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3 **ORDINANCE 26-03**

4 **AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA**
5 **CLARIFYING AND AMENDING PART III, LAND DEVELOPMENT**
6 **CODE; ARTICLE IV, NONCONFORMITIES, DIVISION 1, GENERALLY,**
7 **SECTION 4.2, DEFINITION OF NONCONFORMITIES, BY AMENDING**
8 **SECTION 4.2 (I) TO ALLOW FOR VOLUNTARY RECONSTRUCTION OF**
9 **NON-CONFORMING UNITS AS APPLICABLE TO EXISTING TOWNHOUSES**
10 **IN THE R-4 DISTRICT; PROVIDING FOR SEVERABILITY AND PROVIDING**
11 **AN EFFECTIVE DATE.**

12 **WHEREAS**, it is important that the regulations in the Land Development Code pertain to
13 the various types of nonconforming uses and structures, particularly the re-building of existing
14 nonconforming townhome units in the R-4 zoning district, should be clear and understandable to
15 the City staff, residents, and property owners; and
16

17 **WHEREAS**, the City Commission recognizes that the uniqueness of the Seaside Gardens
18 community has created zoning and land use challenges as the underlying zoning has created a
19 series of non-conformities that impact many of the existing units and their ability to re-construct
20 or improve. Currently, there is a viable path for property owners regarding the reconstruction of
21 these nonconforming units in the event units are damaged to 50 percent or more of the value but
22 currently does not allow for voluntary demolitions for reconstruction; and
23

24 **WHEREAS**, the City Commission recognizes that the adoption of Ordinance 26-03
25 would allow the common wall units the potential to re-build to current floodplain standards and
26 create flood compliant and safer structures in the event units are demolished voluntarily; and
27

28 **WHEREAS**, Article VIII, Section 2, of the Florida Constitution and Section 166.021(1),
29 Florida Statutes, provide that a municipality may exercise any power for municipal purposes,
30 except when expressly prohibited by law.
31

32 **NOW THEREFORE**, be it ordained by the City Commission of the City of
33 Holmes Beach, the following:
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35 **Section 1. Findings of Fact.** The above referenced "whereas" clauses are
36 adopted herein as findings of fact.
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38 **Section 2.** Article IV (Nonconformities), Division I(Generally), Section
39 4.2 (Definition of nonconformities) shall be amended by as follows:
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41 I. *As applicable to existing townhouses in the R-4 zoning district.* Legally nonconforming
42 townhomes within the R-4 zoning district which have been voluntarily demolished
43 or involuntarily damaged 50 percent or more of townhome's market value as that term
44 is defined by the City's Floodplain Management ordinance by fire, flood, windstorm,
45 or similar event, may be reconstructed provided the following conditions are met:
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- 47 1. The reconstruction of townhouse units must meet or exceed the elevation requirements
48 in place at the time of reconstruction.
49
- 50 2. The entire ground floor must be converted to non-habitable space and used only for the
51 parking of vehicles and storage.
52
- 53 3. The number of existing bedrooms, lot coverage, or habitable floor area shall not be
54 increased.
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- 56 4. A structural engineer has determined the proposed improvements to be safe and will
57 have no harmful effect upon the integrity of the structure or any adjoining dwelling
58 unit(s) and will not adversely affect the ability of the owner of an adjoining townhouse
59 from undertaking a similar vertical expansion.
60
- 61 5. The reconstruction of adjacent units and all improvements shall be made in accordance
62 with applicable party wall agreements.
63
- 64 6. The reconstruction shall not create any new incident of nonconformity, nor increase
65 the degree or extent of any existing nonconformity, except as provided herein.
66
- 67 7. The burden shall be on the applicant to establish the location, dimensions, area and
68 cubical content of the building or structure as it existed before the demolition or
69 catastrophe. The building official may require reasonable supporting information from
70 the applicant including without limitation, preexisting surveys, new surveys, copies of
71 building plans, the records of the Manatee County Property Appraiser, affidavits of
72 disinterested witnesses, and other data that will reasonably establish the applicant's
73 entitlement to reconstruct a nonconformity.
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75 **Section 4. Severability.** In the event that any words, phrases, portions, subsections, or
76 sections of this Ordinance, or application thereof, is held to be invalid by a court of competent
77 jurisdiction, then such invalidity shall not affect the remainder of this Ordinance. This ordinance
78 shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes
79 of this ordinance as expressed herein.
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81 **Section 5. Effective Date.** This Ordinance shall be effective upon adoption by the City
82 Commission and approval by the Mayor in accordance with the Charter of the City of Holmes
83 Beach.
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89 **PASSED AND ADOPTED**, by the City Commission of the City of Holmes Beach, Florida, in
90 regular session assembled, this _____ day of _____, 2026

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92 **First Reading:** _____

93 **Publication Date:** _____

94 **Second Reading and Public Hearing Date:** _____

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Jessica Patel

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Dan Diggins

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Greg Oelfke

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Terry W. Schaefer

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Carol Whitmore

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111 **APPROVED BY ME THIS _____ DAY OF _____, 2026**

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114

Judy Titsworth, Mayor

115 **1.**

116 **ATTEST:** _____

117 **Marina Hovious, CMC, City Clerk**

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