

Chapter 18 Amendments – Buildings and Building Regulations

New Article –

Add Article VI. – Historic Buildings.

Add Section 18-301. - Definitions:

Alteration to a Historic Building means any change because of construction, addition, repair, maintenance, or otherwise to a building or structure included on the Town's List of Historic Buildings; in which the construction, addition, repair, or maintenance will not preclude the building or structure's continued designation as a historic building or structure.

Historic Building means any building or structure which, in whole or in any structural part, was built 50 or more years prior to the current date; which has been included on a List of Historic Buildings approved by the Town Council; and which is eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building, Chapter 12, Historic Buildings*. Historic Buildings may qualify for Landmark designation or may be included in a Historic District, as detailed under Chapter 54, Historical Preservation.

Add Section 18-302. – Designation process.

The Town Council shall approve and maintain a List of Historic Buildings. The Town Council shall by resolution initially approve a list of Historic Buildings, prepared and presented by Town Staff; and may update the list periodically to reflect additions to, and deletions from, the List of Historic Buildings.

Any building or structure included on the List of Historic Buildings that undergoes an alteration, as defined above in Section 18-301, must be verified and approved by Town Staff, which must verify that the historic nature of the building or structure is preserved with the alteration. Upon completion of the alteration, Town Staff will again

verify and approve the inclusion of the building or structure on the List of Historic Buildings.

Chapter 50 Amendments – Floods

Division 2. Definitions.

Section 50-137.5. Definitions.

Delete the existing definition of *Historic Structure* and replace with:

Historic Building – see Chapter 18, Buildings and Building Regulations, Section 18-301, Definitions.

OPTIONAL - Chapter 54 Amendments – Historical Preservation

Article I. In General.

Section 54-2 – Definitions.

Add:

Historic Building – see Chapter 18, Buildings and Building Regulations, Section 18-301, Definitions.

Chapter 134 – Zoning

No amendments required.

Wayne Bergman

From: Wayne Bergman
Sent: Thursday, August 08, 2019 3:08 PM
To: Joshua Martin
Cc: Wayne Bergman
Subject: Historic Buildings

Josh – I did a little investigating after our discussion of “historic” designation to buildings over a certain age. The 2017 FBC, Existing Building Code, Chapter 12, Historic Buildings, Section 1201.3, states the following:

1201.3 Flood hazard areas.

In flood hazard areas, if all proposed work, including repairs, work required because of a change of occupancy, and alterations, constitutes substantial improvement, then the building shall comply with Section 1612 of the Florida Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable.

Exception: *If the program that designated the building as historic determines that it will continue to be an historic building after the proposed work is completed, then the proposed work is not considered to be substantial improvement. For the purposes of this exception, an historic building is:*

1. *1. Individually listed in the National Register of Historic Places; or*
2. *2. A contributing resource within a National Register of Historic Places listed district; or*
3. *3. Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district, provided the local program making the designation is approved by the Department of the Interior (the Florida state historic preservation officer maintains a list of approved local programs); or*
4. *4. Determined eligible by the Florida State Historic Preservation Officer for listing in the National Register of Historic Places, either individually or as a contributing property in a district.*

So, if we are able to adopt an ordinance or resolution that creates both a category of building called “historic” – AND - weave it into our existing Historic Preservation code (Chapter 54) – AND – prepare list of “historic” properties; we should be able to exempt those homes just like we do for “landmarked” homes. This means any amount of repairs, work to change an occupancy class, or alterations, would never rise to the level of a substantial improvement, which would mandate the raising of the building to meet the required flood elevation and flood-proofing of the building.

This may be a valuable incentive to an owner to keep their existing building without going through the landmark designation process. Any new addition would need to comply with FEMA elevation minimums, but the “historic” house could remain – and be improved, so long as its “historic” character remains. We may need to propose some basic regulations on the “historic” buildings, but not to the level of a landmarked building.

Would this destroy the future of the landmark program? Hard to tell, although the landmark building owner could qualify for the tax abatement program. And get a plaque!

Something to discuss.

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CHAPTER 12

HISTORIC BUILDINGS

SECTION 1201 GENERAL

1201.1 Intent and purpose. It is the intent of this chapter to provide means for occupant safety, property conservation and use of designated historic buildings while protecting those elements, spaces and features that make these buildings historically or architecturally significant.

1201.2 Scope. The provisions of this code acknowledge the need to preserve the character of historic buildings and shall apply to the repair, alteration, restoration, change of occupancy, addition and relocation of historic buildings.

1201.3 Flood hazard areas. In flood hazard areas, if all proposed work, including repairs, work required because of a change of occupancy, and alterations, constitutes substantial improvement, then the building shall comply with Section 1612 of the *Florida Building Code, Building*, or Section R322 of the *Florida Building Code, Residential*, as applicable.

Exception: If the program that designated the building as historic determines that it will continue to be an historic building after the proposed work is completed, then the proposed work is not considered to be substantial improvement. For the purposes of this exception, an historic building is:

1. Individually listed in the National Register of Historic Places; or
2. A contributing resource within a National Register of Historic Places listed district; or
3. Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district, provided the local program making the designation is approved by the Department of the Interior (the Florida state historic preservation officer maintains a list of approved local programs); or
4. Determined eligible by the Florida State Historic Preservation Officer for listing in the National Register of Historic Places, either individually or as a contributing property in a district.

1201.4 Accessibility requirements. For accessibility requirements, see the *Florida Building Code, Accessibility*.

SECTION 1202 DEFINITIONS

ADAPTIVE REUSE. The conversion of functional change of a building from the purpose or use for which it was originally constructed or designed.

ADAPTIVE USE. A use for a building other than that for which it was originally designed or intended.

HISTORIC BUILDING. For the purposes of this code and the referenced documents, an historic building is defined as a building or structure that is:

1. Individually listed in the National Register of Historic Places; or
2. A contributing property in a National Register of Historic Places listed district; or
3. Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district; or
4. Determined eligible by the Florida State Historic Preservation Officer for listing in the National Register of Historic Places, either individually or as a contributing property in a district.

HISTORIC CHARACTER. The essential quality of an historic building or space that provides its significance. The character might be determined by the historic background, including association with a significant event or person, the architecture of design, or the contents or elements and finishes of the building or space.

HISTORIC FABRIC. Original or added building or construction materials, features and finishes that existed during the period that is deemed to be most architecturally or historically significant or both.

HISTORIC PRESERVATION. A generic term that encompasses all aspects of the professional and public concern related to the maintenance of an historic structure, site or element in its current condition, as originally constructed, or with the additions and alterations determined to have acquired significance over time.

HISTORIC SITE. A place, often with associated structures, having historic significance.

HISTORIC STRUCTURE. A building, bridge, lighthouse, monument, pier, vessel or other construction that is designated or that is deemed eligible for such designation by a local, regional or national jurisdiction as having historical, architectural or cultural significance.

PRESERVATION. The act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic building or structure.

REHABILITATION, HISTORIC BUILDING. The act or process of making possible a compatible use of a property through repair, alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values.

RESTORATION. The act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features, and repair or replacement of damaged or altered features from the restoration period.

SECTION 1203 STANDARDS AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS

1203.1 Historic preservation goal. The historic preservation goal of this code shall be to minimize damage to and loss of historic structures, their unique characteristics and their contents as follows:

1. Maintain and preserve original space configurations of historic buildings.
2. Minimize alteration, destruction or loss of historic fabric or design.

1203.2 Historic preservation objectives.

1. Preservation of the original qualities or character of a building, structure, site or environment shall be encouraged.
2. Removal or alteration of any historic material or distinctive architectural features shall be minimized.
3. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.
4. A compatible use for a property that requires minimal alteration of the building, structure or site and its environment shall be encouraged.
5. New additions or alterations shall be designed and constructed in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired to the greatest degree possible.
6. Repairs, alterations, restorations, changes of occupancy, additions and relocations shall be guided by the recommended approaches in rehabilitation set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Appendix B).

SECTION 1204 EQUIVALENCY

1204.1 Equivalency. Nothing in this code shall be intended to prevent the use of systems, methods or devices of equivalent or superior quality, strength, fire resistance or effectiveness, provided that the following conditions are met:

1. Technical documentation is submitted to the building official to document equivalency.
2. The system, method or device is acceptable to the building official.

SECTION 1205 COMPLIANCE

1205.1 Strict compliance. Historic structures or portions of such structures that do not strictly comply with this code shall be considered to be in compliance if it can be shown to the satisfaction of the building code official that equivalent protection

has been provided or that no hazard will be created or continued through noncompliance.

1205.2 Compliance option. Life safety and property conservation shall be provided in accordance with one of the following options:

1. Prescriptive-based provisions of this code.
2. Compliance alternative-based provisions of this code.
3. Performance-based provisions of NFPA 914, Code for Fire Protection of Historic Structures, Chapter 6, along with a structural evaluation as specified in Section 1401.4.1 of this code.

1205.3 Conditions specific to Compliance Options 2 and 3.

1. Architect or engineer required. The evaluation of historic structures utilizing Compliance Options 2 or 3 shall be completed by a Florida-registered architect or engineer and submitted to the building code official for review.
2. Documentation. Historic buildings that are determined to be code compliant through the use of Compliance Option 2 or 3 shall have copies of the architect or engineer's report kept on site and available for review by the building official.
3. Change of report assumptions. Any remodeling, modification, renovation, change of use or change in the established assumptions of the report shall require a reevaluation and reapproval by the building code official.
4. Construction safeguards. Construction safeguards consistent with Chapter 15 and NFPA 914, Code for Fire Protection of Historic Structures, shall be maintained during periods of repair, alteration, change of occupancy, addition and relocation of historic buildings.
5. Maintenance. In addition to the requirements of Section 1204, historic buildings shall be maintained in accordance with Chapters 1, 2, 8, 9, 10 and 11 of NFPA 914, Code for Fire Protection of Historic Structures.

SECTION 1206 INVESTIGATION AND EVALUATION

1206.1 Investigation and evaluation report. An historic building undergoing alteration or change of occupancy shall be investigated and evaluated. If it is intended that the building meet the requirements of this chapter, a written report shall be prepared and filed with the building official by a Florida-registered architect or engineer. Such report shall be in accordance with the provisions of Sections 4.3.1.2 through 4.3.2 of NFPA 914, Code for Fire Protection of Historic Structures and shall identify each required safety feature that is in compliance with this chapter and where compliance with this or other chapters would be damaging to the contributing historic features. In addition, the report shall describe each feature that is not in compliance and demonstrate how the intent of the provisions of this or other chapters are complied with in providing an equivalent level of safety.

DIVISION 7. - VARIANCES AND APPEALS

Sec. 50-110. - General.

The town council shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to F.S., §553.73(5), the town council shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

(Ord. No. 16-2017, § 2, 8-9-2017)

Sec. 50-111. - Appeals.

The town council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this chapter. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

(Ord. No. 16-2017, § 2, 8-9-2017)

Sec. 50-112. - Limitations on authority to grant variances.

The town council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 50-116 of this chapter, the conditions of issuance set forth in section 50-117 of this chapter, and the comments and recommendations of the floodplain administrator and the building official. The town council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(Ord. No. 16-2017, § 2, 8-9-2017)

Sec. 50-113. - Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 50-82 of this chapter.

(Ord. No. 16-2017, § 2, 8-9-2017)

Sec. 50-114. - Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

(Ord. No. 16-2017, § 2, 8-9-2017)

Sec. 50-115. - Functionally dependent uses.

special flood-related erosion hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall

(1) Require the issuance of a permit for all proposed construction, or other development in the area of flood-related erosion hazard, as it is known to the community;

(2) Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing flood-related erosion hazard; and

(3) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.

(b) When the Federal Insurance Administrator has delineated Zone E on the community's FIRM, the community shall

(1) Meet the requirements of paragraph (a) of this section; and

(2) Require a setback for all new development from the ocean, lake, bay, riverfront or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Federal Insurance Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the community's land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 60.6 Variances and exceptions.

(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§ 60.3, 60.4, and

60.5. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardships, shall approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under § 59.24(b) of this subchapter. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public