

ORDINANCE 1951

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA, AMENDING CHAPTER 3.01 OF THE CODE OF ORDINANCES TO ADOPT LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA AS FOLLOWS:

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, 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 City of Fort Walton Beach participates in the National Flood Insurance Program, adopted floodplain management regulations on November 15, 2016; and

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program.

WHEREAS, the Fort Walton Beach City Council adopted a requirement to increase the minimum elevation requirement for buildings and structures in flood hazard areas prior to July 1, 2010 and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the Florida Building Code;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Fort Walton Beach that the following local technical amendments to the *Florida Building Code*, are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Amendment of Chapter 3, Fort Walton Beach Code of Ordinances.

Chapter 3, Building Code, of the Fort Walton Beach Code of Ordinances, is hereby amended as follows:

SECTION 3.01 BUILDING CODE

3.01.01 - Florida Building Code Incorporated by Reference.

The current Florida Building Code, as adopted by rule of the Florida Building Commission as required by state statute, with its six main volumes of Building, Plumbing, Mechanical, Fuel

Gas, Existing Building, Residential, and excluding the Test Protocols volume, as amended from time to time, is hereby adopted and incorporated into this chapter and code of ordinances by reference. The Florida Building Code is remedial and shall be construed to secure the public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment, including alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.

3.01.02 - Administration.

- (a) Chapter 1, FBC Applies. Chapter 1 of the Florida Building Code (abbreviated in this chapter as "F.B.C.") shall be used for the administration of this chapter and the Florida Building Code, except as modified in this chapter.
- (b) Delegation of Authority. The building official is hereby authorized and directed to enforce the provisions of this chapter and the F.B.C. The building official shall have the authority to render interpretations of this chapter and the F.B.C. and to adopt policies and procedures to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter and the F.B.C., and shall not have the effect of waiving requirements specifically provided for in this code.
- (c) Applications and Permits. The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition, and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this chapter and the F.B.C.
- (d) Revocation of Permits. The building official is authorized to suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error or on the basis of incorrect, inaccurate, incomplete information, or misrepresentation as to any material fact in the application, or in violation of any ordinance or regulation or any provisions of this chapter or the F.B.C.

The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter or the F.B.C.

- (e) Notices and Orders. The building official shall issue all necessary notices or orders to ensure compliance with this chapter and the F.B.C.
- (f) Inspections. The building official, or a designee which may include any competent and properly licensed or certified individual or agency, shall make all of the required inspections. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such experts to render an opinion as necessary to report upon unusual technical issues that arise.
- (g) Liability. Pursuant to Florida law, the building official or a designee, any member of the board of adjustment or employee who is delegated the enforcement of this chapter and the F.B.C., while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this chapter and the F.B.C., or other pertinent law or ordinance, shall

not thereby be rendered liable personally and is hereby relieved from personal liability for any damage or cost in any action accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings.

- (h) Requirements not Provided in the F.B.C. Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the building official.

3.01.03 - Building Permit Required.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, or alter, improve, change, enlarge or repair any parking area, stormwater management system, or infrastructure, or any other installation of which is regulated by this chapter, the F.B.C., or the land development code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

3.01.04 - Exceptions.

Ordinary minor repairs may be made with the approval of the building official without a permit. Minor repairs may include but are not limited to:

- (a) painting and the replacement of nonstructural flooring;
- (b) repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping joints and repairing drop cords; for the installation of wiring, devices or equipment for telephone, telegraph, district messenger or tele-autograph systems or any signaling system (other than a commercial radio system) operating at 50 volts or less, when installed by a public utility subject to regulation as such by the Florida Public Service Commission or an agency of the United States;
- (c) repairing or replacing any fixture;
- (d) service conducted to maintain the system, including minor part replacement on any piece of the system; or
- (e) repairing or replacing any plumbing fixture.

3.01.5 - Penalty for Commencement Prior to Permitting

Any person who commences any work on a building, site, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits, or any individual who acquires a permit issued in error for either incorrect or false information provided on the application shall be subject to a fee as set forth in the Comprehensive Fee Schedule.

Emergency repairs (e.g. over weekends or holidays) may be made without subsequent penalty as long as the required permit is applied for on the first working day following the day

the emergency repairs are made. The building official will determine the validity of the emergency in administering this provision.

The building official may deny any permit application which is requested by a person who has violated the provisions of this section three times or more.

3.01.06 - Permit Fees.

Permit application requests shall be accompanied by fees and charges as may be established by the city council by resolution in the comprehensive fee schedule for proper filing and processing.

3.01.07 - Fees for Checking Plans.

A fee for checking a plan shall be paid to the engineering services department at the time of submitting a plan and specifications. Such fee shall be equal to one-half of the building permit fee. Such plan-checking fee is in addition to the building permit fee and shall be considered nonrefundable.

3.01.08 - Fee for Re-issuance.

The permit holder must pay the entire permit fee to have reissued any building permit that has expired, but shall not pay a plan check fee unless new plans are submitted for review.

3.01.09 - Fee for Sewer & Water Connections Required.

In those instances where the issuance of a permit for connecting to city sewer and water is required, the fee (including connection or impact fees) for connecting to the sewer and water system of the city shall be collected at the same time the fee is collected for the building permit.

3.01.10 - Refund of Fees.

A refund of permit fees may be made to the permit holder under the following conditions: the permit is still valid and in effect and the project is cancelled and a written notice of project cancellation is filed with the building official and a written request for refund is filed with the building official not more than fourteen (14) calendar days from the date of cancellation. When no work under the permit has commenced, a refund may be made of the full permit fee. When any portion of the work has commenced under the permit, no refund shall be made. Refunds shall be made for duplicate permits issued for the same work.

3.01.11 - Reserved~~Specific Elevation Required.~~

~~No building permit shall be issued for construction of a commercial building in the city unless the elevation of the floor of such building, as shown on the submitted plans, is at least 12 inches above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to such property where the building is to be constructed. When, in the opinion of the building official or the city engineer, by examination of the plans submitted, a dwelling unit requires the same elevation requirements as stated for commercial buildings, the official will make such elevation requirements a condition of the issuance of the building permit.~~

3.01.12 - Transfer of Permit.

A permit holder may transfer a permit, whether or not work under the permit has commenced, upon filing of the following information with the building official: a written, notarized request from the new permit holder for the transfer of the permit; a written, notarized statement from the original permit holder agreeing to the transfer of the permit; along with the appropriate fees for transferring the permit. Upon issuance of a transferred permit, the new permit holder shall assume full responsibility for the project and continuation of the permit.

In the event the contractor of record ceases to serve as the contractor on the project, and the aforementioned transfer of permit does not occur, the owner or the contractor must provide the building official written notice as soon as possible. Upon receipt of such notice, the engineering services department will perform a final inspection under this permit and close it out. Before construction can continue, a properly qualified person must obtain a new permit.

3.01.13 - Threshold Buildings.

Any threshold building submitted for plan review may at the discretion of the building official be required to have a third party plan review service. The cost for review by the outside plan review service will be in addition to the plan review fees charged by the building department and will be borne by the applicant.

3.01.14 - Survey of Building Foundations Required.

- (a) Survey Required. The permit holder shall submit to the building official, within 21 calendar days of the foundation inspection, an as-built survey map depicting the foundation, pilings or similar element of the building that identifies the location of the outer walls of the building or addition as installed and the location of such foundation or pilings, precisely dimensioned in relation to each and every relevant property line of the property upon which a structure is being constructed and any other foundation or building on the site.

For waterfront properties, the mean high water line and required view corridors shall be clearly indicated on the drawing. The flood zone and finished floor elevation shall also be shown. The survey shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by a registered land surveyor or professional engineer.

- (b) Review of Survey. The building official shall have seven business days to review the survey, any supplemental drawings and certification provided for by this section, and shall approve the survey, supplemental drawing(s) and certification if all requirements have been met.
- (c) Permit Holder's Liability. Any work commenced within the 28 calendar day period from the date of the submission of the required as-built foundation survey, which is required by this section, shall be at the permit holder's risk. Any deficiencies or encroachments detected by the building official's review shall be corrected by the permit holder forthwith and prior to further progressive work being permitted to proceed. Failure to submit the survey, supplemental drawing and certification required by this section, or failure to make such corrections, shall be cause to issue a stop work order for the project. No vertical inspections shall be performed by the building official until the as-built foundation survey has been submitted and approved.
- (d) Waiver of Survey Requirement. The building official may waive the as-built foundation survey or certification for minor construction on single-family residential property involving an addition or accessory building or structure if:
 - (1) the location of the property line can be readily ascertained; and

- (2) it can be readily and unquestionably determined that the new construction is within the required building setbacks.

3.01.15 - Enforcement of Provisions.

Any licensed individual or company who violates the provisions of this chapter or the F.B.C. may be subject to review and subsequent action by the Okaloosa County Construction Licensing board. In addition, any property owner who violates the provisions of this chapter or the F.B.C. may be subject to Code Enforcement Board action.

3.01.16 – Technical Amendments to the *Florida Building Code*

The *Florida Building Code, Residential* is hereby amended by the following technical amendments.

SECTION 202 DEFINITIONS.

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

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot, 1 foot above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to the property, or the design flood elevation, whichever is higher.
2. Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), 1 foot above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to the property, or to the design flood elevation, whichever is higher.
3. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus 1 foot, or 1 foot above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to the property, or at least 3 feet 2 feet (610 mm) if a depth number is not specified.
4. Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus 1 foot, or 1 foot above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to the property, or the design flood elevation, whichever is higher.

5. ~~The elevation of the lowest floor of all buildings shall be at least 12 inches above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to the property.~~

Exception: Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.

R322.3.2 Elevation requirements.

1. All buildings and structures erected within coastal high-hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of piling, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 1 foot, 1 foot above the higher of the elevation of the surface of the center of the street or of the curb of the street abutting or adjacent to the property, or the design flood elevation, whichever is higher.
2. Basement floors that are below grade on all sides are prohibited.
3. The use of fill for structural support is prohibited.
4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

Exception: Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

~~**R322.2.3 Foundation design and construction.** Foundation walls for all buildings and structures erected in flood hazard areas shall meet the requirements of Chapter 4. In addition, for all buildings built on fill in flood hazard areas:~~

~~1. Must be constructed on fill that is designed and compacted per Section 2.4 of ASCE 24, and 2. Must be on fill that has appropriate protection from erosion and scour.~~

~~Exception: Unless designed in accordance with Section R404:~~

~~1. The unsupported height of 6-inch (152 mm) plain masonry walls shall be no more than 3 feet (914 mm).~~

~~2. The unsupported height of 8-inch (203 mm) plain masonry walls shall be no more than 4 feet (1219 mm).~~

~~3. The unsupported height of 8-inch (152 mm) reinforced masonry walls shall be no more than 8 feet (2438 mm).~~

SECTION 3. FISCAL IMPACT STATEMENT.

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance

Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

SECTION 4. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Fort Walton Beach. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after November 15, 2016.

SECTION 5. REPEALER.

Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 6. INCLUSION INTO THE CODE OF ORDINANCES

It is the intent of the City Council that the provisions of this ordinance shall become and be made a part of the City of Fort Walton Beach's Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 7. SEVERABILITY.

In the event any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of City Council that such invalidity shall not affect any other provisions of the Ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are declared severable.

SECTION 8. FINDINGS

The City Council of the City of Fort Walton Beach finds that the Local Planning Agency reviewed and recommended approval of the ordinance on October 24, 2016.

The City Council of the City of Fort Walton Beach finds that the proposed ordinance is consistent with the goals, objectives, and policies of the City's Comprehensive Plan.

The City Council of the City of Fort Walton Beach finds that all notice requirements for enactment of the ordinance have been met in accordance with the Florida Statutes and the City's Code of Ordinances.

SECTION 9. EFFECTIVE DATE.

This ordinance shall take effect immediately upon approval on second reading by the City Council and signature of the Mayor.

Adopted: November 15, 2016

Attest:

Mike Anderson, Mayor

Approved for form, legal sufficiency

Kim M. Barnes, City Clerk

Hayward Dykes, Jr., City Attorney

Additions are underlined; deletions are stricken.