



## **PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT**

**MEETING DATE:** October 19, 2021

**AGENDA ITEM:** F.1.

**CASE:** TA2021-08003

**ORDINANCE NO.:** 9508-21

**REQUEST:** To amend the City of Clearwater's Community Development Code (Floodplain Management Ordinance) to allow for the use of best available data when establishing flood hazard areas, including Pinellas County's Vulnerability Assessment (2021), to address accessory structures used for parking and storage, to modify provisions for manufactured homes, to modify or delete various definitions, and to make other administrative amendments.

**INITIATED BY:** City of Clearwater, Planning and Development Department

### **BACKGROUND:**

The new FEMA Flood Insurance Rate Map (FIRM) was automatically adopted on August 24, 2021. The FIRM was under development since 2014 and implemented very few changes since the initial draft release. Pinellas County and other municipalities submitted comments and objections to the preliminary maps. FEMA evaluated the concerns but did not make any changes to the draft maps. The effective FIRM includes a significant decrease in base flood elevation (BFE) on Clearwater Beach, Sand Key, and Island Estates. In some places, the BFE is 6 feet lower than the previous BFE and outside of the Special Flood Hazard Area (SFHA). This means those properties would not need to elevate or have additional protection from storms. This situation is not unique to Clearwater; all beach communities have lower BFEs per the new FIRM. To address this problem, Pinellas County developed the Sea Level Rise and Storm Surge Vulnerability Assessment (also known as the RESTORE Act Vulnerability Assessment, and hereinafter called the VA) which was finalized this year. The VA has been peer reviewed by Engineering staff, and was presented to City Council on August 30, 2021. City Council agreed that the VA should be used to establish flood hazard areas and applicable BFE for properties in areas where the FIRM establishes a lower BFE than what the VA projects is more likely in a flood event. By regulating

to a higher standard than the FIRM, the City could receive additional Community Rating System (CRS) points.

The Community Rating System Program (CRS 2021) Update implements a Class 8 prerequisite requiring manufactured homes to be elevated the same as other residential properties. This update is applicable to new or replaced manufactured homes and potentially impacts four manufactured home parks within the City located along Tampa Bay. Any CRS community that wants to achieve or maintain a CRS rating of Class 8 or better (i.e., lower rating/score) must include this language. Since the City has a Class 6 rating, not addressing this new requirement would mean an automatic downgrade in CRS score (i.e., at best a Class 9 rating), which would have a significant impact on residents' insurance premiums.

Planning and Development, working closely with Engineering, has prepared Ordinance 9508-21 to codify these updates to the Floodplain Management Ordinance, which was previously amended in 2018 (Ordinance 9189-18).

## ANALYSIS:

Proposed Ordinance No. 9508-21 implements the following revisions.

- **Pinellas County's Vulnerability Assessment**

The proposed ordinance amends *Sec. 51.103 Establishing flood hazard areas* to adopt Pinellas County's Vulnerability Assessment (VA) by reference so it can be used as local best available data, and clarifies that where there are differences in the data, the more restrictive shall govern. The VA includes a more accurate BFE based on more recent storms, a 3D model, and new light detection and radar (LiDAR) imaging data.

The BFE in the VA is similar to the previous FIRM, so development will not have significantly different than requirements prior to August 24, 2021, although in limited areas the BFE in the VA may be one or two feet higher than the older requirements.

The City will regulate using the VA in locations where the FIRM's BFE is lower than the VA's BFE. In summary, the City will regulate to the higher BFE of the two approaches, VA or new FIRM. The FIRM will continue to regulate which properties need flood insurance if they have a federally backed-mortgage. The FIRM will also continue to delineate the Limit of Moderate Wave Action (LiMWA) and Coastal A Zone.

- **Manufactured Home Elevations**

The proposed amendments to *Sec. 51.1305 Elevation requirements* identify the height which manufactured homes will need to be elevated, where previously additional elevation was not required. All manufactured homes that are placed, replaced, or substantially improved in the SFHA shall be elevated to at least the elevation required in the Florida Building Code, Residential Section. This means manufactured homes need to be elevated to the BFE plus 2 feet of freeboard.

- **Additional Updates**

Administrative changes were suggested by FEMA and the Florida Department of Emergency Management (FDEM) to make the City's Floodplain Management Ordinance consistent with other municipal floodplain management ordinances throughout the State. These administrative changes include:

- Adding a definition of accessory structures, which for the purpose of this chapter includes those used for parking and storage only, and allowing such accessory structures to be located below the BFE when the newly establish regulations are followed (proposed Section 51.1004);
- Modifying the definition of market value, and deleting definitions for existing manufactured home park or subdivision and expansion to an existing manufactured home park or subdivision;
- Updating the effective Flood Insurance Study (FIS) date; and
- Making other minor administrative revisions.

## **CRITERIA FOR TEXT AMENDMENTS:**

CDC Section 4-601 sets forth the procedures and criteria for reviewing text amendments. All text amendments must comply with the following:

### **1. The proposed amendment is consistent with and furthers the goals, policies and objectives of the Comprehensive Plan.**

A review of the Clearwater Comprehensive Plan identified the following goals, objectives and policies which will be furthered by the proposed Code amendments:

Policy D.3.3.7      Continue active participation and cooperation with the National Flood Insurance Program and the Florida Emergency Management Agency for the purpose of recognizing flood prone areas, and establishing abatement programs that endeavor toward a reduction in damages and losses due to flooding.

Goal E.2            New Development, redevelopment, and investment in public facilities, utilities, and infrastructure shall be managed and regulated to reduce flood risk in the coastal areas resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise and to reduce losses due to flooding and claims made under flood insurance policies issued in this state.

Objective E.2.1    Development and redevelopment in the City shall be planned and managed to reduce risk and losses due to flooding resulting from high-tide events,

- storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise.
- Policy E.2.1.1 Development and redevelopment plans and proposals in the coastal storm area shall be reviewed for compliance with the goals, objectives and policies of the Comprehensive Plan and other appropriate plans and references, including Beach by Design: A Preliminary Design for Clearwater Beach and Design Guidelines, the City's National Flood Insurance Policy (NFIP), Community Rating System (CRS) Program, and Floodplain Management Plan.
- Policy E.2.1.5 The City shall grant building permits in compliance with the rules of FEMA.
- Objective E.2.2 Hazard mitigation efforts will be implemented to reduce flood risk resulting from high-tide events, storm surge, flash flood, stormwater runoff, and the related impacts of sea level rise.
- Policy E.2.2.1 The City shall encourage and support hazard mitigation efforts through continuation of the following activities:
- Participation in the National Flood Insurance Program's Community Rating System;
  - Participation in the Pinellas County's Local Mitigation Strategy;
  - Administration of building regulations consistent with City and FEMA regulations;
  - Review and implementation of appropriate policies and strategies developed by partner agencies or through interagency hazard assessment and mitigation initiatives;
  - Prohibitions of beach sand dune alterations; and
  - Restriction of development in floodways.
- Policy E.2.2.3 The City will continue to apply building code and land development code requirements to ensure noncompliant structures are brought into conformance with FEMA flood elevations standards or will be flood proofed consistent with FEMA standards.
- Objective E.2.4 The practice of adapting the built environment to address impacts of sea level rise shall be an integral part of the City's planning process and in its coordinating with partner agencies.
- Policy E.2.6.1 The City shall continue to evaluate opportunities to protect public facilities, infrastructure, and utilities from the impacts of sea level rise.

- Objective E.4.1 Clearwater shall administer land development regulations to protect public and private property and human life from the effects of hurricane winds and flooding.
- Policy E.4.1.4 Encourage more efficient and climate resilient construction practices locally by:
- Evaluating base finish floor elevation standards with respect to projected sea level rise scenarios and flooding potential; and
  - Evaluating extending the City's cumulative substantial improvement and substantial damage regulation from one-year to a multi-year time period; and
  - Evaluating extending the City's substantial improvement and substantial damage regulatory threshold to less than 50%.
- Objective F.1. The City shall continue to protect floodplains, drainage ways, and all other natural areas having functional hydrological characteristics.
- Policy F.1.2.1 Any construction in the one hundred (100) year floodplain shall comply with all requirements and standards of the Federal Emergency Management Agency of the Federal Flood Insurance Administration, and the City's building codes.

The City's Comprehensive Plan has always incorporated policies related to limiting development in and the protection of floodplains. As a coastal community, reducing risk and losses due to flooding is imperative to the safety of the City's residents, as stated in Goal E.2. and its related policies. The Comprehensive Plan contains a wide variety of other goals, objectives and policies that reinforce this, as well as the need to continue to comply with the requirements of FEMA and building codes, and to continue to participate in the NFIP. Proposed Ordinance 9508-21 implements these goals, objectives and policies by enabling the City to use Pinellas County's Vulnerability Assessment as the best available data to establish a higher BFE in our coastal areas where FEMA's BFE may be lower, thereby protecting public and private property from flood events which are anticipated to increase in frequency and depth over time due to sea level rise. In addition, the proposed amendments requiring manufactured homes to be elevated the same as other residential properties will help the City meet the requirements to maintain its current CRS Class 6 standing, which implements Policy E.2.1.1 (continued participation in in the National Flood Insurance Program's Community Rating System) and Policy E.2.2.3 which addresses bringing nonconforming structures into compliance with FEMA's flood elevation standards.

The above referenced goals, objectives and policies of the Comprehensive Plan will be furthered by Ordinance 9508-21.

## **2. The proposed amendment furthers the purposes of the Community Development Code and other City ordinances and actions designed to implement the Plan.**

The proposed text amendment will further the purposes of the CDC in that it will be consistent with the following purposes set forth in CDC Section 1-103:

- Sec. 1-103.A. It is the purpose of this Development Code to implement the Comprehensive Plan of the city; to promote the health, safety, general welfare and quality of life in the city; to guide the orderly growth and development of the city; to establish rules of procedure for land development approvals; to enhance the character of the city and the preservation of neighborhoods; and to enhance the quality of life of all residents and property owners of the city.
- Sec. 1-103.E.1. Provide for adequate light, air and privacy; secure safety from fire, flood and other damage; prevent overcrowding of the land and undue congestion of population; and improve the quality of life for the citizens of the city.
- Sec. 1-103.E.2. Protect the character and the social and economic stability of all parts of the city through the establishment of reasonable standards which encourage the orderly and beneficial development of land within the city.
- Sec. 1-103.E.12. Coordinate the provisions of this Development Code with corollary provisions relating to parking, fences and walls, signs, and like supplementary requirements designed to establish an integrated and complete regulatory framework for the use of land and water within the city.

The amendments proposed by this ordinance will further the above referenced purposes of the Community Development Code by implementing the aforementioned goals, objectives and policies of the Comprehensive Plan; by establishing reasonable standards which encourage orderly development; by protecting from flood damage; and by maintaining the Floodplain Management Ordinance which serves as a supplementary requirement within this Code. As stated in Section 51.003, the intent of the Floodplain Management Ordinance "... and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas ...". As such, proposed Ordinance 9508-21 furthers the purposes in the CDC.

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## SUMMARY AND RECOMMENDATION:

The proposed amendment to the Community Development Code is consistent with and will further the goals of the Clearwater Comprehensive Plan and the purposes of the Community Development Code. Based upon the above, the Planning and Development Department recommends **APPROVAL** of Ordinance No. 9508-21 that amends the Community Development Code.



Prepared by Planning and Development Department Staff: \_\_\_\_\_

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ATTACHMENTS: Ordinance No. 9508-21

Resume