

ORDINANCE NO. 9508-21

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA MAKING AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE BY AMENDING CHAPTER 51 FLOOD DAMAGE PREVENTION; PROVIDING FOR INCORPORATION OF UPDATED FEMA FLOOD HAZARD MAPS; AUTHORIZING THE FLOODPLAIN ADMINISTRATOR TO RELY ON BEST AVAILABLE DATA, WHEN LOCALLY DETERMINED DATA IS AVAILABLE, IN ESTABLISHING THE MINIMUM BASIS FOR FLOOD HAZARD AREAS AND BASE FLOOD ELEVATIONS; CLARIFYING DEFINITIONS SPECIFIC TO THIS CHAPTER; PROVIDING CERTAIN CONDITIONS FOR WHEN ACCESSORY STRUCTURES MAY BE LOCATED BELOW THE BASE FLOOD ELEVATION; UPDATING MINIMUM ELEVATION STANDARDS CONSISTENT WITH FLORIDA BUILDING CODE AND FEMA BEST PRACTICES; CERTIFYING PROPER ADVERTISEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Clearwater adopted the Community Development Code on January 21, 1999 which took effect on March 8, 1999; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Clearwater and such areas may be subject to periodic inundation which may result 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; and

WHEREAS, the City of Clearwater wishes to incorporate the new Federal Emergency Management Agency Flood Insurance Study and Flood Insurance Rate Maps, which were effective August 24, 2021, into Chapter 51 of the Clearwater Community Development Code; and

WHEREAS, the City of Clearwater also wishes to utilize best available data, including but not limited to the Pinellas County Vulnerability Assessment, to determine flood hazards; and

WHEREAS, the City of Clearwater also wishes to add language pertaining to accessory structures per FEMA and State guidance; and

WHEREAS, the City of Clearwater was accepted for participation in the NFIP Community Rating System (CRS) on October 1, 1991 and the City desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, the City of Clearwater wishes to retain its Class 6 rating in the NFIP Community Rating System and satisfy the Community Rating System prerequisite to require

manufactured homes installed or replaced in special flood hazard areas to be elevated above the base flood elevation and meet local design flood elevation requirements; and

WHEREAS, at a duly noticed public meeting the Clearwater Community Development Board, pursuant to its responsibilities as the Local Planning Agency, has reviewed this amendment, conducted a public hearing, considered all public testimony and has determined that this amendment is consistent with the City of Clearwater's Comprehensive Plan and recommended that the City Council adopt this amendment; and

WHEREAS, the City Council has fully considered the recommendation of the Community Development Board and testimony and evidence submitted at its public hearing; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

Section 1. That Chapter 51. Flood Damage Prevention, Article I. Administration, Division 2. Applicability, Section 51.103. Establishing flood hazard areas, Community Development Code, be amended to read as follows:

Sec. 51.103. Establishing flood hazard areas.

- (1) *Basis for establishing flood hazard areas.* The flood insurance study for Pinellas County, Florida and incorporated areas, dated August ~~18, 2009~~ 24, 2021 and all subsequent amendments and revisions, and the accompanying FIRMs, and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. When locally determined data is available, the City will refer to the best available data to establish flood hazard areas. Locally determined data shall include but not be limited to the Pinellas County Sea Level Rise and Storm Surge Vulnerability Assessment (RESTORE Act Vulnerability Assessment (2021)), and any subsequent amendments thereto, which is adopted by reference and made a part of this chapter. Where there are differences in the flood hazard data, the more restrictive shall govern. Studies and maps that establish flood hazard areas are on file at the City of Clearwater Engineering Department.
- (2) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to ~~article 4~~ Division 5 of this chapter ~~Article~~, the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the city indicates that ground elevations:
 - (a) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this chapter and, as applicable, the requirements of the Florida Building Code.
 - (b) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the owner or owner's authorized agent (hereafter

~~“applicant”) applicant~~ obtains a letter of map change that removes the area from the special flood hazard area.

Section 2. That Chapter 51. Flood Damage Prevention, Article I. Administration, Division 4. Permits, Section 51.306. Expiration, Community Development Code, be amended to read as follows:

Sec. 51.306. Expiration.

A ~~floodplain development~~ permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

Section 3. That Chapter 51. Flood Damage Prevention, Article I. Administration, Division 7. Variances and Appeals, Section 51.601. General, Community Development Code, be amended to read as follows:

Sec. 51.601. General.

The building/flood board of adjustment and appeals shall hear and decide on requests for appeals and requests for variances from the strict application of ~~the flood resistant construction requirements of the Florida Building Code~~ this chapter. Pursuant to section 553.73(5) F.S. the building/flood board of adjustment and appeals shall hear and decide on requests for appeals and requests for variances. This section does not apply to Section 3109 of the Florida Building Code, Building.

Section 4. That Chapter 51. Flood Damage Prevention, Article II, Definitions, Division 2. Definitions, Section 51.851. Definitions, Community Development Code, be amended to read as follows:

Sec. 51.851. Definitions.

Accessory structure means a structure on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes accessory structures used only for parking and storage.

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~~Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are. to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 4, 1971.~~

~~Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

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~~Market value means 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 chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. The market value of a non-residential building does not include the value of the use or occupancy. Market value is the actual cash value (in-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 (the "PAO") for Ad Valorem taxation purposes, adjusted to approximate market value as determined by the PAO. may be established by a qualified independent appraiser using a recognized appraisal method or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.~~

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~~New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 4, 1971~~

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Section 5. That Chapter 51. Flood Damage Prevention, Article III. Flood Resistant Development, Division 2. Buildings and Structures, Community Development Code, be amended to add a new Section 51.1004. Accessory Structures to read as follows:

Sec. 51.1004. Accessory Structures.

Accessory structures, as defined in this chapter, that are located in coastal high hazard areas (Zone V/VE), special flood hazard areas (Zone A/AE), or both areas are permitted below the base flood elevation provided such structures are in compliance with the following standards:

- (1) Those accessory structures located in Zone V/VE shall not be located below elevated buildings and shall not be larger than 100 sq ft in size;
- (2) Those accessory structures located in Zone A/AE shall be one-story in height and no larger than 600 sq ft. in size, and shall have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential;
- (3) Such structures shall only be used for parking and storage purposes;

- (4) Such structures shall be anchored to resist floatation, collapse or lateral movement resulting from flood loads;
- (5) Such structures shall have flood damage-resistant materials used below the base flood elevation plus two (2) feet; and
- (6) Such structures shall have mechanical, plumbing, and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus two (2) feet.

Section 6. That Chapter 51. Flood Damage Prevention, Article III. Flood Resistant Development, Division 5. Manufactured Homes, Section 51.1303. Foundations, Community Development Code, be amended to read as follows:

All newly installed manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

- (1) In flood hazard areas (Zone A) other than coastal high hazard areas and Coastal A Zones, are designed in accordance with the foundation requirements of the Florida Building Code, Residential and this chapter.
- (2) In coastal high hazard areas (Zone V) and Coastal A Zones, are designed in accordance with the foundation requirements of the Florida Building Code, Residential and this chapter. ~~Foundations for manufactured homes subject to Section 51.1305(3) are permitted to be reinforced piers or other foundation elements of at least equivalent strength~~

Section 7. That Chapter 51. Flood Damage Prevention, Article III. Flood Resistant Development, Division 5. Manufactured Homes, Section 51.1305. Elevation Requirements, Community Development Code, be amended to read as follows:

Sec. 51.1305. Elevation requirements.

- ~~(1) All manufactured~~ Manufactured homes that are placed, replaced, or substantially improved in flood hazard areas 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 R322.3 (Zone V and Coastal A Zone). ~~shall comply with Section 51.1305(2) or 51.1305(3), as applicable~~
- ~~(2) General elevation requirement. Unless subject to the requirements of Section 51.1305(3), all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, 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.~~

- ~~(3) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 51.1305(2), including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:~~
- ~~(a) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential; or~~
- ~~(b) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade~~

Section 8. Amendments to the Community Development Code of the City of Clearwater (as originally adopted by Ordinance No. 6348-99 and subsequently amended) are hereby adopted to read as set forth in this Ordinance.

Section 9. The City of Clearwater does hereby certify that the amendments contained herein, as well as the provisions of this Ordinance, are consistent with and in conformance with the City's Comprehensive Plan.

Section 10. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 11. Notice of the proposed enactment of this Ordinance has been properly advertised in a newspaper of general circulation in accordance with applicable law.

Section 12. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING
AS AMENDED

PASSED ON SECOND AND FINAL
READING AND ADOPTED

Frank V. Hibbard
Mayor

Approved as to form:

Attest:

Matthew J. Mytych, Esq.

Rosemarie Call, MPA, MMC
City Clerk