

ORDINANCE NO. 2018-_____

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 152, "BUILDINGS," TO REVISE FLOODPLAIN MANAGEMENT REGULATIONS, BY AMENDING SECTION 152.21, "DEFINITIONS," TO MODIFY AND PROVIDE ADDITIONAL DEFINITIONS; BY AMENDING SECTION 152.22, "APPLICABILITY," SECTION 152.24, "PERMITS," SECTION 152.29, "FLOOD RESISTANT DEVELOPMENT OF BUILDINGS AND STRUCTURES," AND SECTION 155.32, "MANUFACTURED HOMES," TO REVISE PROCEDURES, CRITERIA AND REQUIREMENTS FOR DEVELOPMENT IN FLOOD HAZARD AREAS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in Chapter 166, Florida Statutes, the Legislature of the State of Florida has conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Pompano Beach which may be subject to periodic inundation and which may result in loss of life and property; health and safety hazard; 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 Mayor and City Commission of the City of Pompano Beach desire to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for participation in the National Flood Insurance Program, which the City of Pompano Beach was accepted for participation on March 16, 1973; and

WHEREAS, the Mayor and City Commission by strengthening a requirement to increase the minimum elevation requirement for residential and critical facilities buildings in flood hazard areas and X zones, reducing the threshold defining substantial improvement and substantial damage, requiring declarations of land restriction (Nonconversion Agreements) for enclosures below elevated dwellings, restricting placement and elevation requirements for manufactured homes and pursuant to Broward County Board of Rules and Appeals, Section 103, are formatting requirements consistent with the *Florida Building Code*; and

WHEREAS, the Mayor and City Commission of the City of Pompano Beach have determined that it is in the public interest to adopt proposed floodplain management regulations that are coordinated with the *Florida Building Code*; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held pursuant to the aforesaid notice at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 152.21, “Definitions,” of Chapter 152, “Buildings,” of the Pompano Beach Code of Ordinances is hereby amended to read as follows:

152.21 DEFINITIONS.

...

(D) *Definitions.* For purposes of this section, the following definitions shall apply:

...

(9) **CRITICAL FACILITY.** Hospitals, nursing homes, medical services facilities, convalescent and assisted living facilities; police stations, fire stations, storage of critical records; government buildings and law enforcement offices; evacuation shelters and emergency operation centers that are needed for flood response activities before, during, or after a flood; and public and private utility (water and wastewater) facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood; radio/cellular/TV towers; schools and universities; landfills; and structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. The term includes facilities that are assigned Risk Category III and Risk Category IV pursuant to the *Florida Building Code, Building*.

~~(9 10)~~ **CROWN OF ROAD.** The elevation of the highest surface of existing street pavement within the right-of-way abutting the property relative to the National Geodetic Vertical Datum (NGVD) or North America Vertical Datum (NAVD) or otherwise approved by the City Engineer.

(11) **DECLARATION OF LAND RESTRICTION (NONCONVERSION AGREEMENT).** A form provided by the Floodplain Administrator to be signed by the owner and recorded with the property deed in the Official Public Records of Broward County, for the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and regulations relating to enclosures below elevated dwellings.

~~(10 12)~~ **DESIGN FLOOD.** The flood associated with the greater of the following two areas: [Also defined in FBC, B].

(a) Area with a floodplain subject to a ~~1-percent~~ one percent or greater chance of flooding in any year; or

(b) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

~~(11 13)~~ **DESIGN FLOOD ELEVATION.** The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to ~~2-3~~ feet. [Also defined in FBC].

~~(12 14)~~ **DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

~~(13 15)~~ **ENCROACHMENT.** The placement of fill, excavation, buildings, permanent structures or other development into a flood

hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

(14 16) **EXISTING BUILDING and EXISTING STRUCTURE.** Any buildings and structures for which the "start of construction" commenced before September 5, 1979. [Also defined in FBC, B].

(15 17) **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 5, 1979.

(16 18) **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).

(17 19) **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

(18 20) **FLOOD OR FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B].

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(19 21) **FLOOD DAMAGE-RESISTANT MATERIALS.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B].

(20 22) **FLOOD HAZARD AREA.** The greater of the following two areas: [Also defined in FBC, B].

(a) The area within a floodplain subject to a ~~1-percent~~ one percent or greater chance of flooding in any year; or,

(b) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

(21 23) **INSURANCE RATE MAP (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B].

(~~22~~ 24) **FLOOD INSURANCE STUDY (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B].

(~~23~~ 25) **FLOODPLAIN ADMINISTRATOR.** The office or position designated and charged with the administration and enforcement of the Floodplain Regulations (may be referred to as the Floodplain Manager).

(~~24~~ 26) **FLOODPLAIN DEVELOPMENT PERMIT OR APPROVAL.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with the Floodplain Regulations.

(~~25~~ 27) **FLORIDA BUILDING CODE.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

(~~26~~ 28) **FUNCTIONALLY DEPENDENT USE.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

(~~27~~ 29) **HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

(~~28~~ 30) **HISTORIC STRUCTURE.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

(~~29~~ 31) **LETTER OF MAP CHANGE (LOMC).** An official determination issued by ~~FEMA~~ Federal Emergency Management Agency that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

...

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter

of Map Revision may be issued by ~~FEMA~~ Federal Emergency Management Agency to revise the effective FIRM.

(~~30~~ 32) ***LIGHT-DUTY TRUCK.*** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

(~~34~~ 33) ***LOWEST FLOOR.*** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B].

(~~32~~ 34) ***MANUFACTURED HOME.*** A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

(~~33~~ 35) ***MANUFACTURED HOME PARK OR SUBDIVISION.*** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(~~34~~ 36) ***MARKET VALUE.*** 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 the Floodplain Regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

(~~35~~ 37) ***NEW CONSTRUCTION.*** For the purposes of administration of the Floodplain Regulations and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of

construction" commenced on or after September 5, 1979 and includes any subsequent improvements to such structures.

~~(36~~ 38) **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 5, 1979.

~~(37~~ 39) **PARK TRAILER.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in 320.01, F.S.]

~~(38~~ 40) **RECREATIONAL VEHICLE.** A vehicle, including a park trailer, which is: [See section 320.01, F.S.)

- (a) Built on a single chassis;
- (b) Four hundred (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.

~~(39~~ 41) **DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

~~(40~~ 42) **SPECIAL FLOOD HAZARD AREA.** An area in the floodplain subject to a \pm one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B].

~~(41~~ 43) **START OF CONSTRUCTION.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

...

~~(42~~ 44) **SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or

structure to its before-damaged condition would equal or exceed ~~50~~ 49 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B].

~~(43~~ 45) **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds ~~50~~ 49 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B].

(a) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(b) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

~~(44~~ 46) **VARIANCE.** A grant of relief from the requirements of the Floodplain Regulations, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by the Floodplain Regulations or the *Florida Building Code*.

~~(45~~ 47) **WATERCOURSE.** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

SECTION 2. Section 152.22, "Applicability," of Chapter 152, "Buildings," of the Pompano Beach Code of Ordinances is hereby amended to read as follows:

152.22 APPLICABILITY.

...

(B) *Areas to which the Floodplain Regulations apply.* Unless explicitly stated otherwise, The the Floodplain Regulations shall apply to all areas within the City of Pompano Beach, Florida.

...

SECTION 3. That Section 152.24, "Permits," of Chapter 152, "Buildings," of the Pompano Beach Code of Ordinances is hereby amended to read as follows:

152.24 PERMITS.

...

(D) *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

...

(7) Give such other data and information as required by the Floodplain Administrator.

(8) For projects proposing to enclose areas under elevated buildings, a signed Declaration of Land Restriction (Nonconversion Agreement); the agreement shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

SECTION 4. That Section 152.29, "Flood Resistant Development of Buildings and Structures," of Chapter 152, "Buildings," of the Pompano Beach Code of Ordinances is hereby amended to read as follows:

152.29 FLOOD RESISTANT DEVELOPMENT OF BUILDINGS AND STRUCTURES.

...

(C) *Specific methods of construction and requirements.* Pursuant to Broward County Administrative Provisions for the *Florida Building Code*, the following specific methods of construction and requirements apply in all areas of the city:

(1) Minimum elevation.

(a) Residential buildings. New construction and substantial improvement of residential buildings shall have the lowest floor, including basement, elevated to or above the base flood elevation ~~required in the *Florida Building Code, Residential* or *Florida Building Code, Building*, as applicable,~~ plus one foot or at least 18 inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other buildings are located, whichever results in the highest elevation.

(b) Nonresidential buildings. New construction and substantial improvement of nonresidential buildings shall have the lowest floor, including basement, elevated or dry flood-proofed to or above the elevation required in the *Florida Building Code, Building* or at least ~~6~~ six inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other buildings are located, whichever results in the highest elevation.

(c) Critical facilities buildings. New construction and substantial improvement of critical facilities buildings shall have the lowest floor, including basement, elevated or dry flood-proofed to or above the base flood elevation plus two feet or at least 18 inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other buildings are located, whichever results in the highest elevation.

(2) Limitations on enclosed areas below elevated buildings. For buildings in special flood hazard areas, the following limitations apply to enclosed areas below elevated buildings:

(a) Access shall be the minimum necessary to allow for only parking of vehicles (garage door), limited storage of maintenance equipment in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator).

(b) The interior portion shall not be temperature controlled, partitioned, or finished into separate rooms.

SECTION 5. That Section 152.32, "Manufactured Homes," of Chapter 152, "Buildings," of the Pompano Beach Code of Ordinances is hereby amended to read as follows:

152.32 MANUFACTURED HOMES.

...

(E) *General elevation requirement.* Unless subject to the requirements of division (F) of this section, 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 Section R322.2 (Zone A) or Section R322.3 (Zone V).~~

(1) In special flood hazard areas such that the bottom of the frame of the manufactured home is at or above the base flood elevation plus one foot; or at least 18 inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other manufactured homes are located, whichever results in the highest elevation.

(2) Outside special flood hazard areas such that the 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; or at least 18 inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other manufactured homes are located, whichever results in the highest elevation.

(F) *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to ~~division~~ 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, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V);~~ or In special flood hazard areas such that the bottom of the frame of the manufactured home is at or above the base flood elevation plus one foot; or at least 18 inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other manufactured homes are located, whichever results in the highest elevation.

(2) ~~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.~~ Outside special flood hazard areas such that the 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, or at least 18 inches above the highest point of the crown of all existing streets adjacent to the plot upon which all other manufactured homes are located, whichever results in the highest elevation.

(G) *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322 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.

(I) *Limitations on installation in coastal high hazard areas (Zone V).* New installations of manufactured homes shall not be permitted in coastal high hazard areas (Zone V).

SECTION 6. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2018.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

JED:MEB:jmz:jrm
1/29/18
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