

ORDINANCE NO. 21-536

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF BRADENTON BEACH AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF BRADENTON BEACH, TO PROVIDE FOR HIGHER REGULATORY STANDARDS TO PARTIALLY IMPLEMENT COMPREHENSIVE PLANS ADDRESSING PERIL OF FLOOD; PROVIDE FOR HIGHER REGULATORY STANDARDS RELATED TO FLOOD DAMAGE MITIGATION; TO ADOPT ADMINISTRATIVE AND TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

WHEREAS, the City Commission has determined it appropriate to adopt regulations that are consistent with the FEMA Policy to allow issuance of permits for wet floodproofed accessory structures that are not larger than the sizes specified in the FEMA Policy.

WHEREAS, the City of Bradenton 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, achieving a CRS rating of Class 6; and

WHEREAS, 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 and to satisfy the prerequisite and for Bradenton Beach to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated such that the lowest floors are at or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the City Commission determined that it is in the public interest to amend the floodplain management regulations to better protect owners and occupants of manufactured homes and to continue participating in the Community Rating System at the current class rating; and

WHEREAS, the City Commission approved "PERIL OF FLOOD" amendments to the Comprehensive Plan per Ordinance 19-506, and desires to partially implement resiliency requirements to address Peril of Flood through higher regulatory standards; and

In terms of design, plan application review, construction and inspection of buildings and structures subject to the Florida Building Code, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

SECTION 11. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Bradenton Beach. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 12. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the City of Bradenton Beach that the provisions of this ordinance shall become and be made a part of the City of Bradenton Beach's Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 13. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 14. Scrivener's Error. Staff shall be vested with the authority to correct any scrivener's errors and to re-number this Ordinance as necessary.

SECTION 15. EFFECTIVE DATE.

This ordinance shall take effect on **August 10, 2021.**

PASSED AND DULY ADOPTED with a quorum present and voting the 15 th day of June, 2021.

CITY OF BRADENTON BEACH, FLORIDA, BY AND THROUGH THE CITY COMMISSION OF THE CITY OF BRADENTON BEACH.

BY: 
JOHN CHAPPIE, MAYOR

ATTEST: 
TERRI SANCLEMENTE, CITY CLERK

(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.

* * *

Limit of Moderate Wave Action – Line shown on FIRMs to indicate the inland limit of the 1.5 foot breaking wave height during the base flood.

* * *

Market value - The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the may be established by a qualified independent appraiser, Actual Cash Value (like-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

* * *

Substantial Improvement – Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the 1 year period begins when a certificate of completion or certificate of occupancy is issued, or when a final inspection of improvements is approved on the date of the first permit issuance for improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the 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.]

Section 815. Technical amendments to the Florida Building Code, Building, for flood hazard areas.

Modifications to Section 1612 (Flood loads)

1612.4.3. 1612.4.4 Elevation requirements. The minimum elevation requirements shall be as specified in ASCE 24 or the base flood elevation plus four (4) feet 2-feet (610 mm), whichever is higher, except dry floodproofing shall be as specified in ASCE 24 or the base flood elevation plus 2 feet, whichever is higher.

1612.4.4. 1612.4.2. Additional requirements for enclosed areas for multifamily residential buildings. In addition to the requirements of ASCE 24, enclosed areas below the lowest floor of multifamily residential buildings design flood elevation shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators.

1612.4.5 Modification of ASCE 24 (Coastal A Zone). ASCE 24 Chapter 4 provisions for stem walls shall not apply in Coastal A Zones.

Modification to 202 1612.2 (Definitions)

COASTAL A ZONE. See Chapter 1, Land Development Code, City of Bradenton Beach. 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 1 ½ 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.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a 1 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 1 year period begins when a certificate of completion or certificate of occupancy is issued, or when a final inspection of improvements is approved on the date of the first permit issuance for improvement or repair of that structure subsequent to the effective date of this ordinance. 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 816. Technical amendments to the Florida Building Code, Residential, for flood hazard areas.

Modify Sec. R322.2 as follows:

R322.2 Flood hazard areas (including A Zones). All areas that have been determined to be prone to flooding but not subject to high velocity wave action shall be designated as flood hazard areas. Flood hazard areas that have been delineated on the FIRM as subject to wave heights between 1 1/2 feet (457 mm) and 3 feet (914 mm) and flood hazard areas that are seaward of the Coastal Construction Control Line shall be designated as Coastal A Zones as defined in Chapter 1, Land Development Code, City of Bradenton Beach, are subject to the requirements of Section R322.3. All building and structures constructed in whole or in part in flood hazard areas shall be designed and constructed in accordance with Sections R322.2.1 through R322.2.3.

R322.2.1 Coastal A Zones. Buildings and structures in flood hazard areas designated as Coastal A Zones shall be designed and constructed in accordance with Section R322.3.

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not including flood hazard areas designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation plus four (4) feet 1 foot (305 mm), or the design flood elevation, whichever is higher.
2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet (mm) on the FIRM plus four (4) feet 1 foot (305 mm), or not less than 5 feet 3 feet (915 mm) if a depth number is not specified.
3. Basement floors that are below grade on all sides shall be elevated to or above base flood elevation plus four (4) feet 1 foot (305 mm), or the design flood elevation, whichever is higher.

Exception: Enclosed areas below the design flood elevation, including basements with floors that are not below grade on all sides, shall meet the requirements of Section 322.2.2.

~~R322.2 Flood hazard areas (including A Zones).~~

~~All areas that have been determined to be prone to flooding but not subject to high velocity wave action shall be designated as flood hazard areas. Flood hazard areas that have been delineated on the FIRM as subject to wave heights between 1 1/2 feet (457 mm) and 3 feet (914 mm) and flood hazard areas that are seaward of the Coastal Construction Control Line shall be designated as Coastal A Zones. All building and structures constructed in whole or in part in flood hazard areas shall be designed and constructed in accordance with Sections R322.2.1 through R322.2.3.~~

~~R322.2.1 Coastal A Zones. Buildings and structures in flood hazard areas designated as Coastal A Zones shall be designed and constructed in accordance with Section R322.3.~~

~~R322.2.2 Elevation requirements.~~

- ~~1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 2 feet or the design flood elevation, whichever is higher.~~

2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM, plus 2 feet, or at least 4 feet (10 mm) if a depth number is not specified.
3. Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus 2 feet or the design flood elevation, whichever is higher.

Exception: Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.

R322.2.3 Enclosed areas below the required design flood elevation. Enclosed areas, including crawl spaces, that are below the required elevation design flood elevation shall:

1. Be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators. The limitation on partitions does not apply to crawlspace foundations. Enclosed areas used for building access, including stairwells and elevators, shall be no larger than 250 sq. ft.

R322.2.3 Foundation design and construction. Foundation walls for buildings and structures erected in flood hazard areas shall meet the requirements of Chapter 4 and shall be designed and certified by registered design professionals.

Exception: Unless designed in accordance with Section R404:

1. The unsupported height of 6-inch (152 mm) plain masonry walls shall be not more than 3 feet (914 mm).
2. The unsupported height of 8-inch (203 mm) plain masonry walls shall be not more than 4 feet (1219 mm).
3. The unsupported height of 8-inch (203 mm) reinforced masonry walls shall be not more than 8 feet (2438 mm).

For the purpose of this exception, unsupported height is the distance from the finished grade of the under floor space to the top of the wall.

Modify Sec. R322.3 as follows:

R322.3 Coastal high-hazard areas (including V Zones and Coastal A Zones, where designated). Areas that have been determined to be subject to wave heights in excess of 3 feet (914 mm) or subject to high-velocity wave action or wave-induced erosion shall be designated as coastal high-hazard areas. Flood hazard areas that have been designated as subject to wave heights between 1 ½ (457 mm) and 3 feet (914 mm) or otherwise designated by the jurisdiction shall be designated as Coastal A Zones are defined in Chapter 1, Land Development Code, City of Bradenton Beach. Buildings and structures constructed in whole or in part in coastal high-

hazard areas and coastal A Zones, where designated, shall be designed and constructed in accordance with Sections R322.3.1 through R322.3.7.

R322.3.1 Location and site preparation.

1. New buildings and buildings that are determined to be substantially improved pursuant to the Florida Building Code, Existing Building shall be located a minimum of fifty feet (50') landward of the reach of mean high tide for properties fronting on the Gulf of Mexico, and twenty-five feet (25') for properties fronting on Anna Maria Sound and Sarasota Bay.
2. For any alteration of sand dunes and mangrove stands, the building official shall require submission of an engineering analysis which demonstrates that the proposed alteration will not increase the potential for flood damage.

R322.3.2 Elevation requirements.

1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the bottom of the lowest horizontal structure members supporting the lowest floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus four (4) feet 1-foot (305 mm)-or the design flood elevation, whichever is higher.
2. Basement floors that are below grade on all sides are prohibited.
3. The use of fill for structural support is prohibited.
4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
5. Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.5 and R322.3.6.
- ~~1. All buildings and structures erected within coastal high hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of mat or raft foundations, piling, pile caps, columns, grade beams and bracing, is:~~
 - ~~1.1. Located at or above base flood elevation plus 2 feet or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented parallel to the direction of wave approach, where parallel shall mean less than or equal to 20 degrees (0.35 rad) from the direction of approach, or~~
 - ~~1.2. Located at the base flood elevation plus 3 feet, or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented perpendicular to the direction of wave approach, where perpendicular shall mean greater than 20 degrees (0.35 rad) from the direction of approach.~~
- ~~2. Basement floors that are below grade on all sides are prohibited.~~

~~3. The use of fill for structural support is prohibited.~~

~~4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.~~

~~Exception: Walls enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.~~

R322.3.3 Foundations. Buildings and structures erected in coastal high-hazard areas and Coastal A Zones shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. The space below the elevated building shall be either free of obstruction or, if enclosed with walls, the walls shall meet the requirements of Section R322.3.5. Pilings shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water-loading values used shall be those associated with the design flood. Wind-loading values shall be those required by this code. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling. Pile systems design and installation shall be certified in accordance with Section R322.3.9. Spread footing, mat, raft or other foundations that support columns shall not be permitted where soil investigations that are required in accordance with Section R401.4 indicate that soil material under the spread footing, mat, raft or other foundation is subject to scour or erosion from wave-velocity flow conditions. If permitted, spread footing, mat, raft or other foundations that support columns shall be designed in accordance with ASCE 24.

~~Exception: In Coastal A Zones, stem wall foundations supporting a floor system above and backfilled with soil or gravel to the underside of the floor system shall be permitted provided the foundations are designed to account for wave action, debris impact, erosion and local scour. Where soils are susceptible to erosion and local scour, stem wall foundations shall have deep footings to account for the loss of soil.~~

~~R322.3.4 Walls below design flood elevation:~~

~~Walls are permitted below the elevated floor, provided that such walls partitions are not part of the structural support of the building or structure and:~~

- ~~1. Electrical, mechanical, and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and~~
- ~~2. Are constructed with insect screening or open lattice; or~~
- ~~3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 (479 Pa) and no more than 20 pounds per square foot (958 Pa); or~~
- ~~4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), the construction documents shall include documentation prepared and sealed by a registered design professional that:~~

- ~~4.1. The walls and partitions below the design flood elevation have been designed to collapse from a water load less than that which would occur during the design flood.~~
- ~~4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the design flood. Wind loading values shall be those required by this code.~~
- ~~5. If located in flood hazard areas designated as Coastal A Zones, the walls are provided with flood openings that meet the criteria in R322.2.2.~~

R322.3.6 Enclosed areas below the required design flood elevation. Enclosed areas below the required design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators. Enclosed areas used for building access, including stairwells and elevators, shall be no larger than 250 sq. ft.

Section 817. Technical amendments to the Florida Building Code, Existing Building, for flood hazard areas.

Modify Section 202 (General Definitions) as follows:

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a 1 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 1 year period begins when a certificate of completion or certificate of occupancy is issued, or when a final inspection of improvements is approved on the date of the first permit issuance for improvement or repair of that structure subsequent to the effective date of this ordinance. 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 9. Chapter 9 is revised and amended in its entirety, as follows. Strikethrough text indicates deletions. Underlined text indicates revisions or additions.

CHAPTER 9

FLOOD AND HURRICANE DAMAGE PREVENTION