



City of Flagler Beach

Planning & Zoning Department
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MEMORANDUM

To: Planning and Architectural Review Board
From: Lupita McClenning, City Planner
Date: January 29, 2025
Re: Floodplain Management Articles IV, V, VI, VIII, and IX

Summary

The city had +2 ft in all flood zones, which was rolled back in Zone A/AE by Ord 2016-01. Subsequently, the city adopted local amendments to the Florida Building Code to:

- 1) limit enclosures below elevated buildings in coastal high hazard areas and Coastal A Zones;
- 2) increase the minimum elevation requirements for nonresidential buildings and dwellings in coastal high hazard areas, and
- 3) require construction documents for dwellings to be prepared and sealed by registered design professionals, for buildings and structures in flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System.

Pursuant to section 553.73(5), F.S., the city is reformatting those requirements to coordinate with the *Florida Building Code*, and adopting a requirement to increase the minimum elevation requirement for dwellings in all flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System and to coordinate with the *Florida Building Code*.

The City of Flagler Beach participates in the National Flood Insurance Program and participates in the NFIP's Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class #6, making citizens who purchase NFIP flood insurance policies eligible for premium discounts.

In 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better. To satisfy the prerequisite and for the city to maintain the current CRS rating, all homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements.

The city determined that it is in the public interest to amend the floodplain management regulations to better protect manufactured homes and to continue participating in the Community Rating System at the current class rating.

The Code of Ordinances, Appendix "A," Land Development Regulations, is amended as follows:

Article IV Environmental and Cultural Resource Protection

Section 4.07.00 Floodplain Management

The intent and purpose of this section and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas.

The provisions of this section apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; including installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

The applicability of this section applies to all flood hazard areas within the city.

The city engineer, is designated as the floodplain administrator. The floodplain administrator has the authority to render interpretations of this section consistent with the intent and purpose of this section and may establish policies and procedures in order to clarify the application of its provisions.

Any owner or owner's authorized agent who intends to undertake any development activity which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit(s) and approval(s).

Site plan or construction documents for any development subject to the requirements of this section shall be drawn to scale and shall include, as applicable to the proposed development delineation of flood hazard areas, flood zone(s), base flood elevation(s), and ground elevations necessary for review of the proposed development. Development for which a floodplain development permit is required shall be subject to inspection.

Any development regulated by this section that does not fully comply is presumed to be in violation and the floodplain administrator is authorized to serve notices of violation or stop work orders.

Technical amendments to the Florida Building Code that address design requirements for buildings in flood hazard areas are adopted in Section 5.00.10.

Article V Development Design and Improvement Standards

Section 5.00.10 Technical Amendment to the Florida Building Code

The minimum elevation for buildings in flood hazard areas that are within the scope of the Florida Building Code, Building, shall be, as specified in ASCE 24, the base flood elevation plus two (2) feet, or the design flood elevation, whichever is higher.

The minimum elevation for one- and two-family dwellings and townhouses in flood hazard areas that are within the scope of the Florida Building Code, Residential, shall be the base flood elevation plus two (2) feet or the design flood elevation, whichever is higher.

Enclosures below elevated buildings in coastal high hazard areas and Coastal A Zones. In coastal high hazard areas and Coastal A Zones, enclosed areas below the elevation required in the building code shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators and the access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

Construction documents for dwellings in flood hazard areas. Construction documents for dwellings in flood hazard areas shall include documentation that is prepared and sealed by a registered design professional that the foundation design accounts for flood loads.

Article VI Subdivisions

Section 6.00.005 Minimum Elevation

The language for minimum elevation in this section is found in Article IX, Engineering Design.

Article VIII Administration and Enforcement

In addition to the requirements for granting a variance found in Section. 8.04.16 (a) 1-6, in reviewing requests for variances, the city commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this article, and the following considerations:

- (a) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (d) The importance of the services provided by the proposed development to the community;
- (e) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (f) The compatibility of the proposed development with existing and anticipated development;
- (g) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (h) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (i) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

Additionally, variances shall be issued only upon the following conditions:

- (a) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
- (b) Determination by the city commission that:
 - (i) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - (ii) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - (iii) The variance is the minimum necessary, considering the flood hazard, to afford relief;

- (c) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (d) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Article IX Engineering Design and Development

The purpose of this section is to set forth engineering design regulations for residential and nonresidential uses as required in the Land Development Code. The floodplains manager may adopt technical manuals that relate to technical requirements pertaining to the city's water, wastewater, reclaimed water, drainage, street, and other systems.

In order to align codes with the State Building Code, the requirements to updating the floodplain management ordinance made by the Office of Floodplain Management (OFM) for this Article are to Section 9.04.04 (b) (1) Fill is limited to the compacted amount needed inside the perimeter of a stem wall foundation in order to achieve a solid subsurface to pour a concrete slab to the elevation required by the Florida Building Code as modified by the City.

Findings and Recommendations

Findings: In 2021, the Florida Statute, sec. 553.73(4) was amended to provide that if a Florida Building Code (FBC) technical amendment is not adopted in accordance with the statute, then that action may be subject to a petition by a "substantially affected person." Therefore, a plain reading is that if a local amendment **is adopted in accordance with the statute**, that local FBC amendment are not subject to petition, even when those amendments reside in land development codes. The 2021 statute amendment adds subparagraph

(l), which states:

(l) If a local government adopts a regulation, law, ordinance, policy, amendment, or land use or zoning provision without using the process established in this subsection, and a substantially affected person considers such regulation, law, ordinance, policy, amendment, or land use or zoning provision to be a technical amendment to the Florida Building Code, then the substantially affected person may submit a petition to the Florida Building Commission for a nonbinding advisory opinion. If a substantially affected person submits a request in accordance with this paragraph, the Florida Building Commission shall issue a nonbinding advisory opinion stating whether or not the commission interprets the regulation, law, ordinance, policy, amendment, or land use or zoning provision as a technical amendment to the Florida Building Code. As used in this paragraph, the term "local government" means a county, municipality, special district, or political subdivision of the state.

Recommendation: Recommend to the City Commission to Adopt the Floodplain Management Ordinance with language provided by the Office of Floodplain Management (OFM), Florida Division of Emergency Management.