



Agenda MEMORANDUM

Building Department

To: Mayor and City Council
From: Jay Boodheshwar, City Manager
Via: Mari Gallet, Deputy City Manager
Via: Stephen Beckman, Director of Building Services
Date: August 23, 2023

Council Meeting Date: September 5th, 2023

SUBJECT

Permit fees for Hurricane Ian-related work started or completed without permits.

RECOMMENDATION

Staff brings this to City Council to determine if the intent of Emergency Order #3, issued on October 11, 2022, to waive building permit fees for Hurricane Ian repairs, includes waiving penalties for working without permits. City Staff recommends Council provide guidance on penalties and fees for “after-the-fact” permits.

GENERAL INFORMATION

Immediately after a major storm event, people rushed in from all over to get the work to start repairing the damage. Some of the people who rushed in had no intention of doing the work but rather scammed and took advantage of the people who were harmed by the storm. From day one after a storm, law enforcement, as well as other local regulators, work hard to stop potential harm to residents by ensuring properly licensed contractors are going through the proper processes. It is the proper process that enables the city to provide the inspections and oversight required by State Law, for the purpose of protecting the health, safety, and welfare of our residents. According to Collier County Licensing Officer Mike Governale, 26 of the 125 stop work orders issued in the city of Naples were unlicensed contractors, or 21%.

After the storm, some owners received incorrect information on what was required with permitting. The reasons for this misinformation are many. Some gave bad information because they were not licensed contractors and were unable to pull permits, while others gave bad information because they simply did not know the local requirements for being out-of-the-area contractors. Some of this bad information provided by “bad actors” was from people only interested in getting in and out and making money quickly. After a storm event such as Ian, many rush to the scene to capitalize.

Some owners misunderstood city guidance posted online. Guidance was given that demolition of drywall up to 4' could be done without a permit; however, the posted guidance went on to state that permits are required for interior repair, including replacement of drywall, and kitchen and bath replacement. Guidance was also given that the substantial damage determination (FEMA 50% Rule) is in effect and will be enforced during the review of structures located in a flood hazard area. To assist owners in the process, at the October 17th Council Meeting, discussion item 6B., staff displayed the website showing guidance and indicated applicants could reach out to the Building Department with questions and for assistance.

City Council made the decision to waive permit fees for owners who wanted to repair their homes back to pre-storm condition, in the spirit of helping with costs as much as possible. Owners who obtained permits for like-for-like storm repair paid no permit fees. Permit fees were charged if more work was to be done than simply replacing like-for-like.

As repair work started around the City, anyone caught performing repairs without permits was issued stop work orders by Collier County and required to obtain a permit. If it was not clear if the work warranted permits, Collier County Licensing/Code Compliance Officer would reach out to the Building Department to verify if permits were required. Just about all jobs stopped requiring permits. As applications were approved, after-the-fact permit charges were applied, according to City Fee schedules adopted and approved by City Council. All permits issued after the fact were charged penalty fees consistently without exception.

After Hurricane Ian, FEMA has been regularly auditing communities with significant flood damage, to ensure compliance with local, state, and Federal National Flood Insurance Program (NFIP) requirements. On June 22, 2023, FEMA shared with the City, through the ISAA (Information Sharing Access Agreement), a list of more than 600 flood-damaged properties and the flood claim amounts for building damage. These addresses were cross-checked in CityView (City permitting system), and 211 properties with claims that exceeded 50% of the value of the structures listed on Collier County Property Appraiser, were sent letters stating that the homes were considered substantially damaged, based on this information only. A request was made that the owners contact us to let us know if they planned to repair or demolish the home since there were no permits on record for these properties, and permits are required.

One of the areas FEMA audits the City for compliance with on substantially damaged properties is to see that they are either being brought into compliance or demolished. The City of Naples has been making this determination through the permitting process, as an allowable method with FEMA. With no permits on record and the claim information in hand by FEMA and the City, the determination is still required to be made.

Owners who receive a letter have options to appeal the letter and show that the property may not be substantially damaged. One option to do this is to show that the actual costs of repair are less than the claim paid out for damage, and another option is to show that the home value is much higher than the Property Appraiser's improvement value. If option one is a viable option, the owner needs to document the damage through some photos which will back up a lower repair cost, and provide a list of these costs to the Building department in a permit application.

If the second option is taken and a private appraisal demonstrates the value is over the amount where the claim is under the 50% threshold, then no more documentation would be necessary.

As of 8/22/2023, \$77,458 in permit fees from Ian-related stop work orders have been collected. These are properties that were damaged, started repairs without permits, received stop work orders, and then had to pay for permit fees and the associated penalty (twice the cost of the permit fee.)

As we work with the respondents from the group of 211 properties who have chosen to repair their properties without permits instead of demolishing them, we would apply the same policy of having to pay double the permit fees unless City Council provides a different direction.

The Florida Building Code Section 109.4 states the following: **[A] 109.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the building official that shall be in addition to the required permit fees.**

City Staff sees two options regarding the amount of the penalty fee:

1. Since permit fees were waived for like-for-like Hurricane Ian repairs, charge normal fees as the penalty amount. This will require refunds of half the amount of fees paid by others who were issued stop-work orders.**
2. Charge the normal 2x fees that have been the normal practice for the last 10 years.

** For payments of fees by credit cards, refunds can only be done for the exact amount of the fee paid. To refund half of the fee, a new invoice would have to be created and paid before a credit can be issued. This is a time-consuming process for Permit staff. Additionally, many times the fees were paid by a contractor and refunds would likely not make it back to the owner.

Permitting “after the fact” always requires considerable staff time and expense over and above the normal permitting process, and also requires time and expense from Code Enforcement and Contractor Licensing.

PURCHASING REVIEW

Not applicable

CITY ATTORNEY REVIEW

Not applicable

FINANCE DEPARTMENT REVIEW

Not applicable

Attachments