

ORDINANCE NO. 2017-11

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, CHAPTER 98, FLOODS, ARTICLE II, FLOODPLAIN MANAGEMENT, DIVISION 1, ADMINISTRATION, SECTIONS 98-32, APPLICABILITY AND SECTION 98-33, DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR; DIVISION 2, DEFINITIONS, SECTION 98-40, DEFINITIONS; DIVISION 4, ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE, BUILDING, SECTION 98-48, FLORIDA BUILDING CODE, BUILDING; DIVISION 5, TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE, BUILDING, EXISTING BUILDING AND RESIDENTIAL, SECTION 98-49 FLORIDA BUILDING CODE, BUILDING; AND SECTION 98-50, FLORIDA BUILDING CODE, EXISTING BUILDING; TO ADOPT FLOOD HAZARD MAPS, TO AMEND THE DEFINITION OF SUBSTANTIAL IMPROVEMENT AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AND TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the legislature of the state of Florida has, in F.S. Ch. 166, 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 Venice and such areas may be subject to periodic inundation which may result 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; and

WHEREAS, the City of Venice was accepted for participation in the National Flood Insurance Program on July 30, 1971 and city council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, sections 59 and 60, necessary for such participation; and

WHEREAS, F.S. Ch. 553, was adopted by the Florida legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the Florida Building Code; and

WHEREAS, F.S. § 553.73(5), allows adoption of local administrative amendments to the Florida Building Code to implement the National Flood Insurance Program; and

WHEREAS, city council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the Florida Building Code; and

WHEREAS, city council adopted a requirement to require accumulation of costs of improvements and repairs of buildings, based on issued building permits and, for buildings and structures in flood hazard areas prior to July 1, 2010 and, pursuant to F.S. § 553.73(5), is formatting that requirement to coordinate with the Florida Building Code; and

WHEREAS, city council is adopting a requirement to require declarations of land restriction (nonconversion agreements) for enclosures below elevated buildings and dwellings for buildings and structures in flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to F.S. § 553.73(5), is formatting that requirement to coordinate with the Florida Building Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, as follows:

SECTION 1. The whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 98, Floods, Article II, Floodplain Management, Division 1, Administration, Section 98-32, Applicability and Section 98-33, Duties and Powers of the Floodplain Administrator are hereby amended as follows:

Sec. 98-32. Applicability.

- (a) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) *Areas to which this article applies.* This article shall apply to all flood hazard areas within the city as established in subsection 98-32(c).
- (c) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Sarasota County, Florida, and Incorporated Areas dated November 4, 2016, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted as part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. ~~Unincorporated Areas, dated September 3, 1992 and the Flood Insurance Study Supplement - Wave Height Analysis for the City of Venice, Florida, Sarasota County, dated July 18, 1983 and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), including panels No. 1251440245D dated May 1, 1984, No. 1251440275D dated May 1, 1984, No. 1251440327E dated September 3, 1992, No. 1251440329D dated May 1, 1984, No. 1251440331E dated September 3, 1992, No. 1251540005D dated May 18, 1992, No. 1251440333E dated September 3, 1992 and No. 1251440332E dated September 3, 1992 and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. The Master Basin Plans for Hatchett and Curry Creeks, Island of Venice, Cow Pen Slough, and Myakka River prepared by Sarasota County and completed in 2002, 2003 and 2004, including any updates, substantial amendments and revisions thereto, are hereby adopted by~~

~~reference and shall be evaluated to determine base flood elevations.~~ In all cases, the highest conservative base flood elevation determined from the FIRM, and Flood Insurance Study Supplement and Master Basin Plans shall be used. Studies and maps that establish flood hazard areas are on file at the office of the city clerk, 401 West Venice Avenue, Venice, Florida.

(d) through (g) No change.

Sec. 98-33. Duties and powers of the floodplain administrator.

- (a) *Designation.* The building official or his designee is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.
- (b) *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this article. The floodplain administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to section 98-37.
- (c) *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, shall:
 - (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas; and
 - (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article; and
 - (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation; and
 - (4) Provide available flood elevation and flood hazard information; and
 - (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant; and
 - (6) Review applications to determine whether proposed development will be reasonably safe from flooding; and
 - (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

(9) Ensure that for projects proposing to enclose areas under elevated buildings, a signed Declaration of Land Restriction (Nonconversion Agreement) has been recorded on the property prior to issuance of the Certificate of Occupancy.

(d) through (i) No change.

SECTION 3. Chapter 98, Floods, Article II, Floodplain Management, Division 2, Definitions, Section 98-40, Definitions, is hereby amended by adding the definition “Declaration of land restriction (nonconversion agreement)” and revising the definition of “Substantial improvement” as follows:

Sec. 98-40. Definitions.

Declaration of Land Restriction (Nonconversion Agreement) means a form provided by the floodplain administrator to be signed by the owner and recorded on the property in the Official Records of the Sarasota County Clerk of Circuit Court, 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 and dwellings.

Substantial improvement means any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a ~~ten~~ one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the ~~ten~~ one-year period begins on the date of the first improvement or repair of that building or structure subsequent to July 11, 1972. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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.
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SECTION 4. Chapter 98, Floods, Article II, Floodplain Management, Division 4, Administrative Amendments to the Florida Building Code, Building, Section 98-48, Florida Building Code, Building, is hereby amended to add Sec. 107.3.5, Minimum plan review criteria for buildings, as follows:

Sec. 98-48. Florida Building Code, Building.

The following amendments to the Florida Building Code, Building are hereby adopted:

Add a new section 107, subsection 107.3.5 as follows:

107.3.5 Minimum plan review criteria for buildings.

Commercial Buildings:

Buildings:

8. Structural requirements shall include:

Flood requirements in accordance with Section 1612, including lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), flood damage resistant materials.

Residential (one and two family):

6. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), equipment, and flood damage resistant materials.

SECTION 5. Chapter 98, Floods, Article II, Floodplain Management, Division 5, Technical Amendments to the Florida Building Code, Building, Existing Building and Residential, Section 98-49, Florida Building Code, Building, and Section 98-50, Florida Building Code, Existing Building, are hereby amended as follows:

Sec. 98-49. Florida Building Code, Building.

The following amendments to the Florida Building Code are hereby⁷⁶ adopted.

Section 1612, subsection 1612.2, Florida Building Code, Building.

Modify a definition as follows:

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a ~~ten~~ one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the ~~ten~~ one-year period begins on the date of the first improvement or repair of that building or structure subsequent to July 11, 1972. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. 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.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Sec. 98-50. Florida Building Code, Existing Building.

Section 202, Florida Building Code, Existing Building.

Modify a definition as follows:

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a ~~ten~~ one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the ~~ten~~ one-year period begins on the date of the first improvement or repair of that building or structure subsequent to July 11, 1972. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. 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.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SECTION 6. 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 article 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 7. To the extent of any conflict between the provisions of this ordinance, and any other ordinance, resolution, or agreement of the city, the provisions of this ordinance shall prevail.

SECTION 8. Severability. If for any reason a provision of this ordinance or the application thereof to any person, group or persons, or circumstances are held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the ordinance are severable.

SECTION 9. Effective date. This ordinance shall take effect immediately upon its adoption, as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 13TH DAY OF JUNE, 2017.

First Reading: May 23, 2017

Final Reading: June 13, 2017

ADOPTION: June 13, 2017

John W. Holic, Vice Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, LORI STELZER, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 13th day of June 2017, a quorum being present.

WITNESS my hand and the official seal of said City this 13th day of June 2017.

Lori Stelzer, MMC, City Clerk

APPROVED AS TO FORM:

City Attorney