

ORDINANCE NO. 21-__

AN ORDINANCE OF PINELLAS COUNTY, FLORIDA AMENDING PART THREE OF THE PINELLAS COUNTY CODE, THE LAND DEVELOPMENT CODE, CHAPTER 158 FLOODPLAIN MANAGEMENT; PROVIDING THE BASIS FOR ESTABLISHING FLOOD HAZARDS IN UNINCORPORATED AREAS; PROVIDING FOR VARIANCES FOR AGRICULTURAL STRUCTURES; PROVIDING FOR CONSENT ORDERS FOR ENFORCEMENT; PROVIDING FOR NEW DEFINITIONS; CLARIFYING PERMITTED IMPROVEMENTS IN THE FLOODWAY; CLARIFYING PERMITTED ACCESSORY STRUCTURES IN THE FLOODPLAIN; CLARIFYING THE SCOPE OF WAIVERS AUTHORIZED FOR COMPENSATORY EXCAVATION; RESTRICTING CONSTRUCTION ACTIVITIES THAT FLOOD NEIGHBORING PROPERTIES; PROVIDING FOR REGULATION OF CONSTRUCTION ACTIVITIES IN COASTAL A ZONES CONSISTENT WITH FEDERAL AND STATE REGULATORY GUIDANCE; CLARIFYING THAT WALLS AND FENCES ARE RESTRICTED IN THE FLOODWAY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Federal Emergency Management Agency (FEMA) previously identified special flood hazard areas within the boundaries of Pinellas County that may be subject to periodic inundation, resulting in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare;

WHEREAS, FEMA accordingly accepted Pinellas County for participation in the National Flood Insurance Program (NFIP) Community Rating System (CRS) on October 1, 1993;

WHEREAS, Title 44 Code of Federal Regulations, Sections 59 and 60, require local governments participating in the NFIP to adopt certain regulations pertaining to floodplain management;

WHEREAS, to that end, the Pinellas County Board of County Commissioners (the "Board") previously adopted the Floodplain Management Regulations codified at Chapter 158 of the Pinellas County Land Development Code;

WHEREAS, Chapter 158 currently provides that the FEMA Flood Insurance Study and Flood Insurance Rate Maps dated August 8, 2009 serve as the minimum basis for establishing flood hazards (subject to exceptions for limited or conflicting data);

WHEREAS, on August 24, 2021, a new FEMA Flood Insurance Study, together with new Flood Insurance Rate Maps, went into effect;

WHEREAS, the Board accordingly wishes to incorporate the new FEMA Flood Insurance Study and Flood Insurance Rate Maps dated August 24, 2021 into Chapter 158;

WHEREAS, the Board also wishes to clarify that, where locally determined flood hazard data such as the 2021 Pinellas County Sea Level Rise and Storm Surge Vulnerability Assessment is available, the best available data (with FEMA data serving as the minimum basis) must be used to determine the flood hazard;

WHEREAS, the Board also wishes to amend the definitions for “development,” “market value,” “substantial damage,” and “substantial improvement”; add definitions for “accessory structure,” “agricultural structure,” and “flood hazard”; and strike the definitions for “existing manufactured home park or subdivision,” “expansion to existing manufactured home park or subdivision,” and “new manufactured home park or subdivision”;

WHEREAS, the Board also wishes to clarify the floodplain administrator’s authority to grant waivers to the compensatory excavation requirement;

WHEREAS, the Board also wishes to address adverse flood impacts to neighboring properties;

WHEREAS, the Board also wishes to authorize variances for agricultural structures in accordance with FEMA and State guidance;

WHEREAS, the Board also wishes to allow certain accessory structures in accordance with FEMA and State guidance;

WHEREAS, the Board also wishes to regulate Coastal A Zones in accordance with FEMA guidance;

WHEREAS, the Board also wishes to better specify when development in the floodway is appropriate; and

WHEREAS, the Board also wishes to grant the floodplain administrator authority to enter into consent orders to resolve violations of Chapter 158.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida that:

SECTION 1. The recitals above are incorporated herein.

SECTION 2. Chapter 158 (Floodplain Management) of the Pinellas County Land Development Code is hereby amended as set forth below. This Ordinance does not repeal and replace Chapter 158. The only sections of Chapter 158 being amended are those with revisions reflected herein. Sections of Chapter 158 not included herein remain in full force and effect

ARTICLE I. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 158-3. Intent.

The purposes of this chapter and the flood load and flood-resistant construction requirements of the Florida Building Code and ASCE 24 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 to:

- (1) Minimize unnecessary disruption of commerce, access, and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the 44 CFR 59.22.

Sec. 158-4. Coordination with the Florida Building Code.

This chapter is intended to be administered and enforced in conjunction with the Florida Building Code, as amended. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

DIVISION 2. APPLICABILITY

Sec. 158-23. Basis for establishing flood hazard areas.

The FEMA flood insurance study for Pinellas County, Florida and incorporated areas dated August 24, 2021, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter. When locally determined data is available, the county will refer to the best available data for establishing the flood hazard; however, the FEMA data shall serve as the minimum basis for establishing the flood hazard. Locally determined data shall include but not [be] limited to watershed management plans and the county's stormwater master plan maps and profiles and the county storm drainage basin study technical appendices nos. 1 through 52, consecutively, the Pinellas County Sea Level Rise and Storm Surge Vulnerability Assessment (RESTORE Act Vulnerability Assessment (2021)), and any subsequent amendments thereto. Where data conflicts, the flood hazard will be determined by the floodplain administrator. These sources are adopted by reference and made a part of this chapter. Studies and maps that establish flood hazard areas are on file at the County Building Department and Public Works Department.

DIVISION 3. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Sec. 158-45. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, 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 and repairs as specified in the definition of “substantial improvement”; 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, NFIP and this chapter is required.

DIVISION 4. PERMITS

Sec. 158-61. Permits and approvals required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this chapter, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Pinellas County department that is tasked with development review, and shall obtain the required permit(s) and approval(s). In addition:

- (1) No development of any land or structure shall be commenced until such time as all proper zoning clearances, building permits, land development permits, habitat permits, and other required approvals have been issued.
- (2) No land development permit may be issued for any development or use of any land or structure encompassed by the provisions of this chapter until the requirements of this chapter and all other floodplain management regulations have been met.
- (3) All development and/or use of any land or structures within the scope of this chapter for which a development permit has been issued shall, at all times, continue to conform to the requirements of this chapter and the final approved development order or site plan for which the development permit was issued.
- (4) More restrictive requirements imposed by other local and state legislation currently in effect or as amended shall take precedence over the terms of this chapter.

Sec. 158-64. Application for a permit or approval.

To obtain a floodplain development permit or approval, the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in division 5 of this article.
- (5) State the valuation of the proposed development.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the floodplain administrator.

- (8) Include a signed Declaration of Land Restriction (Non-conversion Acknowledgment) where the proposed development will result in (i) enclosure of an area that is greater than six feet in height under an elevated building, or (ii) construction of an accessory structure that is greater than 100 square feet in floor area. The Non-conversion Acknowledgement shall be recorded with the property deed prior to issuance of the certificate of occupancy.

DIVISION 5. SITE PLANS AND CONSTRUCTION DOCUMENTS

Sec. 158-82. Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

- (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- (2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal, state, or local agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- (3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is three feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three feet.
- (4) Upon approval of base flood elevation data, incorporate the data into the stormwater management plan.
- (5) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

Sec. 158-83. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses

signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 158-84 of this chapter and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation at any point within the areas identified in section 158-22 of this chapter.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in section 158-84 of this chapter.
- (4) For activities that propose to alter sand dunes and mangrove stands in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

Sec. 158-84. Submission of additional data.

Secs. 158-85—158-100. Reserved.

DIVISION 6. INSPECTIONS

DIVISION 7. VARIANCES AND APPEALS

Sec. 158-114. Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 158-83 of this chapter.

(Ord. No. 15-21, § 2, 5-19-15; Ord. No. 18-37, § 3, 10-23-18)

Sec. 158-118. Agricultural structures.

A variance is authorized to be issued for the construction or substantial improvement of agricultural structures provided the requirements of this division are satisfied and:

- (1) A determination has been made by the floodplain administrator that the proposed agricultural structure:
 - a. Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
 - b. Has low damage potential (amount of physical damage, contents damage, and loss of function).
 - c. Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
 - d. Is not located in a coastal high hazard area (Zone V/VE) or Coastal A Zone, except for aquaculture structures dependent on close proximity to water.
 - e. Complies with the wet floodproofing construction requirements of subsection (2), below.
- (2) Wet floodproofing construction requirements:
 - a. Anchored to resist flotation, collapse, and lateral movement.
 - b. When enclosed by walls, walls have flood openings that comply with the flood opening requirements of ASCE 24, Chapter 2.
 - c. Flood damage-resistant materials are used below the base flood elevation plus one (1) foot.
 - d. Mechanical, electrical, and utility equipment, including plumbing fixtures, are elevated above the base flood elevation plus one (1) foot.

Secs. 158-119—158-130. Reserved.

DIVISION 8. VIOLATIONS

DIVISION 9. ENFORCEMENT; PENALTIES

Sec. 158-152. Penalties.

- (a) Any person who violates any provision of this chapter shall be punished as provided in section 134-8.
- (b) Any person or agency violating the provisions of this chapter may be required to restore land to its undisturbed condition and may be held responsible for any damages occurring as a result of the violation.
- (c) In addition to the other remedies provided in this section, the floodplain administrator is authorized to approve and execute consent orders prescribing penalties and other remedies to resolve violations of this chapter, so long as the penalty amount prescribed therein does not exceed \$50,000.

ARTICLE II. DEFINITIONS

Sec. 158-182. Definitions.

Accessory structure means a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

Adverse impact means any modifications, alterations or effects on a feature or characteristic of water or floodprone lands, including their quality, quantity, hydrodynamics, surface area, species composition, living resources, or usefulness for human or natural uses which are or potentially may be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

Agricultural structure means] a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Applicant means the owner of the property for which a development permit is sought, or his or her authorized agent.

ASCE 24 means a standard titled "Flood Resistant Design and Construction" that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood means a flood having a one percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

Base flood elevation means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, section 1612.2.]

Basement means the portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, section 1612.2.]

Breakaway walls means a partition or wall that is independent of supporting structural members and that is intended to withstand design wind forces but to collapse from a water load less than that which would occur during the base flood, without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls are designed and constructed to meet the requirements of the FBC, Residential, section R322.3.4 or ASCE 24 for walls below the design flood elevation.

Coastal Barrier Resource Act of 1982 (CBRA). For the purposes of the NFIP, the Coastal Barrier Resources Act of 1982 designated certain portions of the Gulf and East Coasts and undeveloped coastal barriers. These areas are shown on the appropriate flood insurance maps panels and have certain flood insurance coverage restrictions.

Coastal construction control line means the line established by the State of Florida pursuant to F.S. § 161.053 and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on flood insurance rate maps (FIRM) as Zone V1-V30, VE, or V. This term is not to be confused with the "coastal high hazard area" defined in the Pinellas County Comprehensive Plan, which is based upon the sea, lake, and overland surges from hurricanes (SLOSH) model, and used for land use planning purposes.

Coastal A Zone means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped coastal high hazard areas. In a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave height shall be greater than or equal to one and one-half feet (457 mm). The inland limit of the Coastal A Zone is (a) the limit of moderate wave action if delineated on a FIRM, or (b) designated by the authority having jurisdiction.

Compensatory excavation means that excavation within or directly contiguous to a floodplain for the purpose of hydraulically balancing proposed fill.

County administrator means the chief executive officer of the county responsible to the board of county commissioners for the execution of this article and the delegation of responsibilities for the individual tasks contained in this article.

Declaration of Land Restriction (Non-conversion Acknowledgment). A form provided by the floodplain administrator to be signed by the owner and recorded on the property deed in official records of the clerk of courts, for the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, enclosures below elevated buildings and structures.

Design flood means the flood associated with the greater of the following two areas: [Also defined in FBC, B, section 1612.2.]

- (1) Area with a floodplain subject to a one percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation means the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to three feet. [Also defined in FBC, B, section 1612.2.]

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities. For the purposes of this chapter, "development" shall include, but is not limited to, the following activities or uses:

- (1) A reconstruction, alteration of the size, or change in the external appearance of a structure;
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;
- (3) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction as defined in F.S. § 161.021;
- (4) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land;
- (5) Demolition of a structure;
- (6) Clearing of land as an adjunct of construction;
- (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land; and
- (8) Placement of fences or walls.

Encroachment means the placement of fill, excavation, buildings, permanent structures, or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure mean any buildings and structures for which the start of construction commenced before June 18, 1971. [Also defined in FBC, B, section 1612.2.]

Federal Emergency Management Agency (FEMA) means the federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, section 1612.2.]

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, section 1612.2.]

Flood hazard means base flood elevation, design flood elevation, flood hazard area, or flood zone.

Flood hazard area means the greater of the following two areas: [Also defined in FBC, B, section 1612.2.]

- (1) The area within a floodplain subject to a one percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood insurance rate map (FIRM) means the official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, section 1612.2.]

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, section 1612.2.]

Floodplain means the lateral extent of inundation by an event of given statistical frequency, such as special flood hazard areas as designated in the FIRMs, and 100-year and 25-year floodplain as designated in county watershed management plans, the county stormwater master plan (SWMP), vulnerability assessments, or any other source approved by the county's floodplain administrator.

Floodplain administrator means the office or position designated and charged with the administration and enforcement of this chapter (may be referred to as the floodplain manager) as designated by the county administrator.

Floodplain development permit or approval means an official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this chapter.

Floodprone area means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [Also defined in FBC, B, section 1612.2.] The county has a no rise policy within the floodways.

Floodway encroachment analysis means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code (FBC) means the family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Freeboard means a level higher than the base flood elevation. It is a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard compensates for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action or the hydrological effect of urbanization on the watershed.

Hazardous material means those chemicals or substances that are physical hazards or health hazards as defined and classified in the Florida Building Code and the Florida Fire Prevention Code, whether the materials are in usable or waste condition. [Defined in FBC, B, section 307.]

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure means any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

Letter of map change (LOMC) means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

- (1) *Letter of map amendment (LOMA)*: An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) *Letter of map revision (LOMR)*: A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) *Letter of map revision based on fill (LOMR-F)*: A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

- (4) *Conditional letter of map revision (CLOMR)*: A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck means, as defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Limit of moderate wave action means a line shown on FIRMs to indicate the inland limit of the one and one-half-foot (457 mm) breaking wave height during the base flood.

Lowest floor means the lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, section 1612.2.]

Major drainage system means a system of natural or manmade drainageways such as streams, ditches or canals that collect stormwater runoff from watersheds identified by name or number in the county's watershed management plans or stormwater management plan.

Manufactured home means a structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in section 15C-1.0101, F.A.C.]

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the value of buildings and structures, excluding the land and other improvements on the parcel. As used in this chapter, the term refers to the actual cash value (like-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction), determined by a qualified independent appraiser, or the "Just Value" of the structure, developed by the Pinellas County Property Appraiser's Office (PAO) for Ad Valorem taxation purposes, adjusted to approximate market value, as determined by the PAO.

New construction means, for the purposes of administration of this chapter and the flood-resistant construction requirements of the Florida Building Code, structures for which the start of construction commenced on or after June 18, 1971, and includes any subsequent improvements to such structures. For the purposes of determining NFIP flood insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or

after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

North American Vertical Datum of 1988 (NAVD) means the vertical datum used by the Federal Emergency Management Agency (FEMA) as the basis for published flood elevations.

Otherwise protected areas (OPAs) are undeveloped coastal barriers that are within the boundaries of areas established under federal, state, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational or natural resource conservation purposes. The only federal spending limitation within OPAs is federal flood insurance.

Park trailer means a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in F.S. § 320.01.]

Recreational vehicle means a vehicle, including a park trailer, which is: [See F.S. § 320.01.]

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, CAZ, V1-V30, VE or V. [Also defined in FBC, B, section 1612.2.]

Start of construction means the date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual "start of construction" means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

"Permanent construction" does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B, section 1612.2.]

Substantial damage means damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 49 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B, section 1612.2.]

Substantial improvement means any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a rolling one (1) year period, the cost of which equals or exceeds 49 percent of the market value of the building or structure before the improvement or repair is started. The rolling period of accumulation for a building or structure begins when the permit for the first improvement is finalized. If the building or structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, section 1612.2.]

- (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.

Twenty-five-year flood means the flood having a four percent chance of being equaled or exceeded in any given year.

Variance means a grant of relief from the requirements of this chapter, or the flood-resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this chapter or the Florida Building Code.

Watercourse means a river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

Wetland means all those waters, fresh and saline, or areas which are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions. Such wetland vegetative indicators shall be those species listed in the Florida Administrative Code. Wetlands include, but are not limited to, rivers, lakes, streams, springs, impoundments, swamps, hydric hammocks, marshes, bogs, sinkholes, estuaries, sloughs, cypress heads, mangrove forests, bayheads, bayous, bays, and open marine waters, whether on private or public lands and whether they are manmade or natural. Wetlands shall not include stormwater retention ponds.

ARTICLE III. FLOOD-RESISTANT DEVELOPMENT

DIVISION 1. LIMITATIONS ON DEVELOPMENT

Sec. 158-221. Development not permitted in floodways, isolated wetlands, and preservation areas.

No development is authorized within the 100-year floodway, the 25-year floodway, isolated wetlands, or environmentally sensitive areas that are designated as preservation areas on the future land use map adopted by the county, except as follows:

1. Substantial improvement that does not expand or alter the existing footprint of a building or structure may be approved by the floodplain administrator provided the improved structure is designed to account for flood velocity, debris impact, local scour, and erosion. Where soils are susceptible to local scour and erosion, foundations shall have deep footings to account for the loss of soil in accordance with ASCE 24. The floodway encroachment analysis required by 158-83(1) is not required for such substantial improvement.
2. Floodplain maintenance or improvement projects, including but not limited to bank stabilization, drainage improvements, habitat restoration, and park or preserve projects, may be approved by the floodplain administrator, provided disturbance and alteration of the ground contours are minimal and the requirements of sections 158-83(1) and 158-223 of this chapter are satisfied.
3. Public roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, may be approved by the floodplain administrator provided the requirements of sections 158-83(1) and 158-223 of this chapter are satisfied. Where alteration of a watercourse is required as part of a public road or watercourse crossing, the requirements of sections and 158-49(2) and 158-83(3) of this chapter must also be satisfied.

Sec. 158-222. Development permitted outside of floodways.

Development, redevelopment, or fill is permitted outside of floodways if compensatory excavation is provided. Engineering studies and analyses shall be submitted to demonstrate the compensatory excavation hydraulically balances the proposed development, redevelopment, or fill. Compensatory excavation shall be taken between the seasonal high -water level and the base flood elevation and shall not result in adverse impact. Compensatory excavation shall become part of the floodplain and not be separated from it by an open channel or closed conduit such as culvert pipe. The floodplain administrator may waive the requirement for compensatory excavation, or the compensatory excavation's contiguity to the floodplain, if the applicant demonstrates a floodplain benefit and that no adverse impact will result from the proposed activities.

DIVISION 2. BUILDINGS AND STRUCTURES

Sec. 158-241. Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to section 158-63 of this chapter, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures, and facilities, shall be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are roofed, but not walled, shall comply with the requirements of division 8 of this article.

Sec. 158-243. Accessory structures.

Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

- (1) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas and Coastal A Zones, are one-story and not greater than 600 square feet in floor area, and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
- (2) If located in coastal high hazard areas (Zone V/VE) or coastal A zones, are not located below elevated buildings and are not greater than 100 square feet in floor area.
- (3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- (4) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.
- (5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.
- (6) If greater than 100 square feet in floor area, are compliant with section 158-64(8) of this chapter.

Secs. 158-244—158-250. Reserved.

DIVISION 3. SUBDIVISIONS

DIVISION 4. SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

Sec. 158-261. Minimum requirements.

All proposed development shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage, will be reasonably safe from flooding, and will not result in adverse impact;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Sec. 158-264. Limitations on placement of fill.

Subject to the limitations of this chapter, fill shall be the minimum necessary for the intended purpose and shall:

1. Be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour.
2. Not divert floodwater or waves, if such diversion results in adverse impact.

In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

Sec. 158-265. Limitations on sites in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones, alteration of sand dunes shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection, and alteration of mangrove standards shall be permitted only if permitted by Pinellas County pursuant to chapter 166, article II, division 3 of the county's Land Development Code, and only if the engineering analysis required by section 158-83(4) of this chapter demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 158-338(3) of this chapter.

Secs. 158-266—158-280. Reserved.

DIVISION 5. MANUFACTURED HOMES

Sec. 158-282. Limitations on installations in coastal high hazard areas (Zone V) and Coastal A Zones.

Sec. 158-286. General elevation requirement.

Manufactured homes that are placed, replaced, or substantially improved shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential section R322.2 (Zone A) or section R322.3 (Zone V and Coastal A Zones).

DIVISION 6. RECREATIONAL VEHICLES AND PARK TRAILERS

DIVISION 7. TANKS

DIVISION 8. OTHER DEVELOPMENT

Sec. 158-331. General requirements for other development.

All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the Florida Building Code, shall:

- (1) Be located and constructed to minimize flood damage and not result in adverse impact;
- (2) Meet the limitations of sections 158-221 and 158-83(1) of this chapter if located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (4) Be constructed of flood damage-resistant materials; and
- (5) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Sec. 158-332. Fences and walls.

Fences and walls shall:

1. Be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwater; and
2. Not divert floodwater or waves, if such diversion results in adverse impact.

Sec. 158-333. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four inches.

Sec. 158-334. Decks and patios in coastal high hazard areas (Zone V) and Coastal A Zones.

In addition to the requirements of the Florida Building Code, in coastal high hazard areas and Coastal A Zones decks and patios shall be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- (2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

Sec. 158-335. Other development in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent properties. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

- (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

Sec. 158-336. Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.

In coastal high hazard areas and Coastal A Zones:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent properties.
- (3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

DIVISION 9. HAZARDOUS MATERIALS

[End of Section 2 of this Ordinance: Amendments to Chapter 158]

SECTION 3: Severability. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 4: Areas Embraced. In accordance with Section 158-22 of the Pinellas County Land Development Code, this Ordinance shall apply to flood hazard areas established in Section 158-23 of the Pinellas County Land Development Code within the following areas:

- (1) All areas within the unincorporated area of Pinellas County;
- (2) Property, easements, right-of-way and/or any other areas which the county has jurisdiction over outside the unincorporated areas of the county;
- (3) Any activities which would have an effect on floodplains within the areas described in subsections (1) and (2) above.

SECTION 5: Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to section, article,, or other such appropriate word or phrase in order to accomplish such intentions.

SECTION 6: Filing of Ordinance; Effective Date. Pursuant to Section 125.66 of the Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing with the Department of State.

APPROVED AS TO FORM
By: *Brendan Mackesey*
Office of the County Attorney