

ORDINANCE 2020-84

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 174, FLOODPLAIN AND STORMWATER MANAGEMENT, SUBCHAPTER 'FLOODPLAIN MANAGEMENT', BY MODIFYING PROVISIONS CONTAINED THEREIN; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 174, Floodplain and Stormwater Management, Subchapter 'Floodplain Management, Part 1 – Administration', is hereby amended and shall henceforth read as follows:

"Section 174.001 TITLE.

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Section 174.002 APPLICABILITY.

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(C) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Brevard County, Florida, and Incorporated Areas, dated ~~March 17, 2014~~ >>January 29, 2021<<, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Hall Annex Building, 120 Malabar Road SE, Palm Bay, Florida 32907.

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Section 174.003 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.

(A) *Designation.* The Floodplain Administrator in the **Growth Management >>Building<<** Department is designated to administer the floodplain management program for the City of Palm Bay. The Floodplain Administrator may delegate performance of certain duties to other employees.

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(H) *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:

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(4) Review required design certifications and documentation of elevations specified by this ordinance and the Florida Building Code to determine that such certifications and documentations are complete; **and**

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of City of Palm Bay are modified; **>>, and<<**

>>(6) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."<<

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Section 174.005 SITE PLANS AND CONSTRUCTION DOCUMENTS.

(A) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

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(4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures**>>; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.<<**

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>>(7) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.<<

(7)>8<<) Existing and proposed alignment of any proposed alteration of a watercourse.

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(D) *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

* * *

>>(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.<<

(4)>5<<) For new principal residential and non-residential structures proposed to be located in a special flood hazard area, the applicant shall submit an application for a Letter of Map Amendment (LOMA) or a Letter Of Map Revision based on Fill (LOMR-F) to FEMA, and a copy of the applicants' submitted application to FEMA shall be submitted to the Floodplain Administrator prior to issuance of the certificate of occupancy. Substantially improved or substantially damaged buildings or structures are exempt from this requirement.

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SECTION 2. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 174, Floodplain and Stormwater Management, Subchapter 'Floodplain Management, Part 2 – Definitions', is hereby amended and shall henceforth read as follows:

"Section 174.020 DEFINITIONS.

(A) Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

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>>**COASTAL HIGH HAZARD AREA.** A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or

seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.<<

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~~**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.**~~ 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 September 3, 1980.

~~**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.**~~ 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).

* * *

~~**NEW MANUFACTURED HOME PARK OR SUBDIVISION.**~~ 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 September 3, 1980.

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>>**SAND DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.<<

* * *"

SECTION 3. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 174, Floodplain and Stormwater Management, Subchapter 'Floodplain Management, Part 3 – Flood Resistant Development', is hereby amended and shall henceforth read as follows:

"Section 174.030 BUILDINGS AND STRUCTURES.

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Section 174.032 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS.

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>>(F) *Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 105.3(4) of this ordinance demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 307.8(3) of this ordinance.<<

Section 174.033 MANUFACTURED HOMES.

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(B) *Foundations.* All new 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,<< are designed in accordance with the foundation requirements of the *Florida Building Code*, Residential Section R322.2 and this ordinance.

>>(2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code*, Residential Section R322.3 and this ordinance.<<

* * *

(D) *Elevation.* ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with subsection (E) or (F) of this section, as applicable.~~ >>All 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 Section R322.3 (Zone V).<<

(E) ~~General elevation requirement.~~ Unless subject to the requirements of subsection (F) of this section, all manufactured homes that are placed, replaced, or substantially improved on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) 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 Section R322.2 (Zone A);

(F) — *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to subsection (E) of this section, 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:

(1) — Bottom of the frame of the manufactured home is at or above the elevation required in the *Florida Building Code*, Residential Section R322.2 (Zone A); or

(2) — Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty-six (36) inches in height above grade.

(G) — *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code*, Residential Section R322 or R322.3 for such enclosed areas, as applicable to the flood hazard area.

(H) — *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code*, Residential Section R322, as applicable to the flood hazard area.

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Section 174.035 TANKS.

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(B) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of subsection (C) of this section shall be:

(1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement

resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

>>(2) Not permitted in coastal high hazard areas (Zone V).<<

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Section 174.036 OTHER DEVELOPMENT.

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>>(F) *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four (4) inches.

(G) *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the *Florida Building Code*, in coastal high hazard areas, decks and patios shall be located, designed, and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

(4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(H) *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

(I) *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:

(1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.<<"

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 6. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 7. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2020- , held on , 2020; and
read in title only and duly enacted at Meeting 2020- , held on , 2020.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

~~Strikethrough~~ words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.