

ORDINANCE 2024-21

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, REVISING SECTION 94-33 OF DIVISION 9 (GENERAL) OF CHAPTER 94 (FLOODPLAIN MANAGEMENT) TO DELETE THE REQUIREMENT TO EVALUATE PREVIOUSLY ISSUED BUILDING PERMITS; AMENDING THE DEFINITIONS OF SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT IN SECTION 94-93 OF DIVISION 9 (GENERAL) OF CHAPTER 94 (FLOODPLAIN MANAGEMENT) OF THE CODE OF ORDINANCES TO DELETE THE REPETITIVE FLOOD DAMAGE PROVISION AND THE ONE-YEAR LOOK BACK REQUIREMENT; REVISING SECTION 14-39 OF ARTICLE II (TECHNICAL CODES AND STANDARDS) OF CHAPTER 14 (BUILDINGS AND BUILDING REGULATIONS) OF THE CODE OF ORDINANCES TO DELETE SUBPARAGRAPH (D) REGARDING THE DEFINITIONS OF SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT IN THE FLORIDA BUILDING CODE; PROVIDING FOR CONFLICT, CODIFICATION AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 24, 2024, the Governor of the State of Florida entered an Executive Order declaring a State of Emergency for 64 counties in the State of Florida, including Pinellas County, due to the dangers presented by Hurricane Helene; and

WHEREAS, on October 5, 2024, the Governor of the State of Florida also entered Executive Order declaring a State of Emergency for 35 counties in the State of Florida, including Pinellas County, due to the dangers presented by Hurricane Milton; and

WHEREAS, Hurricanes Helene and Milton posed serious threats to the lives and property for the residents of Madeira Beach, Florida and a State of Local Emergency was declared for all territory within the legal boundaries of Madeira Beach, Florida; and

WHEREAS, both Hurricanes Helene and Milton caused extensive damage to public utilities, public buildings, public communications systems, public streets and roads, public drainage systems, commercial and residential buildings and areas; and

WHEREAS, City staff has reviewed Section 94-33 of the Code of Ordinance and wishes to amend the section to delete the requirement to evaluate previously issued building permits when considering the issuance of a new building permit; and

WHEREAS, City Staff has reviewed the current definitions of Substantial Damage Substantial Improvement of Section 94-93 of the Code of Ordinances and wishes to amend the section to delete the repetitive flood damage provision and the one-year look back requirement; and

WHEREAS, Chapter 553, Florida Statutes, allows for local administrative and technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

WHEREAS, City staff has recommended deleting the previously adopted local amendments to the Florida Building Code definitions of Substantial Damage and Substantial Improvement; and

WHEREAS, the recommendations of staff have been found meritorious by the Board of Commissioners; and

WHEREAS, the Board of Commissioners has received input from the public at two public hearings.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Section 94-33 of Division 9 (General) of Chapter 94 (Floodplain Management) of the Code of Ordinances of the City of Madeira Beach is hereby amended to read as follows:

Sec. 94-33. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations (Levels 1-2-3), movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; ~~the determination requires evaluation of previous permits issued for improvements as specified in the definition of "substantial improvement; and for work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage;"~~ and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this chapter is required.

Section 2. The definitions of Substantial Damage and Substantial Improvement in Section 94-93 of Division 9 (General) of Chapter 94 (Floodplain Management) of the Code of Ordinances of the City of Madeira Beach shall read as follows:

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. ~~Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

Substantial improvement means any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or ~~structure taking place during a one-year period~~, the ~~cumulative~~ cost of which equals or exceeds 50 percent of the market value of the building or structure before the "start of construction" of the

improvement. ~~For each building or structure, the one-year period begins on the date of the first permit issued for improvement or repair subsequent to November 15, 2016. This~~ term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Section 3. That subparagraph (d) of Section. 14-39 of Article II (Technical Codes and Standards) of Chapter 14 (Buildings and Building Regulations) is hereby deleted as follows:

~~(d) Modify the *Florida Building Code, Building*, Section 202 definitions of Substantial Damage and Substantial Improvement to read as follows:~~

~~*SUBSTANTIAL DAMAGE.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~*SUBSTANTIAL IMPROVEMENT.* Any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the one-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to November 15, 2016. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either~~

- ~~1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.~~
- ~~2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.~~

Section 4. For purposes of codification of any existing section of the Madeira Beach Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 5. Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

Section 6. In the event a court of competent jurisdiction finds any part or provision of the Ordinance unconstitutional or unenforceable as a matter of law, the same shall be stricken and the remainder of the Ordinance shall continue in full force and effect.

Section 7. The Codifier shall codify the substantive amendments to the Land Development Code of the City of Madeira Beach contained in Section 1, Section 2, and Section 3 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 8. Pursuant to Florida Statutes §166.041(4), this Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS _____ day of _____, 2024.

Anne-Marie Brooks, Mayor

ATTEST:

Clara VanBlargan, MMC, MSM, City Clerk

APPROVED AS TO FORM:

Thomas J. Trask, City Attorney

PASSED ON FIRST READING:

PUBLISHED:

PASSED ON SECOND READING:
