

## MEMORANDUM

**TO:** Howard Tipton, Town Manager

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

**Report Date:** March 21, 2024

**Meeting Date:** April 1, 2024

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

### **Recommended Action**

Adopt Ordinance 2024-03.

### **Background**

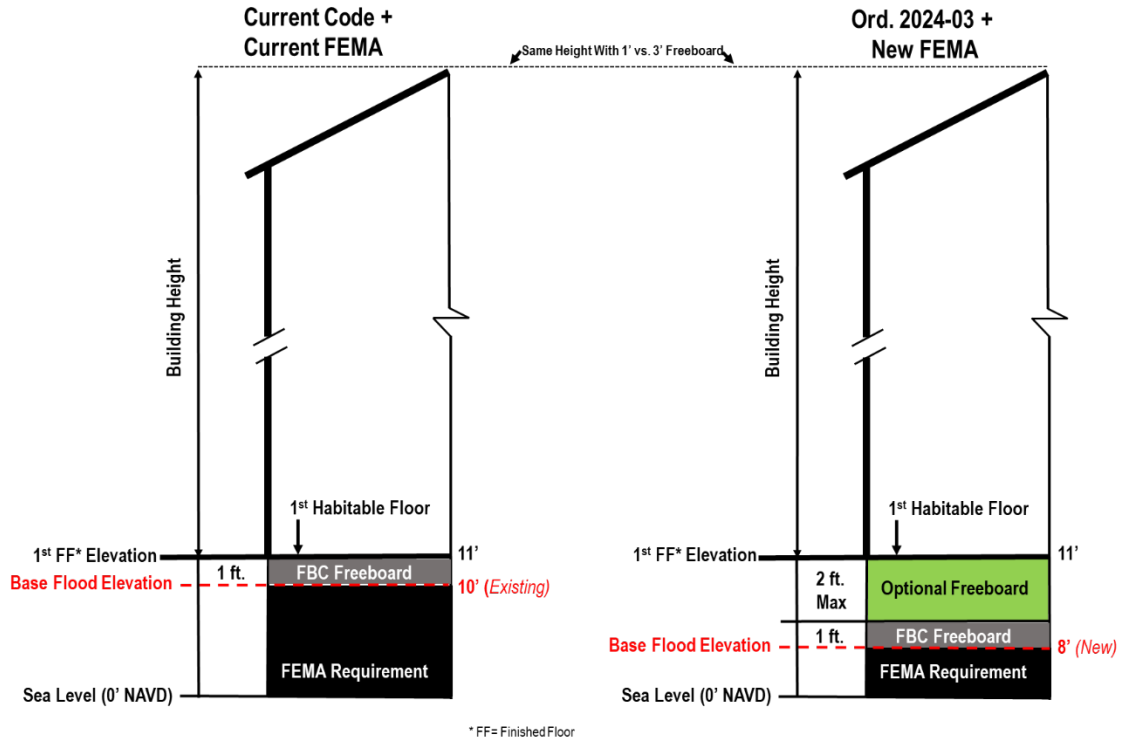
At their March 4, 2024 Town Commission Regular Meeting, the Town Commission (Commission) held first reading and forwarded Ordinance 2024-03 for second reading, public hearing and adoption.

Ordinance 2024-03 will allow property owners to elect to include up to 3 total feet of Freeboard<sup>1</sup> height. This can affect the point at which the Town measures height from, which is the Federal Emergency Management Agency (FEMA), Base Flood Elevation (BFE)<sup>2</sup> requirement, plus the amount of Freeboard provided. As discussed, providing for an additional 2 feet of height, greater than that allowed by the current mandatory 1-foot of Freeboard requirement, would essentially allow structures to develop to the same maximum heights that were allowable under the prior effective FEMA flood elevation maps for the Town. This is because 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. In essence, the change to allow an optional Freeboard election of up to 2 additional feet would maintain the current maximum building height allowances. See example comparison graphic below (Note: Not to scale):

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<sup>1</sup> "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.

<sup>2</sup> The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.



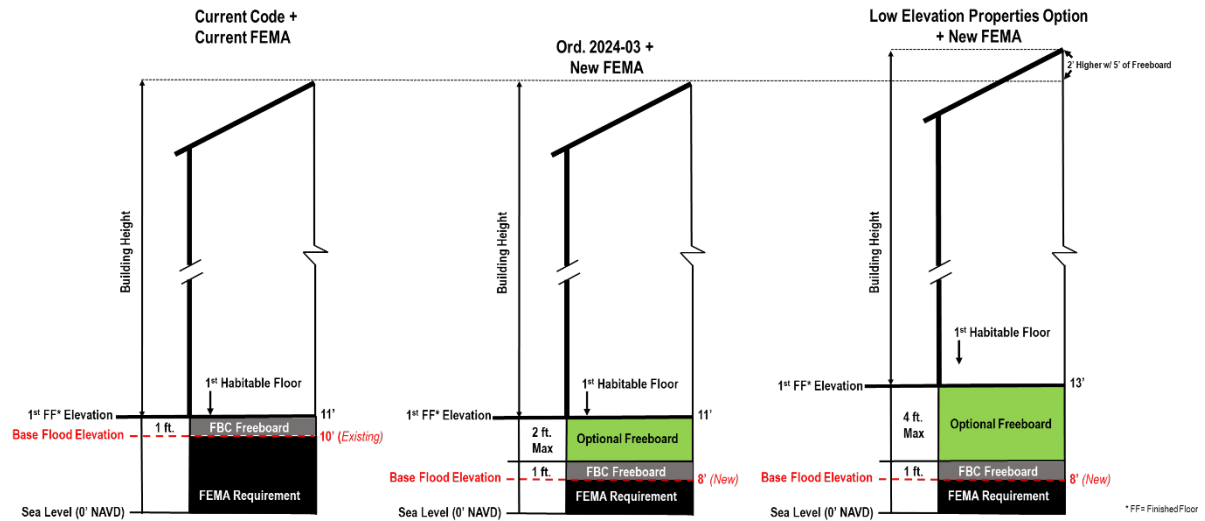
The Commission also considered a recommendation of the Planning & Zoning Board (P&Z Board), which would have allowed property owners to include up to 5 total feet (comprised of 1 foot, which is required by the Florida Building Code, plus an additional, optional 4 feet) of Freeboard height. The P&Z Board, at their February 13, 2024 Regular Meeting, recommended this increased Freeboard allowance so as to do more than maintain the status quo (considering a generalized 2-foot reduction in the recently updated FEMA flood elevations within the Town) with regard to elevating structures above the FEMA BFE. The recommendation sought to provide an incentive to further enhance future structures' resiliency and ability to withstand flooding impacts from storms. This recommendation was informed by recent sea level rise projections from the Sarasota Bay Estuary Program indicating recent rates of sea level rise, of 3 inches per decade, over the past 20 years, had been occurring, which is triple the rate of sea level rise that had observed over the past several prior decades.

The Commission's 1<sup>st</sup> Reading direction was to separately further consider the Planning & Zoning Board's recommendation as an additional incentive that would be applicable to low-lying properties within the Town. The intent is that these kinds of properties are currently more susceptible to repeated periods of standing water and that such properties would be more likely to require actions, such as raising elevation grade-levels, to harmonize with future adjacent road, shoreline and drainage adaptation projects in the Town.

Staff has received a professional recommendation (Attachment C), from APTIM Engineering (the Town’s consultant on the Sea Level Rise and Recurrent Flooding Resilience Plan), to provide an additional 2 feet of Freeboard height (from the overall total of 3 feet incorporated into Ordinance 2024-03, to the 5 overall total feet recommended by the P&Z Board) to low-lying areas with existing average property elevations at or below 3.5 feet NAVD<sup>3</sup>.

With Commission direction, staff will prepare an additional ordinance to provide for this additional optional Freeboard amount to be heard at the next available P&Z Board meeting.

See example comparison graphic below (Note: Not to scale):



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. 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 FEMA flood elevation maps, is expected to help maintain and improve the community, and to protect the Town’s property values for both homes and businesses.

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).

<sup>3</sup> 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.

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**

Adopt Ordinance 2024-03.

**Attachments**

- A. Ordinance 2024-03
- B. Business Impact Estimate
- C. "Low Elevation Properties Option" Memo from APTIM Engineering, dated March 18,2024
- D. PowerPoint Presentation