

ORDINANCE NO 2011-05

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING AND REPLACING SECTIONS 94-51 THROUGH 94-114 TO PROVIDE STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND INTENT, OBJECTIVES, SCOPE, DEFINITIONS, TO SPECIFY LANDS TO WHICH THIS ORDINANCE APPLIES, THE BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, DESIGNATION OF FLOODPLAIN ADMINISTRATOR, ADOPTION OF THE COUNTY COASTAL CONSTRUCTION CODE, ESTABLISHMENT OF DEVELOPMENT PERMIT, PERMIT PROCEDURES, COMPLIANCE, ABROGATION AND GREATER RESTRICTIONS, INTERPRETATION, WARNING AND DISCLAIMER OF LIABILITY, PENALTIES FOR VIOLATION AND DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR; TO PROVIDE FOR GENERAL STANDARDS, SPECIFIC STANDARDS, STANDARDS FOR COASTAL HIGH HAZARD AREAS AND VARIANCE PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Division of Emergency Management recently conducted a Community Assistance Visit at the City of Madeira Beach; and

WHEREAS, the Division of Emergency Management State Floodplain Management Office conducts these visits periodically to discuss the City's floodplain management program, its participation in the National Flood Insurance Program and any concerns that staff may have about regulating floodplain development ; and

WHEREAS, the Community Assistance Visit gives the Division of Emergency Management the opportunity to address enforcement of the City's flood damage prevention ordinance; and

WHEREAS, the Division of Environmental Management issued a report describing the findings of its visit; and

WHEREAS, it is necessary to update the City's ordinance to ensure the City's compliance with the National Flood Insurance Program; and

WHEREAS, the City Commission did agenda and discuss in public hearings the proposed amendments to the Code; and

WHEREAS, at the conclusion of city staff presentations and public hearings concerning the amendments, the Commission did find from the facts presented to the City Commission that the amendment is in the public's best interest.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA:

Section 1. That Sections 94-51 through 94-114 of the City's Code of Ordinances are hereby amended and replaced to read as follows:

Sec. 94-51. Statutory Authorization

The Legislature of the State of Florida has authorized and delegated in **Chapter 166, Florida Statutes**, the responsibility of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Madeira Beach, **Pinellas County, FL** does hereby adopt the following floodplain management regulations.

Sec. 94-52. Findings of Fact

- (1) The flood hazard areas of the **City of Madeira Beach** are subject to periodic inundation, which results 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.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

Sec. 94-53. Purpose and intent.

It is the purpose of this ordinance to save lives, promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas within the city. The provisions of this article are designed to:

- (1) Restrict and prohibit uses which are dangerous to life, health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

- (2) Require that uses vulnerable to floods including facilities which serve uses be protected against flood damage throughout their intended life span, facilities are constructed in such a manner as to reduce the vulnerability to flood damage.
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of the floodwaters.
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 94-54. Objectives.

The objectives of this ordinance are to:

- (1) Protect human life, health and the natural environment.
- (2) Minimize expenditure of public money for costly flood control projects;.
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) Implement policies of the coastal and conservation element of the city comprehensive plan which has objectives of restricting development within coastal high hazard areas and hurricane vulnerability zones, and the protection of floodplains, floodways, and other natural areas having functional hydrological characteristics
- (5) Minimize prolonged business interruptions
- (6) Maintain a stable tax base by providing the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (7) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;
- (8) Ensure that potential homebuyers are notified that property is in a flood hazard area.

Sec. 94-55. Scope.

This article shall apply to all new construction or substantial improvements within the jurisdiction of the incorporated area of the City of Madeira Beach.

Sec. 94-56 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Accessory structure (Appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports and storage sheds.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of special flood hazard is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood"). Base flood is the term used throughout this ordinance.

Base Flood Elevation means the water-surface elevation associated with the base flood.

Basement means any portion of a building having its floor sub-grade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building – see **Structure**.

Coastal high hazard area means an area of special flood hazard 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. The area is designated on the FIRM as Zone V1 – V30, VE, or V.

Datum A reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Development means any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction means, for the purposes of floodplain management, structures for which "the start of construction" commenced before May 7, 1971. This term may also be referred to as "existing structures".

Flood or flooding means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

Flood Insurance Rate Map (FIRM) means an official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means the official hydrology and hydraulics report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations of the community.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. This term describes Federal, State of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to

real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions.

Free of Obstruction means any type of lower area enclosure or other construction element will not obstruct the flow of velocity water and wave action beneath the lowest horizontal structural member of the lowest floor of an elevated building during a base flood event. This requirement applies to the structures in velocity zones (V-Zones).

Functionally dependent use means a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship as related to variances from this ordinance means the exceptional difficulty associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic Structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By the approved Florida program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design standards of this ordinance.

Mangrove Stand means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above ground and which contain one or more of the following species: Black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Conocarpus Erecta*).

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

Market value means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

National Geodetic Vertical Datum (NGVD) of 1929 means a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction means, for floodplain management purposes, any structure for which the “start of construction” commenced on or after **May 7, 1971**, based upon specific technical base flood elevation data that establishes the area of special flood hazard. The term also includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) of 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground.

Program deficiency means a defect in the community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.

Public safety and nuisance means anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Reasonably safe from flooding means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Recreational vehicle means a vehicle that is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Remedy a deficiency or violation means to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal, or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive loss means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dune means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area – see **area of special flood hazard**.

Start of construction means, for other than new construction and substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storm cellar means a place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

Structure means, for floodplain management purposes, a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means 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 percent of the market value of the structure before the damage occurred. This term also includes “repetitive loss” structures as defined herein.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

Variance is a grant of relief from the requirements of this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the requirements of this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 94-57. Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Madeira Beach of Pinellas County, Florida.

Sec. 94-58. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for Pinellas County, dated **August 18, 2009**, with the accompanying maps and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and Flood Insurance Rate Map are on file at the City of Madeira Beach.

Sec. 94-59. Designation of Floodplain Administrator

The City of Madeira Beach hereby appoints the Community Development Manager to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Sec. 94-60. Adoption of the county coastal construction code.

The provisions of the county coastal construction code, dated May 16, 1989, and any subsequent additions or amendments are hereby adopted for the city. Where provisions of this article conflict with the county coastal construction code, the provisions of this Chapter shall apply.

Sec. 94-61. Establishment of Development Permit

A development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities. Applications for permits shall be processed under the provisions of Section 86-32. Certificates of Occupancy shall be issued in accordance with the provisions of Section 86-77.

Sec. 94-62 Permit Procedures

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing and proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application Stage:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
- (b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
- (c) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in (2) below and Section 94-70(2);
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- (e) Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and/or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in Coastal High Hazard Areas.

(2) Construction Stage:

Upon placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member of the lowest floor as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

Sec. 94-63. Compliance

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

Sec. 94-64. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 94-65. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State of Florida statutes.

Sec. 94-66. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Madeira Beach or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Sec. 94-67. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable for a non-criminal violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than \$500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.

Sec. 94-68. Duties and Responsibilities of the Floodplain Administrator

Duties of the Administrator shall include, but are not be limited to:

- (1) Review permits to assure sites are reasonably safe from flooding;
- (2) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;

- (3) Require copies of additional Federal, State of Florida, or local permits, especially as they relate to Chapters 161.053; 320.8249; 320.8359; 373.036; 380.05; 381.0065; and 553, Part IV, Florida Statutes, be submitted along with the development permit application and maintain such permits on file with the development permit;
- (4) Notify adjacent communities, the Florida Division of Emergency Management State Floodplain Management Office, Southwest Florida Water Management District, the Federal Emergency Management Agency, and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
- (5) Notify FEMA within six months when new technical or scientific data becomes available to the community concerning physical changes affecting flooding conditions so that risk premium rates and flood plain management requirements will be based on current data.
- (6) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
- (7) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-Zones) or bottom of the lowest horizontal structural member of the lowest floor (V-Zones) of all new and substantially improved buildings, in accordance with Section 94-70 (1) and (2) and Section 94-71(2), respectively;
- (8) Verify and record the actual elevation (in relation to mean sea level) to which the new and substantially improved buildings have been flood-proofed, in accordance with Section 94-70(2);
- (9) Review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building, together with attendant utilities and sanitary facilities, below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with Section 94-70 (2) of this ordinance. In Coastal High Hazard Areas, certification shall be obtained from a registered professional engineer or architect that the building is designed and securely anchored to pilings or columns in order to withstand velocity waters and hurricane wave wash. Additionally in Coastal High Hazard Areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of Section 94-71(6) of this ordinance;
- (10) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article;
- (11) When base flood elevation data and floodway data have not been provided in accordance with Section 94-58, the Floodplain Administrator

shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of Sections 94-69, 94-70 and 94-71;

(12) Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA, and

(13) Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with Section 94-70(1) and (2), respectively.

Sec. 94-69. General Standards

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

(1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;

(11) All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to the Floodplain Administrator along with the application for development permit. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to, the following:

- (a) Southwest Florida Water Management District: in accordance with Chapter 373.036 Florida Statutes, Section (2) (a) – Flood Protection and Floodplain Management;
- (b) Department of Community Affairs: in accordance with Chapter 380.05 F.S. Areas of Critical State Concern, and Chapter 553, Part IV F.S., Florida Building Code;
- (c) Department of Health: in accordance with Chapter 381.0065 F.S. Onsite Sewage Treatment and Disposal Systems; and
- (d) Department of Environmental Protection, Coastal Construction Control Line: in accordance with Chapter 161.053 F.S. Coastal Construction and Excavation.

(12) Standards for Subdivision Proposals and other new Proposed Development (including manufactured homes):

- (a) Such proposals shall be consistent with the need to minimize flood damage;
- (b) Such shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and
- (cc) Such proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(13) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.

(14) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(15) No manufactured home shall be placed in a coastal high hazard area or hurricane evacuation zone, evacuation level "A," except in an existing mobile home park or existing mobile home subdivision.

(16) No new mobile home park or mobile home subdivision or expansions or additions to any existing mobile home park or mobile home subdivision will be permitted in any coastal high hazard area or hurricane evacuation zone, evacuation level "A."

(17) Construction of hospitals, nursing homes, adult congregate living facilities, or any group living homes and/or congregate care facilities is prohibited within any coastal high hazard area or hurricane evacuation zone, evacuation level "A."

Sec. 94-70. Specific Standards

In all A-Zones, where base flood elevation data has been provided as set forth in Section 94-8, the following provisions, in addition to those set forth in Section 94-31, shall apply:

- (1) **Residential Construction.** All new construction and substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than **one foot above** the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of Section 94-70(3).
- (2) **Non-Residential Construction.** All new construction and substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than **one foot above** the base flood elevation. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components, together with attendant utilities and sanitary facilities, below the base flood elevation **plus one foot** are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.
- (3) **Compliance with county zone 3 design and construction standards.** All new construction and substantial improvements of residential and nonresidential buildings and structures allowed to be constructed under A-zone criteria shall comply with the provision for the zone 3 design and construction standards as outlined in the Pinellas Gulf Beaches Coastal Construction Code (Section 3107, Pinellas County Code), unless further modified by this article.
- (4) **Enclosures below the Lowest Floor.** New construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:

- (i) Provide a minimum of two openings on **different sides of each enclosed area** having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- (ii) The bottom of all openings shall be no higher than one foot above adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and
- (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.
 - (a) Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator);
 - (b) Such areas shall be limited to 299 square feet in size; and
 - (c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

(5) Standards for Manufactured Homes and Recreational Vehicles

- (a) All manufactured homes that are placed, or substantially improved within Zone AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than **one foot above** the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (b) All manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision that are not subject to the provisions of paragraph 5 (a) of this Section, must be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated to no lower than one foot above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength that are no less than **48 inches** in height above the grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (d) All recreational vehicles must either:
 - (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or
 - (iii) Meet all the requirements for new construction, including anchoring and elevation standards in accordance with Section 94-70(4) (a) and (b).

- (6) Standards for waterways with established Base Flood Elevations, but without Regulatory Floodways

Located within the areas of special flood hazard established in Section 94-58, where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones AE and A1-30), the following provisions, in addition to those set forth in Section 94-70(1) through (5), shall apply:

- (a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (b) Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies – with the community's endorsement – for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency (FEMA).

- (7) Standards for waterways with established Base Flood Elevations.

Located within areas of special flood hazard established in Section 94-58, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the high velocity of flood waters which carry debris, potential projectiles and have significant erosion potential, the following provisions, in addition to those set forth in Section 94-70(1) through (5), shall apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydrologic and hydraulic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.
 - (b) Placement of manufactured homes is prohibited within the regulatory floodway, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Section 94-69(2), the elevation standards of Section 94-70(1) and (2), and the encroachment standard of Section 94-70(7) (a), are met.
 - (c) Development activities including new construction and substantial improvements within the regulatory floodway that increase the base flood elevation may be allowed, provided that the developer or applicant first applies – with the community’s endorsement – for a conditional FIRM revision, and receives the approval of FEMA.
 - (d) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Section 94-70(7) (a).
- (8) For all structures located seaward of the Coastal Construction Control Line (CCCL), the lowest floor of all new construction and substantial improvements shall be elevated to no lower than the 100-year flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with Article 3, Section B, whichever is higher. All non-elevation design requirements of Article 5, Section B shall apply.

Section 94-71. Standards for Coastal High Hazard Areas (V-Zones)

Located within areas of special flood hazard established in Section 94-58 are Coastal High Hazard Areas, designated as Zones V1–30, VE, or V (with BFE). The following provisions shall apply:

- (1) Meet the standards of Section 94-62 and Sections 94-69, 94-70 (except 94-70(7)), 94-71 and 94-72.
- (2) Compliance with county zone 2 design and construction standards.

All new construction and substantial improvements of residential or nonresidential structures required to be constructed under V-zone criteria shall comply with the provisions for the zone 2 design and construction standards as outlined in the Pinellas Gulf Beaches Coastal Construction Code (Section 3107, Pinellas County Code), unless further modified by this article.

- (2) All new construction and substantial improvements in Zones V1–V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:
 - a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than **one foot above** the base flood elevation whether or not the structure contains a basement; and
 - b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable State of Florida or local, if more stringent than those of the State of Florida, building standards.
- (3) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section.
- (4) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures. The Floodplain Administrator shall maintain a record of all such information.
- (5) All new construction and substantial improvements shall be located landward of the reach of mean high tide.
- (6) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State of

Florida or local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- (a) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - (b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable Florida or local, if more stringent than those of the State of Florida, building standards.
 - (c) Such areas shall be limited to 299 square feet in size;
 - (d) Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. **Such space shall not be finished, partitioned into multiple rooms, or temperature-controlled.**
 - (e) When breakaway walls are used, expansion joints may not be plastered over and must not wrap around columns or piles.
- (7) Prohibit the use of fill for structural support. No development permit shall be issued for development involving fill in coastal high hazard areas unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or other properties.
- (8) Prohibit man-made alteration of sand dunes, mangrove stands, sawgrass or other sundry wetland vegetation that would increase potential flood damage.
- (9) Standards for Manufactured Homes
- (a) All manufactured homes to be placed or substantially improved on sites: (i) Outside a manufactured home park or subdivision, (ii) In a new manufactured home park or subdivision, (iii) In an expansion to an existing manufactured home park or subdivision, or, (iv) In an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage" as the result of a flood, must meet the standards of Section 94-71(2) though (8), or
 - (b) All manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision shall meet the requirements of Section 94-70(4) (b).
- (10) Recreational vehicles placed on sites within Zones VE, V1-V30, V (with base flood elevation) on the FIRM either

- (a) Prohibit the placement of recreational vehicles, except in an existing recreational vehicle park. Recreational vehicles placed on other sites in an existing recreational park must be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site by quick disconnect type utilities and security devices, and has no permanently attached additions). They shall also have a plan for removal in case of a threat at least four hours prior to the arrival of the threat.
- (11) For all structures located seaward of the Coastal Construction Control Line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or the base flood elevation **plus one foot**, whichever is higher. All non-elevation design requirements Article 5, Section 94-71(2) through (10) shall apply.
- (12) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to the structure on site or other properties by wave ramping or deflection.

Sec. 94-72. Variance Procedures.

(1) Designation of variance and appeals board.

The Special Magistrate as established by the City of Madeira Beach of Pinellas County, Florida shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) Duties of variance and appeals board.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Management Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Circuit Court.

(3) Variance procedures.

In acting upon such applications, the Special Magistrate shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger of life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location, where applicable;
- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) Conditions for variances.

(a) Variances shall only be issued when there is:

- (i) A showing of good and sufficient cause;
- (ii) A determination that failure to grant the variance would result in exceptional hardship; and
- (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this ordinance.

(b) Variances shall not be granted after-the-fact.

(c) The Floodplain Administrator shall maintain the records of all variance actions, including justification for their issuance or denial, and report such variances upon request to FEMA and/or the Florida Division of Emergency Management State Floodplain Management Office.

(5) Variance notification.

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
- (2) Such construction below the base flood level increases risks to life and property.

A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Clerk of Court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(6) Historic structures.

Variations may be issued for the repair or rehabilitation of "historic" structures – meeting the definition in this ordinance – upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic" structure.

Section 2. If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective immediately upon final passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS 8th day of November, 2011.



TRAVIS PALLADENO, Mayor

ATTEST:



GINGER STILTON, City Clerk

PASSED ON FIRST READING: October 25, 2011
PUBLISHED: October 23, 2011
PASSED ON SECOND READING: November 8, 2011