

Marguerite Linke

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Thursday, May 10, 2018 2:42 PM
To: Marguerite Linke
Cc: County Ordinances
Subject: Hernando20180510_Ordinance2018_9_Ack.pdf
Attachments: Hernando20180510_Ordinance2018_9_Ack.pdf

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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 10, 2018

Honorable Don Barbee Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 3621
Brooksville, Florida 34601

Attention: Marguerite Linke

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2018-9, which was filed in this office on May 10, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 2018- 9

1
2
3 AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES,
4 CHAPTER 13 (FLOOD DAMAGE PREVENTION AND PROTECTION), ARTICLE III
5 (DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR), SECTION 13-17
6 (DETERMINATIONS FOR EXISTING BUILDINGS AND STRUCTURES); ARTICLE V
7 (SITE PLANS AND CONSTRUCTION DOCUMENTS), SECTION 13-33 (ADDITIONAL
8 ANALYSES AND CERTIFICATIONS); ARTICLE IX (DEFINITIONS), SECTION 13-55
9 (DEFINITIONS); ARTICLE XVI (OTHER DEVELOPMENT), SECTION 13-89 (OTHER
10 DEVELOPMENT IN COASTAL HIGH HAZARD AREAS (ZONE V); AMENDING
11 CHAPTER 8 (BUILDING AND BUILDING REGULATIONS), ARTICLE II
12 (CONSTRUCTION CODE), DIVISION 4 (FLORIDA BUILDING CODE), SECTION 8-100
13 (TECHNICAL AMENDMENT TO THE FLORIDA BUILDING CODE, BUILDING
14 RELATED TO FLOOD LOADS AND SUBSTANTIAL IMPROVEMENT), AND SECTION
15 8-101 (TECHNICAL AMENDMENT TO THE FLORIDA BUILDING CODE, EXISTING
16 BUILDING RELATED TO DEFINITIONS AND SUBSTANTIAL IMPROVEMENT);
17 AMENDING CHAPTER 8 (BUILDING AND BUILDING REGULATIONS), ARTICLE II
18 (CONSTRUCTION CODE), DIVISION 4 (FLORIDA BUILDING CODE), SECTION 8-98
19 (SCOPE AND ADMINISTRATION), CHAPTER 1 (SCOPE AND ADMINISTRATION),
20 PART 1 (SCOPE AND APPLICATION), SECTION 101 (GENERAL), SECTION 101.5.4
21 (WORDS DEFINED); AMENDING CHAPTER 8 (BUILDING AND BUILDING
22 REGULATIONS), ARTICLE II (CONSTRUCTION CODE), DIVISION 4 (FLORIDA
23 BUILDING CODE), SECTION 8-98 (SCOPE AND ADMINISTRATION), CHAPTER 1
24 (SCOPE AND ADMINISTRATION), PART 1 (SCOPE AND APPLICATION), SECTION
25 104.2 (APPLICATIONS AND PERMITS), SECTION 104.2.1; PROVIDING FOR
26 APPLICABILITY; REPEALING ANY PROVISIONS IN CONFLICT HEREWITH;
27 PROVIDING FOR APPLICABILITY, SEVERABILITY, CONFLICTING PROVISIONS;
28 FILING WITH THE DEPARTMENT OF STATE, PROVIDING FOR INCLUSION IN THE
29 CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

30
31 WHEREAS, the Board of County Commissioners (County) has adopted the Hernando
32 County Comprehensive Plan within which are included goals, objectives, and policies related to the
33 process for review and approval of certain development applications; and

34
35 WHEREAS, Chapter 163, Part II, Florida Statutes, requires the implementation of these
36 goals, objectives, and policies through the adoption of consistent land development regulations; and

37
38 WHEREAS, the County desires to amend its floodplain management regulations, which are
39 designated as a land development regulation; and

40
41 WHEREAS, this proposed amendment to floodplain management regulations, has received
42 public hearings before the Planning Commission, Local Planning Agency, and the Board of County
43 Commissioners as required by state and local law; and
44

1 **WHEREAS**, the Board of County Commissioners finds that the proposed amendment is
2 consistent with the goals, objectives, and policies of the Comprehensive Plan.

3
4 **WHEREAS**, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes,
5 conferred upon local governments the authority to adopt regulations designed to promote the public
6 health, safety, and general welfare of its citizenry; and

7
8 **WHEREAS**, the Federal Emergency Management Agency has identified special flood
9 hazard areas within the boundaries of Hernando County and such areas may be subject to periodic
10 inundation which may result in loss of life and property, health and safety hazards, disruption of
11 commerce and governmental services, extraordinary public expenditures for flood protection and
12 relief, and impairment of the tax base, all of which adversely affect the public health, safety and
13 general welfare, and

14
15 **WHEREAS**, Hernando County was accepted for participation in the National Flood
16 Insurance Program on April 17, 1984, and Hernando County desires to continue to meet the
17 requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such
18 participation; and

19
20 **WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to
21 provide a mechanism for the uniform adoption, updating, amendment, interpretation and
22 enforcement of a state building code, called the Florida Building Code; and

23
24 **WHEREAS**, Section 553.73(5), Florida Statutes, allows adoption of local administrative
25 amendments to the Florida Building Code to implement the National Flood Insurance Program;

26
27 **WHEREAS**, Hernando County has determined that it is in the public interest to amend the
28 proposed floodplain management regulations that are coordinated with the Florida Building Code;

29
30 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
31 Hernando County that the following floodplain management regulations are amended as follows.

32
33 **SECTION I.** Chapter 13, (Flood Damage Prevention and Protection), Article III (Duties and
34 Powers of the Floodplain Administrator), Section 13-17 of the Hernando County Code of Ordinance
35 is amended to read as follows, with underlined language added and strike through language deleted:

36
37 Sec. 13-17. - ~~Determinations for existing buildings and structures.~~ Substantial improvement
38 and substantial damage determinations

39
40 For applications for building permits to improve buildings and structures, including
41 alterations, movement, enlargement, replacement, repair, change of occupancy, additions,
42 rehabilitations, renovations, substantial improvements, repairs of substantial damage, and
43 any other improvement of or work on such buildings and structures, the floodplain
44 administrator, in coordination with the building official, shall:

- 1 (1) Estimate the market value based on the property appraiser's listed market value
2 from the most recent certified tax rolls, or require the applicant to obtain an
3 appraisal of the market value prepared by a qualified independent appraiser, of
4 the building or structure before the start of construction of the proposed work;
5 in the case of repair, the market value of the building or structure shall be the
6 market value before the damage occurred and before any repairs are made;
- 7 (2) Compare the cost to perform the improvement, the cost to repair a damaged
8 building to its pre-damaged condition, or the combined costs of improvements
9 and repairs, if applicable, to the market value of the building or structure;
- 10 (3) Determine and document whether the proposed work constitutes substantial
11 improvement or repair of substantial damage; ~~the determination requires~~
12 ~~evaluation of previous permits issued for improvements and repairs as~~
13 ~~specified in the definition of "substantial improvement"; and~~
- 14 (4) Notify the applicant if it is determined that the work constitutes substantial
15 improvement or repair of substantial damage and that compliance with the
16 flood resistant construction requirements of the Florida Building Code and this
17 chapter is required.
18

19 **SECTION II.** Chapter 13, (Flood Damage Prevention and Protection), Article V (Site Plan and
20 Construction Documents), Section 13-33 of the Hernando County Code of Ordinance is amended
21 to read as follows, with underlined language added and strike through language deleted:
22

23 Sec. 13-33. - Additional analyses and certifications.
24

25 As applicable to the location and nature of the proposed development activity, and in
26 addition to the requirements of this section, the applicant shall have the following analyses
27 signed and sealed by a Florida licensed engineer for submission with the site plan and
28 construction documents:
29

- 30 (1) For development activities proposed to be located in a regulatory floodway,
31 hydrologic and hydraulic analysis that demonstrates that the encroachment of
32 the proposed development will not cause any increase in base flood elevations;
33 where the applicant proposes to undertake development activities that do
34 increase base flood elevations, the applicant shall submit such analysis to
35 FEMA as specified in section 13-34 of this chapter and shall submit the
36 conditional letter of map revision, if issued by FEMA, with the site plan and
37 construction documents.
- 38 (2) For development activities proposed to be located in a riverine flood hazard
39 area for which base flood elevations are included in the flood insurance study
40 or on the FIRM and floodways have not been designated, ~~a floodway~~
41 ~~encroachment analysis which~~ hydrologic and hydraulic analyses that
42 demonstrates that the cumulative effect of the proposed development, when
43 combined with all other existing and anticipated flood hazard area
44 encroachments, will not increase the base flood elevation more than one (1)
45 foot at any point within the county. This requirement does not apply in isolated

- 1 flood hazard areas not connected to a riverine flood hazard area or in flood
2 hazard areas identified as zone AO or zone AH.3.
- 3 (3) For activities that propose to alter sand dunes or mangrove stands in coastal
4 high hazard areas (zone V), an engineering analysis that demonstrates that the
5 proposed alteration will not increase the potential for flood damage.
- 6 (4) For alteration of a watercourse, an engineering analysis prepared in accordance
7 with standard engineering practices which demonstrates that the flood-carrying
8 capacity of the altered or relocated portion of the watercourse will not be
9 decreased, and certification that the altered watercourse shall be maintained in
10 a manner which preserves the channel's flood-carrying capacity; the applicant
11 shall submit the analysis to FEMA as specified in section 13-34 of this chapter.
- 12 (5) For construction of non-residential dry floodproofed buildings, in addition to
13 the dry floodproofing requirements of the Florida Building Code, a flood
14 emergency plan which shall specify at a minimum:
- 15 a. Storage locations of the floodproofing panels.
 - 16 b. Method of installation, time frame prior to anticipated event and
17 personnel responsible.
 - 18 c. Conditions activating installation of floodproofing panels.
 - 19 d. Maintenance of shields and attachment devices.
 - 20 e. Periodic practice of installing shields.
 - 21 f. Testing sump-pumps and other drainage measures.
 - 22 g. Inspections of the material and equipment that activate or implement
23 floodproofing.
 - 24 h. Permanent posted locations of the flood emergency plan in at least
25 two (2) conspicuous locations within the structure.
- 26

27 **SECTION III.** Chapter 13, (Flood Damage Prevention and Protection), Article IX (Definitions),
28 Section 13-55 of the Hernando County Code of Ordinance is amended to read as follows, with
29 underlined language added and strike through language deleted:

30
31 Sec. 13-55. - Definitions.

32 *Historic structure* shall mean any structure that is determined eligible for the
33 exception to the flood hazard area requirements of the Florida Building Code, Existing
34 Building, Chapter ~~11~~ 12 Historic Buildings.

35
36 *Substantial damage* shall mean damage of any origin sustained by a structure
37 whereby the cost of restoring the structure to its before-damage condition would equal or
38 exceed fifty (50) percent of the market value of the structure before the damage occurred.
39 ~~Substantial damage also means flood-related damage sustained by a structure on two (2)~~
40 ~~separate occasions during a five-year period for which the cost of repairs at the time of each~~
41 ~~such flood event, on the average, equals or exceeds twenty-five (25) percent of the market~~
42 ~~value of the structure before the damage occurred.~~

43
44 *Substantial improvement* shall mean any ~~combination of~~ repair, reconstruction,
45 rehabilitation, alteration, addition or improvement of a building or structure ~~taking place~~

1 ~~during a five-year period prior to the date of permit application, the cumulative~~ the cost of
2 which equals or exceeds fifty (50) percent of the market value of the structure before the
3 improvement or repair is started. If the structure has sustained substantial damage, any
4 repairs are considered substantial improvement regardless of the actual repair work
5 performed. The term does not, however, include either:

- 6
- 7 (1) Any project for improvement of a building required to correct existing health,
8 sanitary or safety code violations identified by the building official and that are
9 the minimum necessary to assure safe living conditions.
 - 10 (2) Any alteration of a historic structure provided that the alteration will not
11 preclude the structure's continued designation as a historic structure.
- 12

13 **SECTION IV.** Chapter 13, (Flood Damage Prevention and Protection), Article XVI (Other
14 Development), Section 13-89 of the Hernando County Code of Ordinance is amended to read as
15 follows, with underlined language added and strike through language deleted:

16
17 Sec. 13-89. - Other development in coastal high hazard areas (zone V).

18
19 In coastal high hazard areas, development activities other than buildings and
20 structures shall be permitted only if also authorized by the appropriate federal, state or local
21 authority; if located outside the footprint of z, and not structurally attached to, buildings and
22 structures; and if analyses prepared by qualified registered design professionals demonstrate
23 no harmful diversion of floodwaters or wave runup and wave reflection that would increase
24 damage to adjacent buildings and structures. Such other development activities include, but
25 are not limited to:

- 26
- 27 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control
28 structures;
 - 29 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless
30 designed and constructed to fail under flood conditions less than the design
31 flood or otherwise function to avoid obstruction of floodwaters; and
 - 32 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C.,
33 as filled systems or mound systems.
- 34

35 **SECTION V.** Chapter 8, (Building and Building Regulations), Article II (Construction Code),
36 Division 4 (Florida Building Code), Section 8-100 (Technical Amendment to the Florida Building
37 Code, Building Related to Flood Loads and Substantial Improvement) of the Hernando County
38 Code of Ordinance is amended to read as follows, with underlined language added and strike
39 through language deleted:

40
41 1612 FLOOD LOADS

42
43 *SUBSTANTIAL IMPROVEMENT.* Any ~~combination of~~ repair, reconstruction, rehabilitation,
44 alteration, addition or improvement of a building or structure ~~taking place during a 5-year~~
45 ~~period prior to the date of permit application, the cumulative~~ the cost of which equals or

1 exceeds 50 percent of the market value of the structure before the improvement or repair is
2 started. If the structure has sustained substantial damage, any repairs are considered
3 substantial improvement regardless of the actual repair work performed. The term does not,
4 however, include either:

- 5
- 6 1. Any project for improvement of a building required to correct existing health,
7 sanitary or safety code violations identified by the building official and that are the
8 minimum necessary to assure safe living conditions.
- 9 2. Any alteration of a historic structure provided that the alteration will not preclude the
10 structure's continued designation as a historic structure.
- 11

12 **SECTION VI.** Chapter 8, (Building and Building Regulations), Article II (Construction Code),
13 Division 4 (Florida Building Code), Section 8-101 (Technical Amendment to the Florida Building
14 Code, Existing Building Related to Definitions and Substantial Improvement) of the Hernando
15 County Code of Ordinance is amended to read as follows, with underlined language added and
16 strike through language deleted:

17
18 202 GENERAL DEFINITIONS

19
20 *SUBSTANTIAL IMPROVEMENT.* Any ~~combination of~~ repair, reconstruction, rehabilitation,
21 alteration, addition or improvement of a building or structure ~~taking place during a 5-year~~
22 ~~period prior to the date of permit application, the cumulative~~ the cost of which equals or
23 exceeds 50 percent of the market value of the structure before the improvement or repair is
24 started. If the structure has sustained substantial damage, any repairs are considered
25 substantial improvement regardless of the actual repair work performed. The term does not,
26 however, include either:

- 27
- 28 1. Any project for improvement of a building required to correct existing health,
29 sanitary or safety code violations identified by the building official and that are the
30 minimum necessary to assure safe living conditions.
- 31 2. Any alteration of a historic structure provided that the alteration will not preclude the
32 structure's continued designation as a historic structure.
- 33

34 **SECTION VII.** Chapter 8, (Building and Building Regulations), Article II (Construction Code),
35 Division 4 (Florida Building Code), Section 8-98 (Scope and Administration), Chapter 1 (Scope and
36 Administration), Part 1 (Scope and Application), Section 101 (General), Section 101.5.4 (Words
37 Defined) of the Hernando County Code of Ordinances is amended to read as follows, with
38 underlined language added and strike through language deleted:

39
40 *Substantial Improvement.* Any ~~combination of~~ repair, reconstruction, rehabilitation,
41 alteration, addition or improvement of a building or structure ~~taking place during a 5-year~~
42 ~~period prior to the date of permit application, the cumulative~~ the cost of which equals or
43 exceeds 50 percent of the market value of the structure before the improvement or repair is
44 started. If the structure has sustained substantial damage, any repairs are considered

1 substantial improvement regardless of the actual repair work performed. The term does
2 not, however, include either:

- 3
- 4 1. Any project for improvement of a building required to correct existing health,
5 sanitary or safety code violations identified by the building official and that are the
6 minimum necessary to assure safe living conditions.
 - 7 2. Any alteration of a historic structure provided that the alteration will not preclude
8 the structure's continued designation as a historic structure.
- 9

10 **SECTION VIII.** Chapter 8, (Building and Building Regulations), Article II (Construction Code),
11 Division 4 (Florida Building Code), Section 8.98 (Scope and Administration), Chapter 1 (Scope and
12 Administration), Part 1 (Scope and Application), Section 104 (Duties and Powers of the Building
13 Official) of the Hernando County Code of Ordinance is amended to read as follows, with underlined
14 language added and strike through language deleted:

15
16 **SECTION 104 DUTIES AND POWERS OF THE BUILDING OFFICIAL**

17
18 *104.2.1* Determination of substantially improved or substantially damaged existing buildings
19 and structures in flood hazard areas. For applications for reconstruction, rehabilitation, repair,
20 alteration, addition or other improvement of existing buildings or structures located in flood
21 hazard areas, the building official shall determine if the proposed work constitutes substantial
22 improvement or repair of substantial damage. Where the building official determines that the
23 proposed work constitutes substantial improvement or repair of substantial damage, and where
24 required by this code, the building official shall require the building to meet the requirements
25 of Section 1612 or R322 of the *Florida Building Code, Residential*, as applicable. The
26 determination does not, however, include either:

- 27
- 28 1. Any project for improvement of a building required to correct existing health,
29 sanitary or safety code violations identified by the building official and that are the
30 minimum necessary to assure safe living conditions.
 - 31 2. Any alteration of a historic structure provided that the alteration will not preclude the
32 structure's continued designation as a historic structure.
- 33

34 **SECTION IX. APPLICABILITY.**

35 For the purposes of jurisdictional applicability, this ordinance shall apply in all unincorporated areas
36 of Hernando County. This ordinance shall apply to all applications for development, including
37 building permit applications and subdivision proposals, submitted on or after the effective date of
38 this ordinance.

39
40 **SECTION X. INCLUSION INTO THE CODE OF ORDINANCES.**

41 It is the intent of the Hernando County Board of County Commissioners that the provisions of this
42 ordinance shall become and be made a part of the Hernando County Code of Ordinances, and that
43 the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be
44 changed to "section," "article," "regulation," or such other appropriate word or phrase in order to
45 accomplish such intentions.

1 **SECTION XI. SEVERABILITY.**

2 If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared
3 by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the
4 ordinance as a whole, or any part thereof, other than the part so declared.
5

6 **SECTION XII. CONFLICTING PROVISIONS.** Special acts of the Florida Legislature
7 applicable only to unincorporated areas of Hernando County, Hernando County ordinances, County
8 resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance
9 to the extent of such conflict except for ordinances concerning either adoption or amendment of the
10 Comprehensive Plan, pursuant to Chapter 163, Part II, Florida Statutes.
11

12 **SECTION XIII. FILING WITH THE DEPARTMENT OF STATE.** The clerk shall be and is
13 hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative
14 Code, Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street, Tallahassee, FL
15 32399-0250.
16

17 **SECTION XIV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon receipt
18 of official acknowledgement from the office of the Secretary of State of Florida that this ordinance
19 has been filed with said office.
20

21 **DULY PASSED AND ADOPTED IN REGULAR SESSION THIS** 8th **DAY OF**
22 MAY, **2018**



**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

25
26
27 Attest: Margaret Decker DC
28 DONALD C. BARBEE, JR. CLERK

By: [Signature]
STEVE CHAMPION, CHAIRMAN

29
30 (SEAL)

31
32 **Approved as to Form and
33 Legal Sufficiency**

34
35 By: [Signature]
36
37