



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#14-0614

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: June 17, 2014

TITLE: Ordinance – Amending Chapter 14 – Flood Damage Prevention

Recommendation

It is recommended the City Commission adopt an ordinance on second reading to amend Chapter 14 – Flood Damage Prevention to incorporate appropriate flood management language that will make the City of Fort Lauderdale consistent with the State of Florida requirements for compliance with the National Flood Insurance Program (NFIP) as well as the Florida Building Code (FBC).

Background

On June 3, 2014, the City Commission voted unanimously to approve the ordinance on first reading (the June 3, 2014 City Commission meeting minutes were not available at the time of publication).

The following outlines suggested revisions to the language of proposed ordinance between 1st and 2nd reading:

1. At the June 3, 2014 1st reading of the proposed amendment the City Commission indicated the language of Section 14-8.(b) should be amended to state that the decision of the City Commission on appeals may be appealed to the Circuit Court and not the decision of the Variance Committee as was incorrectly indicated in the proposed amendment. To address this staff has revised Section 14-8.(b), *Appeals* (as can be found on page 47 of the proposed ordinance attached as **Exhibit 1**):

(b) Appeals. The City Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision of the ~~Variance Committee~~ City Commission may appeal such decision to the Circuit Court, as provided by Florida Statutes.

2. To remain consistent with references to the Variance Committee (a defined term) staff has modified the language of Section 14-8.(c), *Limitation on authority to grant variances*. The language proposed at 1st reading stated that the decision of the City Commission should be based on the recommendations of the Flood Plain Administrator and the Building Official. However, these positions are members of the Variance Committee as defined in the proposed ordinance and the City Commission should be taking the entire committee's recommendations into consideration. To address this staff has made the following modification to the proposed language of Section 14-8.(c), *Limitations on authority to grant variances* (as can be found on page 47 of the proposed ordinance attached as **Exhibit 1**).

(c) Limitations on authority to grant variances. The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 14.8.(f) of this ordinance, the conditions of issuance set forth in Section 14.8.(g) of this ordinance, and the comments and recommendations of the Variance Committee ~~Floodplain Administrator and the Building Official~~. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

3. During a BizSmart session/public outreach meeting held on May 29, 2014 at the Department of Sustainable Development (DSD) members of the development community and general public were given the opportunity to ask questions regarding the proposed Flood Plain Ordinance. One of these questions was in regards to one of the higher standards being proposed in Section 14-11, which stated all new buildings and substantial improvements shall be elevated to or above the elevation required in the *Florida Building Code*, or the base flood elevation plus one (1) foot, or eighteen inches (18") above the nearest crown of road whichever is higher.

This language gives three options for elevation requirements based on the highest available. The following is a breakdown of those requirements and the rationale for inclusion or exclusion of each:

A. Elevation required by Florida Building Code (FBC)

FBC currently only requires additional elevation for non-residential structures, which equates to base flood plus one-foot (freeboard) with additional height required for critical structures such as hospitals and fire stations. This is maintained in the proposed amendment since some critical structures may require additional height above the base flood plus one-foot requirement for non-critical structures.

B. Base flood elevation plus one-foot

As stated above only non-residential structures are subject to the additional elevation requirements of the FBC. In order to increase the City's Community Rating System (CRS) points staff has included this language, which makes the base flood elevation plus one-foot (freeboard) a requirement for all structures regardless of whether or not they are residential or non-residential. It should be noted that since critical structures may require 2-feet or more above base flood elevation the language needs to clearly state the requirement is for the highest of the options.

C. 18-inches above the crown of the road

This requirement was included after discussions with the Federal Emergency Management Agency (FEMA) consultant. The intent was to ensure, to the greatest extent possible, that roads would take on flood water during a storm event further preventing damage to private property. However, during the public outreach meeting it became clear this requirement would be difficult to administer as the Flood Plain Manager would need to make an interpretation on an ad-hoc basis for each individual situation. This is due to the fact that roads can vary in elevation at any given point. Staff researched the requirements to earn these additional CRS points and have verified that removal of this language has no effect on the additional points earned. This is due to the fact that these particular points are granted based on freeboard, which is covered by the two options indicated in A & B above. In an effort to avoid potential confusion by the property owner staff has no objection to removing this requirement from the proposed ordinance.

To address the above staff has made the following modification to the proposed language of Section 14-11.(1), *Elevation Requirements* (as can be found on page 51 of the proposed ordinance attached as **Exhibit 1**):

- (1) Elevation requirements. All new buildings and substantial improvements of buildings shall have the lowest floor, including basement, elevated to or above the elevation required in the *Florida Building Code*, or the base flood elevation plus one (1) foot, or eighteen inches (18") above the nearest crown of road whichever is higher.

As indicated in Commission Memorandum 14-065 (attached as **Exhibit 2**) the City was notified by the Federal Emergency Management Agency (FEMA) that final flood elevations have been determined for the City of Fort Lauderdale and that FEMA's Flood Insurance Rate Map (FIRM) has identified flood hazard areas which are subject to inundation.

While FEMA was undertaking efforts to update the FIRM, the State of Florida saw an opportunity to have communities update their floodplain regulations by creating a State Model Floodplain Ordinance. This model ordinance would be compliant with National Flood Insurance Program (NFIP) standards as well as the FBC, which in 2010, adopted floodplain management into the code.

As a result a massive collaboration was undertaken to have the State to reexamine the model ordinance in light of higher regulatory standards. The result of those efforts culminated in a Broward County version of the State Model Floodplain Ordinance that is compliant with NFIP and the FBC, allowing the higher regulatory standards to apply.

To address the new requirements the Department of Sustainable Development in collaboration with Public Works has been working with a certified flood plain manager consultant from FEMA to develop a revision to the City's Code of Ordinances that will address the revised flood plain requirements.

In order to meet the requirements and standards of the NIFP the City must adopt or show evidence of adoption of floodplain management regulations that meet the standards of the NFIP regulations, which requires adoption of the current Flood Insurance Study and Flood Insurance Rate Map in a legally enforceable document by August 18, 2014

The NFIP CRS is a voluntary incentive program that recognizes and encourages floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:

1. Reduce flood damage to insurable property;
2. Strengthen and support the insurance aspects of the NFIP, and
3. Encourage a comprehensive approach to floodplain management.

Staff is proposing higher regulatory standards in the proposed ordinance in an effort to earn the City additional CRS points and potentially further lower the insurance rates. These higher regulatory standards are as follows:

1. Adopting higher standards to impose certain limitations on enclosed areas below elevated buildings and requiring a non-conversion agreement for enclosures greater than four feet in height. This regulation will accomplish two objectives. First, it will protect the structural integrity of the building from wave action meaning the water will be able to freely flow underneath the structure without jeopardizing the stability of the structure to the greatest extent possible. Second, it will discourage property owners from finishing the area below the base flood elevation and storing valuable or hazardous items in that area that may cause contamination to environmental sources.
2. Adopting higher standards on new buildings and substantial improvements

of buildings. Requiring the lowest floor, including basement, elevated to or above the elevation required in the *Florida Building Code* or the base flood elevation plus one foot whichever is higher (commonly referred to as freeboard). This higher standard adds height above the base flood elevation to provide an extra margin of protection to account for waves, debris, miscalculations, or lack of data. A freeboard requirement of one foot means that the level of protection for the lowest floor of the structure, associated machinery and equipment, etc. is one foot above the base flood elevation.

3. Adopting a higher standard to prohibit the use of fill to elevate buildings and structures. 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, walkways, and similar ancillary uses. The use of fill to elevate buildings has advantages that make it desirable for developers and homeowners. However, there are problems with using fill: it reduces floodplain storage capacity (the ability to maintain storm water on-site) and it has an adverse impact on native vegetation, wetlands, drainage, and water quality.

This revision to the Code of Ordinances includes a provision for substantial improvements, which is defined as follows:

Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. 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 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.

This amendment will require the City's Flood Plain Manager to make a determination of a Substantial Improvement based on an estimate of market value, cost comparison of the work being performed, an evaluation of previous permits issued as well as notification to the applicant of the determination of a Substantial Improvement. Should projects meet the Substantial Improvement criteria the remaining portions of the building will be required to address the flood resistant construction requirements of the FBC which include waterproofing the existing structure or raising the elevation of the entire structure for single-family homes.

To review the proposed amendment in its entirety please refer to the Flood Damage Prevention ordinance attached as **Exhibit 1**.

Resource Impact

There is no fiscal impact associated with this action.

Strategic Connections

This item corresponds to *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the **Be a sustainable and resilient community** specifically advancing:

- **Goal 2:** Be a sustainable and resilient community.
- **Objective 2:** Reduce flooding and adapt to seal level rise
- **Initiative 1:** Incorporate seal level rise and resiliency projections into the Stormwater management Plan and the Flood Hazard Mitigation Program.

Attachments:

Exhibit 1 – Flood Plain Ordinance Commission Memo 14-065

Exhibit 2 – Floodplain Ordinance

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