northward after the storm moves inland and the winds shift to a north-northeast direction. Figure B.3 shows a sequence for the storm surge caused by Storm 60 (Alternative 2 mesh conditions) with wind vectors. The sequence shows how the storm pushes water in Biscayne Bay, and then north along the interior water ways into southern Broward County (where the water influences Hollywood Lakes, Figure 5.39)

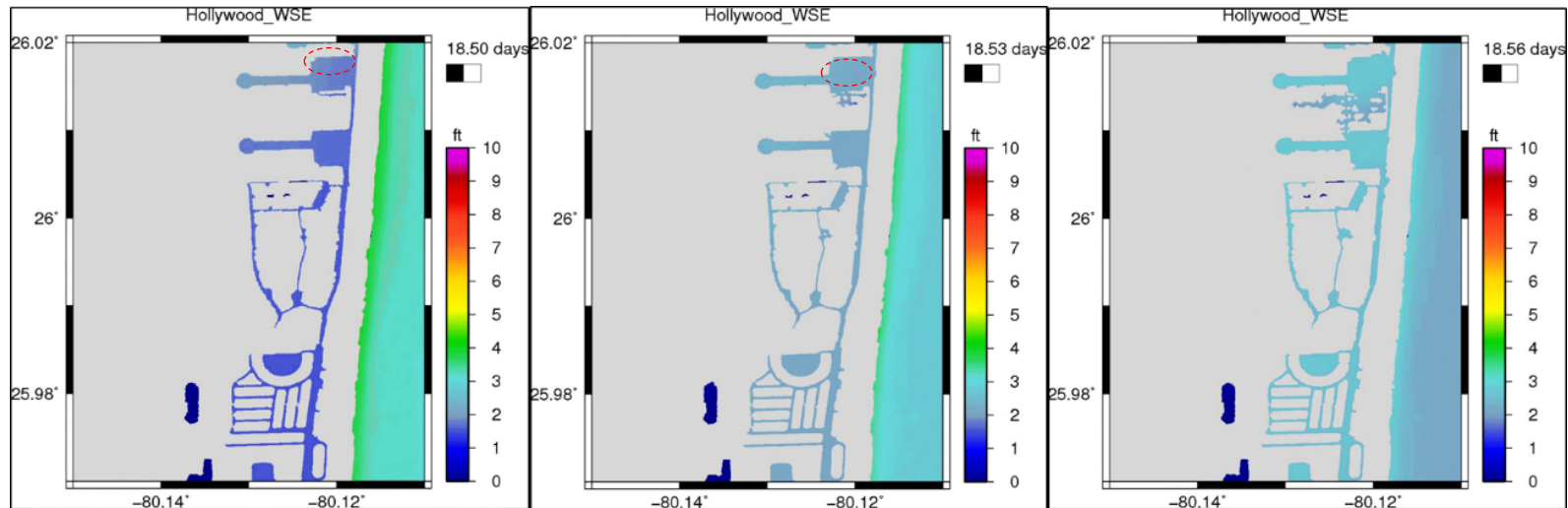


Figure B.1 Sequence of Inundation in Hollywood Lakes for Storm 276 with Existing Seawall Conditions

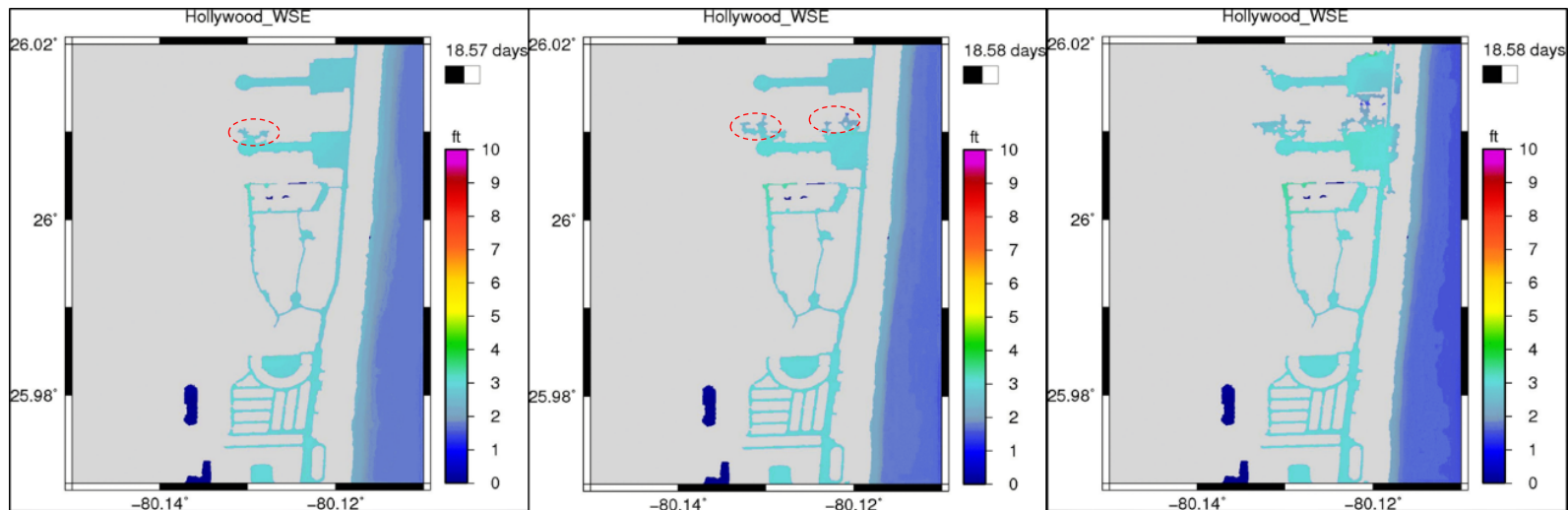


Figure B.2 Sequence of Inundation in Hollywood Lakes for Storm 276 with Alternative 1 Seawall Conditions

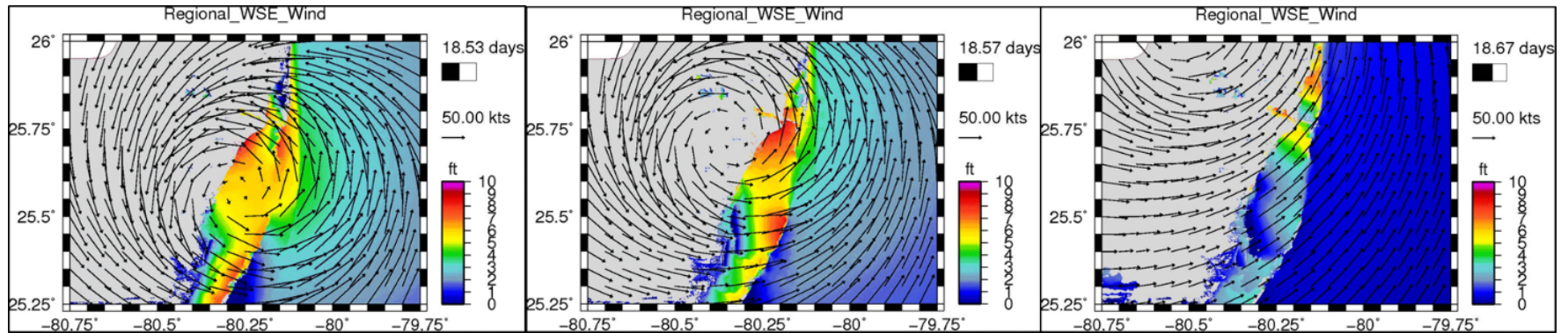


Figure B.3 Sequence of Inundation Biscayne Bay and Northern Miami-Dade County for Storm 60

Additionally, the study team also reviewed the volume of inundation that occurred within specific regions near the Las Olas Boulevard and Hollywood Lakes focus areas. First, the study team developed volume calculation areas for the Las Olas Boulevard and Hollywood Lakes areas (Figure B.4). The study team developed the extents of the calculation areas to capture the inland inundation caused by the storm systems within the two focus areas. Notably, the volume calculations include mass added to and removed (i.e., net accumulated flood volume) from the system through ADCIRC's wetting and drying algorithm. ADCIRC does not strictly locally conserve mass during this process, but rather computes water depth at each node for each time step and changes the node state from dry to wet if the minimum calculated depth criterion is met. When all nodes within an element compute to wet, the element becomes wet and its volume is added to the local inundation.

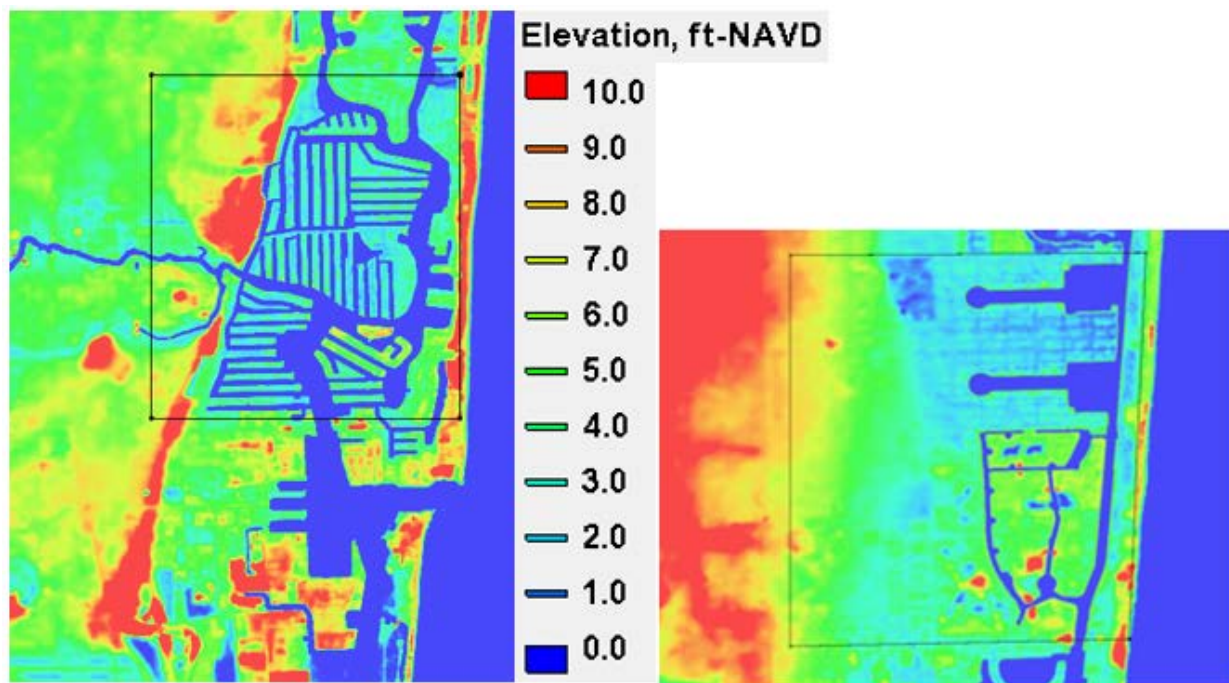


Figure B.4 Areas for Volume Analysis for Las Olas Boulevard (Left) and Hollywood Lakes (Right)

The elevated ridge that occurs just west of the Las Olas Boulevard area canals limits the westward propagation of surge, while the Hollywood Lakes area features a large distance between the lakes/canals and the closest inland elevated ridge. The study team developed plots that show the total volume within the calculation area for all alternatives simulated for each of the four storms. Figure B.5 shows the total volume with time for the three simulations with Storm 276 for the Las Olas Boulevard area. The plot shows that the pre-storm volumes match for all three seawall alternatives. For Alternative 1 and Alternative 2 (which feature the same 4 ft-NAVD minimum seawall elevation), as there is no seawall overtopping and inland inundation, the total volumes are identical and lower than the Existing Condition results which features inland inundation. Figure B.6 shows the results for the Hollywood Lakes calculation area. The plot shows that substantial flood volume from overtopping and inland inundation occurs both for the Existing Condition and Alternative 1 (2.5 ft-NAVD minimum seawall height). The Alternative 1 result shows the delay in inundation caused by the Alternative 1 configuration versus the Existing Condition. For Alternative 2, as there is no seawall overtopping, the calculated flood volume is much smaller compared to the Existing and Alternative 1 Conditions (this is not the case for Storm 122 and Storm 61). Notably, the Hollywood Lakes plot shows the presence of the Alternative 1 seawalls (that allow for some overtopping)

cause more water volume to be retained in the volume calculation area than the Existing Conditions. This observation is made with the recognition that the SWAN+ADCIRC model setup for all simulations does not allow for any vents or drains in the seawalls and there is no stormwater system representation in the model.

Figure B.7 shows the total volume with time for the three simulations with Storm 122 for the Las Olas Boulevard calculation area. The plot shows almost similar calculated volumes for the Existing Conditions and Alternative 2 (4 ft-NAVD minimum seawall elevation) as there is overtopping and inland inundation for these conditions and reduced volume for Alternative 3 (6 ft-NAVD minimum seawall elevation) because there is no inland inundation for this condition. The Alternative 2 results show a smaller volume immediately before and after seawall overtopping which indicate a slight change on how the volume gets distributed over time with a sharper peak and slightly higher maximum with Alternative 2. Figure B.8 shows the results for the Hollywood Lakes calculation area have the same features as the Las Olas Boulevard figure (Figure B.7). When compared with the Existing Conditions, the results show Alternative 2 delays (by about 1.5 hours) the volume increase as flood level is initially below seawall crest. However, when flood level overtops the seawall, results show Alternative 2 produces significantly more flood volume than the Existing Condition as more volume is retained behind the Alternative 2 seawalls. For Alternative 3, calculated volume is much smaller than that for Existing Condition because there is no seawall overtopping and inland inundation.

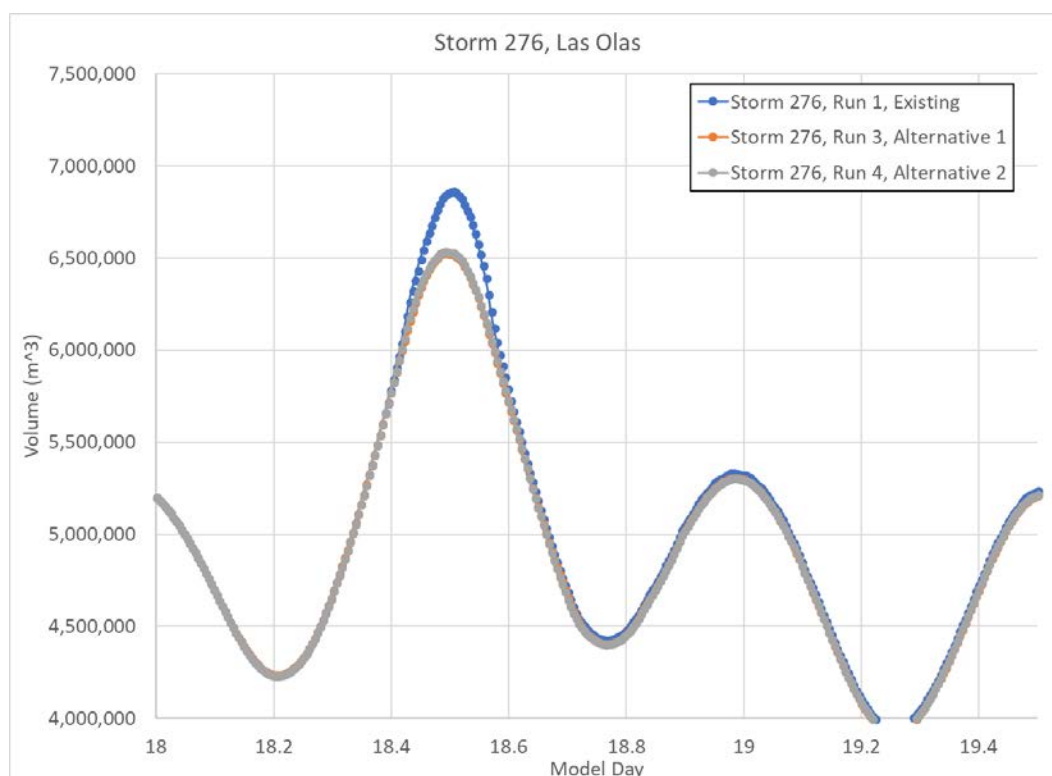


Figure B.5 Volume Calculated Within Las Olas Boulevard Calculation Area for Storm 276 Simulations

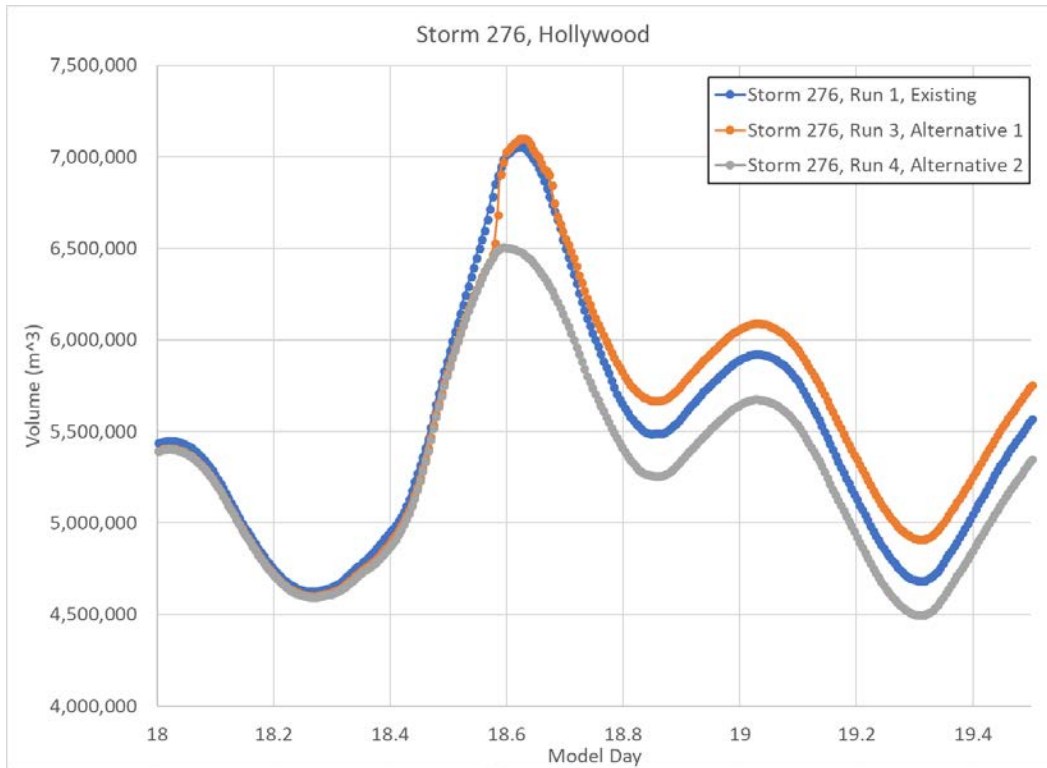


Figure B.6 Volume Calculated Within Hollywood Lakes Calculation Area for Storm 276 Simulations

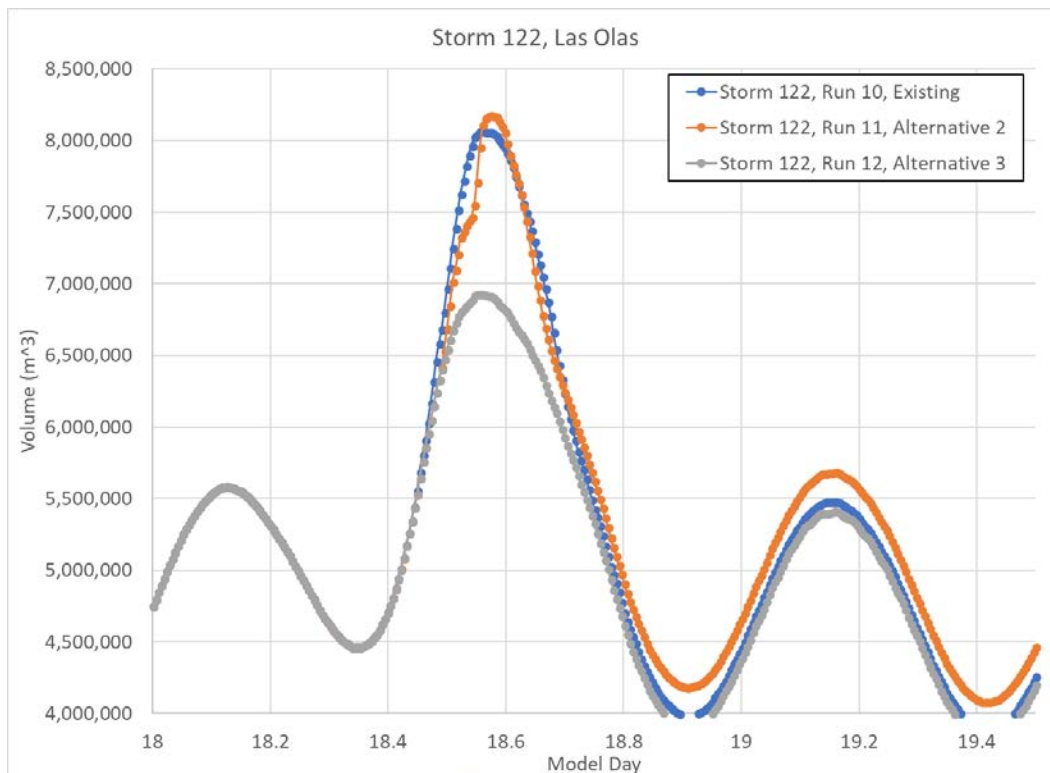


Figure B.7 Volume Calculated Within Las Olas Boulevard Calculation Area for Storm 122 Simulations

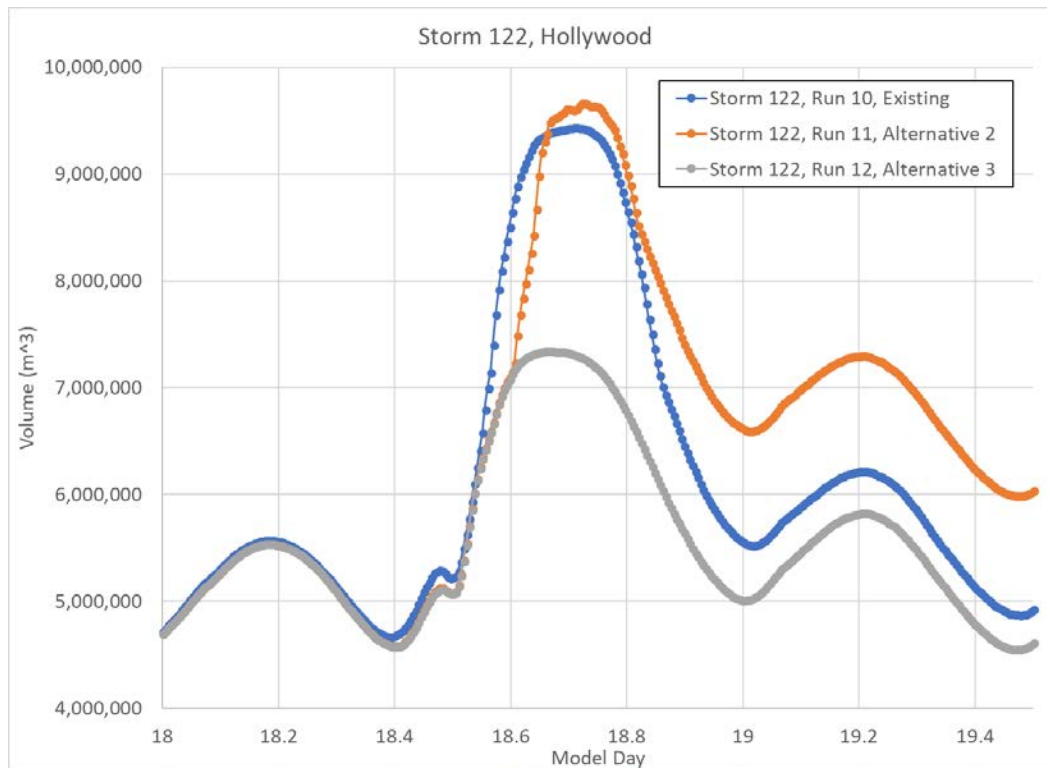


Figure B.8 Volume Calculated Within Hollywood Lakes Calculation Area for Storm 122 Simulations

Figure B.9 shows the total volume with time for the three simulations with Storm 60 for the Las Olas Boulevard calculation area. The plot shows features similar to the Storm 122 results almost similar volumes for the Existing Conditions and Alternative 2 (4 ft-NAVD minimum seawall elevation) as seawall overtopping and inland inundation occurs for both conditions and substantially reduced volume for Alternative 3 (6 ft-NAVD minimum seawall elevation) as there is no inland inundation for this condition. Figure B.10 shows the results for the Hollywood Lakes calculation area. The Alternative 2 result shows a slight delay in volume increase compared to the Existing Condition configuration because the seawall initially prevented inundation in Hollywood Lakes. However, Figure B.10 shows that after seawall overtopping, Alternative 2 produces flood volume that is slightly more than that for the Existing Condition. The Alternative 3 simulation did not produce a stable result and is not plotted.

Figure B.11 shows the total volume with time for the three simulations with Storm 61 for the Las Olas Boulevard calculation areas. The figure shows a substantially reduced flood volume for Alternative 3 because examination of the maximum elevations shown in Figure 5.52, indicate significant overtopping and inland inundation occurring for the Existing Conditions and Alternative 2 (4 ft-NAVD minimum seawall elevation) and limited inland inundation for Alternative 3 (6 ft-NAVD minimum seawall elevation). Figure B.12 shows the results for the Hollywood Lakes calculation area with many of the same features as Las Olas Boulevard figure. The Alternative 2 result shows a slight delay in volume increase compared to the Existing Condition configuration. Notably, more volume is retained behind the Alternative 2 seawalls compared to the Existing Conditions. The Alternative 3 simulation and review of water level animations indicate the 6 ft-NAVD seawalls are not overtopped from the water side, but significant water volume propagates from the south and into the Hollywood Lakes volume calculation area by moving northward inland of the seawalls (flanking the seawalls). This volume is retained behind the seawalls as the storm passes as indicated by the larger volumes after the storm peak for Alternative 3 as compared to the

Existing Condition (This observation is made with the recognition that the SWAN+ADCIRC model setup for all simulations does not allow for any vents or drains in the seawalls and there is no stormwater system representation in the model).

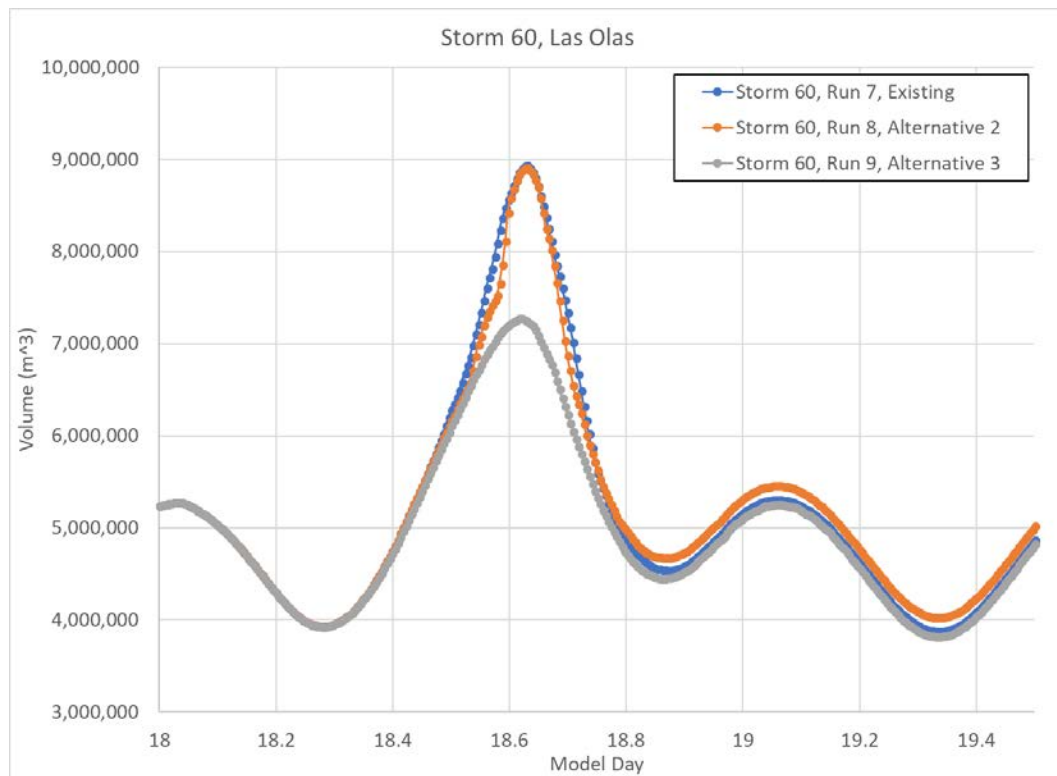


Figure B.9 Volume Calculated Within Las Olas Boulevard Calculation Area for Storm 60 Simulations

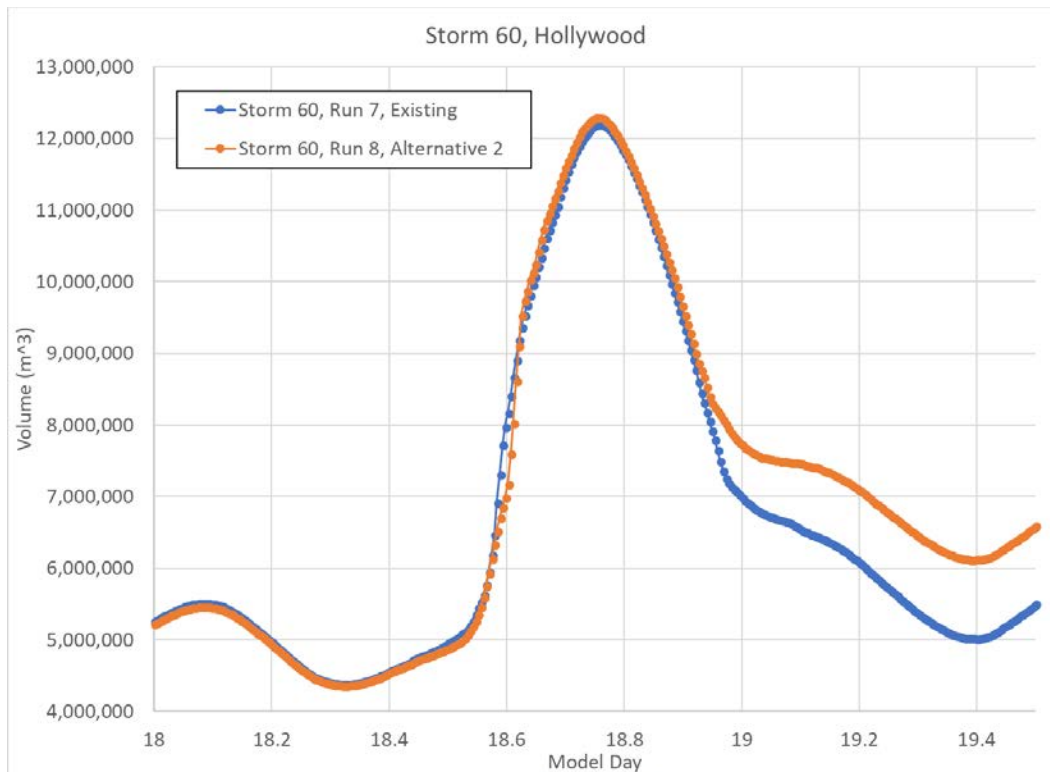


Figure B.10 Volume Calculated Within Hollywood Lakes Calculation Area for Storm 60 Simulations

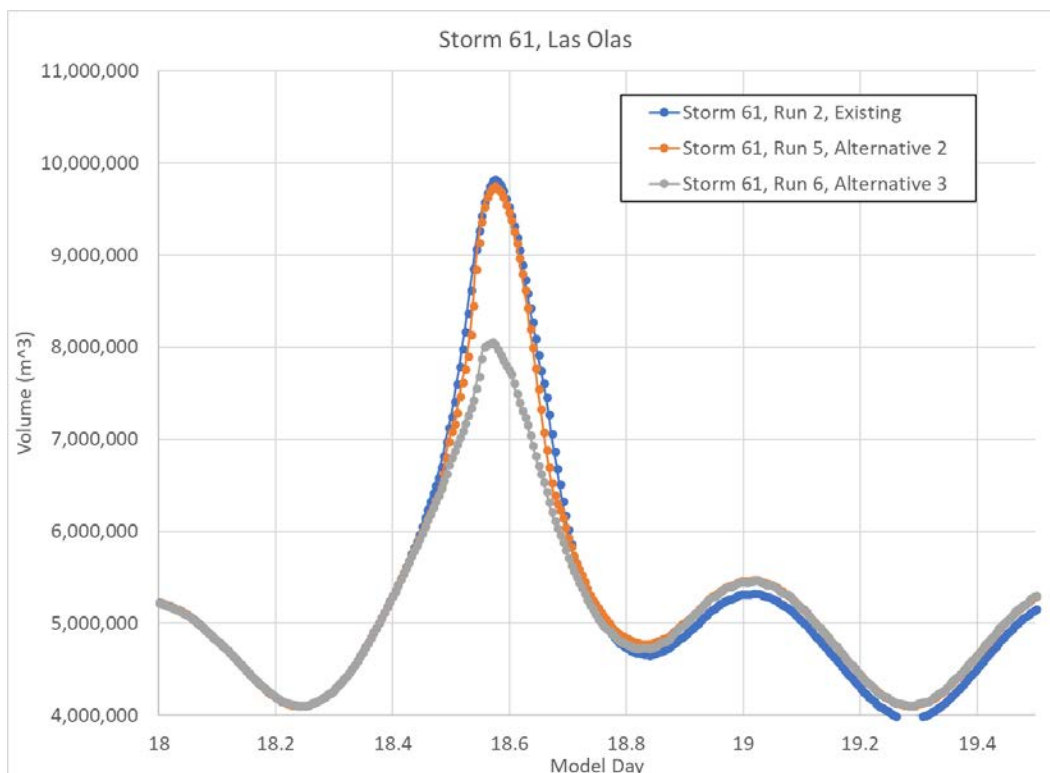


Figure B.11 Volume Calculated Within Las Olas Boulevard Calculation Area for Storm 61 Simulations

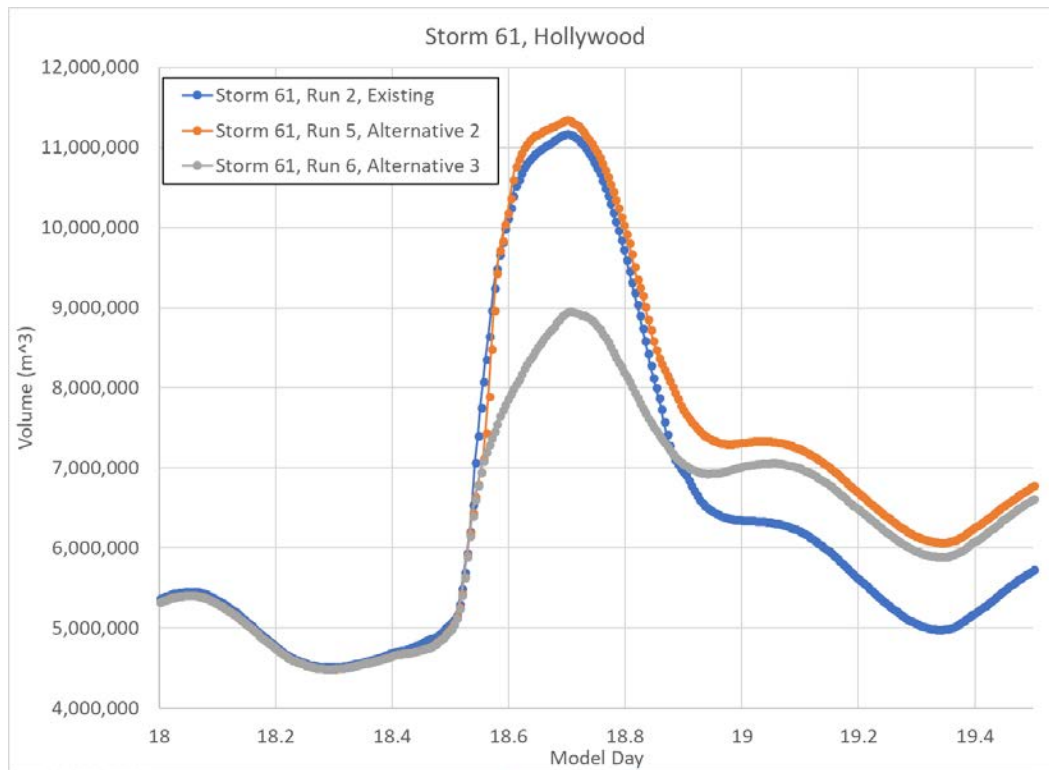


Figure B.12 Volume Calculated Within Hollywood Lakes Calculation Area for Storm 61 Simulations



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted by: Jhanelle Campbell, Development Services Director

Submitting Department: Development Services Department

Item Type: Ordinance

Agenda Section: ORDINANCE 2nd Reading

Subject Title: ORDINANCE 2021-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," SECTION 30-11, "DEFINITIONS" TO DEFINE "TOBACCO PARAPHERNALIA STORES;" AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

Or

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," SECTION 30-11, "DEFINITIONS" TO DEFINE "TOBACCO PARAPHERNALIA STORES;" AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; ~~CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS;~~ PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

Explanation: Staff has prepared Ordinance 2021-10 (**Exhibit 1**) to incorporate the Commission's request to specifically eliminate smoke shops as a permitted use. The Ordinance also addresses other previously discussed issues in the B-1-A and B-1 Commercial zoning district to ensure that the regulations reflect changed conditions in the Town and the current preferences of the Town Commission and community. The proposed amendments were reviewed with the Town Attorney, Town Manager and reviewed by the Planning and Zoning Board. The proposed amendments were first presented for second reading at the Commission's January 11, 2022 meeting. However, the Commission postponed making a decision on the adoption of the proposed changes to the January 25, 2022 meeting. This was because, the Commission wished to consider adoption of Ordinance 2021-10 at second reading concurrent with second reading of Ordinance 2021-15. Ordinance 2021-15 directly impacts stores that carry tobacco paraphernalia by limiting the display of their merchandise.

A summary of the proposed changes in Ordinance 2021-10, with the Planning and Zoning Board recommendations, are highlighted in the following table:

Table 1- Proposed Amendments

	Issue	Ordinance Requirement	Ordinance Line Number	Planning and Zoning Board Vote
1.	Defines Tobacco paraphernalia.	Establishes a definition for tobacco paraphernalia and clearly establishes the types of devices considered to be paraphernalia.	71-86	5-0
2.	Defines Tobacco paraphernalia store.	Establishes a clear definition for tobacco paraphernalia store.	88-91	4-1
B-1-A				
3.	Eliminates the following uses from permitted uses in B-1-A: • beauty schools, • dental laboratory, • market, • party supply store, • specialty shop, • sundries store, • trade/business school.	Removes uses as permitted in the B-1-A zoning district.	115, 132, 155, 166, 182, 186, 191	5-0
4.	Makes the following changes to permitted uses in B-1-A: • Adds medical/dental office. • Clarifies music store. • Refers to supplemental regulations for massage therapist.	• Adds medical/dental office as a permitted use. • Clarifies what is allowed as a music store. • Cross-references to the criteria for the operation of massage therapy establishments.	159 163, 188 156	5-0
5.	Includes a requirement for written report to Commission when similar uses are approved as permitted or conditional uses.	The Town Manager will provide information in the written Town Manager report each time similar uses are approved.	205-207 241-243 456-458 494-496	5-0 The Board recommended a change to add “and” between these steps but after further review and consultation with the Town Attorney we determined that this addition was not necessary. Each of the three steps is required as drafted.

	Issue	Ordinance Requirement	Ordinance Line Number	Planning and Zoning Board Vote
6.	Eliminates the following conditional uses: - car wash/outdoor hand wash. - pet store.	Removes car wash/outdoor hand wash and pet store as listed conditional uses.	213, 226	3-2
7.	Adds supplemental regulations for massage therapists.	Establishes criteria for operation of a massage therapy business.	248-347	5-0
B-1				
8.	Adds the following permitted uses: - cigar store. - medical/dental office.	Restores cigar store as a permitted use. Note: If a store triggers the definition of tobacco paraphernalia store, it is not allowed. Adds medical/dental office.	410, 447	5-0
	Eliminates the following uses from permitted uses: - beauty schools, - market, - party supply store, - specialty shop, - sundries store, - trade/business school.	Eliminated these permitted uses from B-1.	366, 406, 417, 433, 437, 442	5-0
	Makes the following changes to permitted uses: - Clarifies music store - Refers to supplemental regulations for massage therapist.	Changes these permitted use references.	414, 439 407	5-0
9.	Eliminates from conditional uses: call center, car wash/outdoor hand wash.	Removes call center and car wash/outdoor hand wash as conditional uses.	463, 464	5-0
10.	Adds supplemental regulations to pet store as a conditional use. Adds supplemental regulations to massage therapist as a permitted use.	Adds supplemental regulations to pet store as a conditional use. Establishes criteria for operation of a massage therapy business.	478, 601-651 501-600	5-0
Approval of the overall Ordinance				3-2

Amortization of Tobacco Paraphernalia Stores in B-1 Zoning District

With Town Commission direction, the Ordinance proposed at first reading (**Exhibit 1**) established the amortization of tobacco paraphernalia stores in the B-1 zoning district (there are none in the B-1-A district). As written, the nonconforming tobacco paraphernalia stores were required to cease to operate within 1 year of adoption of the proposed Ordinance. Non-conforming tobacco paraphernalia stores

would continue to operate during the amortization period but must be maintained in good condition. However, such stores could no longer display its inventory of tobacco paraphernalia within 5 feet of any window or glazed area of the front or side façades. Stocking and reselling of tobacco paraphernalia would continue to be allowed for the amortization period.

As written, the amortization period could be extended by the Town Manager, with the advice of the Town Attorney, if the non-conforming business can demonstrate economic hardship to the owner of a tobacco paraphernalia store, as further specified in the Ordinance. In addition, the Town Manager could choose to bring such an extension request to the Town Commission for approval.

Staff presented the Ordinance with the above changes along with four options:

- Adopt the Ordinance as drafted, including the amortization of the tobacco paraphernalia stores after one year or any other period the Commission deems appropriate, or which can be demonstrated under case law;
- Amend the amortization section to provide for a longer period for the two stores to remain in place as nonconforming uses, during which time they cannot be expanded or intensified;
- Amend the Ordinance to remove the amortization section so the two existing stores can remain as nonconforming uses indefinitely; or
- Amend the Ordinance so that other provisions as the Commission sees fit are approved

Ultimately, the Town Commission voted to adopt the Ordinance on first reading with the elimination of the amortization section and instruction to staff to investigate modifying the display of merchandise. The amended Ordinance is attached as **Exhibit 2**.

To address the Commission's concerns about the display of tobacco paraphernalia, the Town Attorney drafted Ordinance 2021-15 which is on tonight's agenda as a sperate agenda item. Ordinance 2021-15, if adopted as proposed, will require any business selling tobacco paraphernalia to conceal this type of inventory from the view of the public from outside of its premises.

As discussed on November 9, 2021, the adoption of Ordinance 2021-10 directly affects the operations of two current Lauderdale-By-The-Sea businesses - Grateful J's located at 250 Commercial Blvd and Hollywood Tobacco located at 235 Commercial Boulevard. Likewise, Ordinance 2021-15, will also directly impact these businesses, and all other businesses that carry tobacco paraphernalia, by limiting the display of their merchandise. We contacted both businesses and property owners to inform them of the proposed ordinance and the dates in which the ordinance would be presented to both the Planning and Zoning Board and the Town Commission.

Since the November 9, 2021 meeting, staff, through the Town Attorney's office and at the invitation of Grateful J's attorney, has provided information about the current code violations regarding window signage that was installed without a permit (**Exhibit 3**) and to provide guidance regarding the community's concerns about the aesthetic of their business. Staff was anticipating that, as a sign of good faith effort, the Grateful J's owners would bring the building into compliance with the current code and make efforts to conceal the tobacco paraphernalia and reduce the lighting (both issues were discussed at the Commission meeting). However, no sign permit applications have been received to date. And while Grateful J's has rearranged its inventory as is pictured below, much of the tobacco paraphernalia was still visible from the Commercial Boulevard and the parking lot adjacent to Grateful J's as of January 5, 2022. The lighting also continues to be excessive (**Exhibit 4**).

The Hollywood Tobacco have contacted the Town regarding the Ordinance and only asked to be updated as to the date of the next meeting. In addition, we received an email from their building owner

who stated that existing business should be grandfathered and asked to be included in future notices. Photograph of the Hollywood Tobacco building is included as **Exhibit 5**.

Recommendation: At first reading, Staff recommended approving the proposed Ordinance without the amortization period. The thought behind this recommendation was that:

1. The Ordinance includes many important changes outside of the tobacco discussion and provides important direction to staff so that they can implement the Commission's intent; and
2. There are limited tobacco paraphernalia businesses that are in the Town and, while one of them has a prominent space on Commercial Boulevard, the Ordinance would prohibit further businesses from entering the Town. The accompanying Ordinance 2021-15 would further limit the impact these two and other businesses have on the Town's aesthetic by prohibiting the visible display of tobacco paraphernalia. Failure for either of these businesses to meet the new Ordinance or other established codes within the Town will result in code enforcement fines.

Because measures are in place through the adoption of both ordinances and code enforcement procedures to limit the negative impact of these businesses, staff continues to recommend approval of Ordinance 2021-10 without the amortization (**Exhibit 2**) contingent upon the approval of Ordinance 2021-15.

Without the approval of 2021-15, staff recommends denial of Ordinance 2021-10 on second reading.

Attachments

- Ex. 1 – Ordinance 2021-10 w/Amortization
- Ex. 2 – Ordinance 2021-10 without Amortization
- Ex. 3 – Current Signage Violations for Grateful J's
- Ex. 4 – Grateful J's Photographs
- Ex. 5 – Hollywood Tobacco Photograph

Reviewed by Town Attorney:

☒	Yes	☐	No
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Ordinance 2021-10

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” SECTION 30-11, “DEFINITIONS” TO DEFINE “TOBACCO PARAPHERNALIA STORES;” AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

WHEREAS, the Town of Lauderdale-By-The-Sea (the “Town”) Commission recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the Town’s regulations are current and consistent with the Town’s planning and regulatory needs; and

WHEREAS, the Town Commission has recently discussed the history and the adequacy of the use lists, definitions and processes for the two business zoning districts in the Town, Business (B-1) and Neighborhood Business (B-1-A); and

WHEREAS, the Town Commission finds that certain uses are listed in the business zoning districts which are not possible to develop, or are not compatible with or suitable for the Town; and

WHEREAS, during the 2021 Florida Legislative Session, the Legislature adopted Chapter 2021-14, Laws of Florida, creating Sections 569.0025 and 569.315 of the Florida Statutes, and preempting the regulation for the marketing, sale, or delivery of, tobacco products and nicotine products to the State, effective October 1, 2021; and

Ordinance 2021-10

30 **WHEREAS**, however, local governments still retain the right to regulate stores selling
31 tobacco paraphernalia or devices commonly related to the use of any tobacco product, drug, or
32 narcotic, as further defined herein (“tobacco paraphernalia stores”); and

33 **WHEREAS**, there has been a recent proliferation of tobacco paraphernalia stores, as
34 defined herein, in the Town’s B-1 business zoning district; and

35 **WHEREAS**, the Town Commission finds that tobacco paraphernalia stores previously
36 allowed to locate within the Town as specialty shops should no longer be located in the B-1 and
37 B-1-A zoning districts; and

38 **WHEREAS**, it is the intent of the Town Commission that nonconforming tobacco
39 paraphernalia stores in the B-1 zoning districts be permitted to continue to exist for one year (or
40 longer based upon an individual showing) from the effective date of this Ordinance, unless
41 terminated earlier for any reason; and

42 **WHEREAS**, to provide for the orderly, planned future development of the Town, and
43 enhance the character and aesthetics of the Town, the Town Commission finds that additional
44 changes to the list of permitted and conditional uses in the B-1 and B-1-A zoning districts, and
45 related regulations, are necessary to reflect the Town’s current vision for its downtown; and

46 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
47 reviewed the contents of this Ordinance at a duly noticed public hearing on September 15, 2021,
48 and recommended the amendments be approved; and

49 **WHEREAS**, the Town Commission conducted first and second reading of this Ordinance at
50 duly noticed public hearings, as required by law, and after having received input from and
51 participation by interested members of the public and staff, the Town Commission has determined

Ordinance 2021-10

that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT¹:

SECTION 1. Recitals. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

SECTION 2. Code Amended. Chapter 30 "Unified Land Development Regulations," is hereby amended as follows:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

ARTICLE I. - IN GENERAL

* * *

Sec. 30-11. - Definitions.

* * *

(2) Terms defined.

* * *

Tobacco paraphernalia. Paraphernalia commonly related to the use of any tobacco product, drug, or narcotic includes, but is not limited to:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Chamber pipes.
- e. Carburetor pipes.
- f. Air-driven pipes.
- g. Chillums.
- h. Bongs.
- i. Ice pipes or chillers

¹ Additions to existing text are shown in underline. Deletions are shown in ~~striketrough~~.

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This definition shall not be interpreted to include a nicotine dispensing device, as defined in Florida Statutes, Section 569.31, as may be amended from time to time.

Tobacco paraphernalia store. Any retail store that sells, offers for rent or sale, or exhibits or displays, tobacco paraphernalia that totals more than five percent of its inventory, measured by either (i) the number of items or (ii) the square footage of the store where inventory is displayed or accessible to customers.

* * *

ARTICLE V. – ZONING

* * *

DIVISION 2. – DISTRICTS

* * *

Subdivision L. - B-1-A District Regulations.

Sec. 30-261. - B-1-A district—Business.

(a) *B-1-A uses permitted.*

(1) *Permitted uses.* No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area:

- a. Antiques store,
- b. Art galleries,
- c. Arts and crafts supply store,
- d. Automobile rental or leasing agencies (no outdoor display),
- e. Bait and tackle shop,
- f. Bakery,
- g. Bank,
- h. ~~Beauty schools, b~~ Barber shops and hair salons,
- i. Bicycle rental shop with no outside storage,
- j. Book store,
- k. Business and professional employment agency,
- l. Camera and photographic supply store,
- m. Card and stationery store,
- n. Catering businesses,
- o. Church and place of worship,
- p. Clothing store,
- q. Coin-operated dry cleaning and laundry and/or pickup station,
- r. Community theaters, dinner theaters and cultural centers,

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s.Computer/software store,
t.Consignment store,
u.Cooking schools,
v.Copy center,
w.Courier service,
x.Delicatessen,
y.~~Dental laboratory~~,Reserved,
z.Drug store/pharmacy (no on-site prescription writing for controlled substances identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
aa.Fabric/needlework/yarn shop,
bb.Fishing pier,
cc.Florist shop,
dd.Formal wear sales and rental,
ee.Fruit and produce store,
ff.Furniture and home furnishings,
gg.Gift shop,
hh.Government administration,
ii.Grocery/food store/supermarket,
jj.Hardware store,
kk.Health and fitness center,
ll.Household appliances store,
mm.Ice cream/yogurt store,
nn.Interior decorator,
oo.Jewelry store,
pp.Library branch,
qq.Linen/bath/bedding store,
rr.Luggage/handbag/leather goods store,
ss.Mail/postage/fax service,
tt.Marine parts and supplies store,
uu.~~Market~~,Reserved
vv.Massage therapist (licensed therapist to be on premises at all times of operation; see subsection (j) below for supplemental regulations),
ww.Meat and poultry store,
xx.Medical supplies sales and medical/dental office,
yy.Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),
zz.Museum,
aaa.Music/musical instrument store, Tapes/videos/music CD/vinyl record stores
bbb.Office building,
ccc.Optical store,
ddd.~~Party supply store~~,Reserved,
eee.Photographic studio,
fff.Police and fire substation,
ggg.Retail electronic sales and repair,
hhh.Restaurant, which may also include the following accessory uses:

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- 172 1.Sidewalk cafés which would be appurtenant to, and a part of, a restaurant, subject
173 to the requirements of chapter 17, article VI, sidewalk cafés.
174 2.Outside seating for restaurants, on private property other than a sidewalk, that is
175 accessory to the principal restaurant use and that is not regulated under chapter 17,
176 article VI, and subject to the regulations set forth in subsection (h), below.
177 3.Walk-up windows for food and/or beverage service,
178
179 iii.Seafood store,
180 jjj.Shoe sales and repair,
181 kkk.Shop for marking articles sold at retail on the premises,
182 ~~lll.Specialty shop,Reserved,~~
183 mmm.Sporting goods store, including dive shops,
184 nnn.Studios for artists, photographers, musicians (including recording studios), and
185 dance,
186 ~~ooo.Sundries store,Reserved,~~
187 ppp.Tailor/dressmaking store, direct to the customer,
188 ~~qqq.Tapes/videos/music CD stores,Reserved,~~
189 rrr.Tool rental (small tools and equipment, indoor display only),
190 sss.Toy/game store,
191 ~~ttt.Trade/business school,Reserved,~~
192 uuu.Travel agency,
193 vvv.Veterinarian or animal grooming with all activities enclosed within the building with
194 no outside noise,
195 www.Watch and jewelry repair, and
196
197 xxx.*Uses not listed.*
198

- 199 1. Any use not covered by the above list may be authorized in the B-1-A district by
200 the Town Manager or designee only if the proposed use is similar to a listed use;
201 otherwise, an amendment to this chapter is required.
202 2. The Town Manager or designee shall consult with the Town Commission on any
203 proposal to find that a use is similar, prior to authorizing such use in the B-1-A
204 district.
205 3. Whenever a use is approved as a similar use, the Town Manager shall report such
206 finding in the written Town Manager report at a subsequent Town Commission
207 meeting.
208

209 (2) *Conditional uses.* The following conditional uses may be permitted upon approval
210 pursuant to the conditional use procedures of this Code:
211

- 212 a.Bicycle taxi (no outside storage or display).
213 ~~b.Car wash/outdoor hand wash,Reserved,~~
214 c.Charter and sightseeing boat.
215 d.Child and adult day-care centers.
216 e.Convenience store, subject to the requirements as set forth in subsection (i), below.

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f. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

g. Dry cleaner.

h. Mixed use, subject to the requirements as set forth in subsection (i) below.

i. "Paid private parking" on parcels with a primary use, excluding standalone parking lots, subject to the requirements as set forth in subsection (i) below.

j. Parking garage.

k. Permitted use that exceeds 10,000 square feet in gross floor area.

l. ~~Pet store.~~ Reserved.

m. Pool supply store.

n. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks.

o. Water craft sales and rental (new or used).

p. *Conditional uses not listed.*

1. Permission to apply for conditional uses not covered by the above list in the B-1-A district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required.

2. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1-A district.

3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.

4. Approval of a conditional use shall also be subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code.

* * *

(j) Massage therapists – supplemental regulations.

(1) Massage therapist certificate required. No establishment shall offer or provide massage services without obtaining a massage therapist certificate issued pursuant to this subsection (j), and maintaining such certificate. All persons providing massage services at the establishment shall be duly licensed under F.S. §480.041 et seq.; approved as a massage therapy apprentice as defined in F.S. §480.033, or possess another valid health care practitioner license duly issued by the Florida Department of Health pursuant to F.S. Ch. 456.

a. Application for businesses. All establishments providing massage services as defined within this Code shall apply for a massage therapist certificate from the Town. Any establishment applying for a massage therapist certificate shall include the following information on a form provided by the Town:

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1. Proof of valid Florida Board of Massage Therapy license issued to the establishment in accordance with F.S. §480.043 et seq.; and

2. Proof of valid Florida Board of Massage Therapy or other state health care practitioner license for all personnel providing massage services at the establishment, in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and

3. Proof of valid Florida driver's license or other government-issued identification for every person and massage therapist working at the establishment.

b. Term of massage therapist certificate for businesses. Once issued, a massage therapist certificate shall remain valid for a period of one year, or until there is a change of the use, ownership, name, location of the establishment from that specified on the approved certificate, or until such time that the Town-issued Business Tax Receipt (BTR) expires.

1. The operator of any massage establishment that holds a certificate shall submit an application to renew the certificate within 30 days prior to the expiration date of the current certificate in order to continue operating.

2. When there is a change of the use, ownership, business name, or establishment name, or establishment location from that specified on the approved certificate, a new certificate shall be required.

c. Requirement to supply updated information. Annually at the time of issuance of business tax receipt during the term of a massage therapist certificate, each establishment holding a certificate shall supply the Town with the following information on a form and in the manner prescribed by the Town:

1. Revocation, expiration, or change to the status of the state licenses described in sub-subsection a. above; and

2. Updated state driver's license or other government-issued identification information for all personnel providing massage services at the establishment, including new staff members.

3. Proof of valid licensure of any new employees within seven days of employment, regardless of monthly report due date.

d. Display of certificate. Establishments shall display the valid certificate in a place easily visible to any person entering the establishment and shall maintain proof of valid licenses and identification of each staff member on the premises of the establishment at all times during operation.

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e. Revocation.

1. Grounds for revocation. The following shall be nonexclusive grounds for revocation of a massage therapist certificate:

i. Noncompliance with any provision of this subsection (j); or

ii. Noncompliance with Chapter 480 of the Florida Statutes; or

iii. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or

iv. Failure to remain "in good standing" as defined herein.

2. Revocation procedure. In the event the Town determines there are grounds for revocation, the Town shall schedule a hearing before the Town Manager and notify the certificate holder in writing and the grounds upon which such action is proposed, no less than seven days prior to the date of the hearing. In the event of an emergency the hearing may be held no less than 24 hours after notice to the certificate holder. Notice shall be deemed given when a notice has been properly addressed to the address as provided by the certificate holder on the certificate application, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service. Emergency notice shall be attempted by all available avenues including hand delivery. Proof shall be by clear and convincing evidence.

The Town Manager may:

i. Find no violation;

ii. Temporarily suspend the certificate for a time period as determined appropriate by the Town Manager;

iii. Revoke the certificate for the remainder of its term.

iv. Depending on the facts and circumstances, the Town Manager may suspend or revoke a license immediately subject to appeal as provided herein. Such appeal shall not stay the revocation or other action of the Town Manager.

A finding of violation twice within a one-year period shall require revocation of the license for the remainder of its term. Nothing in this subsection (j) shall take away other enforcement powers of the Town, Special Magistrate or any other agency provided by the Code or statute.

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f. Exemptions. Massage services in state-licensed hospitals and hospices, or those massages provided by a massage therapist acting under the direction of a licensed medical provider or practitioner, shall be exempt from the massage therapist certificate requirements of this subsection (j).

(2) Penalties. Violations of this subsection (j) shall be punishable in a manner to be prescribed by the Town and may result in the revocation of a massage therapist certificate, the imposition of fines, or any other penalty applicable pursuant to any other law.

(3) "In Good Standing" defined. For purposes of this subsection (j), the term "in good standing" means:

a. That the applicant's state license is current;

b. That the applicant's state license will not expire during the fiscal year for which the massage therapy services certificate is issued (or if such the case, that a renewal for the state license has been filed);

c. That there are no pending Department of Health Administrative complaints against the applicant which seek permanent revocation or suspension of the applicant's state license;

d. That there are no pending Department of Health Administration complaints against the applicant's state license seeking a restriction of practice or placement on probation (the Town may disregard this evidence if it receives a resolution from the Board of Massage Therapy, or a letter from the Executive Director of the Department of Health indicating that the remedy sought will not preclude the applicant from pursuing the massage therapy services certificate); and

e. That the applicant is not being prosecuted, and does not have criminal charges pending at the state or federal prosecutor, at the time the Town must approve or deny the application for the massage therapist certificate.

* * *

Subdivision M. - B-1 District Regulations.

Sec. 30-271. - B-1 district—Business.

(a) *B-1 uses permitted.*

(1) *Permitted uses.* No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area, except for waterfront hotel uses:

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358
359 a.Antiques store,
360 b.Art galleries,
361 c.Arts and crafts supply store,
362 d.Automobile rental or leasing agencies (no outdoor display),
363 e.Bait and tackle shop,
364 f.Bakery,
365 g.Bank,
366 ~~h.Beauty schools, b~~ Barber shops and hair salons,
367 i.Bicycle rental shop with no outside storage,
368 j.Book store,
369 k.Business and professional employment agency,
370 l.Camera and photographic supply store,
371 m.Card and stationery store,
372 n.Catering businesses,
373 o.Church and place of worship,
374 p.Clothing store,
375 q.Coin-operated dry cleaning and laundry and/or pickup station,
376 r.Community theaters, dinner theaters and cultural centers,
377 s.Computer/software store,
378 t.Consignment store,
379 u.Cooking schools,
380 v.Copy center,
381 w.Courier service,
382 x.Delicatessen,
383 y.Dental laboratory,
384 z.Drug store/pharmacy (no on-site prescription writing for controlled substances
385 identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
386 aa.Fabric/needlework/yarn shop,
387 bb.Fishing pier,
388 cc.Florist shop,
389 dd.Formal wear sales and rental,
390 ee.Fruit and produce store,
391 ff.Furniture and home furnishings,
392 gg.Gift shop,
393 hh.Government administration,
394 ii.Grocery/food store/supermarket,
395 jj.Hardware store,
396 kk.Health and fitness center,
397 ll.Household appliances store,
398 mm.Ice cream/yogurt store,
399 nn.Interior decorator,
400 oo.Jewelry store,
401 pp.Library branch,
402 qq.Linen/bath/bedding store,
403 rr.Luggage/handbag/leather goods store,

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ss. Mail/postage/fax service,
tt. Marine parts and supplies store,
uu. ~~Market, Reserved,~~
vv. Massage therapist (licensed therapist to be on premises at all times of operation; see subsection (j) below for supplemental regulations),
ww. Meat and poultry store,
xx. Medical supplies sales, medical/dental office,
yy. Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),
zz. Museum,
aaa. Music/musical instrument store, Tapes/videos/music CD/vinyl record stores
bbb. Office building,
ccc. Optical store,
ddd. ~~Party supply store, Reserved,~~
eee. Photographic studio,
fff. Police and fire substation,
ggg. Retail electronic sales and repair,
hhh. Restaurant, which may also include the following accessory uses:

 1. Sidewalk cafés which would be appurtenant to, and a part of, a restaurant, subject to the requirements of chapter 17, article VI, sidewalk cafés.
 2. Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the principal restaurant use and that is not regulated under chapter 17, article VI, and subject to the regulations set forth in subsection (h), below.
 3. Walk-up windows for food and/or beverage service,

iii. Seafood store,
jjj. Shoe sales and repair,
kkk. Shop for marking articles sold at retail on the premises,
lll. ~~Specialty shop, Reserved,~~
mmm. Sporting goods store, including dive shops,
nnn. Studios for artists, photographers, musicians (including recording studios), and dance,
ooo. ~~Sundries store, Reserved,~~
ppp. Tailor/dressmaking store, direct to the customer,
qqq. ~~Tapes/videos/music CD stores, Reserved,~~
rrr. Tool rental (small tools and equipment, indoor display only),
sss. Toy/game store,
ttt. ~~Trade/business school, Reserved,~~
uuu. Travel agency,
vvv. Veterinarian or animal grooming with all activities enclosed within the building with no outside noise,
www. Watch and jewelry repair, ~~and~~
xxx. Cigar store (not meeting the definition of tobacco paraphernalia store, no customer service area).
yyy. Uses not listed.

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1. Any use not covered by the above list may be authorized in the B-1-A district by the Town Manager or designee only if the proposed use is similar to a listed use; otherwise, an amendment to this chapter is required.

2. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a use is similar, prior to authorizing such use in the B-1-A district.

3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.

(2) *Conditional uses.* The following conditional uses may be permitted upon approval pursuant to the conditional use procedures of this Code:

a. Bicycle taxi (no outside storage or display).

b. ~~Call center, subject to the requirements as set forth in subsection (i), below.~~ Reserved.

c. ~~Car wash/outdoor hand wash.~~ Reserved.

d. Charter and sightseeing boat.

e. Child and adult day-care centers.

f. Convenience store, subject to the requirements as set forth in subsection (i), below.

g. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

h. Dry cleaner.

i. Marina, subject to the requirements as set forth in subsection (i) below.

j. Mixed use, subject to the requirements as set forth in subsection (i) below.

k. "Paid private parking" on parcels with a primary use, excluding standalone parking lots, subject to the requirements as set forth in subsection (i) below.

l. Parking garage.

m. Permitted use that exceeds 10,000 square feet in gross floor area.

n. Pet store. (see subsection (k) below for supplemental regulations).

o. Pool supply store.

p. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks.

q. Water craft sales and rental (new or used).

r. Waterfront hotel.

s. *Conditional uses not listed.*

1. Permission to apply for conditional uses not covered by the above list in the B-1 district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required.

2. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1 district.

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3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.

4. Approval of a conditional use shall also be subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code.

* * *

(j) *Massage therapists – supplemental regulations.*

(1) *Massage therapist certificate required.* No establishment shall offer or provide massage services without obtaining a massage therapist certificate issued pursuant to this subsection (j), and maintaining such certificate. All persons providing massage services at the establishment shall be duly licensed under F.S. §480.041 et seq.; approved as a massage therapy apprentice as defined in F.S. §480.033, or possess another valid health care practitioner license duly issued by the Florida Department of Health pursuant to F.S. Ch. 456.

a. *Application for businesses.* All establishments providing massage services as defined within this Code shall apply for a massage therapist certificate from the Town. Any establishment applying for a massage therapist certificate shall include the following information on a form provided by the Town:

1. Proof of valid Florida Board of Massage Therapy license issued to the establishment in accordance with F.S. §480.043 et seq.; and

2. Proof of valid Florida Board of Massage Therapy or other state health care practitioner license for all personnel providing massage services at the establishment, in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and

3. Proof of valid Florida driver's license or other government-issued identification for every person and massage therapist working at the establishment.

b. *Term of massage therapist certificate for businesses.* Once issued, a massage therapist certificate shall remain valid for a period of one year, or until there is a change of the use, ownership, name, location of the establishment from that specified on the approved certificate, or until such time that the Town-issued Business Tax Receipt (BTR) expires.

1. The operator of any massage establishment that holds a certificate shall submit an application to renew the certificate within 30 days prior to the expiration date of the current certificate in order to continue operating.

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2. When there is a change of the use, ownership, business name, or establishment name, or establishment location from that specified on the approved certificate, a new certificate shall be required.

c. Requirement to supply updated information. In the first week of each quarter during the term of a massage therapist certificate, each establishment holding a certificate shall supply the Town with the following information on a form and in the manner prescribed by the Town:

1. Revocation, expiration, or change to the status of the state licenses described in sub-subsection a. above; and

2. Updated state driver's license or other government-issued identification information for all personnel providing massage services at the establishment, including new staff members.

3. Proof of valid licensure of any new employees within seven days of employment, regardless of monthly report due date.

d. Display of certificate. Establishments shall display the valid certificate in a place easily visible to any person entering the establishment and shall maintain proof of valid licenses and identification of each staff member on the premises of the establishment at all times during operation.

e. Revocation.

1. Grounds for revocation. The following shall be nonexclusive grounds for revocation of a massage therapist certificate:

i. Noncompliance with any provision of this subsection (j); or

ii. Noncompliance with Chapter 480 of the Florida Statutes; or

iii. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or

iv. Failure to remain "in good standing" as defined herein.

2. Revocation procedure. In the event the Town determines there are grounds for revocation, the Town shall schedule a hearing before the Town Manager and notify the certificate holder in writing and the grounds upon which such action is proposed, no less than seven days prior to the date of the hearing. In the event of an emergency the hearing may be held no less than 24 hours after notice to the certificate holder. Notice

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shall be deemed given when a notice has been properly addressed to the address as provided by the certificate holder on the certificate application, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service. Emergency notice shall be attempted by all available avenues including hand delivery. Proof shall be by clear and convincing evidence.

The Town Manager may:

i. Find no violation;

ii. Temporarily suspend the certificate for a time period as determined appropriate by the Town Manager;

iii. Revoke the certificate for the remainder of its term.

iv. Depending on the facts and circumstances, the Town Manager may suspend or revoke a license immediately subject to appeal as provided herein. Such appeal shall not stay the revocation or other action of the Town Manager.

A finding of violation twice within a one-year period shall require revocation of the license for the remainder of its term. Nothing in this subsection (j) shall take away other enforcement powers of the Town, Special Magistrate or any other agency provided by the Code or statute.

f. Exemptions. Massage services in state-licensed hospitals and hospices, or those massages provided by a massage therapist acting under the direction of a licensed medical provider or practitioner, shall be exempt from the massage therapist certificate requirements of this subsection (j).

(2) Penalties. Violations of this subsection (j) shall be punishable in a manner to be prescribed by the Town and may result in the revocation or suspension of a massage therapist certificate, the imposition of fines, or any other penalty applicable pursuant to any other law.

(3) "In Good Standing" defined. For purposes of this subsection (j), the term "in good standing" means:

a. That the applicant's state license is current;

b. That the applicant's state license will not expire during the fiscal year for which the massage therapy services certificate is issued (or if such the case, that a renewal for the state license has been filed);

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c. That there are no pending Department of Health Administrative complaints against the applicant which seek permanent revocation or suspension of the applicant's state license;

d. That there are no pending Department of Health Administration complaints against the applicant's state license seeking a restriction of practice or placement on probation (the Town may disregard this evidence if it receives a resolution from the Board of Massage Therapy, or a letter from the Executive Director of the Department of Health indicating that the remedy sought will not preclude the applicant from pursuing the massage therapy services certificate); and

e. That the applicant is not being prosecuted, and does not have criminal charges pending at the state or federal prosecutor, at the time the Town must approve or deny the application for the massage therapist certificate.

(k) Pet stores, supplemental regulations.

(1) Definitions.

Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations, and which does not obtain animals from a breeder or broker for payment or compensation.

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue, sheltering and placement of animals in permanent homes or whose primary purpose is the prevention of cruelty to animals. This term does not include an entity that breeds or brokers animals or obtains animals from breeders or brokers for payment or compensation.

Certificate of source means a document from the source and declaring the source of origin of a dog or cat showcased on the premises. A certificate of source shall include at a minimum: (i) a brief description of the dog or cat, the name, address, telephone number, and e-mail address of the source of the dog or cat; and (ii) the pet store's certification of the accuracy of the certificate.

Pet store means a retail establishment where dogs or cats are sold, exchanged, bartered, offered for sale or adoption, advertised for sale, auctioned, given away or otherwise disposed of as pet animals to the general public at retail, including by appointment. Such definition shall not include an animal care facility or animal rescue organization, as defined herein.

Showcase means that an animal care facility or animal rescue organization temporarily displays to the public an adoptable dog or cat at a pet store, in order to facilitate the adoption

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of the dog or cat from that organization or facility. Dogs or cats may only be showcased during the hours of operation of the pet store, and shall be returned to the organization or facility during the hours that the pet store is closed.

(2) *Prohibition.* It is prohibited and unlawful for a pet store to offer, deliver, offer for sale, barter, auction, rent, lease, give away, or otherwise transfer or dispose of a dog or cat in the Town.

(3) *Exception.* Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats, provided the pet store shall not have any ownership interest in the dogs or cats offered for adoption and shall not receive a fee for providing space for the adoption of any of these dogs or cats.

(4) *Certificate of source.* A pet store shall post and maintain in a conspicuous place, on or within three (3) feet of each dog's or cat's kennel, cage or enclosure, a certificate of source for each dog or cat being showcased at a pet store. Falsification of a certificate of source by a pet store, pet store operator, or any other person is hereby declared unlawful.

(5) *Record-keeping.* Pet stores shall maintain records, stating the name, address, telephone number and emails of the animal care facility or animal rescue organization that showcase from which each dog or cat was acquired for one year following the date of acquisition and maintaining a copy of the previous year. These records are subject to inspection by a Town official charged with enforcing these provisions upon request.

(6) *Applicability to existing pet stores.* Any pet store operating in conformance with a Town conditional use approval issued prior to the adoption of this section may continue to operate in accordance with that approval and with all applicable laws. If the pet store ceases operation for more than 60 days or if the conditional use is revoked by the Town or otherwise invalidated, then the pet store shall thereafter conform to the requirements of this section.

(7) *Penalty.* Any person who violates this section is subject to enforcement pursuant to Section 1-12 of this Code.

* * *

Subdivision N. Reserved Amortization of tobacco paraphernalia stores in B-1 zoning districts.

Sec. 30-281. – Reserved Amortization procedures for tobacco paraphernalia stores.

(a) Definitions.

(1) *Amortization notice.* Written notice of the commencement of amortization regulations, served by hand delivery or by certified mail, return receipt requested.

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(2) Amortization period. One year after the effective date of this Ordinance.²

(b) Intent. It is the intent of this Subdivision to recognize that the eventual elimination of existing tobacco paraphernalia stores in the B-1 zoning district that are not in conformity with the provisions of these regulations, in as expeditious a manner as is reasonable, bears as much relation to the health, safety, and welfare of the citizens of the Town as the prohibition of new tobacco paraphernalia stores that would violate these regulations. It is also the intent of this Subdivision to protect private property rights to the extent required by law.

(c) Operation during amortization. A nonconforming tobacco paraphernalia store may be continued for the amortization period, and shall be maintained in good condition and conform with the regulations applicable to nonconforming structures in the Town. Such store may not display its inventory of tobacco paraphernalia within 5 feet of any window or glazed area of the front or side façades, but may continue to stock and sell it.

(d) Removal. All nonconforming tobacco paraphernalia stores in existence upon the effective date of this Ordinance,³ and which previously conformed to all legal requirements but are made nonconforming by the provisions of these regulations, shall be removed prior to the end of the amortization period.

(e) Procedure for enforcement of amortization requirements. Prior to the Town enforcing the amortization period against any tobacco paraphernalia store, it shall be the responsibility of the Town Manager or designee to:

(1) make a record of all nonconforming tobacco paraphernalia stores in Town that are subject to the amortization requirement, and

(2) serve the amortization notice on the owners of such stores and upon the property owner.

The amortization period shall apply to tobacco paraphernalia stores that receive an amortization notice from the Town, in the manner described in that notice.

(f) Extension of amortization period.

(1) The Town Manager or designee, in consultation with the Town Attorney, may extend the amortization period upon a showing of economic hardship to the owner of a tobacco paraphernalia store. Alternatively, the Town Manager may choose to bring such an extension request to the Town Commission for approval.

(2) An owner of a tobacco paraphernalia store who asserts that a longer amortization period is necessary to amortize its investment shall file an application for extension with the office of the Town Manager within 30 days of the date of the amortization letter. The application shall be on a form provided by the office of the Town Manager, and shall include a statement setting forth the investment in the nonconforming tobacco paraphernalia store, the date of approval, and the cost and date of the most recent renovation.

(3) An extension of the amortization period shall be granted if the Town Manager or designee, in consultation with the Town Attorney, or the Town Commission if it is referred the decision, finds that the amortization period is unreasonable for that tobacco paraphernalia

² Codifier to substitute the date that is one year after the effective date of this Ordinance.

³ Codifier to substitute the effective date of this Ordinance.

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store at issue because it is too short to allow amortization of its investment in accordance with applicable caselaw.

(4) The Town Manager or designee's decision may be appealed to the Town Commission by the owner of a tobacco paraphernalia store within 30 days of the determination.

* * *

SECTION 3. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article" or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

Passed on the first reading, this ____ day of _____, 2021.

Passed and adopted on the second reading, this ____ day of _____, 2021.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____

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728 Commissioner Sokolow
729 Commissioner Strauss
730 Commissioner Malkoon

_____	_____
_____	_____
_____	_____

731

732

733 ATTEST:

734

735

736

737 _____
Tedra Allen, Town Clerk

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739

740 APPROVED AS TO FORM:

741

742

743

744 _____
Susan L. Trevarthen, Town Attorney

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**AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED
LAND DEVELOPMENT REGULATIONS,” SECTION 30-11,
“DEFINITIONS” TO DEFINE “TOBACCO
PARAPHERNALIA STORES;” AMENDING SUBDIVISIONS
L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO
CHANGE THE LISTS OF PERMITTED AND
CONDITIONAL USES AND CREATE SUPPLEMENTAL
REGULATIONS; ~~CREATING SECTION 30-281 TO
PROVIDE FOR AMORTIZATION OF EXISTING
TOBACCO PARAPHERNALIA STORES IN THE B-1
ZONING DISTRICTS;~~ PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE
DATE**

WHEREAS, the Town of Lauderdale-By-The-Sea (the “Town”) Commission recognizes
that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that
the Town’s regulations are current and consistent with the Town’s planning and regulatory needs;
and

WHEREAS, the Town Commission has recently discussed the history and the adequacy
of the use lists, definitions and processes for the two business zoning districts in the Town,
Business (B-1) and Neighborhood Business (B-1-A); and

WHEREAS, the Town Commission finds that certain uses are listed in the business zoning
districts which are not possible to develop, or are not compatible with or suitable for the Town;
and

WHEREAS, during the 2021 Florida Legislative Session, the Legislature adopted Chapter
2021-14, Laws of Florida, creating Sections 569.0025 and 569.315 of the Florida Statutes, and
preempting the regulation for the marketing, sale, or delivery of, tobacco products and nicotine
products to the State, effective October 1, 2021; and

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30 **WHEREAS**, however, local governments still retain the right to regulate stores selling
31 tobacco paraphernalia or devices commonly related to the use of any tobacco product, drug, or
32 narcotic, as further defined herein (“tobacco paraphernalia stores”); and

33 **WHEREAS**, there has been a recent proliferation of tobacco paraphernalia stores, as
34 defined herein, in the Town’s B-1 business zoning district; and

35 **WHEREAS**, the Town Commission finds that tobacco paraphernalia stores previously
36 allowed to locate within the Town as specialty shops should no longer be located in the B-1 and
37 B-1-A zoning districts; and

38 ~~**WHEREAS**, it is the intent of the Town Commission that nonconforming tobacco~~
39 ~~paraphernalia stores in the B-1 zoning districts be permitted to continue to exist for one year (or~~
40 ~~longer based upon an individual showing) from the effective date of this Ordinance, unless~~
41 ~~terminated earlier for any reason; and~~

42 **WHEREAS**, to provide for the orderly, planned future development of the Town, and
43 enhance the character and aesthetics of the Town, the Town Commission finds that additional
44 changes to the list of permitted and conditional uses in the B-1 and B-1-A zoning districts, and
45 related regulations, are necessary to reflect the Town’s current vision for its downtown; and

46 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
47 reviewed the contents of this Ordinance at a duly noticed public hearing on October 6, 2021, and
48 recommended the amendments be approved; and

49 **WHEREAS**, at first reading, the Town Commission determined to remove the
50 amortization provisions from this Ordinance and instead require that nonconforming tobacco

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paraphernalia stores and other businesses conceal their inventory of tobacco paraphernalia from public view¹; and

WHEREAS, the Town Commission conducted first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Town Commission has determined that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT²:

SECTION 1. Recitals. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

SECTION 2. Code Amended. Chapter 30 "Unified Land Development Regulations," is hereby amended as follows:

Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

ARTICLE I. - IN GENERAL

* * *

Sec. 30-11. - Definitions.

* * *

(2) Terms defined.

* * *

¹ This requirement is proposed in a separate Ordinance to be codified in Chapter 14, Section 14-33 of the Town Code of Ordinances.

² Additions to existing text are shown in underline. Deletions are shown in ~~striketrough~~. Additions made between first and second reading are shown in double underline. Deletions made between first and second reading are shown in ~~double striketrough~~.

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Tobacco paraphernalia. Paraphernalia commonly related to the use of any tobacco product, drug, or narcotic includes, but is not limited to:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Chamber pipes.
- e. Carburetor pipes.
- f. Air-driven pipes.
- g. Chillums.
- h. Bongs.
- i. Ice pipes or chillers

This definition shall not be interpreted to include a nicotine dispensing device, as defined in Florida Statutes, Section 569.31, as may be amended from time to time.

Tobacco paraphernalia store. Any retail store that sells, offers for rent or sale, or exhibits or displays, tobacco paraphernalia that totals more than five percent of its inventory, measured by either (i) the number of items or (ii) the square footage of the store where inventory is displayed or accessible to customers.

* * *

ARTICLE V. – ZONING

* * *

DIVISION 2. – DISTRICTS

* * *

Subdivision L. - B-1-A District Regulations.

Sec. 30-261. - B-1-A district—Business.

(a) *B-1-A uses permitted.*

(1) *Permitted uses.* No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area:

- a. Antiques store,
- b. Art galleries,
- c. Arts and crafts supply store,

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115 d.Automobile rental or leasing agencies (no outdoor display),
116 e.Bait and tackle shop,
117 f.Bakery,
118 g.Bank,
119 h.~~Beauty schools, b~~Barber shops and hair salons,
120 i.Bicycle rental shop with no outside storage,
121 j.Book store,
122 k.Business and professional employment agency,
123 l.Camera and photographic supply store,
124 m.Card and stationery store,
125 n.Catering businesses,
126 o.Church and place of worship,
127 p.Clothing store,
128 q.Coin-operated dry cleaning and laundry and/or pickup station,
129 r.Community theaters, dinner theaters and cultural centers,
130 s.Computer/software store,
131 t.Consignment store,
132 u.Cooking schools,
133 v.Copy center,
134 w.Courier service,
135 x.Delicatessen,
136 y.~~Dental laboratory,Reserved~~,
137 z.Drug store/pharmacy (no on-site prescription writing for controlled substances
138 identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
139 aa.Fabric/needlework/yarn shop,
140 bb.Fishing pier,
141 cc.Florist shop,
142 dd.Formal wear sales and rental,
143 ee.Fruit and produce store,
144 ff.Furniture and home furnishings,
145 gg.Gift shop,
146 hh.Government administration,
147 ii.Grocery/food store/supermarket,
148 jj.Hardware store,
149 kk.Health and fitness center,
150 ll.Household appliances store,
151 mm.Ice cream/yogurt store,
152 nn.Interior decorator,
153 oo.Jewelry store,
154 pp.Library branch,
155 qq.Linen/bath/bedding store,
156 rr.Luggage/handbag/leather goods store,
157 ss.Mail/postage/fax service,
158 tt.Marine parts and supplies store,
159 uu.~~Market,Reserved~~

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vv. Massage therapist (licensed therapist to be on premises at all times of operation; see subsection (j) below for supplemental regulations),
ww. Meat and poultry store,
xx. Medical supplies sales and medical/dental office,
yy. Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),
zz. Museum,
aaa. Music/musical instrument store, Tapes/videos/music CD/vinyl record stores
bbb. Office building,
ccc. Optical store,
ddd. ~~Party supply store~~, Reserved,
eee. Photographic studio,
fff. Police and fire substation,
ggg. Retail electronic sales and repair,
hhh. Restaurant, which may also include the following accessory uses:

 1. Sidewalk cafés which would be appurtenant to, and a part of, a restaurant, subject to the requirements of chapter 17, article VI, sidewalk cafés.
 2. Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the principal restaurant use and that is not regulated under chapter 17, article VI, and subject to the regulations set forth in subsection (h), below.
 3. Walk-up windows for food and/or beverage service,

iii. Seafood store,
jjj. Shoe sales and repair,
kkk. Shop for marking articles sold at retail on the premises,
lll. ~~Specialty shop~~, Reserved,
mmm. Sporting goods store, including dive shops,
nnn. Studios for artists, photographers, musicians (including recording studios), and dance,
ooo. ~~Sundries store~~, Reserved,
ppp. Tailor/dressmaking store, direct to the customer,
qqq. ~~Tapes/videos/music CD stores~~, Reserved,
rrr. Tool rental (small tools and equipment, indoor display only),
sss. Toy/game store,
ttt. ~~Trade/business school~~, Reserved,
uuu. Travel agency,
vvv. Veterinarian or animal grooming with all activities enclosed within the building with no outside noise,
www. Watch and jewelry repair, and

xxx. *Uses not listed.*

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- 203 1. Any use not covered by the above list may be authorized in the B-1-A district by
204 the Town Manager or designee only if the proposed use is similar to a listed use;
205 otherwise, an amendment to this chapter is required.
- 206 2. The Town Manager or designee shall consult with the Town Commission on any
207 proposal to find that a use is similar, prior to authorizing such use in the B-1-A
208 district.
- 209 3. Whenever a use is approved as a similar use, the Town Manager shall report such
210 finding in the written Town Manager report at a subsequent Town Commission
211 meeting.
- 212
- 213 (2) *Conditional uses.* The following conditional uses may be permitted upon approval
214 pursuant to the conditional use procedures of this Code:
- 215
- 216 a. Bicycle taxi (no outside storage or display).
217 b. ~~Car wash/outdoor hand wash.~~ Reserved.
218 c. Charter and sightseeing boat.
219 d. Child and adult day-care centers.
220 e. Convenience store, subject to the requirements as set forth in subsection (i), below.
221 f. Drive-through services that are accessory to a primary use, provided that any approval
222 of the drive-through use by the Town Commission shall specifically establish the location
223 and traffic flow pattern of the drive-through.
224 g. Dry cleaner.
225 h. Mixed use, subject to the requirements as set forth in subsection (i) below.
226 i. "Paid private parking" on parcels with a primary use, excluding standalone parking lots,
227 subject to the requirements as set forth in subsection (i) below.
228 j. Parking garage.
229 k. Permitted use that exceeds 10,000 square feet in gross floor area.
230 l. ~~Pet store.~~ Reserved.
231 m. Pool supply store.
232 n. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks.
233 o. Water craft sales and rental (new or used).
234
- 235 p. *Conditional uses not listed.*
- 236
- 237 1. Permission to apply for conditional uses not covered by the above list in the B-1-
238 A district may be granted by the Town Manager or designee only if the proposed
239 conditional use is similar to a listed conditional use; otherwise, an amendment to this
240 chapter is required.
- 241 2. The Town Manager or designee shall consult with the Town Commission on any
242 proposal to determine that a conditional use is similar to those listed, prior to
243 authorizing the filing of an application to seek approval of that conditional use in the
244 B-1-A district.
- 245 3. Whenever a use is approved as a similar use, the Town Manager shall report such
246 finding in the written Town Manager report at a subsequent Town Commission
247 meeting.

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248 4. Approval of a conditional use shall also be subject to the requirements for
249 conditional use review as set forth in section 30-126 of the Town Code.

251 * * *

252 (j) Massage therapists – supplemental regulations.

253 (1) Massage therapist certificate required. No establishment shall offer or provide massage
254 services without obtaining a massage therapist certificate issued pursuant to this subsection (j),
255 and maintaining such certificate. All persons providing massage services at the establishment
256 shall be duly licensed under F.S. §480.041 et seq.; approved as a massage therapy apprentice
257 as defined in F.S. §480.033, or possess another valid health care practitioner license duly issued
258 by the Florida Department of Health pursuant to F.S. Ch. 456.

259 a. Application for businesses. All establishments providing massage services as defined
260 within this Code shall apply for a massage therapist certificate from the Town. Any
261 establishment applying for a massage therapist certificate shall include the following
262 information on a form provided by the Town:

263 1. Proof of valid Florida Board of Massage Therapy license issued to the
264 establishment in accordance with F.S. §480.043 et seq.; and

265 2. Proof of valid Florida Board of Massage Therapy or other state health care
266 practitioner license for all personnel providing massage services at the establishment,
267 in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of
268 Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and

269 3. Proof of valid Florida driver's license or other government-issued identification
270 for every person and massage therapist working at the establishment.

271 b. Term of massage therapist certificate for businesses. Once issued, a massage therapist
272 certificate shall remain valid for a period of one year, or until there is a change of the use,
273 ownership, name, location of the establishment from that specified on the approved
274 certificate, or until such time that the Town-issued Business Tax Receipt (BTR) expires.

275 1. The operator of any massage establishment that holds a certificate shall submit
276 an application to renew the certificate within 30 days prior to the expiration date of the
277 current certificate in order to continue operating.

278 2. When there is a change of the use, ownership, business name, or establishment
279 name, or establishment location from that specified on the approved certificate, a new
280 certificate shall be required.

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c. Requirement to supply updated information. Annually at the time of issuance of business tax receipt during the term of a massage therapist certificate, each establishment holding a certificate shall supply the Town with the following information on a form and in the manner prescribed by the Town:

1. Revocation, expiration, or change to the status of the state licenses described in sub-subsection a. above; and

2. Updated state driver's license or other government-issued identification information for all personnel providing massage services at the establishment, including new staff members.

3. Proof of valid licensure of any new employees within seven days of employment, regardless of monthly report due date.

d. Display of certificate. Establishments shall display the valid certificate in a place easily visible to any person entering the establishment and shall maintain proof of valid licenses and identification of each staff member on the premises of the establishment at all times during operation.

e. Revocation.

1. Grounds for revocation. The following shall be nonexclusive grounds for revocation of a massage therapist certificate:

i. Noncompliance with any provision of this subsection (j); or

ii. Noncompliance with Chapter 480 of the Florida Statutes; or

iii. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or

iv. Failure to remain "in good standing" as defined herein.

2. Revocation procedure. In the event the Town determines there are grounds for revocation, the Town shall schedule a hearing before the Town Manager and notify the certificate holder in writing and the grounds upon which such action is proposed, no less than seven days prior to the date of the hearing. In the event of an emergency the hearing may be held no less than 24 hours after notice to the certificate holder. Notice shall be deemed given when a notice has been properly addressed to the address as provided by the certificate holder on the certificate application, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.

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Emergency notice shall be attempted by all available avenues including hand delivery.
Proof shall be by clear and convincing evidence.

The Town Manager may:

i. Find no violation;

ii. Temporarily suspend the certificate for a time period as determined appropriate
by the Town Manager;

iii. Revoke the certificate for the remainder of its term.

iv. Depending on the facts and circumstances, the Town Manager may suspend or
revoke a license immediately subject to appeal as provided herein. Such appeal
shall not stay the revocation or other action of the Town Manager.

A finding of violation twice within a one-year period shall require revocation of the
license for the remainder of its term. Nothing in this subsection (j) shall take away other
enforcement powers of the Town, Special Magistrate or any other agency provided by
the Code or statute.

f. *Exemptions.* Massage services in state-licensed hospitals and hospices, or those
massages provided by a massage therapist acting under the direction of a licensed medical
provider or practitioner, shall be exempt from the massage therapist certificate
requirements of this subsection (j).

(2) *Penalties.* Violations of this subsection (j) shall be punishable in a manner to be
prescribed by the Town and may result in the revocation of a massage therapist certificate, the
imposition of fines, or any other penalty applicable pursuant to any other law.

(3) *"In Good Standing" defined.* For purposes of this subsection (j), the term "in good
standing" means:

a. That the applicant's state license is current;

b. That the applicant's state license will not expire during the fiscal year for which the
massage therapy services certificate is issued (or if such the case, that a renewal for the
state license has been filed);

c. That there are no pending Department of Health Administrative complaints against
the applicant which seek permanent revocation or suspension of the applicant's state
license;

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d. That there are no pending Department of Health Administration complaints against the applicant's state license seeking a restriction of practice or placement on probation (the Town may disregard this evidence if it receives a resolution from the Board of Massage Therapy, or a letter from the Executive Director of the Department of Health indicating that the remedy sought will not preclude the applicant from pursuing the massage therapy services certificate); and

e. That the applicant is not being prosecuted, and does not have criminal charges pending at the state or federal prosecutor, at the time the Town must approve or deny the application for the massage therapist certificate.

* * *

Subdivision M. - B-1 District Regulations.

Sec. 30-271. - B-1 district—Business.

(a) B-1 uses permitted.

(1) *Permitted uses.* No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area, except for waterfront hotel uses:

- a. Antiques store,
- b. Art galleries,
- c. Arts and crafts supply store,
- d. Automobile rental or leasing agencies (no outdoor display),
- e. Bait and tackle shop,
- f. Bakery,
- g. Bank,
- ~~h. Beauty schools,~~ ~~b~~ Barber shops and hair salons,
- i. Bicycle rental shop with no outside storage,
- j. Book store,
- k. Business and professional employment agency,
- l. Camera and photographic supply store,
- m. Card and stationery store,
- n. Catering businesses,
- o. Church and place of worship,
- p. Clothing store,
- q. Coin-operated dry cleaning and laundry and/or pickup station,
- r. Community theaters, dinner theaters and cultural centers,
- s. Computer/software store,
- t. Consignment store,

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u.Cooking schools,
v.Copy center,
w.Courier service,
x.Delicatessen,
y.Dental laboratory,
z.Drug store/pharmacy (no on-site prescription writing for controlled substances identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
aa.Fabric/needlework/yarn shop,
bb.Fishing pier,
cc.Florist shop,
dd.Formal wear sales and rental,
ee.Fruit and produce store,
ff.Furniture and home furnishings,
gg.Gift shop,
hh.Government administration,
ii.Grocery/food store/supermarket,
jj.Hardware store,
kk.Health and fitness center,
ll.Household appliances store,
mm.Ice cream/yogurt store,
nn.Interior decorator,
oo.Jewelry store,
pp.Library branch,
qq.Linen/bath/bedding store,
rr.Luggage/handbag/leather goods store,
ss.Mail/postage/fax service,
tt.Marine parts and supplies store,
uu.~~Market, Reserved,~~
vv.Massage therapist (licensed therapist to be on premises at all times of operation; see subsection (j) below for supplemental regulations),
ww.Meat and poultry store,
xx.Medical supplies sales, medical/dental office,
yy.Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),
zz.Museum,
aaa.Music/musical instrument store, Tapes/videos/music CD/vinyl record stores
bbb.Office building,
ccc.Optical store,
ddd.~~Party supply store, Reserved,~~
eee.Photographic studio,
fff.Police and fire substation,
ggg.Retail electronic sales and repair,
hhh.Restaurant, which may also include the following accessory uses:

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1. Sidewalk cafés which would be appurtenant to, and a part of, a restaurant, subject to the requirements of chapter 17, article VI, sidewalk cafés.
2. Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the principal restaurant use and that is not regulated under chapter 17, article VI, and subject to the regulations set forth in subsection (h), below.
3. Walk-up windows for food and/or beverage service,
- iii. Seafood store,
- jjj. Shoe sales and repair,
- kkk. Shop for marking articles sold at retail on the premises,
- lll. ~~Specialty shop, Reserved,~~
- mmm. Sporting goods store, including dive shops,
- nnn. Studios for artists, photographers, musicians (including recording studios), and dance,
- ooo. ~~Sundries store, Reserved,~~
- ppp. Tailor/dressmaking store, direct to the customer,
- qqq. ~~Tapes/videos/music CD stores, Reserved,~~
- rrr. Tool rental (small tools and equipment, indoor display only),
- sss. Toy/game store,
- ttt. ~~Trade/business school, Reserved,~~
- uuu. Travel agency,
- vvv. Veterinarian or animal grooming with all activities enclosed within the building with no outside noise,
- www. Watch and jewelry repair, ~~and~~
- xxx. Cigar store (not meeting the definition of tobacco paraphernalia store, no customer service area),
- yyy. Uses not listed.
1. Any use not covered by the above list may be authorized in the B-1-A district by the Town Manager or designee only if the proposed use is similar to a listed use; otherwise, an amendment to this chapter is required.
2. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a use is similar, prior to authorizing such use in the B-1-A district.
3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.
- (2) *Conditional uses.* The following conditional uses may be permitted upon approval pursuant to the conditional use procedures of this Code:
- a. Bicycle taxi (no outside storage or display).
- b. ~~Call center, subject to the requirements as set forth in subsection (i), below. Reserved.~~
- c. ~~Car wash/outdoor hand wash. Reserved,~~
- d. Charter and sightseeing boat.
- e. Child and adult day-care centers.
- f. Convenience store, subject to the requirements as set forth in subsection (i), below.

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g. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

h. Dry cleaner.

i. Marina, subject to the requirements as set forth in subsection (i) below.

j. Mixed use, subject to the requirements as set forth in subsection (i) below.

k. "Paid private parking" on parcels with a primary use, excluding standalone parking lots, subject to the requirements as set forth in subsection (i) below.

l. Parking garage.

m. Permitted use that exceeds 10,000 square feet in gross floor area.

n. Pet store. (see subsection (k) below for supplemental regulations).

o. Pool supply store.

p. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks.

q. Water craft sales and rental (new or used).

r. Waterfront hotel.

s. *Conditional uses not listed.*

1. Permission to apply for conditional uses not covered by the above list in the B-1 district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required.

2. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1 district.

3. Whenever a use is approved as a similar use, the Town Manager shall report such finding in the written Town Manager report at a subsequent Town Commission meeting.

4. Approval of a conditional use shall also be subject to the requirements for conditional use review as set forth in section 30-126 of the Town Code.

* * *

(j) *Massage therapists – supplemental regulations.*

(1) *Massage therapist certificate required.* No establishment shall offer or provide massage services without obtaining a massage therapist certificate issued pursuant to this subsection (j), and maintaining such certificate. All persons providing massage services at the establishment shall be duly licensed under F.S. §480.041 et seq.; approved as a massage therapy apprentice as defined in F.S. §480.033, or possess another valid health care practitioner license duly issued by the Florida Department of Health pursuant to F.S. Ch. 456.

a. *Application for businesses.* All establishments providing massage services as defined within this Code shall apply for a massage therapist certificate from the Town. Any

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establishment applying for a massage therapist certificate shall include the following information on a form provided by the Town:

1. Proof of valid Florida Board of Massage Therapy license issued to the establishment in accordance with F.S. §480.043 et seq.; and

2. Proof of valid Florida Board of Massage Therapy or other state health care practitioner license for all personnel providing massage services at the establishment, in accordance with F.S. §480.041 et seq. or F.S. Ch. 456; or proof of Florida Board of Massage apprenticeship approval as defined in F.S. §480.033, if applicable; and

3. Proof of valid Florida driver's license or other government-issued identification for every person and massage therapist working at the establishment.

b. *Term of massage therapist certificate for businesses.* Once issued, a massage therapist certificate shall remain valid for a period of one year, or until there is a change of the use, ownership, name, location of the establishment from that specified on the approved certificate, or until such time that the Town-issued Business Tax Receipt (BTR) expires.

1. The operator of any massage establishment that holds a certificate shall submit an application to renew the certificate within 30 days prior to the expiration date of the current certificate in order to continue operating.

2. When there is a change of the use, ownership, business name, or establishment name, or establishment location from that specified on the approved certificate, a new certificate shall be required.

c. *Requirement to supply updated information.* In the first week of each quarter during the term of a massage therapist certificate, each establishment holding a certificate shall supply the Town with the following information on a form and in the manner prescribed by the Town:

1. Revocation, expiration, or change to the status of the state licenses described in sub-subsection a. above; and

2. Updated state driver's license or other government-issued identification information for all personnel providing massage services at the establishment, including new staff members.

3. Proof of valid licensure of any new employees within seven days of employment, regardless of monthly report due date.

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d. Display of certificate. Establishments shall display the valid certificate in a place easily visible to any person entering the establishment and shall maintain proof of valid licenses and identification of each staff member on the premises of the establishment at all times during operation.

e. Revocation.

1. Grounds for revocation. The following shall be nonexclusive grounds for revocation of a massage therapist certificate:

i. Noncompliance with any provision of this subsection (j); or

ii. Noncompliance with Chapter 480 of the Florida Statutes; or

iii. The Town's determination that issuance of a certificate was granted based upon false information, misrepresentation of fact, or mistake of fact by the representative of the establishment holding the certificate, or his or her agent; or

iv. Failure to remain "in good standing" as defined herein.

2. Revocation procedure. In the event the Town determines there are grounds for revocation, the Town shall schedule a hearing before the Town Manager and notify the certificate holder in writing and the grounds upon which such action is proposed, no less than seven days prior to the date of the hearing. In the event of an emergency the hearing may be held no less than 24 hours after notice to the certificate holder. Notice shall be deemed given when a notice has been properly addressed to the address as provided by the certificate holder on the certificate application, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service. Emergency notice shall be attempted by all available avenues including hand delivery. Proof shall be by clear and convincing evidence.

The Town Manager may:

i. Find no violation;

ii. Temporarily suspend the certificate for a time period as determined appropriate by the Town Manager;

iii. Revoke the certificate for the remainder of its term.

iv. Depending on the facts and circumstances, the Town Manager may suspend or revoke a license immediately subject to appeal as provided herein. Such appeal shall not stay the revocation or other action of the Town Manager.

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A finding of violation twice within a one-year period shall require revocation of the license for the remainder of its term. Nothing in this subsection (j) shall take away other enforcement powers of the Town, Special Magistrate or any other agency provided by the Code or statute.

f. *Exemptions.* Massage services in state-licensed hospitals and hospices, or those massages provided by a massage therapist acting under the direction of a licensed medical provider or practitioner, shall be exempt from the massage therapist certificate requirements of this subsection (j).

(2) *Penalties.* Violations of this subsection (j) shall be punishable in a manner to be prescribed by the Town and may result in the revocation or suspension of a massage therapist certificate, the imposition of fines, or any other penalty applicable pursuant to any other law.

(3) *"In Good Standing" defined.* For purposes of this subsection (j), the term "in good standing" means:

a. That the applicant's state license is current;

b. That the applicant's state license will not expire during the fiscal year for which the massage therapy services certificate is issued (or if such the case, that a renewal for the state license has been filed);

c. That there are no pending Department of Health Administrative complaints against the applicant which seek permanent revocation or suspension of the applicant's state license;

d. That there are no pending Department of Health Administration complaints against the applicant's state license seeking a restriction of practice or placement on probation (the Town may disregard this evidence if it receives a resolution from the Board of Massage Therapy, or a letter from the Executive Director of the Department of Health indicating that the remedy sought will not preclude the applicant from pursuing the massage therapy services certificate); and

e. That the applicant is not being prosecuted, and does not have criminal charges pending at the state or federal prosecutor, at the time the Town must approve or deny the application for the massage therapist certificate.

(k) *Pet stores, supplemental regulations.*

(1) *Definitions.*

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Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations, and which does not obtain animals from a breeder or broker for payment or compensation.

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue, sheltering and placement of animals in permanent homes or whose primary purpose is the prevention of cruelty to animals. This term does not include an entity that breeds or brokers animals or obtains animals from breeders or brokers for payment or compensation.

Certificate of source means a document from the source and declaring the source of origin of a dog or cat showcased on the premises. A certificate of source shall include at a minimum: (i) a brief description of the dog or cat, the name, address, telephone number, and e-mail address of the source of the dog or cat; and (ii) the pet store's certification of the accuracy of the certificate.

Pet store means a retail establishment where dogs or cats are sold, exchanged, bartered, offered for sale or adoption, advertised for sale, auctioned, given away or otherwise disposed of as pet animals to the general public at retail, including by appointment. Such definition shall not include an animal care facility or animal rescue organization, as defined herein.

Showcase means that an animal care facility or animal rescue organization temporarily displays to the public an adoptable dog or cat at a pet store, in order to facilitate the adoption of the dog or cat from that organization or facility. Dogs or cats may only be showcased during the hours of operation of the pet store, and shall be returned to the organization or facility during the hours that the pet store is closed.

(2) *Prohibition.* It is prohibited and unlawful for a pet store to offer, deliver, offer for sale, barter, auction, rent, lease, give away, or otherwise transfer or dispose of a dog or cat in the Town.

(3) *Exception.* Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats, provided the pet store shall not have any ownership interest in the dogs or cats offered for adoption and shall not receive a fee for providing space for the adoption of any of these dogs or cats.

(4) *Certificate of source.* A pet store shall post and maintain in a conspicuous place, on or within three (3) feet of each dog's or cat's kennel, cage or enclosure, a certificate of source for each dog or cat being showcased at a pet store. Falsification of a certificate of source by a pet store, pet store operator, or any other person is hereby declared unlawful.

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(5) *Record-keeping.* Pet stores shall maintain records, stating the name, address, telephone number and emails of the animal care facility or animal rescue organization that showcase from which each dog or cat was acquired for one year following the date of acquisition and maintaining a copy of the previous year. These records are subject to inspection by a Town official charged with enforcing these provisions upon request.

(6) *Applicability to existing pet stores.* Any pet store operating in conformance with a Town conditional use approval issued prior to the adoption of this section may continue to operate in accordance with that approval and with all applicable laws. If the pet store ceases operation for more than 60 days or if the conditional use is revoked by the Town or otherwise invalidated, then the pet store shall thereafter conform to the requirements of this section.

(7) *Penalty.* Any person who violates this section is subject to enforcement pursuant to Section 1-12 of this Code.

* * *

Subdivision N. Reserved Amortization of tobacco paraphernalia stores in B-1 zoning districts.

Sec. 30-281. Reserved Amortization procedures for tobacco paraphernalia stores.
(a) Definitions.

~~(1) Amortization notice.~~ Written notice of the commencement of amortization regulations, served by hand delivery or by certified mail, return receipt requested.

~~(2) Amortization period.~~ One year after the effective date of this Ordinance.³

~~(b) Intent.~~ It is the intent of this Subdivision to recognize that the eventual elimination of existing tobacco paraphernalia stores in the B-1 zoning district that are not in conformity with the provisions of these regulations, in as expeditious a manner as is reasonable, bears as much relation to the health, safety, and welfare of the citizens of the Town as the prohibition of new tobacco paraphernalia stores that would violate these regulations. It is also the intent of this Subdivision to protect private property rights to the extent required by law.

~~(c) Operation during amortization.~~ A nonconforming tobacco paraphernalia store may be continued for the amortization period, and shall be maintained in good condition and conform with the regulations applicable to nonconforming structures in the Town. Such store may not display its inventory of tobacco paraphernalia within 5 feet of any window or glazed area of the front or side facades, but may continue to stock and sell it.

~~(d) Removal.~~ All nonconforming tobacco paraphernalia stores in existence upon the effective date of this Ordinance,⁴ and which previously conformed to all legal requirements but are made

³ Codifier to substitute the date that is one year after the effective date of this Ordinance.

⁴ Codifier to substitute the effective date of this Ordinance.

EXHIBIT
Second Reading Version

Ordinance 2021-10

~~nonconforming by the provisions of these regulations, shall be removed prior to the end of the amortization period.~~

~~(e) Procedure for enforcement of amortization requirements. Prior to the Town enforcing the amortization period against any tobacco paraphernalia store, it shall be the responsibility of the Town Manager or designee to:~~

~~(1) make a record of all nonconforming tobacco paraphernalia stores in Town that are subject to the amortization requirement, and~~

~~(2) serve the amortization notice on the owners of such stores and upon the property owner.~~

~~The amortization period shall apply to tobacco paraphernalia stores that receive an amortization notice from the Town, in the manner described in that notice.~~

~~(f) Extension of amortization period:~~

~~(1) The Town Manager or designee, in consultation with the Town Attorney, may extend the amortization period upon a showing of economic hardship to the owner of a tobacco paraphernalia store. Alternatively, the Town Manager may choose to bring such an extension request to the Town Commission for approval.~~

~~(2) An owner of a tobacco paraphernalia store who asserts that a longer amortization period is necessary to amortize its investment shall file an application for extension with the office of the Town Manager within 30 days of the date of the amortization letter. The application shall be on a form provided by the office of the Town Manager, and shall include a statement setting forth the investment in the nonconforming tobacco paraphernalia store, the date of approval, and the cost and date of the most recent renovation.~~

~~(3) An extension of the amortization period shall be granted if the Town Manager or designee, in consultation with the Town Attorney, or the Town Commission if it is referred the decision, finds that the amortization period is unreasonable for that tobacco paraphernalia store at issue because it is too short to allow amortization of its investment in accordance with applicable caselaw.~~

~~(4) The Town Manager or designee's decision may be appealed to the Town Commission by the owner of a tobacco paraphernalia store within 30 days of the determination.~~

* * *

SECTION 3. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article" or such other appropriate word or phrase in order to accomplish such intentions.

Ordinance 2021-XX

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

Passed on the first reading, this 9th day of November, 2021.

Passed and adopted on the second reading, this 11th day of January 2022.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____
Commissioner Sokolow	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

ATTEST:

Acting Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

Jhanelle Campbell

From: Jhanelle Campbell
Sent: Wednesday, November 24, 2021 5:02 PM
To: Susan Trevarthen
Cc: Town Manager
Subject: FW: Grateful J's signage
Attachments: P1010603.JPG; P1010602.JPG; P1010601.JPG; P1010600.JPG; P1010599.JPG; Zoning Permit Application for Sign - 2020- AFTER THE FACT.doc

Good afternoon Susan,

I hope this email finds you well. I requested our code compliance officer to visit Grateful J's this week to take inventory of the unpermitted window signs at the site. Please see my evaluation below that is based on the Town's Code and the attached pictures.

- I. Based on the below definition of window and the fact that all separators between each pane of glass is less than 6 inches (1.75 in per panel separator), Grateful J's has a total of 6 windows (4 windows and 2 doors) Please note that each door is considered separate window. One window facing Commercial Blvd and the 5 face the parking lot of the plaza.

Definition of Window

Window: For the purpose of these regulations, a window shall be defined as that portion of a first or second floor façade consisting of a transparent, glass-like material designed to provide viewing of the interior from the exterior of the building and which shall be:

- (a) No less than 75 percent transparent from the exterior;
- (b) The area of a single window includes contiguous window panels separated by dividers less than six inches in width;
- (c) Contiguous window panels separated by dividers greater than six inches in width, separated by a doorway or separated by the corner of a building shall be considered separate windows; and
- (d) A glass door or pair of doors shall be considered a separate window, but shall be no less than 50 percent transparent from the exterior.
- (e) A transom above a door, separated by less than six inches shall be considered part of the door. A glass transom separated by more than six inches shall be considered a separate window.

- II. Based on the below definition of window sign;
 - a. The window facing Commercial Blvd exceeds the total number of signs allowed. Each window is only allowed 3 signs
 - b. The windows can be no less than 75% percent transparent from the exterior
 - c. The doors shall be no less than 50% transparent from the exterior

Definition of Window Sign

Window sign: A sign attached to or placed on storefront windows and/or glass doors and that are placed within ten feet of the inside of a window and oriented toward the window. A bulletin board, displayed inside a window, and upon which notices, advertisements, specials, listings and the like are posted, shall be considered a single window sign.

B-1 Window Sign Allowances

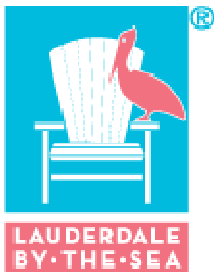
(c)*B-1 and B-1-A districts.* Only the following types of signs are permitted within the B-1 and B-1-A districts, subject to the limitations and requirements contained in the definitions and restrictions and standards by sign type and the general design standards sections of these regulations, and subject to the additional limitations stated below:

(4)*Window signs:* No more than three window signs per window, placed in first floor windows; in second floor windows, only one window sign for each business which has its entrance from the second floor or a stairway only.

(5)In addition, each office building, separate storefront business, or other non-residential use:

None of the window or door signs have been permitted. I have attached the required application for the signage. The second page of the application outlines the requirements for submittal. I am happy to speak with the business owner regarding the submittal requirements if he has any questions to make the process smooth. Please note that each sign requires a separate application and \$50 fee. However, a double fee will be assessed for each sign (\$100) since they were installed without a permit.

Thank you



Jhanelle Campbell
Development Services Director
4501 N. OCEAN DRIVE,
LAUDERDALE-BY-THE-SEA, FL 33308
Phone: 954-640-4219 • JhanelleC@lbts-fl.gov
www.lbts-fl.gov • www.lbtsevents.com

From: Gregory Wienbarg <gregw@lauderdalebythesea-fl.gov>
Sent: Monday, November 22, 2021 2:57 PM
To: Jhanelle Campbell <JhanelleC@lauderdalebythesea-fl.gov>
Subject: Grateful J's signage

Hi Jhanelle,

Please see attached for photos of Grateful J's signage. They still have merchandise right up against the windows.

Kind Regards,



Greg Wienbarg
Code Compliance Inspector
4501 N. Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Phone: 954-640-4216
gregw@lauderdalebythesea-fl.gov • www.lbts-fl.gov • www.lbtsevents.com

Please note: Florida has a very broad public records law. Written communications to the Town, including emails, are Public Record available to the public upon request. Your email communication is therefore subject to public disclosure.

Exhibit 4



Figure 1-Parking Lot View

Exhibit 4



Figure 2- Parking Lot View

Exhibit 4



Figure 3- Commercial Blvd View

Exhibit 4



Figure 4- Commercial Blvd View

Exhibit 5



Figure 1 – Hollywood Tobacco – 1/19/2022

Exhibit 5



Figure 2 – Hollywood Tobacco – 1/19/2022



Town Commission Agenda Item Report

Meeting Date: January 25, 2022

Submitted By: Jhanelle Campbell, Development Services Director

Submitting Department: Development Services

Item Type: Ordinance

Agenda Section: ORDINANCES 2nd Reading

Subject Title: ORDINANCE 2021-15 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 14 "OFFENSES," ARTICLE I "IN GENERAL," SECTION 14-33, "SALE OF NICOTINE VAPORIZERS OR LIQUID NICOTINE" TO CONFORM TO CHANGES IN STATE LAW, AND REQUIRING BUSINESSES SELLING TOBACCO PARAPHERNALIA TO CONCEAL THEIR INVENTORY FROM OUTSIDE OF THEIR PREMISES; AND PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE (**Exhibit 1**)

Background: Ordinance 2021-10, first heard on November 9, proposes to define tobacco paraphernalia stores, and specify that they are not permitted in the B Business zoning districts of the Town. Tobacco paraphernalia is defined to include devices that fall outside of the statutory definitions and preemption mandates of the Florida Legislature. Ordinance 2021-10 established a definition for tobacco paraphernalia and tobacco paraphernalia store based on the parameters established by the statutory definitions and mandates of the Florida Legislature.

At the first reading of Ordinance 2021-10 on November 9, the Town Commission discussed the proposal to amortize the two existing tobacco paraphernalia stores out of the Town in a year or such other period of time as may be supported by documentation of the impact. The Commission directed that the amortization of tobacco paraphernalia stores be removed from the Ordinance, and instead requested that the staff and Town Attorney work together to determine whether the Town Code could be revised to require that the display of tobacco paraphernalia be concealed from public view from outside of the businesses.

This Ordinance addresses the Commission's request to conceal tobacco paraphernalia from view and proposes other amendments necessary so that the Town's Code conforms to recent changes to state law.

Explanation: During the 2021 legislative session, the Florida Legislature passed Florida Laws, Chapter 2021-14, which among other things, preempts the establishment of the minimum age for purchasing or possessing, and the regulation for the marketing, sale, or delivery of, nicotine products and tobacco products to the state, and sets the minimum age at 21. Chapter 2021-14

also re-defines relevant terms and regulates sale to minors more strictly than the current Town Code by prohibiting sale to those under the age of 21 (with exceptions¹).

To conform to the 2021 changes in state law, the proposed Ordinance accomplishes the following:

- Increases the minimum age for the purchase or possession of nicotine products and tobacco products from 18 to 21 years of age and revises the related definitions, all tracking the state law.
- Requires all dealers of nicotine products and tobacco products to comply with Florida Statutes, Chapter 569, as may be amended, and specifically echoes the requirements not to sell to those under 21 and to place lockout mechanisms on vending machines.
- As specifically allowed by the revised statute, the Ordinance designates Town Code Compliance Officers as nicotine product enforcement officers who may enforce Florida Statutes, Sections 386.212, 569.11, or 569.42, as may be amended.

To address the Town Commission's direction on November 9, this Ordinance also requires any business selling tobacco paraphernalia to conceal its inventory of tobacco paraphernalia from the view of the public from outside of its premises.

Recommendation: Staff recommends approval of Ordinance 2021-15 on second reading.

Attachments:

Exhibit 1 – Ordinance 2021-15

Reviewed by Town Attorney:

☒	Yes	☐	No
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¹ A person under the age of 21 does not include any person under the age of 21 who: (1) is in the military reserve or on active duty in the Armed Forces of the United States; or (2) is acting in his or her scope of lawful employment.

EXHIBIT 1

ORDINANCE 2021-15

**AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, AMENDING CHAPTER 14
“OFFENSES,” ARTICLE I “IN GENERAL,” SECTION 14-33,
“SALE OF NICOTINE VAPORIZERS OR LIQUID
NICOTINE” TO CONFORM TO CHANGES IN STATE
LAW, AND REQUIREMENTS FOR BUSINESSES
DISPLAYING TOBACCO PARAPHERNALIA AND
PROVIDING FOR CODIFICATION, SEVERABILITY,
CONFLICTS, AND FOR AN EFFECTIVE DATE**

WHEREAS, the Town of Lauderdale-By-The-Sea (the “Town”) Commission recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the Town’s regulations are current and consistent with the Town’s regulatory needs; and

WHEREAS, in 2014, the Town adopted a regulation prohibiting the sale of e-cigarettes to minors (defined as persons under the age of 18) as then defined by law, and also prohibiting sale in vending machines; and

WHEREAS, during the 2021 legislative session, the Florida Legislature passed Florida Laws, Chapter 2021-14, which amongst other things, preempted the establishment of the minimum age for purchasing or possessing, and the regulation for the marketing, sale, or delivery of, nicotine products and tobacco products to the state, and set that age at 21; and

WHEREAS, Chapter 2021-14 also defines relevant terms differently, and regulates sale to minors more strictly than the current Town Code by prohibiting sale to those under the age of 21 (with exceptions); and

WHEREAS, the Town Commission desires to amend Town Code Section 14-33, “Sale of Nicotine Vaporizers or Liquid Nicotine” to conform its regulations with State law and strengthen its prohibition of sale to minors; and

EXHIBIT 1

WHEREAS, because state law prevents the sale and marketing of tobacco and nicotine products to persons under the age of 21 years, the Town Commission also desires to amend Town Code Section 14-33 to require any business selling tobacco paraphernalia to conceal its inventory of tobacco paraphernalia from the view of the public from outside of its premises.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. Recitals. The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

SECTION 2. Amendment. Chapter 14, “Offenses,” Article I, “In General,” “Sale of Nicotine Vaporizers or Liquid Nicotine” of the Town Code of Ordinances, is hereby amended as follows¹:

Chapter 14 - OFFENSES

ARTICLE I. IN GENERAL

* * *

Sec. 14-33. - Sale of ~~Nicotine Vaporizers~~ Nicotine Products, Nicotine Dispensing Devices and Tobacco Products; ~~or Liquid Nicotine~~ Display of Tobacco Paraphernalia.

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

A person under the age of 21 does not include any person under the age of 21 who:

(1) Is in the military reserve or on active duty in the Armed Forces of the United States; or

(2) Is acting in his or her scope of lawful employment.

Dealer means a retail nicotine products dealer.

Nicotine dispensing device means any product that employs an electronic, chemical, or mechanical means to produce vapor or aerosol from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

¹ Additions to existing text are shown in underline. Deletions are shown in ~~strike through~~.

EXHIBIT 1

Nicotine product means any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means. The term also includes any nicotine dispensing device. The term does not include a:

- (1) Tobacco product, as defined in Florida Statutes, Section 569.002, as may be amended;
- (2) Product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act; or
- (3) Product that contains incidental nicotine.

Tobacco product includes loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

~~Nicotine vaporizer means: any electronic or battery operated device which can be used to deliver an inhaled dose of nicotine or other substances and includes those composed of a mouthpiece, heating element, and battery or electronic circuits that provide a vapor of Liquid Nicotine and/or other substances to the user. This term shall include such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, an e-cigarette, an e-cigar, an e pipe or under any other product name.~~

~~Liquid nicotine means: any liquid product composed either in whole or in part of pure nicotine which can be used with Nicotine Vaporizers.~~

(b) Sale ~~prohibited~~ of nicotine products, nicotine dispensing devices, and tobacco products. All dealers shall comply with Florida Statutes, Chapter 569, as may be amended, including but not limited to the following requirements:

1. It is unlawful for any person as defined in section 1-2 of this Code to sell, give or furnish a ~~Nicotine Vaporizer or Liquid Nicotine~~ nicotine product to (i) a person under the age of ~~18~~²¹; or (ii) a person who appears to be under the age of ~~27~~ ³⁰ years without first examining identification to confirm that the recipient is at least ~~18~~ ²¹ years of age.

2. Lockout mechanisms must be placed on vending machines selling tobacco products and nicotine products from any licensed premises that allows persons under the age of 21 to enter.

~~(e) Self-service vending machines. In order to minimize the physical accessibility to minors, it is unlawful for any person to offer Nicotine Vaporizers or Liquid Nicotine in vending machines.~~

(c) Display of tobacco paraphernalia. Any business selling tobacco paraphernalia, as defined in section 30-11², shall conceal its inventory of tobacco paraphernalia from the view of the public from outside of its premises.

² Tobacco paraphernalia. Paraphernalia commonly related to the use of any tobacco product, drug, or narcotic includes, but is not limited to:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.

EXHIBIT 1

- (d) *Enforcement.* ~~This section may be enforced by any Town code officer.~~ Pursuant to Florida Statutes, Section 569.12, Town code compliance officers shall be the designated nicotine product enforcement officers. Code compliance officers may issue a citation to a person under the age of 21 when, based upon personal investigation, the code compliance officer has reasonable cause to believe that the person has committed a civil infraction in violation of Florida Statutes, Sections 386.212, 569.11, or 569.42, as may be amended.
- (e) *Penalties.* Penalties for violation of subsection (b) shall be provided by State law. Any person found in violation of ~~this subsection (c)~~ shall be punished as provided in ~~sections 6.5-1 through 6.5-13~~ 1-12 of this Code, in addition to any other remedies provided by law.

SECTION 3. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

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- b. Water pipes.
 - c. Carburetion tubes and devices.
 - d. Chamber pipes.
 - e. Carburetor pipes.
 - f. Air-driven pipes.
 - g. Chillums.
 - h. Bongs.
 - i. Ice pipes or chillers

This definition shall not be interpreted to include a nicotine dispensing device, as defined in Florida Statutes, Section 569.31, as may be amended from time to time.

EXHIBIT 1

Passed on the first reading, this ____ day of _____, 2022.

Passed and adopted on the second reading, this ____ day of _____, 2022.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent		
Vice-Mayor Oldaker		
Commissioner Sokolow		
Commissioner Strauss		
Commissioner Malkoon		

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney