

EMERGENCY ORDINANCE NO. 551
Flood Plain Management and Minimum Base Flood Elevations

AN EMERGENCY ORDINANCE OF THE CITY OF PORT ST. JOE, FLORIDA; ADOPTING THE PRELIMINARY FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) BASE FLOOD ELEVATIONS FOR THE ISSUANCE OF CONSTRUCTION AND BUILDING PERMITS WITH ADDITIONAL MINIMUM ELEVATION REQUIREMENTS (FREEBOARD) DIRECTING CITY ADMINISTRATION, BUILDING AND PLANNING DEPARTMENTS TO DEVELOP PROPOSED LAND DEVELOPMENT REGULATIONS AND ENFORCEMENT CONSISTENT WITH THE PRELIMINARY FEMA FLOODPLAIN AND BASE FLOOD ELEVATIONS; PROVIDING FOR REPEALER, SEVERABILITY AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Board of City Commissioners of Port St. Joe Florida (hereinafter Commission) pursuant to FS 166.041(3)(b) may adopt through an emergency enactment procedure at a regular meeting any ordinance wherein the Commission has declared an emergency exists and that the immediate enactment of said ordinance is necessary; and

WHEREAS, the Commission finds and determines that following the recent devastation and level of destruction to existing structures throughout the City from the effects of the Hurricane Michael storm event that such an emergency exists and the immediacy of its adoption is necessary; and

WHEREAS, pursuant to Florida Statute Chapter 166 the City shall have the power to carry on city government inclusive of the power to adopt its own rules that which are not inconsistent with general or special law and that are designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, pursuant to Florida Statute Chapter 166 the City shall reserve the powers to adopt ordinances necessary for the exercise of its powers and perform acts which are in the common interest of the people of Port St. Joe and exercise all powers and privileges not specifically prohibited by law; and

WHEREAS, the Commission after several years of careful review, public hearings and consideration of the various state and federal administrative and regulatory recommendations for the adoption of a preliminary FEMA code companion model floodplain management ordinance are necessary and appropriate for the City of Port St. Joe to adopt; and

WHEREAS, the Commission has received the recommendations of the City staff and state and federal regulatory authorities in determining that the flood-resistant construction requirement and elevated minimum height requirements to the Florida Building Code, and the preliminary Code Companion Model Floodplain Management maps and heightened elevation for the City of Port St. Joe flood hazard areas are most beneficial and serve the public interests and public safety

for continuing building and construction pending further deliberations and future consideration of adoption of a final Code Companion Model Floodplain Management Ordinance; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Port St. Joe 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, Port St. Joe was accepted for participation in the National Flood Insurance Program and the City of Port St. Joe Board of City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, 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, the Commission has determined that it is in the public interest to adopt the proposed preliminary floodplain management regulation for the heightened minimal elevations that is limited in scope and application and shall be coordinated with the Florida Building Code; and

WHEREAS, the Commission has directed staff to implement the following preliminary FEMA Flood Map designation and flood hazard areas for the implementation of the minimum elevation requirements for construction in conjunction with its continued application and enforcement of the Florida Building Code until such future date and noticed public hearings wherein the Commission and public can consider for final adoption a comprehensive Floodplain Management Ordinance; and

NOW THEREFORE, BE IT ORDAINED by the Board of City Commissioners of Port St. Joe, in the State of Florida as follows:

Section 1 – Short Title.

This Ordinance shall hereafter be known and referred to as the “City of Port St. Joe Floodplain Management and Minimum Base Flood Elevation Ordinance”.

Section 2 – Authority.

This ordinance is adopted by the City Commission in accordance with and under the authoritative powers permitted by home rule, the City’s police powers to protect the public health, safety and welfare, and under the powers pursuant to the authority granted under Florida Statute Chapter 166 for the implementation and enforcement of standards, rules and regulations set forth herein.

Section 3 – Purpose, Intent and Scope.

The purpose of this Ordinance is to preserve, protect, enhance and promote the construction within Port St. Joe consistent with the Florida Building Code and compliant with NFIP standards and guidelines. This emergency ordinance and the preliminary base flood elevation requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44 Code of Federal Regulations, Section 59.22.

The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

Section 4 – Height Elevation Requirement, Policy and Application.

Port St. Joe herein adopts the mandatory minimum requirement that all future permitted buildings and structures within the designated FEMA Floodplain Management flood hazard areas shall hereinafter have the lowest floors elevated to or above the preliminary Base Flood Elevation (BFE) plus 2 feet (“BFE +2 ft”) and defined as “the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]” plus two feet.

The Port St. Joe Building Department shall adopt the following technical language for its application and use in issuing future permits:

The minimum elevation requirements shall be as specified in ASCE 24 or base flood elevation plus 2 feet (610 mm), whichever is higher.

The Port St. Joe Building Department shall apply this additional elevation (Freeboard of BFE + 2 ft.) in its evaluations, assessments and determination for the issuance of all construction and building permits in the affected and defined flood hazard areas pursuant to the Florida Building Code.

Section 5 – Codification.

It is the intention of the Board of City Commissioners that the provisions of this Ordinance will become and be made a part of the City of Port St. Joe Land Development Regulations; and that sections of this Ordinance may be renumbered or re-lettered and that the word “Ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the LDR is accomplished, sections of this Ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the City Manager, or the City Manager’s designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

Section 6. Penalties.

Any development that is not within the scope of the Florida Building Code but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

For development that is not within the scope of the Florida Building Code but that is regulated by this ordinance and that is determined to be a violation, the City of Port St. Joe Building Department and or City Manager is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner’s agent, or to the person or persons performing the work.

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

Section 7. Severability.

This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this ordinance and any other ordinance, the more

restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

It is the intent of the Board of City Commissioners of Port St. Joe, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provision, and shall not be affected by such holding.

Section 8. Other Laws.

The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

Section 9. Codification.

It is the intent of the Board of City Commissioners that the provisions of this Ordinance may be modified as a result of considerations that may arise during the noticed emergency public hearing. Such modifications shall be incorporated into the final version of the Ordinance and adopted by the Board and filed by the Clerk to the Board.

Section 10. Repealer.

Any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

Section 11. Effective Date.

This Ordinance shall become effective immediately upon its adoption.

Adopted on this the 5th day of February, 2019.

ATTEST:

By: Charlotte M. Pierce
Charlotte M. Pierce, City Clerk

BOARD OF CITY COMMISSIONERS
OF PORT ST. JOE, FLORIDA

By: James "Bo" Patterson
James "Bo" Patterson, Mayor

APPROVED AS TO FORM:

By: Adam Albritton
Adam Albritton, City Attorney