



# CITY COMMISSION WORKSHOP MEETING AGENDA

Thursday, July 11, 2024 at 5:30 PM

City Commission Chambers – 105 S. 2ND Street, Flagler Beach, FL 32136

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**ALL MEETING ITEMS WILL BE CONTINUED UNTIL MEETING IS COMPLETE.**

- 1. Call the meeting to order**
- 2. Pledge of Allegiance followed by a moment of silence to honor our Veterans, members of the Armed Forces and First Responders**
- 3. General Business**

**a.** Discussion and direction to Staff regarding Fill Allowance.

**4. Adjournment**

**RECORD REQUIRED TO APPEAL:** In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Commission makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript. The City is not responsible for any mechanical failure of the recording equipment. In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at (386) 517-2000 ext 233 at least 72 hours prior to the meeting. The City Commission reserves the right to request that all written material be on file with the City Clerk when the agenda item is submitted.

**Sec. 4.07.12. Site improvement, utilities and limitations.**

- (A) *Minimum requirements.* All proposed new development shall be reviewed to determine that:
  - (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
  - (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (B) *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- (C) *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
- (D) *Limitations on placement of fill.* Subject to the limitations of this article:
  - (1) Fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour.
  - (2) If intended to support buildings and structures (zone A only), fill shall comply with the requirements of the Florida Building Code.
  - (3) In special flood hazard areas (other than coastal high hazard areas and coastal A zones) and in the Mirror Lake Overlay District, if the placement of fill is proposed, compensatory storage shall be provided at a one (1) to one (1) ratio to minimize increases in flood levels. Activities exempt from this requirement include: seawalls, accessory structures, shoreline hardening, pool/patio construction, sidewalks and driveways, filled stemwall foundations, restoration earthwork due to erosion and scour, and other minor activities not exceeding a volume of fifty (50) cubic yards.
  - (4) In coastal high hazard areas (zone V) and coastal A zones, non-compacted fill may be used around buildings for landscaping, drainage and aesthetic purposes provided the fill will wash out during storm surge to minimize obstruction to the passage of waves and to minimize ramping effects or wave deflection. Applications for placement of non-compacted fill shall include an analysis by an engineer, architect, or soil scientist demonstrating that the following have been considered:
    - (a) Particle composition of the fill does not have a tendency for excessive natural compaction;
    - (b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and
    - (c) The slope of fill will not cause wave run-up or ramping.
- (E) *Limitations on sites in coastal high hazard areas (zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the state department of environmental protection and only if the engineering analysis required by Section 4.07.05(B)(4) demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 4.07.16(E)(3).

(Ord. No. 2015-03, § 2, 2-12-15)

**Sec. 9.04.04. Fill.**

- (a) Proposed fill shall be limited to the minimum amount of fill necessary to provide positive drainage flow and to abide by any applicable floodplain protection or building code regulations. Positive drainage shall be established on the grading plan. The city shall consider a thirty-three (33) percent maximum grade (1:3) or elevation of six (6) inches above side lot or front swale as the standards for positive drainage unless the existing grades dictate otherwise. At no point shall a lot or parcel be filled higher than the final average grade of any adjacent developed properties if original natural grade was not already higher than the adjacent developed properties. No fill shall be permitted on right-of-way areas except as required for driveway and culvert installation. Fill shall be defined as imported soil or material used to raise the grade of existing lands, excluding sod, gravel and other permeable materials used as ground cover.
- (b) *AE SFHA flood zone.*
  - (1) Fill is limited to the compacted amount needed inside the perimeter of a stem wall foundation in order to achieve a solid subsurface to pour a concrete slab to the elevation of the approved FFE.
  - (2) Additional fill is permissible to bring driveways and/or sidewalks to the approved elevations proposed on the site plan.
  - (3) Any additional fill is then limited to 50 cubic yards outside the building, driveway and sidewalk footprints, generally, not to exceed six (6) inches in overall grade change and with slopes constructed no greater than 3:1 slopes to meet adjacent property grades.
  - (4) Detention is required to keep runoff due to the development contained on the property.
- (c) *X flood zone.*
  - (1) Fill is limited to the compacted amount needed inside the perimeter of a stem wall foundation in order to achieve a solid subsurface to pour a concrete slab to the elevation of the approved FFE.
  - (2) Fill is permitted, not necessarily limited to fifty (50) cubic yards, outside the building footprint, under the driveway(s), walkways, and other flatwork, sufficient to provide proper drainage away from structures and into onsite detention areas and R-O-W swales.
  - (3) Final grades generally shall not exceed six (6) inches in overall elevation change and constructed at no greater than 3:1 slopes to meet adjacent property grades.

(Ord. No. 2023-01, § 2, 5-25-23)

**ORDINANCE NO. 2024-11**

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**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON CERTAIN DEVELOPMENT ACTIVITIES WITHIN AE SFHA FLOOD ZONES; DIRECTING STAFF TO REVIEW AND DEVELOP LAND DEVELOPMENT CODE PROVISIONS RELATED TO FILL STANDARDS AND LIMITATIONS FOR PROPERTIES LOCATED WITHIN THE AE SFHA FLOOD ZONES; PROVIDING FOR EXPIRATION AND EXTENSION OF THE MORATORIUM; PROVIDING STANDARDS FOR RELIEF FROM THE APPLICATION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City is granted the authority, under Section 2(b), Art. VIII of the State Constitution, and Section 166.021, Florida Statutes, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, the Federal Emergency Management Agency has identified Special Flood Hazard Areas (“SFHA”) within the City’s boundaries that may be subject to periodic inundation; and

**WHEREAS**, development activities within these high-risk flood zones can significantly impact floodplain management, exacerbate flooding conditions, and lead to increased risks to properties and residents; and

**WHEREAS**, specifically, the placement of fill material within high-risk flood zones can alter natural water flow patterns, reduce flood storage capacity, and increase the potential for flood damage to surrounding areas; and

**WHEREAS**, recent weather patterns have raised concerns about the increased severity and frequency of flooding events within the City; and

**WHEREAS**, the City has identified the need to review and potentially revise its current regulations regarding the placement of fill material to developments within certain high-risk flood zones; and

**WHEREAS**, the City Commission finds a temporary moratorium on the placement of fill material for any development project within AE SFHA flood zones is necessary to prevent any adverse effects on floodplain management and flood risk while the City undertakes a comprehensive review of its fill regulations; and

**WHEREAS**, it is the City’s intent that this moratorium be applicable only to development activities involving fill material on parcels located within AE SFHA flood zones, as described in Art. IX, Sec. 9.04.04(b), of the City’s Land Development Code; and

47           **WHEREAS**, this Ordinance is adopted in good faith, is not discriminatory against any  
48 property owner, is of limited duration, and will allow for the development and implementation of  
49 measures to ensure sustainable and safe development within flood zones; and

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51           **WHEREAS**, the City Commission finds this Ordinance to be in the best interests of the  
52 public health, safety, and welfare of the citizens of Flagler Beach.

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54           **NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF FLAGLER**  
55 **BEACH, FLORIDA:**

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57           **SECTION 1. RECITALS.** The foregoing recitals are hereby ratified and fully  
58 incorporated herein by reference as legislative findings of the City Commission of the City of  
59 Flagler Beach.

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61           **SECTION 2. TEMPORARY MORATORIUM.** Beginning on the effective date of this  
62 Ordinance and continuing for a period of 180 days, a moratorium is hereby imposed upon the  
63 placement of fill material to any parcel located within AE SFHA flood zones, as described in Art.  
64 IX, Sec. 9.04.04(b), of the City’s Land Development Code.

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66           **SECTION 3. EXPIRATION OF THE TEMPORARY MORATORIUM.** The  
67 temporary moratorium imposed by Section 2 of this Ordinance shall expire 180 days from the  
68 effective date of this Ordinance, upon the adoption of an amendment to the Land Development  
69 Code implementing changes to fill standards and regulations for AE SFHA flood zones, or upon  
70 the majority vote of the City Commission, whichever occurs earliest. If the City requires additional  
71 time to complete the enactment of amending fill regulations applicable to the properties subject to  
72 this moratorium, the City Commission may consider extending the moratorium through a  
73 subsequent ordinance providing the justification for the extension.

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75           **SECTION 4. RECOMMENDATIONS FOR LAND DEVELOPMENT CODE.** City  
76 staff is hereby directed to examine the current land use regulations and make recommendations to  
77 the City Commission and the Planning and Architectural Review Board related to updating the  
78 limitations on fill material placement for properties located within the AE SFHA flood zones.

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80           **SECTION 5. ADMINISTRATIVE RELIEF PROCEDURE.**

81           (a)     The City Commission may authorize exceptions to the moratorium imposed by this  
82 Ordinance when it finds, based upon substantial competent evidence presented to it, that deferral  
83 of a proposed placement of fill for the duration of the moratorium would impose an extraordinary  
84 hardship on a landowner or petitioner.

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86           (b)     A request for an exception based upon extraordinary hardship shall be filed with  
87 the City Clerk, including a non-refundable fee of \$350.00 by the owner/petitioner, or the petitioner  
88 with the consent of the owner/petitioner, to cover processing and advertising costs, and shall  
89 include a recitation of the specific facts that are alleged to support the claim of extraordinary  
90 hardship.

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92 (c) A public hearing on any request for an exception for extraordinary hardship shall  
93 be held by the City Commission at the first regular meeting of the City Commission that occurs  
94 after the expiration of the period for publication of notice of the request for an exception.  
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96 (d) Notice of filing of a request for an exception, and the date, time, and place of the  
97 hearing thereon shall be published once at least 7 days prior to the hearing in a newspaper of  
98 general circulation within the city limits of the City of Flagler Beach, Florida.  
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100 (e) In reviewing a request for an exception based upon a claim of extraordinary  
101 hardship, the City Commission shall consider, at a minimum, the following criteria:  
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103 (1) The extent to which the owner/petitioner has, prior to the effective date of  
104 this Ordinance, received a permit or approval to conduct a use subject to  
105 this moratorium.  
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107 (2) The extent to which the owner/petitioner has, prior to the effective date of  
108 this Ordinance, made a substantial expenditure of money or resources in  
109 reliance upon a permits or approvals of the City of Flagler Beach directly  
110 associated with a use subject to this moratorium.  
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112 (3) Whether the moratorium will expose the owner/petitioner to substantial  
113 monetary liability to third persons; or would leave the owner/petitioner  
114 completely unable, after a thorough review of alternative solutions, to earn  
115 a reasonable investment backed expectation on the real property that is  
116 affected by this Ordinance.  
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118 (f) At a minimum, the City Commission shall consider the following non-exclusive  
119 factors under the criteria set forth in subsection (e) above:  
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121 (1) The history of the property;  
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123 (2) The history of the commercial, business, or any use on the property; and  
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125 (3) The location of the property.  
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127 (g) After reviewing the evidence and testimony placed before it, the City Commission  
128 shall either approve, deny, or approve in part and deny in part, the request made by the  
129 owner/petitioner.  
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131 **SECTION 6. SEVERABILITY.** If any phrase, clause, sentence, paragraph, or section of  
132 this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such  
133 invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences,  
134 paragraphs, and sections of this Ordinance.  
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136 **SECTION 7. CONFLICTS.** All ordinances or parts of ordinances in conflict with this  
137 Ordinance are hereby repealed.

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**SECTION 8. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING THIS [REDACTED] DAY OF [REDACTED], 2023.

PASSED AND ADOPTED THIS [REDACTED] DAY OF [REDACTED], 2023.

CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION

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Suzie Johnston, Mayor

ATTEST:

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Penny Overstreet, City Clerk