



Board of County Commissioners

2401 SE Monterey Road
Stuart, Florida 34996

Agenda Item Summary

File ID: 21-0612

PH-3

Meeting Date: 4/13/2021

PLACEMENT: Public Hearings

TITLE:

PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS REGARDING FLOOD PROTECTION AND THE GENERAL ORDINANCES REGARDING BUILDING AND HOUSING REGULATIONS RELATED TO FLOOD PROTECTION

EXECUTIVE SUMMARY:

The Board of County Commissioners is asked to adopt an ordinance that amends the language in Division 10 of Article 4 of the Land Development Regulations to incorporate the Federal Emergency Management Agency's policies regarding agricultural structures, accessory structures, and manufactured homes and to regulate development waterward of the Limit of Moderate Wave Action in the same manner as it regulates development in the coastal high-risk area. The proposed ordinance also amends the language in Chapter 21 of the General Ordinances to amend the Florida Building Code for consistency with these local regulations.

DEPARTMENT: Public Works

PREPARED BY: **Name:** Lisa A. Wichser, P.E., CFM

Title: County Engineer / Floodplain Administrator

REQUESTED BY: The Federal Emergency Management Agency and the Florida Department of Emergency Management

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

The National Flood Insurance Program (NFIP) is administered by the Federal Emergency Management Agency (FEMA). The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk, and to reduce flood risk through the adoption of floodplain management standards. By providing flood insurance, FEMA can reduce the cost and adverse consequences of flooding to the property owners.

Martin County participates in the NFIP's Community Rating System (CRS), which is a voluntary program that recognizes and encourages communities to adopt and implement flood protection activities that exceed the requirements of the NFIP. Each participating community is reviewed every year by the Florida Department of Emergency Management (FDEM) to recertify that it is still practicing and implementing the activities that were used to determine its Class rating. Every fifth

year, FEMA performs a more thorough review to verify that the community is still practicing and implementing the activities that were used to determine its Class rating. It is during FEMA's five-year review that a community can increase or decrease its rating. CRS ratings start at Class 10; policy holders in communities with this rating do not receive discounts in their flood insurance premiums. CRS ratings end at Class 1; policy holders in communities with this rating can receive discounts up to 45%. Martin County has a Class 6 rating; policy holders in Martin County receive discounts up to 20%. Martin County's five-year review will occur in 2021.

Rate Class	Discount for SFHA	Discount for Non-SFHA
1	45%	10%
2	40%	10%
3	35%	10%
4	30%	10%
5	25%	10%
6	20%	10%
7	15%	5%
8	10%	5%
9	5%	5%
10	0	0

Flood Insurance Rate Maps (FIRMs) are prepared by FEMA and are based on a Flood Insurance Study. The last Flood Insurance Study and FIRMs were adopted by the Board on February 19, 2020. These FIRMs are used by Martin County to set minimum building requirements and they are used by lenders to determine flood insurance requirements. The FIRMs depict the various flood zones and corresponding risk areas.

Special Flood Hazard Areas (SFHAs) are high-risk areas and have a 1 in 4 chance of flooding during a 30-year mortgage. These areas are shown as zones beginning with the letter A or V. The Flood Insurance Study included an analysis to determine the base flood elevation for each of these zones. The base flood elevation is that elevation that the water is anticipated to rise following a 100- year flood (a flood that has a 1% chance of occurring in any given year). The base flood elevation is shown on the map if it is readily available. Structures that are within a Special Flood Hazard Area are required to be insured from flooding if the structure's mortgage is federally regulated or required by the insured lender.

Areas outside the SFHAs are moderate-to-low risk areas, and although the risk of flooding is reduced, it is not eliminated. These areas are shown as zones beginning with the letter B, C, or X, or as shaded X.

Martin County's regulations require that the finished floor elevation of all new structures within a SFHA be set at least one foot above the base flood elevation. Improvements made to structures within a SFHA having a finished floor elevation less than one foot above the base flood cannot be made if they are determined to be substantial improvements. This requirement limits the total cost of improvements over the past five years to be less than 50% of the structure's current value. The regulations also address special construction techniques to be used in coastal high hazard areas. These coastal high hazard areas are SFHAs that are subject to high velocity wave action or V Zones.

These V Zones extend from offshore to the primary frontal dune.

For existing structures that do not meet the regulations, retrofitting opportunities include elevating the structure, relocating the structure, demolishing the structure, or floodproofing the structure. Wet floodproofing provides the opportunity to make uninhabited areas resistant when water enters the structure and includes flood openings in garages. Dry floodproofing provides the opportunity to sealing the exterior of the structure to protect it from flooding.

The amendments to the Land Development Regulations and the General Ordinances are proposed primarily to address a policy of FEMA that requires Martin County to adopt regulations or revert to a Class 8 CRS rating. The amendments to Article 4, Division 10 - Flood Protection Regulations:

- ❖ Clarify the language in general.
- ❖ Clarify the processes to:
 - distinguish between development orders, permits, and Floodplain Approvals;
 - establish a Flood Protection Review Committee to consider and grant variances; and
 - mirror Article 10 appeals procedures.
- ❖ Require the construction techniques used in the coastal high-risk area (V Zone) to be applied to the Coastal A Zone, which is the land waterward of the Limit of Moderate Wave Action.
- ❖ Authorize variances for agricultural structures, provided the structure is:
 - used exclusively for agricultural use; and
 - wet floodproofed.
- ❖ Allow accessory structures below base flood elevations, provided the structure is:
 - less than 600 sf and one-story and with flood openings if outside V Zones and Coastal A Zones; or
 - less than 100 sf and not lower than any elevated structures if inside V Zones and Coastal A Zones;
 - anchored with flood damage-resistant materials; and
 - has all mechanical, plumbing, and electrical systems one foot above base flood elevation.
- ❖ Require the bottom of manufactured homes to be set one foot above the base flood elevation.

The amendments to Chapter 21 - Building and Housing Regulations:

- ❖ Remove redundancies with latest Florida Building Code pertaining to:
 - elevation requirements;
 - permits issued on basis of affidavit; and

- variances in SFHAs
- ❖ Require the construction techniques used in the coastal high-risk area (V Zone) to be applied to the Coastal A Zone.

ISSUES:

Martin County must adopt floodplain management regulations that meet or exceed the minimum NFIP requirements to maintain its Class 6 CRS Rating. Failure to adopt FEMA's policies will result in a Class 8 CRS Rating, which will reduce discounts for policy owners within SFHA from 20% to 10% and will reduce discounts for policy owners outside SFHA from 10% to 5%.

The proposed ordinance, the proposed language in Article 4, Division 10, and the proposed language in Chapter 21 have been thoroughly pre-reviewed by the Florida Department of Emergency Management representatives. Upon the Board's adoption of the ordinance, the ordinance will be sent to FEMA for final acceptance.

A copy of the legal notice for this hearing, which was advertised in *The Stuart News* on March 4, 2021, is attached.

The Local Planning Agency considered and recommended approval of the proposed ordinance by a vote of 4 to 0 at its meeting on March 18, 2021.

LEGAL SUFFICIENCY REVIEW:

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that arbitrary and capricious or illegal are subject to serious legal challenge.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board adopt the proposed ordinance amending Article 4 - Site Development Standards, Division 10 - Flood Protection of the Land Development Regulations, and Chapter 21, Building and Housing Regulations, General Ordinances and establish an effective date of July 1, 2021.

ALTERNATIVE RECOMMENDATIONS

Do not adopt the ordinance.

FISCAL IMPACT:

RECOMMENDATION

None

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- ☐ Budget Transfer / Amendment ☐ Chair Letter ☐ Contract / Agreement
☐ Grant / Application ☐ Notice ☒ Ordinance ☐ Resolution
☐ Other:

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