



EMERGENCY ORDER NO. 2022-18

**ORDER RELATED TO THE TEMPORARY WAIVER
OF THE FIVE-YEAR CUMULATIVE SUBSTANTIAL IMPROVEMENT**

WHEREAS, on September 23, 2022, Florida Governor Ron DeSantis issued Executive Order Number 22-218, declaring a state of emergency in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Miami Dade, Monroe, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, and St. Lucie Counties; and

WHEREAS, on September 24, 2022, Governor DeSantis issued Executive Order Number 22-219, amending Executive Order Number 22-218 to declare a state of emergency in the entire State of Florida; and

WHEREAS, Florida Statutes Section 252.38(3)(a) gives authority to public subdivisions to declare and enact a state of local emergency for a period of up to seven (7) days and to take certain measures that are in the interest of the public health, safety, and welfare; and

WHEREAS, on September 25, 2022, the City Commission of the City of North Port, Florida adopted Ordinance No. 2022-30, declaring a state of local emergency due to Hurricane Ian; and

WHEREAS, Ordinance No. 2022-30 conferred on the City Manager or designee the power and authority set forth in Florida Statutes Section 252.38(3)(a); and

WHEREAS, pursuant to Florida Statutes Section 252.46, the City Manager has the power to issue emergency orders with the force of the law; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") offers discount credits to reduce the cost of flood insurance as part of its Community Rating System when a municipality maintains a five-year cumulative substantial improvement and substantial damage requirement; and

WHEREAS, the City does not currently receive a discount credit for the five-year cumulative requirement through FEMA's Community Rating System; and

WHEREAS, Section 17-17 of the Unified Land Development Code requires the City's Floodplain Administrator, in coordination with the Building Official, to make certain determinations when evaluating a building permit application related to substantial improvements made to the building or structure; and

WHEREAS, Section 17-84 of the Unified Land Development Code defines the term *substantial*

improvement as “[a]ny repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred “substantial damage,” any repairs are considered substantial improvement regardless of the actual repair work performed; and

WHEREAS, Section 17-84 of the Unified Land Development Code provides that the term substantial improvement does not include either: 1) “[a]ny project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions;” or 2) “[a]ny alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure;” and

WHEREAS, Section 61-3 of the Unified Land Development Code defines the term *substantial improvement* as “[a]ny combination of repairs, reconstruction, alteration or improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure or an increase of twenty percent (20%) of the existing floor space” (the “50 Percent Rule”); and

WHEREAS, temporarily waiving the City’s five-year cumulative substantial improvement requirement for certain single-family residential properties located within the AE flood zone will not adversely affect the City’s current Community Rating System score; and

WHEREAS, this temporary waiver is necessary for emergency management purposes and to ensure the health, safety, and welfare of the community.

THEREFORE, IN HIS EMERGENCY AUTHORITY, THE CITY MANAGER OF THE CITY OF NORTH PORT, FLORIDA ORDERS:

1. When determining the amount of substantial improvement and/or substantial damage sustained by a single-family residential home located within the AE Special Flood Hazard Area (SFHA) due to the impact of Hurricane Ian, the Floodplain Administrator and Building Official shall use the following definition for the term *substantial improvement*:

Any combination of repairs, reconstruction, alteration, or improvements to a structure, taken place since September 28, 2022, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure or an increase of twenty percent (20%) of the existing floor space. If the structure has incurred “substantial damage,” any repairs are considered substantial improvement regardless of the actual repair work performed. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement; or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

2. When determining the cost estimates to return a home affected by this Order to the condition it was in prior to September 28, 2022, the City's Floodplain Administrator and the Building Official shall disregard any building permit issued for the home prior to September 28, 2022.
3. This order shall not apply to manufactured or mobile homes.
4. This order does not suspend or waive any other regulations related to Chapter 17 or Chapter 53, Article XXI of the Unified Land Development Code.
5. To the extent this order conflicts with any provision of the Unified Land Development Code, this order controls.

This order is effective immediately. Unless otherwise terminated or extended, this order simultaneously with the expiration of the state of local emergency.

ORDERED ON AND FILED WITH THE CLERK OF THE CITY OF NORTH PORT, FLORIDA ON NOVEMBER 21,
2022 AT 9:08 (A.M./P.M.) BY



A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

