

MEMORANDUM

TO: Howard Tipton, Town Manager

From: Allen Parsons, AICP
Director, Planning, Zoning & Building Department

Report Date: February 14, 2024

Meeting Date: March 4, 2024

Subject: Ordinance 2024-03, Amending Chapter 154, Flood Control and Chapter 158 Zoning Code

Recommended Action

Forward Ordinance 2024-03 to the April 1, 2024, Town Commission Regular Meeting for second reading and public hearing.

Background

The Town participates in the National Flood Insurance Program (NFIP) and the supporting Community Rating System (CRS) program. Among other benefits, participation provides significant NFIP Policy discounts for the Town's citizens. The Town is currently rated a "Class 6" community, providing 20% discounts on applicable policies.

On September 27, 2023, the Town was notified by a letter from Luis Rodriguez, Director of the Engineering and Modeling Division, of the Federal Insurance and Mitigation Administration, a branch of the Federal Emergency Management Agency (FEMA), that a newly adopted Flood Insurance Study (FIS)¹ and Flood Insurance Rate Maps (FIRMs)² for Sarasota County will become effective on March 27, 2024. These maps are updated by the NFIP and FEMA on an ongoing basis, because flood risks change over time.

The flood maps depict areas at high risk of flooding. These maps also establish Base Flood Elevations (BFEs)³, that can have a significant impact on building requirements and flood insurance costs. The Town's participation in the NFIP requires a structure's lowest floor to be elevated or floodproofed above the BFE. The Florida Building Code and the Town also require an additional 1 foot (or 3+ feet along the Gulf of Mexico and areas subject to wave action) of Freeboard⁴ be added to the BFE to establish the first habitable level of new structures in the Town.

¹ A FIS is a report prepared by FEMA that summarizes an analysis of the flood hazards in a community. The FIS report contains detailed flood elevation data in flood profiles and data tables. The analysis used to prepare a FIS is also used to prepare a FIRM (see footnote below).

² FIRMs show a community's risk of flooding. Specifically, flood maps show a community's flood zones, floodplain boundaries, and base flood elevations. Different flood insurance and building requirements apply to differing flood hazard areas.

³ The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

⁴ An additional amount of height above the Base Flood Elevation used as a factor of safety in determining the level at which a structure's lowest floor must be elevated or floodproofed.

FEMA's newly adopted maps for the Sarasota County portion of the Town required an amendment to the Town Flood Control Code (Chapter 154, Sec. 154.102(C)) to reflect the new effective date (per the Code of Federal Regulations; 44 60.3). Ordinance 2024-01, adopted on January 8, 2024 addressed this straightforward change.

As part of the consideration by the Town Commission of Ordinance 2024-01, staff reviewed a number of other potential Town Code amendments that could positively affect the Town's CRS rating, which would increase insurance discounts for NFIP policy holders and contributing to the resiliency of structures within the Town. The Town Commission provided direction to immediately proceed with two amendments:

1. Raise the maximum allowable seawall height from 4.5 feet to 6 feet NAVD⁵ for all new or rebuilt seawalls in the Town. Note: This is a recommendation of the Sea Level Rise & Resiliency Comprehensive Adaptation Plan that staff will also be working on. The Planning & Zoning Board recommended approval of Ordinance 2024-04, at their January 16, 2024 Regular Meeting. The Town Commission will be considering this item at today's Regular Meeting.
2. Raise the allowable Freeboard requirement from the existing 1-foot of additional height to a maximum of up to 3 feet. This recommendation stems from surprising findings that the updated FEMA BFE, on both the Manatee County portion of the Town (with new FEMA maps adopted in 2021) and the Sarasota County portion of the Town (with new FEMA maps becoming effective on March 27, 2024), in general are 2 feet lower than prior or existing BFE elevations.

Both of these amendments have been modified in response to the recently passed legislation, starting with "Senate Bill 250," which established a moratorium on "more restrictive or burdensome amendments" to comprehensive plans and land development regulations through October 2024, and more recently, with the 2023 Special Legislative Session adoption of "Senate Bill 2-C: Disaster Relief," which extended the moratorium for Southwest Florida counties, including Manatee and Sarasota counties, to October 1, 2026.

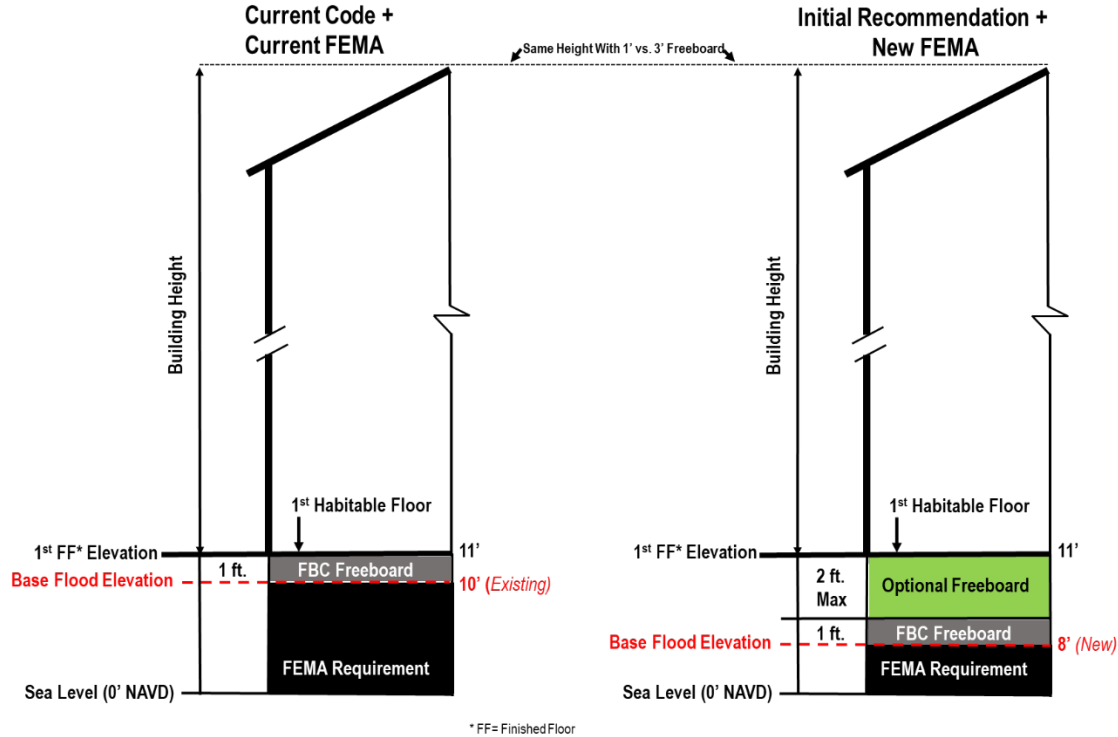
The seawall height related ordinance would have included a recommendation, from the Sea Level Rise & Resiliency Adaptation Plan, to establish a minimum seawall height. Similarly, increasing the Town's Freeboard height requirement from a mandatory 1 foot, to a mandatory 3 feet would have been staff's recommendation in the absence of the moratorium limitations noted above. Staff

⁵ The North American Vertical Datum is the official horizontal control datum for the United States, Canada, Mexico, and Central America. It is essentially measurement from a surface of zero elevation (i.e. mean sea level) to which heights of various points are referenced.

will be revisiting the seawall & Freeboard height requirements after the moratorium expires.

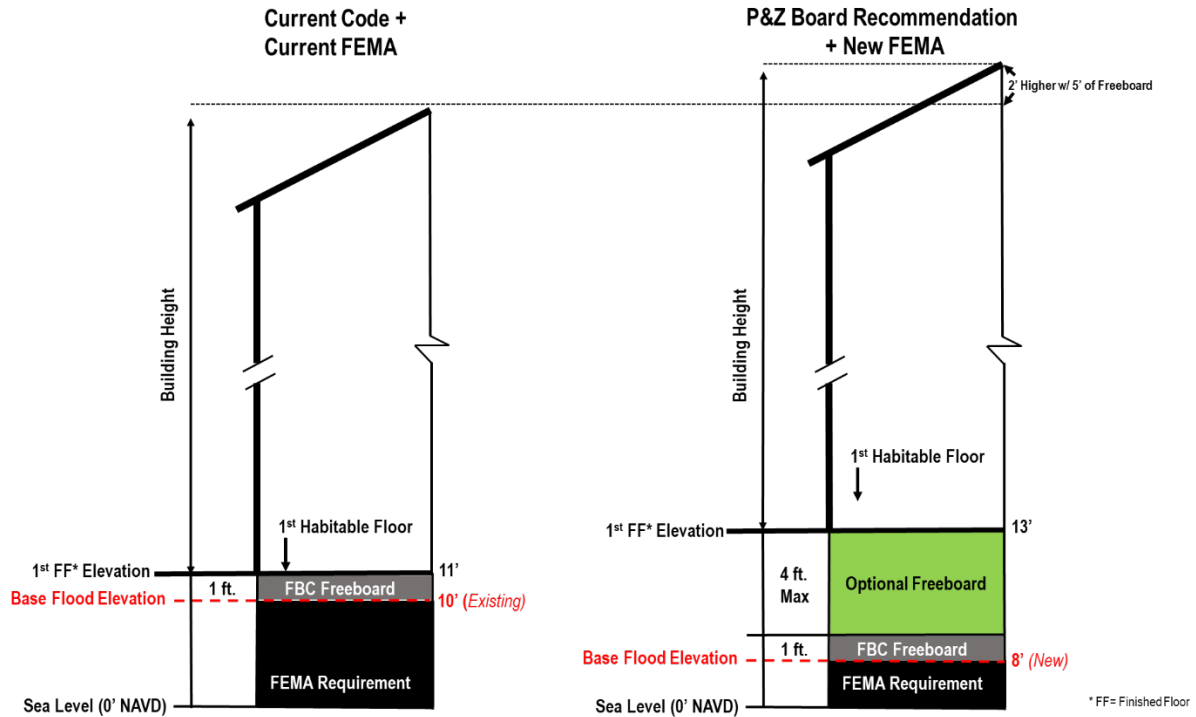
Instead, what staff was initially proposing in Ordinance 2024-03 is the allowance for property owners to elect to include up to 3 feet of Freeboard height, which is tied to the point where building heights are measured from. The Planning & Zoning Board (P&Z Board) recommended allowing property owners to include up to 5 feet of Freeboard height (this recommendation will be discussed further below). The benefits of increasing a structure's Freeboard height will be an enhancement to a structure's resiliency and ability to withstand storms and will typically result in reduced flood insurance premiums.

Staff's initial recommendation to revise the point at which the Town measures height from, which is the FEMA BFE requirement, plus the 3-feet of Freeboard amount, would have allowed for the development of structures that are an additional 2 feet in height greater than that allowed by the current mandatory 1-foot of Freeboard requirement. This potential net difference of 2 feet would essentially allow structures to develop to the same maximum heights that were allowable under the prior (in Manatee County) and currently existing (in Sarasota County) FEMA flood elevation maps. In essence, the staff's initially recommended amendments would maintain the current maximum building height allowances. See example comparison graphic below (Note: Not to scale):



The P&Z Board, at their February 13, 2024 Regular Meeting, recommended an allowance for property owners to elect to include up to 5 feet of Freeboard height. The P&Z Board's primary rationale was that allowing up to 3 feet of Freeboard

height would maintain a status quo of the maximum building heights allowable under the prior (in Manatee County) and current (in Sarasota County) FEMA flood elevation maps. See example comparison graphic below (Note: Not to scale):



The P&Z Board believed that, with increased flooding within the Town and recent sea level rise projections indicating current rates of 3 inches per decade, amendments to our current requirements should provide for incentives that do more than maintain the status quo.

The recommendation of an additional 2 feet of Freeboard height (from the 3 feet initially recommended by staff to the 5 feet recommended by the P&Z Board) could, at current rates of sea level rise, provide 80 years (at 3 inches per decade; $24'' \div 3'' = 8$ decades) of breathing-room for those making the significant investments to elevate or reconstruct structures above the required BFE heights.

The 5 feet of Freeboard allowance would put the Town at the forefront of Florida jurisdictions. There are a number of jurisdictions that have mandatory Freeboard heights of 3 feet and three jurisdictions (Bradenton Beach, Indian Shores and Madeira Beach) that have mandatory Freeboard heights of 4 feet, according to the Florida Department of Emergency Management.

Ordinance 2024-03, has been updated to incorporate the P&Z Board's recommendation (including minor recommended formatting changes) and contains two amendments to the Town's Flood Control code including:

1. A new Definition of Freeboard, in Sec. 154.202:

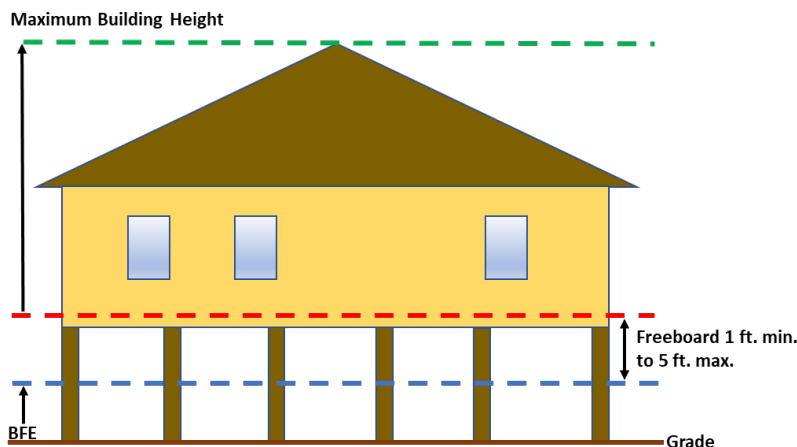
“Freeboard.” An additional amount of height above the Base Flood Elevation used as a factor of safety in determining the elevation to which a structure’s lowest floor or lowest horizontal structural member of the lowest floor, as applicable, must be elevated or floodproofed, as required by the Florida Building Code and where amended by the Town Code and to allow additional height elected by the applicant subject to limitations specified in Chapter 158, Article X, Definitions. and

2. A new cross-reference to the Town’s Zoning Code Definition of Height, to clarify that height is measured from the FEMA BFE plus the amount of Freeboard provided (up to a maximum of 5 feet in areas not subject to wave action), in Sec. 154.301:

(D) Building height measurement and limitations. For the purpose of determining building height for buildings and structures in flood hazard areas other than Coastal A Zones, Coastal High Hazard Areas, and seaward of the CCCL, the vertical distance shall be measured as specified in the definition “building, height of” in Chapter 158, Article X, Definitions.

Ordinance 2024-03 also includes a new addition (including a graphic) to the “Building, Height of” definition in the Town’s Zoning Code to clarify that height is measured from the FEMA BFE plus the amount of Freeboard provided (up to a maximum of 5 feet in areas not subject to wave action), in Sec. 158.144:

(3) For the purposes of Article IV, Bulk, Maximum height, for all structures in flood hazard areas other than Coastal A Zones, Coastal High Hazard Areas, and seaward of the CCCL, the vertical distance shall be measured from the Base Flood Elevation plus Freeboard, except that in no case shall the vertical distance of the Freeboard exceed a maximum of five (5) feet. The building height shall be measured from the selected Freeboard to the highest point of any portion of the building (see illustration below).



Amendments to the Flood Control ordinance are required to be reviewed, for consistency with FEMA requirements across jurisdictions, by the Florida

Department of Emergency Management (FDEM). FDEM staff and consultants have worked with Town staff on the language incorporated into Ordinance 2024-03 and have no objections to the language and intended purpose of the amendments.

Staff is of the opinion that this ordinance will be positively received. As noted with the recent amendment to the maximum allowable seawall height, local sea level rise estimates, from the Sarasota Bay Estuary Program, have indicated that local sea level rise rates have averaged about 3 inches per decade over the past 20 years, which is roughly triple the long-term average. Providing incentives for property owners, who are making significant investments, to be able to elect to construct higher elevated structures, and maintain expectations of potential building heights provided for under prior and currently existing FEMA flood elevation maps, is expected to help maintain and improve the community, protect the Town's property values and homes or businesses.

Allowing for an increase in Freeboard height will also provide additional incentives for certain low-lying properties, such as in the Longbeach Village, Sleepy Lagoon St. Jude's and Buttonwood neighborhoods, to be able to bring in-fill to increase the existing grade, which can be subject to more regular flooding. The additional Freeboard height allowance would, in essence, allow for up to 2 feet of such fill not to count against the maximum building height potential.

The adoption of this ordinance is exempt from the Business Impact Estimate (BIE) preparation and posting obligations, pursuant to Florida Statutes 166.041(4)(C).

The Planning & Zoning Board (P&Z Board) held a public hearing on February 13, 2024, and recommended approval (5-1) of Ordinance 2024-03. The P&Z Board unanimously supported minor formatting changes to the ordinance, which have been incorporated, and were nearly unanimous with the recommended increase in the Freeboard height amount. The vote in opposition was based on a lack of specific data supporting the P&Z Board's recommendation to raise the optional Freeboard elevation to 5 feet instead of the 3 feet as originally drafted for consideration.

Staff Recommendation

Staff is supportive of the P&Z Board's recommendation and recommends forwarding Ordinance 2024-03 to the April 1, 2024, Town Commission Regular Meeting for second reading and public hearing.

Attachments

- A. Ordinance 2024-03 (Available in Town Clerk's Office)
- B. Business Impact Estimate (Available in Town Clerk's Office)
- C. PowerPoint Presentation (Available in Town Clerk's Office)

End of Agenda Item