

**A RESOLUTION PROVIDING FOR LOCAL TECHNICAL AMENDMENTS TO THE FLOOD RESISTANT PROVISIONS OF THE FLORIDA BUILDING CODE IN UNINCORPORATED PINELLAS COUNTY; PROVIDING FOR A FISCAL IMPACT STATEMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of the *Florida Building Code*;

**WHEREAS**, Section 553.73(5), Florida Statutes, authorizes local governments to adopt local amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives, so long as such amendments are more stringent than the *Florida Building Code*;

**WHEREAS**, notwithstanding Section 553.73(5), Florida Statutes, pursuant to Chapter 75-489, Laws of Florida, as amended, the Pinellas County Construction Licensing Board is the sole local governing body in Pinellas County authorized to adopt local technical amendments to the *Florida Building Code*, including those implementing the National Flood Insurance Program;

**WHEREAS**, the Board of County Commissioners of Pinellas County, Florida, by Resolution No. 21-113, adopted on October 12, 2021, recommends adoption of the following local technical amendments to the *Florida Building Code* in unincorporated areas for the purpose of participating in the National Flood Insurance Program's Community Rating System: (1) modifying the definitions of Substantial Damage and Substantial Improvement; (2) requiring building applications for dry floodproofed nonresidential buildings to include operation, inspection, and maintenance plans; (3) requiring submission of a completed FEMA Non-Residential Floodproofing Certification Form 086-0-34 both before construction and following final inspection; (4) requiring affidavits that as built construction complies with ASCE 24; (5) removing the exception allowing stem wall foundations for residential structures in Coastal A Zones; and (5) requiring additions and alterations to existing buildings that are not substantial improvements to be no lower than the lowest floor elevation of the existing buildings;

**WHEREAS**, it is in the public interest to adopt these local technical amendments, which are no more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, and are compliant with Section 553.73(4), Florida Statutes; and

**WHEREAS**, pursuant to Section 553.73(4), Florida Statutes, said local technical amendments are being formatted to coordinate with the *Florida Building Code*.

**NOW THEREFORE, BE IT RESOLVED** that the following local technical amendments to the Florida Building Code in unincorporated Pinellas County (the "Amendments") are hereby adopted:

***I. The Florida Building Code, Building is hereby revised as follows:***

## Section 202 Definitions.

**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 ~~49~~<sup>50</sup> percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, rehabilitation, alteration, 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 ~~50~~<sup>49</sup> percent of the market value of the structure before the improvement or repair is started. The rolling period of accumulation begins when the permit for the first improvement or repair of each building is finalized. 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 is 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.

### 1612.5 Flood hazard documentation.

The following documentation shall be prepared and sealed by a registered design professional and submitted to the building official:

1. For construction in flood hazard areas other than coastal high hazard areas or coastal A zones:
  - 1.1. The elevation of the lowest floor, including the basement, as required by the lowest floor elevation inspection in Section 110.3, Building, 1.1 and for the final inspection in Section 110.3, Building, 5.1.
  - 1.2. For fully enclosed areas below the design flood elevation where provisions to allow for the automatic entry and exit of floodwaters do not meet the minimum requirements in Section 2.7.2.1 of ASCE 24, construction documents shall include a statement that the design will provide for equalization of hydrostatic flood forces in accordance with Section 2.7.2.2 of ASCE 24.
  - 1.3. For dry floodproofed nonresidential buildings, construction documents shall include a statement that the dry floodproofing is designed in accordance with ASCE 24, as well as a detailed operation, inspection, and maintenance plan.
  - 1.4. Together with the permit application, the design professional shall submit a completed FEMA Non-Residential Floodproofing Certification Form 086-0-34. Just prior to final

inspection, the design professional shall submit a separate completed FEMA Non-Residential Flood Proofing Certification Form 086-0-34.

2. For construction in coastal high hazard areas and coastal A zones:

2.1. The elevation of the bottom of the lowest horizontal structural member as required by the lowest floor elevation inspection in Section 110.3, Building, 1.1 and for the final inspection in Section 110.3, Building, 5.1.

2.2. Construction documents shall include a statement that the building is designed in accordance with ASCE 24, including that the pile or column foundation and building or structure to be attached thereto is designed to be anchored to resist flotation, collapse and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components, and other load requirements of Chapter 16.

2.3. For breakaway walls designed to have a resistance of more than 20 psf (0.96 kN/m<sup>2</sup>) determined using allowable stress design, construction documents shall include a statement that the breakaway wall is designed in accordance with ASCE 24.

2.4. Just prior to final inspection, the design professional shall submit an affidavit affirming that the as built construction complies with ASCE 24.

***II. The Florida Building Code, Residential is hereby revised as follows:***

**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.~~

[End of **R322.3.3 Foundations.**]

To correspond with the Seventh Edition of the *Florida Building Code*, **R322.3.5 Enclosed areas below the design flood elevation** is hereby renumbered **R322.3.6**.

### ***III. The Florida Building Code, Existing Building is hereby revised as follows:***

#### **Section 202 Definitions.**

**SUBSTANTIAL DAMAGE.** For the purposes of determining compliance with the flood provisions of this code, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50-49 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** For the purposes of determining compliance with the flood provisions of this code, any combination of repair, reconstruction, rehabilitation, alteration, 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 50-49 percent of the market value of the structure before the improvement or repair is started. The rolling period of accumulation begins when the permit for the first improvement or repair of each building is finalized. 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 is 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.

#### **502.2 [Additions] Flood hazard areas.**

For buildings and structures in *flood hazard areas* established in Section 1612.3 of the Florida Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable, any *addition* that constitutes *substantial improvement* of the existing structure shall comply with the flood design requirements for new construction, and all aspects of the existing structure shall be brought into compliance with the requirements for new construction for flood design.

For buildings and structures in *flood hazard areas* established in Section 1612.3 of the Florida Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable, any *additions* that do not constitute *substantial improvement* of the existing structure are not required to comply with the flood design requirements for new construction. The additions shall be no lower than the lowest floor elevation of the existing structure as determined by the Building Official.

#### **503.2 [Alterations] Flood hazard areas**

For buildings and structures in *flood hazard areas* established in Section 1612.3 of the Florida Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable,

any *alteration* that constitutes *substantial improvement* of the existing structure shall comply with the flood design requirements for new construction, and all aspects of the existing structure shall be brought into compliance with the requirements for new construction for flood design.

For buildings and structures in *flood hazard areas* established in Section 1612.3 of the Florida Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable, any alterations that do not constitute *substantial improvement* of the existing structure are not required to comply with the flood design requirements for new construction. The alterations shall be no lower than the lowest floor elevation of the existing structure as determined by the Building Official.

[End of Local Technical Amendments to the *Florida Building Code*.]

### **Fiscal Impact Statement:**

The Amendments will be implemented by numerous departments under the Pinellas County Board of County Commissioners (the “County”), including but not limited to the County Building and Development Review Services and Public Works Departments. The Amendments require the County to perform the following tasks at the development review phase: (a) modify the substantial improvement calculus; (b) collect new paperwork; and (c) flag proposed now-noncompliant improvements. Significantly, the County already performs a thorough review of all development subject to these Amendments for compliance with the Florida Building Code and Chapter 158 (Floodplain Management) of the Pinellas County Land Development Code; the tasks referenced above can be seamlessly streamlined into this existing review process using existing resources.

Enforcement for non-compliance will be handled by County employees designated as code enforcement officers. If necessary, legal proceedings may be initiated by the Pinellas County Attorney’s Office. Notably, the County has an efficient enforcement process in place for violations of the Florida Building Code (including local technical amendments thereto). Furthermore, compliance with the Amendments is not anticipated to be unduly difficult or burdensome.

In sum, the cost to the County to implement and enforce the Amendments is negligible. Conversely, the County will materially benefit from the Amendments by receiving Community Rating System (CRS) Credits. Notably, CRS Credits ultimately benefit property owners, building owners, and industry (“Owners”) through lower flood insurance premiums. Owners also stand to benefit from the Amendments through lower risk of flood damage.

On the other hand, the cost of the Amendments to Owners as an overall average is negligible. Owners must already comply with the new substantial improvement threshold, which is a requirement in Chapter 158 (Floodplain Management). Furthermore, obtaining an O&M plan and floodproofing certification form does not impose a significant financial burden in most cases. Finally, due to the minimal topographic relief in the County, the overall impact from the lowest floor requirement is de minimis.

Regarding removal of the stem-wall foundation exemption for residential buildings in Coastal A Zones, some Owners could incur minor increased development costs, which may be offset by reduced flood insurance premiums and reduced flood damage. However, as only 3.7% of land area and 1.4% of existing buildings in unincorporated County are in Coastal A Zones, the number of Owners affected will be very low. Additionally, due to the depth of flooding in Coastal A Zones, it is generally infeasible to

construct on stem walls. Even further, based on recent local flood risk data and mapping methodology recommendations by the Federal Technical Mapping Advisory Council (TMAC), the next time that the Federal Emergency Management Agency (FEMA) updates its Flood Insurance Rate Maps (FIRM), all Coastal A Zones in unincorporated areas will likely be designated as V Zones; the State exemption is inapplicable in V Zones, making structures constructed on stem walls there nonconforming. Finally, as implied above, flood insurance rates are generally discounted for structures constructed on posts, piles, or piers vs. stem walls.

**Applicability:**

The Amendments apply only in unincorporated areas of Pinellas County.

**Severability:**

If any part of the Amendments is adjudged by a court of law to be illegal or invalid, the remainder of the Amendments remain in full force and effect.

**Effective Date:**

The Amendments are effective thirty days after being received and published by the Florida Building Commission.

Approved as to Form: Brendan Mackesey  
Assistant County Attorney