



To: Honorable Mayor and Village Council Date: September 10, 2012
From: Eve A. Boutsis, Village Attorney Re: Child Daycare Facilities in B-1
Second Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE LIST OF PERMITTED USES FOR THE LIMITED BUSINESS DISTRICT (B-1) TO PROVIDE FOR CHILD CARE FACILITIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

BACKGROUND:

At the June 11, 2012 Committee of the Whole meeting, a majority of the Village Council requested staff to prepare an ordinance to permit child care facilities within the B-1, Limited Business District. The request came at the behest of Council Person Tendrich who introduced the item at that meeting. The Mayor and Village Council established the B-1 district on August 20, 2009 (Ordinance No. 09-17) which replaced the County's previous zoning of BU-1, Neighborhood Business Zoning District. The previous BU-1 zoning designation permitted child care facilities, subject to specified development standards. When the Village designated the B-1 district in 2009, the child care use was omitted from the list of permitted uses. The reason for that action was not clear.

The proposed ordinance seeks to restore the previously permitted use within the Village's B-1 district, subject to public hearing pursuant to the development standards established in Section 30-110.

ANALYSIS:

The proposed revision(s) was/were reviewed for consistency with the criteria established in Section 30-30.7(b). The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's Concurrency Management Program.

Analysis: Those parcels located within the B-1 zoning district have a land use designation of Business and Office. The Business and Office "category accommodates the full range of sales service activities including retail, wholesale, personal and professional

services, commercial and professional offices, hotels, hospitals, theaters, medical buildings, nursing homes (subject to state regulations), entertainment and cultural facilities, amusements and commercial recreation establishments.” Given the broad range of permitted uses, some of which are may be considered public assembly uses, (i.e. theaters, cultural facilities etc.), child care facilities may be considered consistent with the Business and Office designation of the Comprehensive Plan. As with all uses, development review is required to ensure the project conforms to the Village’s Concurrency Management Plan. Child care facilities are subject to public hearing pursuant Section 30-110.

Finding: Consistent.

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: The Mayor and Village Council established the B-1 district on August 20, 2009, (Ordinance No. 09-17) which replaced the County’s previous zoning of BU-1, Limited Business District. The Village's B-1 district was modeled after the County's BU-1 zoning district. The previous BU-1 zoning designation permitted child care facilities, subject to public hearing. When the new code was adopted the child care use was omitted. The purpose to the B-1 district “is to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood.” The proposed amendment restores the child care facilities use as a permitted use to the B-1 zoning district. Requests for such uses shall be pursuant to Section 30-110, as provided for through the Village’s Land and Development Regulations.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: See analysis under Criteria 2.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Those lands within the B-1 zoning district have a land use designation of Business and Office. The Business and Office “category accommodates the full range of sales service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, hospitals, theaters, medical buildings, nursing homes (subject to state regulations), entertainment and cultural facilities, amusements and commercial recreation establishments.” Given the broad range of permitted uses, some of which are may be considered public assembly uses, (i.e.: theaters, cultural facilities etc.), child care facilities may be considered consistent with the Business and Office designation of the Comprehensive Plan. The purpose to the B-1 district it “is to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood.” As with all uses, development review is required to ensure the project conforms with the Village’s Concurrency Management Plan. Child care facilities are subject to public hearing pursuant Section 30-110.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: Child care facilities are subject to public hearing pursuant Section 30-110, which requires the review to include compliance with the Village’s Concurrency Management Plan and ensure compliance with the criteria identified herein.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: Child care facilities are subject to public hearing pursuant Section 30-110, which requires the review to include compliance with the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis The proposal does not impact residential zoning districts and is an addition to the list of permitted uses allowed in the B-1 zoning district.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis See Analysis under Criteria 2. The public hearing requirement, pursuant to section 30-110 would ensure orderly and compatible land use development, while utilizing the child care use within the B-1 district.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: The proposal does not directly impact residential zoning districts. The use would be added to the list of potentially permitted uses in the B-1 zoning district, provided, however, a public hearing is held to determine compliance with the provisions of 30-110. Division 30-110 provides specific criteria relating to traffic, parking, number of students, amount of outdoor play space, etc. The purpose to the B-1 district is "is to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood." The proposed use may be considered consistent with that stated purpose.

Findings: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

None at this time.

RECOMMENDATION:

It is the decision of the Village Council to proceed with the modifications.

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- 2 (19) Day nursery, kindergarten and after-school care licensed by the State of Florida
- 3 Department of Health and Rehabilitative Services and established in accordance with
- 4 the requirements of Division 30-110.
- 5 (20) Dry cleaning and minor alterations.
- 6 (21) Dog and pet hospitals in air-conditioned buildings.
- 7 (22) Drugstores.
- 8 (23) Electrical appliance and fixtures stores including related repair shops.
- 9 (24) Employment agencies.
- 10 (25) Florist shops.
- 11 (26) Food stores, fruit stores, health food stores, delicatessen, meat and fish markets and
- 12 other similar food stores.
- 13 (27) Furniture stores, retail of new merchandise only.
- 14 (28) Hair salons.
- 15 (29) Hardware stores.
- 16 (30) Health, exercise clubs and spas.
- 17 (31) Hotels and motels, subject to all the provisions of the R-4H District pertaining to
- 18 such uses.
- 19 (32) Interior design shops, office and display only.
- 20 (33) Jewelry stores, including incidental sales and purchases of used jewelry.
- 21 (34) Lawn mowers, retail, sales and service.
- 22 (35) Leather goods and luggage shops.
- 23 (36) Library.
- 24 (37) Mortuaries or funeral homes.
- 25 (38) Motorcycles sales and repair.
- 26 (39) Museum.
- 27 (40) Newsstand.
- 28 (41) Office buildings.
- 29 (42) Optical stores.
- 30 (43) Package stores in shopping centers provided the shopping center is in full
- 31 compliance with all provisions of this Code.
- 32 (44) Pet shops, pet care centers and dog beauty and pet grooming.
- 33 (45) Photograph galleries.
- 34 (46) Pottery shops.
- 35 (47) Printing shops.
- 36 (48) Residential.
- 37 (49) Restaurants.
- 38 (50) Restaurants with an accessory cocktail lounge-bar use, subject to compliance with
- 39 Alcoholic Beverages section of this Code.

- 1 (51) Post office and private mailing services.
2 (52) Shoe stores and shoe repair shops.
3 (53) Sporting goods stores.
4 (54) Tailor shops.
5 (55) Tobacco shops.
6 (56) Variety stores.
7 (57) Any use which is found by the director to be a use similar to one of the above
8 numbered uses and, in his/her opinion, conforms to the intent of this section.
9

10 * * *

11
12 Section 2. All ordinances or parts of ordinances in conflict with the provisions of this
13 ordinance are repealed.
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15 Section 3. This ordinance shall be codified and included in the Code of Ordinances.
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17 Section 4. If any section, clause, sentence, or phrase of this ordinance is for any reason
18 held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
19 validity of the remaining portions of this ordinance.
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21 Section 5. This ordinance shall take effect immediately upon enactment.
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23

1 PASSED AND ENACTED this [] day of [], 2012.
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4 Attest: _____

5 Meighan Alexander
6 Village Clerk

Shelley Stanczyk
Mayor

7
8 APPROVED AS TO FORM:
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10 _____
11 Eve A. Boutsis
12 Village Attorney
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14
15 FINAL VOTE AT ADOPTION:
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17 Council Member Patrick Fiore _____
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19 Council Member Howard Tendrich _____
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21 Council Member Joan Lindsay _____
22

23 Vice-Mayor Brian W. Pariser _____
24

25 Mayor Shelley Stanczyk _____
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To: Honorable Mayor and Village Council

Date: September 10, 2012

From: Eve A. Boutsis, Village Attorney

Re: Storage Tanks in FT&I
Second Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.18, RELATING TO THE PROVISION PRECLUDING OUTDOOR STORAGE WITHIN THE FT&I DISTRICT; PERMITTING OUTDOOR STORAGE TANKS UNDER SPECIFIC CONDITIONS FOR THOSE BUSINESSES WHICH PROVIDE FOR ANCILLARY SALE OF PROPANE AND CHLORINE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

BACKGROUND:

On May 1, 2006, the Franjo Triangle and US 1 zoning district (FT&I) was established and included a specific prohibition precluding outdoor storage. At the request of Council Person Patrick Fiore, a proposed ordinance was prepared to permit those businesses which provide ancillary sale of chlorine or propane gas to be able to locate the storage tank(s) outside. The proposed ordinance conditions such operations, provided the tank(s) is located at the back of the building and is properly screened from view. The suggested need for this request is that propane tanks and chlorine tanks are precluded from being stored within the business as they require ventilation for safety reasons and thus would best if stored out of doors. This particular amendment only effectuates a change to the FT&I district.

ANALYSIS:

The proposed revision(s) was/were reviewed for consistency with the criteria established in Section 30-30.7(b). The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's Concurrency Management Program.

Analysis: The Comprehensive Development Master Plan does not address propane and chlorine tanks.

Finding: Not applicable

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: By requiring such tanks be located at the back of the business and screened from view, the general intent of Chapter 30 is met.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: By providing a development condition that such tanks be located to the back of buildings and be screened from view, it could argued that the proposed amendment is consistent with this criteria.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: See Analysis under Criteria 3.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not impact the above services.

Finding: Not applicable

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: Regardless of their locations, the storage tanks contemplated by the proposed ordinance are regulated by the Federal Government (OSHA, Environmental Protection and NFPA) and State (Florida EPA, Florida Dept. of Health, etc.) due to the hazardous chemicals being utilized, and the licensed vendor must comply with the state regulations relating to same.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis See Analysis under Criteria 3. The imposed conditions proposed by the ordinance should deflect any adverse effects on property values.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis See Analysis under Criteria 3. The imposed conditions proposed by the ordinance should deflect any adverse effects on the land use development pattern.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: Regardless of their locations, the storage tanks contemplated by the proposed ordinance are regulated by the Federal Government and the State due to the chemicals being regulated and any such use must comply with the laws regulating these substances. Addition of the development conditions may result in lessening of any potential impact thus minimizing any possible conflict with the public interest.

Findings: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

Storage Tanks in FT&I
Staff Memorandum
September 10, 2012
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FISCAL/BUDGETARY IMPACT:

None at this time.

RECOMMENDATION:

It is the decision of the Village Council to proceed with the modifications.



To: Honorable Mayor and Village Council

Date: September 10, 2012

From: Eve A. Boutsis, Village Attorney

Re: Floodplain Management
Ordinance

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.7(b) RELATING TO CHAPTER 30, DIVISION 100, ENVIRONMENTAL REGULATIONS, REPEALING THE EXISTING PROVISIONS OF 30-100.6 TO REPLACE SAME WITH THE MODEL FLOODPLAIN ORDINANCE REQUIRED BY THE STATE LEGISLATURE; PROVIDING FOR RESPONSIBILITIES OF THE BUILDING OFFICIAL AS FLOODPLAIN COORDINATOR' WHICH MODIFICATIONS ARE MANDATED BY THE STATE TO BE INCLUDED IN THE VILLAGE'S ORDINANCE 30-100.6, RELATING TO SAME; ADOPTING A NEW SECTION 30-100.6; ALSO REPEALING CHAPTER 18 RELATING TO SAME; ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPTING LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS:

Update Since First Reading:

This item was heard in February 2012. Since first reading, this item was deferred to the September Council meeting due to FEMA (Federal Emergency Management Agency) and the state of Florida working out some details as to the implementation of the required, model Stormwater Ordinance. The revisions made between first and second reading are those recommended for revision to the Model Ordinance, based upon the communications between FEMA and the State. There may be future modifications, but the ordinance needs to be enacted at this time. The 2010 Florida Building Code came into effect in March, 2012. Below is the original memo provided to the Village Council explaining the modifications. The main difference between first and second reading is removal of certain (originally proposed) local amendments to the Florida Building Code. FEMA and the state

agreed that those amendments are no longer needed. Removal of those proposed provisions would not require a third reading.

February 2012 Memorandum Analysis:

The Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Palmetto Bay and such areas are 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. The Village was accepted for participation in the National Flood Insurance Program on 2008 (as the Village), and the Village Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation.

On October 6, 2008, the Village Commission adopted Ordinance No.08-21, in compliance with federally imposed requirements to protect the public health, safety and general welfare by minimizing flood losses in the flood hazard areas of Palmetto Bay. Since the adoption of Ordinance No. 08-21, the State of Florida has updated its Flood Damage Prevention Ordinance. As a result, in 2009, the Village, in order to be consistent and in compliance with the State of Florida's Ordinance, the Village Commission of the Village of Palmetto Bay believed it to be in the best interests of its citizenry to repeal the then existing sections of the Code addressing flood damage prevention and replace it with a compliant ordinance. Thereafter, on November 2011, the Village once again updated its Floodplain Ordinance (Ordinance 2009-21) by modifying the existing ordinance as it relates to specific FEMA requirements and deadlines. These modifications were important changes for FEMA purposes and unrelated to the proposed revisions, repeal and replacement ordinance being proposed. In short, the proposed replacement ordinance takes into consideration the new FEMA requirements (which the Village enacted), but also takes into consideration the changes to the Florida Building Code, as amended, and taking effect on March 15, 2010.

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. Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* which provide for more stringent requirements than those specified in the Code. Section 553.73(5), Florida Statutes, allows adoption of local administrative and local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives.

The Florida Division of Emergency Management has prepared a model code compliance with the revisions to the 2010 Florida Building Code and has recommended that all local Floodplain ordinances be modified accordingly - to ensure uniformity of application and compliance with the changes in the Florida Building Code. The Florida Building Code now contains all laws and rules that pertain to and govern the design and construction of buildings (section 553.73(1)(a), Florida Statutes). This means the flood provisions of the 2010 FBC that govern the flood-resistant design of buildings in mapped flood hazard areas supersede local regulations that are not consistent with

the Florida Building Code. The 2010 Florida Building Code goes into effect March 15, 2012, which makes it important that coordination is done as quickly as possible. The model ordinance, which also includes language for local administrative and local technical code amendments, is *specifically designed to repeal and replace existing regulations*, to satisfy the National Flood Insurance Program (NFIP), to coordinate with the Florida Building Code, and to meet the requirements of section 553.75(5), Florida Statutes (allowing technical amendments to Florida Building Code as it relates to flood resistance in order to implement the NFIP).

It is in the public interest to adopt the proposed local technical amendments and proposed local administrative amendments to the 2010 *Florida Building Code* and that the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4)(a), Florida Statutes, where applicable, and the proposed amendments are in compliance with section 553.73(5), Florida Statutes, where applicable.

The proposed revisions to Division 30-100.6 was reviewed for consistency with the criteria established in Section 30-30.7(b). The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency Management Program.

Analysis: The Comprehensive Plan and the Village's concurrency management plan does not address the floodplain ordinance. However, the revisions are consistent with FEMA requirements and the new 2010 Florida Building Code, which is to take effect on March 15, 2012.

Finding: Not applicable.

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: The proposed amendment brings the Village's Floodplain management ordinance into compliance with state law and federal FEMA requirements.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: the revisions are consistent with FEMA requirements and the new 2010 Florida Building Code, which is to take effect on March 15, 2012.

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Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts thus it does not affect the capacity of existing facilities or services as described above. It does affect construction and ensures compliance with federal law (FEMA) and the 2010 Florida Building Code.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts and it does not affect the natural environment as described above. It does ensure that FEMA requirements are complied with for areas within a floodplain.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: The proposed amendment brings clarity to the Village's procedures as to floodplain management. The changes ensure that insurance can be maintained and is consistent

with FEMA and FBC requirements. The revisions would ensure that property values are not affected or adversely affect the general welfare.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern, Any positive and negative effects on land use patter shall be identified.

Analysis There are no negatives. The revisions ensures compliance with federal and state laws.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: The proposed amendment brings clarity to the Village's floodplain management ordinance.

Findings: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: Discretion of Village Council.

Finding: As determined by the Village Council.

Please note, that the original flood plain ordinance although proposed for Chapter 30 was codified by Municipal Code Corporation, the entity that codifies the Village's code, at Chapter 18, rather than Chapter 30. Subsequently, the Village modified its code, in 2009, and ensured that the provisions remained in Chapter 30. However, Municode was not updated to reflect the correct numbering. As such, 30-100.6 and Chapter 18, section 18-1 through 18-34, are to be repealed as proposed herein to ensure consistency with the changes to the Florida Building Code. The conflicting code provisions are repealed.

FISCAL/BUDGETARY IMPACT:

None at this time.

RECOMMENDATION: *Approval.*

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ORDINANCE NO.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.7(b) RELATING TO CHAPTER 30, DIVISION 100, ENVIRONMENTAL REGULATIONS, REPEALING THE EXISTING PROVISIONS OF 30-100.6 TO REPLACE SAME WITH THE MODEL FLOODPLAIN ORDINANCE REQUIRED BY THE STATE LEGISLATURE; PROVIDING FOR RESPONSIBILITIES OF THE BUILDING OFFICIAL AS FLOODPLAIN COORDINATOR' WHICH MODIFICATIONS ARE MANDATED BY THE STATE TO BE INCLUDED IN THE VILLAGE'S ORDINANCE 30-100.6, RELATING TO SAME; ADOPTING A NEW SECTOIN 30-100.6; ALSO REPEALING CHAPTER 18 RELATING TO SAME; ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPTING LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay are concerned with the health, safety, and welfare of its residents; and,

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Palmetto Bay and such areas are 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, the Village was accepted for participation in the National Flood Insurance Program on October 6, 2008 and the Village Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

1 **WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature
2 to provide a mechanism for the uniform adoption, updating, amendment, interpretation and
3 enforcement of a state building code, called the *Florida Building Code*; and
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5 **WHEREAS**, Chapter 553, Florida Statutes, allows for local administrative
6 amendments to the *Florida Building Code* which provide for more stringent requirements than
7 those specified in the Code; and
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9 **WHEREAS**, the Village Council has determined that it is in the public interest to
10 adopt the proposed floodplain management regulations that are coordinated with the *Florida*
11 *Building Code*; and
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13 **WHEREAS**, the Village Council has determined that it is in the public interest to
14 adopt the proposed local technical amendments and proposed local administrative
15 amendments to the 2010 *Florida Building Code* and that the proposed amendments are not
16 more stringent than necessary to address the need identified, do not discriminate against
17 materials, products or construction techniques of demonstrated capabilities, are in
18 compliance with Section 553.73(4)(a), Florida Statutes, where applicable, and the proposed
19 amendments are in compliance with Section 553.73(5), Florida Statutes, where applicable.
20

21 **WHEREAS**, the Village, previously adopted its Flood Plain Management Ordinance
22 in 2004, which was incorporated into the Land Development Code in early 2008, at 30-
23 100.6, and previously codified by Municode Corporation at Chapter 18; and,
24

25 **WHEREAS**, based upon Federal Emergency Management Agency (FEMA) rules
26 was again modified in 2009 under ordinance 09-21; and,
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28 **WHEREAS**, the state legislature has again modified the requirements for running
29 the Floodplain Management program; and,
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31 **WHEREAS**, the Village Council have reviewed the criteria of 30-30.7(b) and find the
32 ordinance in compliance with the applicable standards; and,
33

34 **WHEREAS**, the Mayor and Village Council desire to repeal the existing code and
35 replace same with the Model Code proposed by the legislature as it relates to flood plain
36 management.
37

38 **BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE**
39 **VILLAGE OF PALMETTO BAY, FLORIDA, THAT THE FOLLOWING**
40 **FLOODPLAIN MANAGEMENT REGULATIONS, AND THE FOLLOWING**
41 **LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL**
42 **AMENDMENTS TO THE 2010 FLORIDA BUILDING CODE, ARE HEREBY**
43 **ADOPTED, AS FOLLOWS:**
44

45 **Section 1.** The foregoing whereas clauses are incorporated herein by reference
46 and made a part hereof.
47

1 viii. Meet the requirements of the National Flood Insurance Program for
2 community participation as set forth in the Title 44 Code of Federal Regulations, Section
3 59.22.

4
5 (4) **Coordination with the *Florida Building Code*.** This ordinance is intended
6 to be administered and enforced in conjunction with the *Florida Building Code*. Where Section
7 numbers of the *Florida Building Code* are cited, the Section numbers refer to the 2010 *Florida*
8 *Building Code*. If cited Section numbers are changed in subsequent editions of the code, then
9 the Section numbers shall refer to comparable sections. Where cited, ASCE 24 refers to the
10 edition of the standard that is referenced by the *Florida Building Code*.

11
12 (5) **Warning.** The degree of flood protection required by this ordinance and the
13 *Florida Building Code*, as amended by this community, is considered reasonable for regulatory
14 purposes and is based on scientific and engineering considerations. Larger floods can and will
15 occur. Flood heights may be increased by man-made or natural causes. This ordinance does not
16 imply that land outside of mapped special flood hazard areas, or that uses permitted within such
17 flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base
18 flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate
19 Maps and the requirements of Title 44 Code of Federal Regulations to remain eligible for
20 participation in the National Flood Insurance Program. No guaranty of vested use, existing use,
21 or future use is implied or expressed by compliance with this ordinance.

22
23 (6) **Disclaimer of Liability.** This ordinance shall not create liability on the part
24 of the Village Council of the Village of Palmetto Bay or by any officer or employee thereof
25 for any flood damage that results from reliance on this ordinance or any administrative
26 decision lawfully made thereunder.

27
28 (b) **Applicability**

29
30 (1) **General.** Where there is a conflict between a general requirement and a
31 specific requirement, the specific requirement shall be applicable.

32
33 (2) **Areas to which this ordinance applies.** This ordinance shall apply to all
34 flood hazard areas within the Village of Palmetto Bay, as established in Section 30-
35 100.6(b)(3) of this ordinance.

36
37 (3) **Basis for establishing flood hazard areas.** The Flood Insurance Study for
38 Miami-Dade County, Florida and Incorporated Areas dated September 11, 2009 and all
39 subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps
40 (FIRM), and all subsequent amendments and revisions to such maps, are adopted by
41 reference as a part of this ordinance and shall serve as the minimum basis for establishing
42 flood hazard areas. Studies and maps that establish flood hazard areas are on file at Village
43 Hall, 9705 East Hibiscus Street; Building Department, Palmetto Bay, Florida 33157.

44
45 (4) **Submission of additional data to establish flood hazard areas.** To
46 establish flood hazard areas and base flood elevations, pursuant to Sections 30-100.6(q) - (t)
47 of this ordinance the Floodplain Administrator may require submission of additional data.

1 Where field surveyed topography prepared by a Florida licensed professional surveyor or
2 digital topography accepted by the community indicates that ground elevations:
3

4 i. Are below the closest applicable base flood elevation, even in areas
5 not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood
6 hazard area and subject to the requirements of this ordinance and, as applicable, the
7 requirements of the Florida Building Code.

8 ii. Are above the closest applicable base flood elevation, the area shall
9 be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change
10 that removes the area from the special flood hazard area.
11

12 (5) **Other laws.** The provisions of this ordinance shall not be deemed to nullify
13 any provisions of local, state or federal law.

14
15 (6) **Abrogation and greater restrictions.** This ordinance supersedes any
16 ordinance in effect for management of development in flood hazard areas. However, it is
17 not intended to repeal or abrogate any existing ordinances including land development
18 regulations, zoning ordinances, stormwater management regulations. In the event of a
19 conflict between this ordinance and any other ordinance, the more restrictive shall govern.
20 This ordinance shall not impair any deed restriction, covenant or easement, but any land that
21 is subject to such interests shall also be governed by this ordinance.
22

23 (7) **Interpretation.** In the interpretation and application of this ordinance, all
24 provisions shall be:

25 i. Considered as minimum requirements;

26 ii. Liberally construed in favor of the governing body; and

27 iii. Deemed neither to limit nor repeal any other powers granted under
28 state statutes.
29

30 (c) **Duties And Powers Of The Floodplain Administrator**
31

32 (1) **Designation.** The Building Official is designated as the Floodplain
33 Administrator. The Floodplain Administrator may delegate performance of certain duties to
34 other employees.
35

36 (2) The Building Official is authorized and directed to administer and enforce
37 the provisions of this ordinance and shall be the Floodplain Administrator, which terms shall
38 be interchangeable hereinafter. The Floodplain Administrator shall have the authority to
39 render interpretations of this ordinance consistent with the intent and purpose of this
40 ordinance and may establish policies and procedures in order to clarify the application of its
41 provisions. Such interpretations, policies, and procedures shall not have the effect of waiving
42 requirements specifically provided in this ordinance without the granting of a variance
43 pursuant to Section 30-100.6(v) of this ordinance.
44

1 (3) Applications and permits. The Floodplain Administrator, in coordination
2 with other pertinent offices of the community, shall:

3 i. Review applications and plans to determine whether proposed new
4 development will be located in flood hazard areas;

5 ii. Review applications for modification of any existing development in
6 flood hazard areas for compliance with the requirements of this ordinance;

7 iii. Interpret flood hazard area boundaries where such interpretation is
8 necessary to determine the exact location of boundaries; a person contesting the
9 determination shall have the opportunity to appeal the interpretation;

10 iv. Provide available flood elevation and flood hazard information;

11 v. Determine whether additional flood hazard data shall be obtained
12 from other sources or shall be developed by an applicant;

13 vi. Review applications to determine whether proposed development
14 will be reasonably safe from flooding;

15 vii. Issue floodplain development permits or approvals for development
16 other than buildings and structures that are subject to the *Florida Building Code*, including
17 buildings, structures and facilities exempt from the *Florida Building Code*, when compliance
18 with this ordinance is demonstrated, or disapprove the same in the event of noncompliance;
19 and

20 viii. Coordinate with and provide comments to the Building Official to
21 assure that applications for building permits for buildings and structures in flood hazard
22 areas comply with the requirements of this ordinance.

23
24 (d) Determinations for existing buildings and structures. For applications for
25 building permits to improve buildings and structures, including alterations, movement,
26 enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
27 renovations, substantial improvements, repairs of substantial damage, and any other
28 improvement of or work on such buildings and structures, the Building Official, shall:
29

30 (1) Estimate the market value, or require the applicant to obtain an appraisal of
31 the market value prepared by a qualified independent appraiser, of the building or structure
32 before the start of construction of the proposed work; in the case of repair, the market value
33 of the building or structure shall be the market value before the damage occurred and before
34 any repairs are made;

35 (2) Compare the cost to perform the improvement, the cost to repair a damaged
36 building to its pre-damaged condition, or the combined costs of improvements and repairs,
37 if applicable, to the market value of the building or structure;

38 (3) Determine and document whether the proposed work constitutes substantial
39 improvement or repair of substantial damage; and

40 (4) Notify the applicant if it is determined that the work constitutes substantial
41 improvement or repair of substantial damage and that compliance with the flood resistant
42 provisions of the *Florida Building Code* and this ordinance is required.

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(e) **Modifications of the strict application of the requirements of the Florida Building Code.** The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 30-100.6(v) of this ordinance.

(f) **Coordination of Notices and orders.** The Floodplain Administrator who is the Building Official shall coordinate the issuance of all necessary notices or orders to ensure compliance with this ordinance.

(g) **Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 30-100.6(u) of this ordinance for development that is not subject to the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code, the Building Official inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(h) **Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

(1) Establish, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 30-100.6(d) of this ordinance;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six (6) months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this ordinance and the Florida Building Code and this ordinance to determine that such certifications and documentations are complete;

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the Village of Palmetto Bay are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on

1 such construction; areas subject to this limitation are identified on Flood Insurance Rate
2 Maps as “Coastal Barrier Resource System Areas” and “Otherwise Protected Areas.”
3

4 (i) **Floodplain management records.** Regardless of any limitation on the period
5 required for retention of public records, the Floodplain Administrator shall maintain and
6 permanently keep and make available for public inspection all records that are necessary for
7 the administration of this ordinance and the flood resistant construction requirements of the
8 Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of
9 issuance of permits and denial of permits; determinations of whether proposed work
10 constitutes substantial improvement or repair of substantial damage; required design
11 certifications and documentation of elevations specified by the Florida Building Code and this
12 ordinance; notifications to adjacent communities, FEMA, and the state related to alterations
13 of watercourses; assurances that the flood carrying capacity of altered watercourses will be
14 maintained; documentation related to appeals and variances, including justification for
15 issuance or denial; and records of enforcement actions taken pursuant to this ordinance and
16 the flood resistant construction requirements of the Florida Building Code. These records shall
17 be available for public inspection at Village Hall, 9705 East Hibiscus Street, Building
18 Department, Palmetto Bay, Florida 33157.
19

20 (j) **Permits required.** Any owner or owner’s authorized agent (hereinafter “applicant”)
21 who intends to undertake any development activity within the scope of this ordinance,
22 including buildings, structures, and facilities exempt from the Florida Building Code, which is
23 wholly within or partially within any flood hazard area shall first make application to the
24 Building Official, and shall obtain the required permit(s) and approval(s). No such permit or
25 approval shall be issued until compliance with the requirements of this ordinance and all other
26 applicable codes and regulations has been satisfied.
27

28 (k) **Floodplain development permits or approvals.** Floodplain development permits or
29 approvals shall be issued pursuant to this ordinance for any development activities not subject to
30 the requirements of the Florida Building Code, including buildings, structures, and facilities
31 exempt from the Florida Building Code. Depending on the nature and extent of proposed
32 development that includes a building or structure, the Floodplain Administrator may determine
33 that a floodplain development permit or approval is required in addition to a building permit.
34

35 (l) **Buildings, structures and facilities exempt from the Florida Building Code.**
36 Pursuant to the requirements of federal regulation for the National Flood Insurance
37 Program (44 C.F.R. Section 60.3), floodplain development permits or approvals shall be
38 required for the following buildings, structures and facilities that are exempt from the Florida
39 Building Code, and any further exemptions provided by law, are subject to the requirements of
40 this ordinance:

- 41 (1) Railroads and ancillary facilities associated with the railroad.
- 42 (2) Nonresidential farm buildings on farms, as provided in Section 604.50,
43 Florida Statutes
- 44 (3) Temporary buildings or sheds used exclusively for construction purposes.
- 45 (4) Mobile or modular structures used as temporary offices.

1 (5) Those structures or facilities of electric utilities, as defined in Section 366.02,
2 Florida Statutes, which are directly involved in the generation, transmission, or distribution
3 of electricity.

4 (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the
5 Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-
6 sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials,
7 and that does not incorporate any electrical, plumbing, or other non-wood features.

8 (7) Family mausoleums not exceeding 250 square feet in area which are
9 prefabricated and assembled on site or preassembled and delivered on site and have walls,
10 roofs, and a floor constructed of granite, marble, or reinforced concrete.

11 (8) Temporary housing provided by the Department of Corrections to any
12 prisoner in the state correctional system.

13 (9) Structures identified in section 553.73(10)(k), Florida Statutes, are not exempt
14 from the Florida Building Code if such structures are located in flood hazard areas established
15 on Flood Insurance Rate Maps.

16
17 **(m) Application for a permit or approval.** To obtain a floodplain development permit
18 or approval the applicant shall first file an application in writing on a form furnished by the
19 community. The information provided shall:
20

21 (1) Identify and describe the development to be covered by the permit or
22 approval.

23 (2) Describe the land on which the proposed development is to be conducted by
24 legal description, street address or similar description that will readily identify and definitively
25 locate the site.

26 (3) Indicate the use and occupancy for which the proposed development is
27 intended.

28 (4) Be accompanied by a site plan or construction documents as specified in
29 Section 30-100.6(q) of this ordinance.

30 (5) State the valuation of the proposed work.

31 (6) Be signed by the applicant or the applicant's authorized agent.

32 (7) Give such other data and information as required by the Floodplain
33 Administrator.
34

35 **(n) Validity of permit or approval.** The issuance of a floodplain development permit
36 or approval pursuant to this ordinance shall not be construed to be a permit for, or approval
37 of, any violation of this ordinance, the Florida Building Codes, or any other ordinance of this
38 community. The issuance of permits based on submitted applications, construction
39 documents, and information shall not prevent the Floodplain Administrator from requiring
40 the correction of errors and omissions.
41

1 (o) Expiration. A floodplain development permit or approval shall become invalid
2 unless the work authorized by such permit is commenced within 180 days after its issuance,
3 or if the work authorized is suspended or abandoned for a period of 180 days after the work
4 commences. Extensions for periods of not more than 180 days each shall be requested in
5 writing and justifiable cause shall be demonstrated.

6
7 (p) Suspension or revocation. The Floodplain Administrator is authorized to suspend
8 or revoke a floodplain development permit or approval if the permit was issued in error, on
9 the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance
10 or any other ordinance, regulation or requirement of this community.

11
12 (q) Other permits required. Floodplain development permits and building permits
13 shall include a condition that all other applicable state or federal permits be obtained before
14 commencement of the permitted development, including but not limited to the following:

15 (1) The South Florida Water Management District; section 373.036, Florida
16 Statutes.

17 (2) Florida Department of Health for onsite sewage treatment and disposal
18 systems; section 381.0065, Florida Statutes and Chapter 64E-6, Florida Administrative Code.

19 (3) Florida Department of Environmental Protection for construction,
20 reconstruction, changes, or physical activities for shore protection or other activities seaward
21 of the coastal construction control line; section 161.141, Florida Statutes.

22 (4) Florida Department of Environmental Protection for activities subject to the
23 Joint Coastal Permit; section 161.055, Florida Statutes.

24 (5) Florida Department of Environmental Protection for activities that affect
25 wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of
26 Engineers; Section 404 of the Clean Water Act.

27
28 (r) Site Plans and Construction Documents - Information for development in
29 flood hazard areas. The site plan or construction documents for any development subject
30 to the requirements of this ordinance shall be drawn to scale and shall include, as applicable
31 to the proposed development:

32
33 (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s),
34 base flood elevation(s), and ground elevations if necessary for review of the proposed
35 development.

36 (2) Where flood hazard areas, base flood elevations, or floodway data are not
37 included on the FIRM or in the Flood Insurance Study, they shall be established in
38 accordance with Section 30-100.6(r) of this ordinance.

39 (3) Where the parcel on which the proposed development will take place will
40 have more than 50 lots or is larger than 5 acres and the base flood elevations are not
41 included on the FIRM or in the Flood Insurance Study, such elevations shall be established
42 in accordance with Section 30-100.6(r) of this ordinance.

1 (4) Location of the proposed activity and proposed structures, and locations of
2 existing buildings and structures; in coastal high hazard areas, new buildings shall be located
3 landward of the reach of mean high tide.

4 (5) Location, extent, amount, and proposed final grades of any filling, grading, or
5 excavation.

6 (6) Where the placement of fill is proposed, the amount, type, and source of fill
7 material; compaction specifications; a description of the intended purpose of the fill areas;
8 and evidence that the proposed fill areas are the minimum necessary to achieve the intended
9 purpose.

10 (7) Delineation of the Coastal Construction Control Line or notation that the
11 site is seaward of the coastal construction control line, if applicable.

12 (8) Extent of any proposed alteration of sand dunes or mangrove stands,
13 provided such alteration is approved by the Florida Department of Environmental
14 Protection.

15 (9) Existing and proposed alignment of any proposed alteration of a
16 watercourse.

17
18 The Floodplain Administrator is authorized to waive the submission of site plans,
19 construction documents, and other data not required to be prepared by a registered design
20 professional if it is found that the nature of the proposed development is such that the
21 review of such submissions is not necessary to ascertain compliance with this ordinance.
22

23 **(s) Information in flood hazard areas without base flood elevations (approximate**
24 **Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation
25 data have not been provided, the Floodplain Administrator shall:
26

27 (1) Obtain, review, and provide to applicants base flood elevation data available
28 from a federal or state agency or other source or require the applicant to obtain and use base
29 flood elevation data available from a federal or state agency or other source; or

30 (2) Require the applicant to develop base flood elevation data prepared in
31 accordance with currently accepted engineering practices; or

32 (3) Where base flood elevation data are not available from another source, the
33 base flood elevation is two (2) feet above the highest adjacent grade at the location of the
34 development, provided there is no evidence indicating flood depths have been or may be
35 greater than two (2) feet.

36 (4) Where the base flood elevation data are to be used to support a Letter of
37 Map Change from FEMA, advise the applicant that the analyses shall be prepared by a
38 Florida licensed engineer in a format required by FEMA, and that it shall be the
39 responsibility of the applicant to satisfy the submittal requirements and pay the processing
40 fees.
41

42 **(t) Additional analyses and certifications.** As applicable to the location and nature
43 of the proposed development activity, and in addition to the requirements of this Section,

1 the applicant shall have the following analyses prepared and sealed by a Florida licensed
2 engineer for submission with the site plan and construction documents:

3 (1) For development activities proposed to be located in a regulatory floodway, a
4 floodway encroachment analysis that demonstrates that the encroachment of the proposed
5 development will not cause any increase in base flood elevations; where the applicant
6 proposes to undertake development activities that do increase base flood elevations, the
7 applicant shall submit such analysis to FEMA as specified in Section 30-100.6(t) of this
8 ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with
9 the site plan and construction documents.

10 (2) For development activities proposed to be located in a riverine flood hazard
11 area for which base flood elevations are included in the Flood Insurance Study or on the
12 FIRM and floodways have not been designated, a floodway encroachment analysis which
13 demonstrates that the cumulative effect of the proposed development, when combined with
14 all other existing and anticipated flood hazard area encroachments, will not increase the base
15 flood elevation more than one (1) foot at any point within the community. This requirement
16 does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or
17 in flood hazard areas identified as Zone AO or Zone AH.

18 (3) For alteration of a watercourse, an engineering analysis prepared in
19 accordance with standard engineering practices which demonstrates that the flood-carrying
20 capacity of the altered or relocated portion of the watercourse will not be decreased, and
21 certification that the altered watercourse shall be maintained in a manner which preserves
22 the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as
23 specified in Section 30-100.6(t) of this ordinance.

24 (4) For activities that propose to alter sand dunes or mangrove stands in coastal
25 high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed
26 alteration will not increase the potential for flood damage.
27

28 (u) **Submission of additional data.** When additional hydrologic, hydraulic or other
29 engineering data, studies, and additional analyses are submitted to support an application, the
30 applicant has the right to seek a Letter of Map Change from FEMA to change the base flood
31 elevations, change floodway boundaries, or change boundaries of flood hazard areas shown
32 on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be
33 prepared by a Florida licensed engineer in a format required by FEMA. Submittal
34 requirements and processing fees shall be the responsibility of the applicant.
35

36 (v) **Inspections - General.** Development for which a permit or approval is required
37 shall be subject to inspection.
38

39 (1) **Development other than buildings and structures.** The Floodplain
40 Administrator shall inspect all development to determine compliance with the requirements
41 of this ordinance and the conditions of issued floodplain development permits or approvals.
42

43 (2) **Buildings, structures, and facilities exempt from the Florida Building**
44 **Code.** The Building Official shall inspect buildings and structures exempt from the Florida

1 Building Code to determine compliance with the requirements of this ordinance and the
2 conditions of issued floodplain development permits or approvals.

3
4 (3) Buildings, structures, and facilities exempt from the Florida Building
5 Code, lowest floor inspection. Upon placement of the lowest floor, including basement,
6 and prior to further vertical construction, the owner of a building or structure exempt from
7 the Florida Building Code, or the owner's authorized agent, shall submit to the Building
8 Official:

9
10 i. If a design flood elevation was used to determine the required
11 elevation of the lowest floor, the certification of elevation of the lowest floor prepared and
12 sealed by a Florida licensed professional surveyor; or

13 ii. If the elevation used to determine the required elevation of the
14 lowest floor was determined in accordance with Section 30-100.6(r) of this ordinance, the
15 documentation of height of the lowest floor above highest adjacent grade, prepared by the
16 owner or the owner's authorized agent.

17
18 (4) Buildings, structures, and facilities exempt from the Florida Building
19 Code, final inspection. As part of the final inspection, the owner or owner's authorized
20 agent shall submit to the Building Official a final certification of elevation of the lowest floor
21 or final documentation of the height of the lowest floor above the highest adjacent grade;
22 such certifications and documentations shall be prepared as specified in Section 30-
23 100.6(u)(3) of this ordinance.

24
25 (w) Variances And Appeals
26

27 (1) General. The Village Council shall hear and decide on requests for appeals
28 and requests for variances from the strict application of the requirements of this ordinance.
29 Pursuant to section 553.73(5), Florida Statutes, the Village Council shall hear and decide on
30 requests for appeals and requests for variances from the strict application of the flood
31 resistant construction requirements of the *Florida Building Code*. This section does not apply
32 to Section 3109, of the *Florida Building Code, Building*.

33
34 (2) Appeals. The Village Council shall hear and decide appeals when it is
35 alleged there is an error in any requirement, decision, or determination made by the Building
36 Official in the administration and enforcement of this ordinance. Any person aggrieved by
37 the decision of the Village Council may appeal such decision to the Circuit Court, as
38 provided by Florida Statutes.

39
40 (3) Limitations on authority to grant variances. The Village Council shall
41 base its decisions on variances on technical justifications submitted by applicants, the
42 considerations for issuance in Section 30-100.6(v)(7) of this ordinance, the conditions of
43 issuance set forth in Section 30-100.6(v)(8) of this ordinance, and the comments and
44 recommendation of the Building Official. The Village Council has the right to attach such
45 conditions as it deems necessary to further the purposes and objectives of this ordinance.
46

1 (4) **Restrictions in floodways.** A variance shall not be issued for any proposed
2 development in a floodway if any increase in base flood elevations would result, as evidenced
3 by the applicable analyses and certifications required in Section 30-100.6(s) of this ordinance.
4

5 (5) **Historic buildings.** A variance is authorized to be issued for the repair,
6 improvement, or rehabilitation of a historic building that is determined eligible for the
7 exception to the flood resistant construction requirements of the *Florida Building Code,*
8 *Existing Building, Chapter 11 Historic Buildings,* upon a determination that the proposed repair,
9 improvement, or rehabilitation will not preclude the building's continued designation as a
10 historic building and the variance is the minimum necessary to preserve the historic
11 character and design of the building. If the proposed work precludes the building's
12 continued designation as a historic building, a variance shall not be granted and the building
13 and any repair, improvement, and rehabilitation shall be subject to the requirements of the
14 *Florida Building Code.*
15

16 (6) **Functionally dependent uses.** A variance is authorized to be issued for the
17 construction or substantial improvement necessary for the conduct of a functionally
18 dependent use, as defined in this ordinance, provided the variance meets the requirements of
19 Section 30-100.6(v)(4), is the minimum necessary considering the flood hazard, and all due
20 consideration has been given to use of methods and materials that minimize flood damage
21 during occurrence of the base flood.
22

23 (7) **Considerations for issuance of variances.** In reviewing requests for
24 variances, the Village Council shall consider all technical evaluations, all relevant factors, all
25 other applicable provisions of the *Florida Building Code,* this ordinance, and the following:
26

27 i. The danger that materials and debris may be swept onto other lands
28 resulting in further injury or damage;

29 ii. The danger to life and property due to flooding or erosion damage;

30 iii. The susceptibility of the proposed development, including contents,
31 to flood damage and the effect of such damage on current and future owners;

32 iv. The importance of the services provided by the proposed
33 development to the community;

34 v. The availability of alternate locations for the proposed development
35 that are subject to lower risk of flooding or erosion;

36 vi. The compatibility of the proposed development with existing and
37 anticipated development;

38 vii. The relationship of the proposed development to the comprehensive
39 plan and floodplain management program for the area;

40 viii. The safety of access to the property in times of flooding for ordinary
41 and emergency vehicles;

42 ix. The expected heights, velocity, duration, rate of rise and debris and
43 sediment transport of the floodwaters and the effects of wave action, if applicable, expected
44 at the site; and

1 x. The costs of providing governmental services during and after flood
2 conditions including maintenance and repair of public utilities and facilities such as sewer,
3 gas, electrical and water systems, streets and bridges.

4
5 (8) Conditions for issuance of variances. Variances shall be issued only upon:

6 i. Submission by the applicant, of a showing of good and sufficient
7 cause that the unique characteristics of the size, configuration, or topography of the site limit
8 compliance with any provision of this ordinance or the the elevation standards;

9 ii. Determination by the Village Council that:

10 (A) Failure to grant the variance would result in exceptional
11 hardship due to the physical characteristics of the land that render the
12 lot undevelopable; increased costs to satisfy the requirements or
13 inconvenience do not constitute hardship;

14 (B) The granting of a variance will not result in increased flood
15 heights, additional threats to public safety, extraordinary public
16 expense, nor create nuisances, cause fraud on or victimization of the
17 public or conflict with existing local laws and ordinances; and

18 (C) The variance is the minimum necessary, considering the flood
19 hazard, to afford relief;

20 iii. Receipt of a signed statement by the applicant that the variance, if
21 granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it
22 appears in the chain of title of the affected parcel of land; and

23 iv. If the request is for a variance to allow construction of the lowest
24 floor of a building, or substantial improvement of a building, below the elevation a copy in
25 the record of a written notice from the Floodplain Administrator to the applicant for the
26 variance, specifying the difference between the base flood elevation and the proposed
27 elevation of the lowest floor, stating that the cost of federal flood insurance will be
28 commensurate with the increased risk resulting from the reduced floor elevation (up to
29 amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below
30 the base flood elevation increases risks to life and property.

31
32 (x) Violations

33
34 (1) Violations. Any construction or development in a flood hazard area that is
35 performed without an issued permit, that is in conflict with an issued permit, or that does
36 not fully comply with this ordinance shall be deemed a violation of this ordinance. A
37 building or structure without the documentation of elevation of the lowest floor, other
38 required design certifications, or other evidence of compliance required by this ordinance or
39 the Florida Building Code is presumed to be a violation until such time as that documentation
40 is provided.

41
42 (2) Authority. For development that is not within the scope of the Florida
43 Building Code but that is regulated by this ordinance and that is determined to be a violation,
44 the Floodplain Administrator is authorized to serve notices of violation or stop work orders

1 to owners of the property involved, to the owner's agent, or to the person or persons
2 performing the work.

3
4 (3) **Unlawful continuance.** Any person who shall continue any work after
5 having been served with a notice of violation or a stop work order, except such work as that
6 person is directed to perform to remove or remedy a violation or unsafe condition, shall be
7 subject to penalties as prescribed by law.

8
9 (y) **Definitions - Generally**

10
11 (1) **Scope.** Unless otherwise expressly stated, the following words and terms
12 shall, for the purposes of this ordinance, have the meanings shown in this Section.

13
14 (2) **Terms defined in the Florida Building Code.** Where terms are not
15 defined in this ordinance and are defined in the Florida Building Code, such terms shall have
16 the meanings ascribed to them in that code.

17
18 (3) **Terms not defined.** Where terms are not defined in this ordinance or the
19 Florida Building Code, such terms shall have ordinarily accepted meanings such as the context
20 implies.

21
22 (4) **Definitions**

23
24 **Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel
25 alignment, channelization, or change in cross-sectional area of the channel or the channel
26 capacity, or any other form of modification which may alter, impede, retard or change the
27 direction and/or velocity of the riverine flow of water during conditions of the base flood.

28
29 **Appeal.** A request for a review of the Building Official's interpretation of any provision of
30 this ordinance or a request for a variance.

31
32 **ASCE 24.** A standard titled *Flood Resistant Design and Construction* that is referenced by the
33 Florida Building Code. ASCE 24 is developed and published by the American Society of Civil
34 Engineers, Reston, VA.

35
36 **Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given
37 year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as
38 the "100-year flood" or the "1-percent-annual chance flood."

39
40 **Base flood elevation.** The elevation of the base flood, including wave height, relative to the
41 National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or
42 other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B,
43 Section 1612.2.]

44
45 **Basement.** The portion of a building having its floor subgrade (below ground level) on all
46 sides. [Also defined in FBC, B, Section 1612.2.]

1 **Building Official.** The officer or other designated authority charged with the
2 administration and enforcement of the *Florida Building Code*, or a duly authorized
3 representative. [Also defined in FBC, B, Section 1612.2.] For the purposes of the
4 implementation of this ordinance, the Building Official is the Floodplain Administrator.

5
6 **Coastal construction control line.** The line established by the State of Florida pursuant to
7 Section 161.053, Florida Statutes, and recorded in the official records of the community,
8 which defines that portion of the beach-dune system subject to severe fluctuations based on
9 a 100-year storm surge, storm waves or other predictable weather conditions.

10
11 **Coastal high hazard area.** A special flood hazard area extending from offshore to the
12 inland limit of a primary frontal dune along an open coast and any other area subject to high
13 velocity wave action from storms or seismic sources. Coastal high hazard areas are also
14 referred to as “high hazard areas subject to high velocity wave action” or “V Zones” and are
15 designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V. [Note: The
16 FBC,B defines and uses the term “flood hazard areas subject to high velocity wave action”
17 and the FBC, R uses the term “coastal high hazard areas.”]

18
19 **Design flood.** The flood associated with the greater of the following two areas: [Also
20 defined in FBC, B, Section 1612.2.]

- 21 1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any
22 year; or
23 2. Area designated as a flood hazard area on the community’s flood hazard map, or
24 otherwise legally designated.

25
26 **Design flood elevation.** The elevation of the “design flood,” including wave height,
27 relative to the datum specified on the community’s legally designated flood hazard map. In
28 areas designated as Zone AO, the design flood elevation shall be the elevation of the highest
29 existing grade of the building’s perimeter plus the depth number (in feet) specified on the
30 flood hazard map. In areas designated as Zone AO where the depth number is not specified
31 on the map, the depth number shall be taken as being equal to two (2) feet. [Also defined in
32 FBC, B, Section 1612.2.]

33
34 **Development.** Any man-made change to improved or unimproved real estate, including
35 but not limited to, buildings or other structures, tanks, temporary structures, temporary or
36 permanent storage of equipment or materials, mining, dredging, filling, grading, paving,
37 excavations, drilling operations or any other land disturbing activities.

38
39 **Encroachment.** The advancement or infringement of fill, excavation, buildings, permanent
40 structures or other development into a flood hazard area which may impede or alter the flow
41 capacity of riverine flood hazard areas.

42
43 **Existing building and existing structure.** Any buildings and structures for which the
44 “start of construction” commenced before October 6, 2008. [Also defined in FBC, B,
45 Section 1612.2.]

1 Existing manufactured home park or subdivision. A manufactured home park or
2 subdivision for which the construction of facilities for servicing the lots on which the
3 manufactured homes are to be affixed (including, at a minimum, the installation of utilities,
4 the construction of streets, and either final site grading or the pouring of concrete pads) is
5 completed before August 2, 2004. The Village does not contain any existing manufactured
6 home parks or subdivisions.

7
8
9 Federal Emergency Management Agency (FEMA). The federal agency that, in addition
10 to carrying out other functions, administers the National Flood Insurance Program.

11
12 Flood or flooding. A general and temporary condition of partial or complete inundation of
13 normally dry land from: [Also defined in FBC, B, Section 1612.2.]

- 14 1. The overflow of inland or tidal waters.
15 2. The unusual and rapid accumulation or runoff of surface waters from any source.

16
17 Flood damage-resistant materials. Any construction material capable of withstanding
18 direct and prolonged contact with floodwaters without sustaining any damage that requires
19 more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

20
21 Flood hazard area. The greater of the following two areas: [Also defined in FBC, B,
22 Section 1612.2.]

- 23 1. The area within a floodplain subject to a 1-percent or greater chance of flooding in
24 any year.
25 2. The area designated as a flood hazard area on the community's flood hazard map, or
26 otherwise legally designated.

27
28 Flood Insurance Rate Map (FIRM). The official map of the community on which the
29 Federal Emergency Management Agency has delineated both special flood hazard areas and
30 the risk premium zones applicable to the community. [Also defined in FBC, B, Section
31 1612.2.]

32
33 Flood Insurance Study (FIS). The official report provided by the Federal Emergency
34 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and
35 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting
36 technical data. [Also defined in FBC, B, Section 1612.2.]

37
38 Floodplain Administrator. The office or position designated and charged with the
39 administration and enforcement of this ordinance (may be referred to as the Floodplain
40 Manager), who is the Building Official.

41
42 Floodplain development permit or approval. An official document or certificate issued
43 by the community, or other evidence of approval or concurrence, which authorizes

1 performance of specific development activities that are located in flood hazard areas and that
2 are determined to be compliant with this ordinance.

3
4 **Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas
5 that must be reserved in order to discharge the base flood without cumulatively increasing
6 the water surface elevation more than a designated height. [Also defined in FBC, B, Section
7 1612.2.]

8
9 **Floodway encroachment analysis.** An engineering analysis of the impact that a proposed
10 encroachment into a floodway is expected to have on the floodway boundaries and base
11 flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer
12 using standard engineering methods and models.

13
14 **Florida Building Code.** The family of codes adopted by the Florida Building Commission,
15 including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code,
16 Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building
17 Code, Fuel Gas.

18
19 **Functionally dependent use.** A use which cannot perform its intended purpose unless it is
20 located or carried out in close proximity to water, including only docking facilities, port
21 facilities that are necessary for the loading and unloading of cargo or passengers, and ship
22 building and ship repair facilities; the term does not include long-term storage or related
23 manufacturing facilities.

24
25 **Highest adjacent grade.** The highest natural elevation of the ground surface prior to
26 construction next to the proposed walls or foundation of a structure.

27
28 **Historic structure.** Any structure that is determined eligible for the exception to the flood
29 hazard area requirements of the Florida Building Code, Existing Building, Chapter 11, Historic
30 Buildings.

31
32 **Letter of Map Change (LOMC).** An official determination issued by FEMA that amends
33 or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map
34 Change include:

35 **Letter of Map Amendment (LOMA):** An amendment based on technical data
36 showing that a property was incorrectly included in a designated special flood hazard
37 area. A LOMA amends the current effective Flood Insurance Rate Map and
38 establishes that a specific property, portion of a property, or structure is not located
39 in a special flood hazard area.

40 **Letter of Map Revision (LOMR):** A revision based on technical data that may
41 show changes to flood zones, flood elevations, special flood hazard area boundaries
42 and floodway delineations, and other planimetric features.

43 **Letter of Map Revision Based on Fill (LOMR-F):** A determination that a
44 structure or parcel of land has been elevated by fill above the base flood elevation
45 and is, therefore, no longer located within the special flood hazard area. In order to

1 qualify for this determination, the fill must have been permitted and placed in
2 accordance with the community's floodplain management regulations.

3 **Conditional Letter of Map Revision (CLOMR):** A formal review and comment
4 as to whether a proposed flood protection project or other project complies with the
5 minimum NFIP requirements for such projects with respect to delineation of special
6 flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate
7 Map or Flood Insurance Study; upon submission and approval of certified as-built
8 documentation, a Letter of Map Revision may be issued by FEMA to revise the
9 effective FIRM.

10
11 **Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500
12 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000
13 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 14 1. Designed primarily for purposes of transportation of property or is a derivation of
15 such a vehicle, or
- 16 2. Designed primarily for transportation of persons and has a capacity of more than 12
17 persons; or
- 18 3. Available with special features enabling off-street or off-highway operation and use.

19
20 **Lowest floor.** The floor of the lowest enclosed area of a building or structure, including
21 basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle
22 parking, building access or limited storage provided that such enclosure is not built so as to
23 render the structure in violation of the *Florida Building Code* or ASCE 24. [Also defined in
24 FBC, B, Section 1612.2.]

25
26 **Manufactured home.** A structure, transportable in one or more sections, which is eight (8)
27 feet or more in width and greater than four hundred (400) square feet, and which is built on
28 a permanent, integral chassis and is designed for use with or without a permanent
29 foundation when attached to the required utilities. The term "manufactured home" does not
30 include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

31
32 **Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land
33 divided into two or more manufactured home lots for rent or sale.

34
35 **Market value.** The price at which a property will change hands between a willing buyer and
36 a willing seller, neither party being under compulsion to buy or sell and both having
37 reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the
38 market value of buildings and structures, excluding the land and other improvements on the
39 parcel. Market value may be established by a qualified independent appraiser, Actual Cash
40 Value (replacement cost depreciated for age and quality of construction), or tax assessment
41 value adjusted to approximate market value by a factor provided by the Property Appraiser.

42
43 **New construction.** For the purposes of administration of this ordinance and the building
44 code, structures for which the "start of construction" commenced on or after October 6,
45 2008 and includes any subsequent improvements to such structures.

1
2 **Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet
3 and which is built on a single chassis and is designed to provide seasonal or temporary living
4 quarters when connected to utilities necessary for operation of installed fixtures and
5 appliances. [Defined in 15C-1.0101, F.A.C.]
6

7 **Recreational vehicle.** A vehicle, including a park trailer, which is: [Defined in Section
8 320.01(b), Florida Statutes]

- 9 1. Built on a single chassis;
10 2. Four hundred (400) square feet or less when measured at the largest horizontal
11 projection;
12 3. Designed to be self-propelled or permanently towable by a light-duty truck; and
13 4. Designed primarily not for use as a permanent dwelling but as temporary living
14 quarters for recreational, camping, travel, or seasonal use.
15

16 **Sand dunes.** Naturally occurring accumulations of sand in ridges or mounds landward of
17 the beach.
18

19 **Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater
20 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as
21 Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. The term also includes areas shown
22 on other flood hazard maps, if such maps are adopted by the Village of Palmetto Bay or
23 otherwise legally designated. [Also defined in FBC, B Section 1612.2.]
24

25 **Start of construction.** The date of issuance for new construction and substantial
26 improvements to existing structures, provided the actual start of construction, repair,
27 reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days
28 of the date of the issuance. The actual start of construction means either the first placement
29 of permanent construction of a building (including a manufactured home) on a site, such as
30 the pouring of slab or footings, the installation of piles, the construction of columns.

31 Permanent construction does not include land preparation (such as clearing, grading,
32 or filling), the installation of streets or walkways, excavation for a basement, footings, piers,
33 or foundations, the erection of temporary forms or the installation of accessory buildings
34 such as garages or sheds not occupied as dwelling units or not part of the main buildings.
35 For a substantial improvement, the actual "start of construction" means the first alteration
36 of any wall, ceiling, floor or other structural part of a building, whether or not that alteration
37 affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]
38

39 **Substantial damage.** Damage of any origin sustained by a building or structure whereby the
40 cost of restoring the building or structure to its before-damaged condition would equal or
41 exceed 50 percent of the market value of the building or structure before the damage
42 occurred. [Also defined in FBC, B Section 1612.2.]
43

44 **Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other
45 improvement of a building or structure, the cost of which equals or exceeds 50 percent of
46 the market value of the building or structure before the improvement or repair is started. If

1 the structure has incurred "substantial damage," any repairs are considered substantial
2 improvement regardless of the actual repair work performed. The term does not, however,
3 include either: [Also defined in FBC, B, Section 1612.2.]

- 4 1. Any project for improvement of a building required to correct existing health,
5 sanitary, or safety code violations identified by the building official and that are the
6 minimum necessary to assure safe living conditions.
- 7 2. Any alteration of a historic structure provided the alteration will not preclude the
8 structure's continued designation as a historic structure and the alteration is
9 approved by variance issued pursuant to Section 30-100.6(v) of this ordinance.

10
11 **Variance.** A grant of relief from the requirements of this ordinance, or the flood load and
12 flood resistant construction requirements of the *Florida Building Code*, which permits
13 construction in a manner that would not otherwise be permitted by this ordinance or the
14 *Florida Building Code*.

15
16 **Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through,
17 or over which water flows at least periodically.

18
19 (z) **Flood Resistant Development**

20
21 (1) **Buildings And Structures**

22
23 i. **Design and construction of buildings and structures exempt**
24 **from the *Florida Building Code*.** Pursuant to Section 30-100.6(l) of this ordinance,
25 buildings, structures, and facilities that are exempt from the *Florida Building Code*, including
26 substantial improvement or repair of substantial damage of such buildings, structures and
27 facilities, shall be designed and constructed in accordance with the flood load and flood resistant
28 construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are
29 not walled and roofed buildings shall comply with the requirements of Section 30-100.6(cc) of
30 this ordinance.

31
32 ii. **Buildings and structures seaward of the coastal construction**
33 **control line.** If extending, in whole or in part, seaward of the coastal construction control
34 line and also located, in whole or in part, in a flood hazard area:

35 (A) Buildings and structures shall be designed and constructed to
36 comply with the more restrictive applicable requirements of the
37 *Florida Building Code*, Building Section 3109 and Section 1612 or *Florida*
38 *Building Code*, Residential Section R322.

39 (B) Minor structures and non-habitable major structures as
40 defined in Section 161.54, Florida Statutes, shall be designed and
41 constructed to comply with the intent and applicable provisions of
42 this ordinance and ASCE 24.

1 (2) Subdivisions

2
3 i. Minimum requirements. Subdivision proposals, including
4 proposals for manufactured home parks and subdivisions, shall be reviewed to determine
5 that:

6
7 (A) Such proposals are consistent with the need to minimize
8 flood damage and will be reasonably safe from flooding;

9 (B) All public utilities and facilities such as sewer, gas, electric,
10 communications, and water systems are located and constructed to
11 minimize or eliminate flood damage; and

12 (C) Adequate drainage is provided to reduce exposure to flood
13 hazards.

14
15 (3) Subdivision plats. Where any portion of proposed subdivisions, including
16 manufactured home parks and subdivisions, lies within a flood hazard area, the following
17 shall be required:

18 i. Delineation of flood hazard areas, floodway boundaries and flood
19 zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and
20 final plats;

21 ii. Where the subdivision has more than 50 lots or is larger than 5 acres
22 and base flood elevations are not included on the FIRM, the information required in Section
23 30-100.6(r) of this ordinance; and

24 iii. Compliance with the site improvement and utilities requirements of
25 Subsection (z) of this ordinance.

26
27 (aa) Site Improvements, Utilities And Limitations

28
29 (1) Minimum requirements. All proposed new development shall be reviewed
30 to determine that:

31 i. Such proposals are consistent with the need to minimize flood
32 damage and will be reasonably safe from flooding;

33 ii. All public utilities and facilities such as sewer, gas, electric,
34 communications, and water systems are located and constructed to minimize or eliminate
35 flood damage; and

36 iii. Adequate drainage is provided to reduce exposure to flood hazards.

37
38 (2) Sanitary sewage facilities. All new and replacement sanitary sewage
39 facilities, private sewage treatment plants (including all pumping stations and collector
40 systems), and on-site waste disposal systems shall be designed in accordance with the
41 standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and
42 ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and
43 discharge from the facilities into flood waters, and impairment of the facilities and systems.
44

1 (3) **Water supply facilities.** All new and replacement water supply facilities shall
2 be designed in accordance with the water well construction standards in Chapter 62-532.500,
3 F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the
4 systems.

5
6 (4) **Limitations on sites in regulatory floodways.** Development, site
7 improvements, and land disturbing activity involving fill or regrading shall not be authorized
8 in the regulatory floodway unless the floodway encroachment analysis required in Section
9 30-100.6(s)(1) of this ordinance demonstrates that the proposed development or land
10 disturbing activity will not result in any increase in the base flood elevation.

11
12 (5) **Limitations on placement of fill.** Subject to the limitations of this
13 ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise
14 and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-
15 related erosion and scour. In addition to these requirements, if intended to support buildings
16 and structures (Zone A only), fill shall comply with the requirements of the *Florida Building*
17 *Code.*

18
19 (6) **Limitations on sites in coastal high hazard areas (Zone V).** In coastal
20 high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if
21 such alteration is approved by the Florida Department of Environmental Protection and
22 only if the engineering analysis required by Section 30-100.6(s)(4) of this ordinance
23 demonstrates that the proposed alteration will not increase the potential for flood damage.
24 Construction or restoration of dunes under or around elevated buildings and structures shall
25 comply with Section 30-100.6(cc)(8) of this ordinance.

26
27 (bb) **Recreational Vehicles And Park Trailers**

28
29 (1) **Temporary placement, only.** Recreational vehicles and park trailers placed
30 temporarily in flood hazard areas shall:

- 31 i. Be on the site for fewer than 180 consecutive days; or
32 ii. Be fully licensed and ready for highway use, which means the
33 recreational vehicle or park model is on wheels or jacking system, is attached to the site only
34 by quick-disconnect type utilities and security devices, and has no permanent attachments
35 such as additions, rooms, stairs, decks and porches.

36
37 (cc) **Tanks**

38
39 (1) **Underground tanks.** Underground tanks in flood hazard areas shall be
40 anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic
41 and hydrostatic loads during conditions of the design flood, including the effects of
42 buoyancy assuming the tank is empty.

43 (2) **Above-ground tanks, not elevated.** Above-ground tanks that do not meet
44 the elevation requirements of Section 30-100.6(bb)(3) of this ordinance shall:

- 45 i. Be permitted in flood hazard areas (Zone A) other than coastal high
46 hazard areas, provided the tanks are anchored or otherwise designed and constructed to

1 prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic
2 loads during conditions of the design flood, including the effects of buoyancy assuming the
3 tank is empty and the effects of flood-borne debris.

4 ii. Not be permitted in coastal high hazard areas (Zone V).

6 (3) **Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas
7 shall be attached to and elevated to or above the design flood elevation on a supporting
8 structure that is designed to prevent flotation, collapse or lateral movement during
9 conditions of the design flood. Tank-supporting structures shall meet the foundation
10 requirements of the applicable flood hazard area.

12 (4) **Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

13 i. At or above the design flood elevation or fitted with covers designed
14 to prevent the inflow of floodwater or outflow of the contents of the tanks during
15 conditions of the design flood; and

16 ii. Anchored to prevent lateral movement resulting from hydrodynamic
17 and hydrostatic loads, including the effects of buoyancy, during conditions of the design
18 flood.

19
20 (dd) **Other Development**

21
22 (1) **General requirements for other development.** All development, including
23 man-made changes to improved or unimproved real estate for which specific provisions are
24 not specified in this ordinance or the *Florida Building Code*, shall:

25 i. Be located and constructed to minimize flood damage;

26 ii. Meet the limitations of Section 30-100.6(z)(4) of this ordinance if
27 located in a regulated floodway;

28 iii. Be anchored to prevent flotation, collapse or lateral movement
29 resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the
30 design flood;

31 iv. Be constructed of flood damage-resistant materials; and

32 v. Have mechanical, plumbing, and electrical systems above the design
33 flood elevation, except that minimum electric service required to address life safety and
34 electric code requirements is permitted below the design flood elevation provided it
35 conforms to the provisions of the electrical part of building code for wet locations.

36
37 (2) **Fences in regulated floodways.** Fences in regulated floodways that have
38 the potential to block the passage of floodwaters, such as stockade fences and wire mesh
39 fences, shall meet the limitations of Section 30-100.6(z)(4) of this ordinance.

40
41 (3) **Retaining walls, sidewalks and driveways in regulated floodways.**
42 Retaining walls and sidewalks and driveways that involve the placement of fill in regulated
43 floodways shall meet the limitations of Section 30-100.6(z)(4) of this ordinance.

1 (4) Roads and watercourse crossings in regulated floodways. Roads and
2 watercourse crossings, including roads, bridges, culverts, low-water crossings and similar
3 means for vehicles or pedestrians to travel from one side of a watercourse to the other side,
4 that encroach into regulated floodways shall meet the limitations of Section 30-100.6(z)(4) of
5 this ordinance. Alteration of a watercourse that is part of a road or watercourse crossing
6 shall meet the requirements of Section 30-100.6(s)(3) of this ordinance.
7

8 (5) Concrete slabs used as parking pads, enclosure floors, landings, decks,
9 walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone
10 V). In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors,
11 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or
12 adjacent to buildings and structures provided the concrete slabs are designed and
13 constructed to be:

14 i. Structurally independent of the foundation system of the building or
15 structure;

16 ii. Frangible and not reinforced, so as to minimize debris during
17 flooding that is capable of causing significant damage to any structure; and

18 iii. Have a maximum slab thickness of not more than four (4) inches.
19

20 (6) Decks and patios in coastal high hazard areas (Zone V). In addition to
21 the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios
22 shall be located, designed, and constructed in compliance with the following:

23 i. A deck that is structurally attached to a building or structure shall
24 have the bottom of the lowest horizontal structural member at or above the design flood
25 elevation and any supporting members that extend below the design flood elevation shall
26 comply with the foundation requirements that apply to the building or structure, which shall
27 be designed to accommodate any increased loads resulting from the attached deck.

28 ii. A deck or patio that is located below the design flood elevation shall
29 be structurally independent from buildings and structures and their foundation systems, and
30 shall be designed and constructed either to remain intact and in place during design flood
31 conditions or to break apart into small pieces to minimize debris during flooding that is
32 capable of causing structural damage to adjacent elevated buildings and structures.

33 iii. A deck or patio that has a vertical thickness of more than twelve (12)
34 inches or that is constructed with more than the minimum amount of fill necessary for site
35 drainage shall not be approved unless an analysis prepared by a qualified registered design
36 professional demonstrates no harmful diversion of floodwaters or wave runoff and wave
37 reflection that would increase damage to adjacent elevated buildings and structures.

38 iv. A deck or patio that has a vertical thickness of twelve (12) inches or
39 less and that is at natural grade or on nonstructural fill material that is similar to and
40 compatible with local soils and is the minimum amount necessary for site drainage may be
41 approved without requiring analysis of the impact on diversion of floodwaters or wave
42 runup and wave reflection.
43

1
2 * * *

3 104.10.1 Modifications of the strict application of the requirements of the
4 Florida Building Code. The Building Official shall review requests submitted that seek
5 approval to modify the strict application of the flood load and flood resistant construction
6 requirements of the Florida Building Code to determine whether such requests require the
7 granting of a variance pursuant to Section 117.

8
9 * * *

10
11 **Sec. 107.6.1, Florida Building Code, Building**

12
13 107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the
14 requirements of federal regulation (44 C.F.R. Sections 59 and 60) for the National Flood
15 Insurance Program, the authority granted to the Building Official to issue permits, to rely on
16 inspections, and to accept plans and construction documents on the basis of affidavits and
17 plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and
18 flood resistance construction requirements of the Florida Building Code.

19
20
21
22 * * *

23
24 **Sec. 117, Florida Building Code, Building**

25
26 **117 VARIANCES IN FLOOD HAZARD AREAS**

27
28 117.1 Flood hazard areas. Pursuant to Section 553.73(5), Florida Statutes, the
29 variance procedures adopted in the local floodplain management ordinance shall apply to
30 requests submitted to the Building Official for variances to the provisions of Section 1612.4
31 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the
32 Florida Building Code, Residential. This section shall not apply to Section 3109 of the
33 Florida Building Code, Building.

34
35
36 * * *

37
38 * * *

39
40 Section 7. The following is the previous version of Section 30-100.6 and the entirety
41 of Chapter 18, as codified by Municipal Code Corporation, which ordinances are to
42 be deleted in their entirety.

43
44
45 ~~(a) Statutory Authorization. The Legislature of the state of Florida, through the~~
46 ~~identification by the Federal Emergency Management Agency (FEMA) in its flood insurance~~

1 study and flood insurance rate maps for Miami-Dade County, Florida and incorporated areas
2 prepared by the Department of Homeland Security's Federal Emergency Management
3 Agency (FEMA) dated September 11, 2009 with accompanying maps (12086CIND1A,
4 12086CIND2A, 12086C0464L, 12086C0468L, 12086C0601L, 1208C0602L and
5 12086C0606L) and other supporting data and any subsequent revisions thereto, delegated
6 the responsibility to local government units to adopt regulations designed to promote the
7 public health, safety, and general welfare of its citizenry. Therefore, the Village Council of
8 the Village Palmetto Bay does hereby adopt the following floodplain management
9 regulations:

10
11 (b) Findings of Fact.

12
13 (1) The Village Council acknowledges that there exists flood hazard areas
14 within the Village which are subject to periodic inundation, which can result in loss of life
15 and property, health and safety hazards, disruption of commerce and governmental services,
16 extraordinary public expenditures for flood protection and relief, and impairment of the tax
17 base, all of which adversely affect the public health, safety and general welfare of the Village.

18
19 (2) Losses due to floods may be caused by the cumulative effect of
20 obstructions in floodplains causing increases in flood heights and velocities, and by the
21 occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands
22 which are inadequately elevated, flood-proofed, or otherwise unprotected from flood
23 damages.

24
25 (c) Statement of Purpose. The purpose of this Division, the "floodplain
26 management regulations," is to promote the public health, safety, general welfare, and to
27 minimize public and private losses due to flood conditions in specific areas by provisions
28 designed to:

29
30 (1) Require that uses vulnerable to floods, including facilities which serve
31 such uses, be protected against flood damage at the time of initial construction, and
32 throughout their intended lifespan.

33
34 (2) Restrict or prohibit uses which are dangerous to health, safety and
35 property due to water or erosion hazards, or which result in damaging increases in flood
36 heights, velocities or erosion;

37
38 (3) Control the alteration of natural flood plains, stream channels and
39 natural protective barriers which are involved in the accommodation of flood waters,

40
41 (4) Control filling, grading, dredging, and other development which may
42 increase flood damage or erosion, and

43
44 (5) Prevent or regulate the construction of flood barriers which will
45 unnaturally divert flood waters or which may increase flood hazards to other lands.

46
47 (d) Objectives. The objectives of these flood regulations are:

1 (1) ~~To protect human life and health and to eliminate or minimize~~
2 ~~property damage;~~

3
4 (2) ~~To minimize expenditure of public money for costly flood control~~
5 ~~projects;~~

6
7 (3) ~~To minimize the need for rescue and relief efforts associated with~~
8 ~~flooding and generally undertaken at the expense of the general public;~~

9
10 (4) ~~To minimize prolonged business interruptions;~~

11
12 (5) ~~To minimize damage to public facilities and utilities such as water and~~
13 ~~gas mains, electric, telephone and sewer lines, and streets and bridges and culverts located in~~
14 ~~flood plains;~~

15
16 (6) ~~To help maintain a stable tax base by providing for the sound use and~~
17 ~~development of flood prone areas in such a manner as to minimize flood blight areas; and~~

18
19 (7) ~~To ensure that potential home buyers are notified that property is in~~
20 ~~a flood hazard area.~~

21
22 (c) ~~Methods of Reducing Flood Losses. In order to accomplish its purpose, this~~
23 ~~Section includes methods and provisions for:~~

24
25 (1) ~~Restricting or prohibiting uses which are dangerous to health, safety,~~
26 ~~and property due to water or erosion hazards, or which result in damaging increases in~~
27 ~~erosion or in flood heights or velocities;~~

28
29 (2) ~~Requiring that uses vulnerable to floods including facilities which~~
30 ~~serve such uses be protected against flood damage throughout their intended life span;~~

31
32 (3) ~~Controlling the alteration of natural floodplains, stream channels, and~~
33 ~~natural protective barriers, which help accommodate or channel flood waters;~~

34
35 (4) ~~Controlling filling, grading, dredging, and other development which~~
36 ~~may increase flood damage, and~~

37
38 (5) ~~Preventing or regulating the construction of flood barriers~~
39 ~~that will unnaturally divert flood waters or may increase flood hazards in other areas.~~

40
41 (f) ~~Definitions.~~

42
43 ~~Accessory structure (Appurtenant structure) — For FEMA purposes, shall mean a~~
44 ~~structure that is located on the same parcel of property as the principal structure and the use~~
45 ~~of which is incidental to the use of the principal structure. Accessory structures should~~
46 ~~constitute a minimal investment, may not be used for human habitation, and be designed to~~
47 ~~have minimal flood damage potential. Examples of accessory structures are detached~~
48 ~~garages, carports, storage sheds, pole barns, and hay sheds.~~

1
2 ~~Appeal shall mean a request for a review of the Floodplain Administrator's~~
3 ~~interpretation of any provision of this ordinance or a request for a variance.~~
4

5 ~~Area of shallow flooding shall mean a designated AO or AH Zone on the~~
6 ~~community's Flood Insurance Rate Map (FIRM) with base flood average depths of one (1)~~
7 ~~to three (3) feet where a clearly defined channel does not exist, where the path of flooding is~~
8 ~~unpredictable, and where velocity flow may be evident. Such flooding is characterized by~~
9 ~~sheet flow or ponding.~~
10

11 ~~Area of special flood hazard shall mean the land in the floodplain within a~~
12 ~~community subject to a one (1) percent or greater chance of flooding in any given year. The~~
13 ~~term "special flood hazard area", for purposes of these regulations, is synonymous with the~~
14 ~~phrase "area of special flood hazard."~~
15

16 ~~Base flood shall mean the flood having a one (1) percent chance of being equaled~~
17 ~~or exceeded in any given year (also called the "100-year flood" and "regulatory flood"). Base~~
18 ~~flood is the term used throughout this ordinance.~~
19

20 ~~Base Flood Elevation shall mean the water surface elevation associated with the~~
21 ~~base flood.~~
22

23 ~~Basement shall mean any portion of a building having its floor sub-grade (below~~
24 ~~ground level) on all sides.~~
25

26 ~~Breakaway wall shall mean a wall that is not part of the structural support of the~~
27 ~~building and is intended through its design and construction to collapse under specific lateral~~
28 ~~loading forces, without causing damage to the elevated portion of the building or the~~
29 ~~supporting foundation system.~~
30

31 ~~Building. See Structure.~~
32

33 ~~Certification shall mean a certification by a registered professional engineer or other~~
34 ~~party does not constitute a warranty or guarantee of performance, expressed or implied.~~
35 ~~Certification of data is a statement that the data is accurate to the best of the certifier's~~
36 ~~knowledge. Certification of analyses is a statement that the analyses have been performed~~
37 ~~correctly and in accordance with sound engineering practices. Certification of structural~~
38 ~~works is a statement that the works are designed in accordance with sound engineering~~
39 ~~practices to provide protection from the base flood. Certification of "as built" conditions is~~
40 ~~a statement that the structure(s) has been built according to the plans being certified, is in~~
41 ~~place, and is fully functioning.~~
42

43 ~~Coastal high hazard area shall mean an area of special flood hazard extending from~~
44 ~~offshore to the inland limit of a primary frontal dune along an open coast and any other area~~
45 ~~subject to high velocity wave action from storms or seismic sources. The area is designated~~
46 ~~on the FIRM as Zone V1 V30, VE, or V.~~
47

1 ~~Critical facility shall mean a facility that is required to maintain function during a~~
2 ~~significant flood event in order to protect life, health, and safety. Critical facilities include,~~
3 ~~but are not limited to hospitals, police, fire and emergency response installations.~~

4
5 ~~Datum shall mean a reference surface used to ensure that all elevation records are~~
6 ~~properly related. The current national datum is the National Geodetic Vertical Datum~~
7 ~~(NGVD) of 1929, which is expressed in relation to mean sea level, or the North American~~
8 ~~Vertical Datum (NAVD) of 1988.~~

9
10
11 ~~Development shall mean any man-made change to improved or unimproved real~~
12 ~~estate, including, but not limited to buildings or other structures, mining, dredging, filling,~~
13 ~~grading, paving, excavating, drilling operations, or storage of materials or equipment.~~

14
15 ~~Elevated building shall mean a non-basement building built to have the lowest floor~~
16 ~~elevated above the ground level by foundation walls, shear walls, posts, piers, pilings, or~~
17 ~~columns.~~

18
19 ~~Encroachment shall mean the advance or infringement of uses, plant growth, fill,~~
20 ~~excavation, buildings, permanent structures or development into a floodplain, which may~~
21 ~~impede or alter the flow capacity of a floodplain.~~

22
23 ~~Existing construction shall mean for the purposes of floodplain management,~~
24 ~~structures for which “the start of construction” commenced before the date of the initial~~
25 ~~adoption of the floodplain management regulations by the Village of Palmetto Bay. Existing~~
26 ~~construction, means for the purposes of determining insurance rates, structures for which~~
27 ~~the “start of construction” commenced before June 18, 1974, the effective date of the~~
28 ~~FIRM. This term may also be referred to as “existing structures”.~~

29
30 ~~Existing manufactured home park or subdivision shall mean a manufactured home~~
31 ~~park or subdivision for which the construction of facilities for servicing the lots on which~~
32 ~~the manufactured homes are to be affixed (including at a minimum the installation of~~
33 ~~utilities, the construction of streets, and either final site grading or the pouring of concrete~~
34 ~~pads) is completed before the effective date of the floodplain management regulations as~~
35 ~~identified by the Federal Emergency Management Agency (FEMA) in its flood insurance~~
36 ~~study and FIRM adopted by Miami Dade County, Florida on June 18, 1974, and any~~
37 ~~revisions thereto.~~

38
39 ~~Expansion to an existing manufactured home park or subdivision shall mean the~~
40 ~~preparation of additional sites by the construction of facilities for servicing the lots on which~~
41 ~~the manufactured homes are to be affixed (including the installation of utilities, the~~
42 ~~construction of streets, and either final site grading or the pouring of concrete pads).~~

43
44 ~~Flood or flooding means:~~

45
46 ~~(a) A general and temporary condition of partial or complete inundation of~~
47 ~~normally dry land areas from:~~

1
2 Floodplain management regulations shall mean this Section and any other zoning
3 ordinances, subdivision regulations, building codes health regulations, special purpose
4 ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance),
5 and other applications of police power which control development in flood-prone areas.
6 This term describes Federal, State of Florida, or local regulations, in any combination
7 thereof, which provide standards for preventing and reducing flood loss and damage.

8
9 Floodproofing shall mean any combination of structural and nonstructural
10 additions, changes, or adjustments to structures which reduce or eliminate flood damage to
11 real estate or improved real property, water and sanitary facilities, structures and their
12 contents.

13
14 Floodway shall mean the channel of a river or other watercourse and the adjacent
15 land areas that must be reserved in order to discharge the base flood without cumulatively
16 increasing the water surface elevation more than a designated height of one (1) foot. The
17 term is also referred to as "regulatory floodway."

18
19 Floodway fringe shall mean that area of the one-percent (base or 100-year)
20 floodplain on either side of the regulatory floodway.

21
22 Freeboard shall mean the additional height, usually expressed as a factor of safety in
23 feet, above a flood level for purposes of floodplain management. "Freeboard" tends to
24 compensate for the many unknown factors, such as wave action, blockage of bridge or
25 culvert openings, and hydrological effect of urbanization of the watershed, which could
26 contribute to flood heights greater than the heights calculated for a selected frequency flood
27 and floodway conditions.

28
29 Free of obstruction shall mean any type of lower area enclosure or other
30 construction element will not obstruct the flow of velocity water and wave action beneath
31 the lowest horizontal structural member of the lowest floor of an elevated building during a
32 base flood event. This requirement applies to the structures in velocity zones (V-Zones).

33
34 Functionally dependent use shall mean a use which cannot be used for its intended
35 purpose unless it is located or carried out in close proximity to water, such as docking
36 facilities, or port facility necessary for the loading and unloading of cargo or passengers;
37 shipbuilding or ship repair. The term does not include long-term storage, manufacture,
38 sales, or service facilities.

39
40 Hardship as related to variances from this ordinance means the exceptional
41 difficulty associated with the land that would result from a failure to grant the requested
42 variance. The community requires that the variance is exceptional, unusual, and peculiar to
43 the property involved. Mere economic or financial hardship alone is not exceptional.
44 Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the
45 disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship.
46 All of these problems can be resolved through other means without granting a variance,
47 even if the alternative is more expensive, or requires the property owner to build elsewhere
48 or put the parcel to a different use than originally intended.

1
2 ~~Highest adjacent grade~~ shall mean the highest natural elevation of the ground
3 surface, ~~prior to construction, next to the proposed walls of a structure.~~

4
5 ~~Historic Structure~~ shall mean any structure that is:

6
7 ~~(1)~~ — ~~Listed individually in the National Register of Historic Places (a~~
8 ~~listing maintained by the Department of Interior) or preliminarily determined by the~~
9 ~~Secretary of the Interior as meeting the requirements for individual listing on the National~~
10 ~~Register.~~

11
12 ~~(2)~~ — ~~Certified or preliminarily determined by the Secretary of the Interior~~
13 ~~as contributing to the historical significance of a registered historic or a district preliminarily~~
14 ~~determined by the Secretary to qualify as a registered historic district.~~

15
16 ~~(3)~~ — ~~Individually listed on the Florida inventory of historic places, which~~
17 ~~have been approved by the Secretary of the Interior; or~~

18
19 ~~(4)~~ — ~~Individually listed on a local inventory for historic places with historic~~
20 ~~preservation programs that have been certified by either:~~

21
22 a. — ~~By the approved Florida program as determined by the Secretary of~~
23 ~~the Interior; or~~

24
25 b. — ~~Directly by the Secretary of the Interior.~~

26
27 ~~Increased Cost of Compliance (ICC)~~ shall mean the coverage by a standard flood
28 insurance policy under the NFIP that provides for the payment of a claim for the cost to
29 comply with the state of Florida and the Village's floodplain management laws or ordinances
30 after a direct physical loss by flood, when the Village declares the structure to be
31 "substantially" or "repetitively" flood damaged. ICC coverage is provided for in every
32 standard NFIP flood insurance policy, and will help pay for the cost to floodproof, relocate,
33 elevate, or demolish the structure.

34
35 ~~Lowest adjacent grade~~ shall mean the lowest elevation, after the completion of
36 construction, of the ground, sidewalk, patio, deck support, or basement entryway
37 immediately next to the structure.

38
39 ~~Lowest floor~~ shall mean the lowest floor of the lowest enclosed area (including
40 basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles,
41 building access, or storage, in an area other than a basement, is not considered a building's
42 lowest floor, provided that such enclosure is not built so as to render the structure in
43 violation of the non-elevation design requirements of this ordinance.

44
45 ~~Mangrove stand~~ shall mean an assemblage of mangrove trees which are mostly low
46 trees noted for a copious development of interlacing adventitious roots above the ground
47 and which contain one (1) or more of the following species: Black mangrove (*Avicennia*

1 Nitida); red mangrove (~~Rhizophora Mangle~~); white mangrove (~~Languncularia Racemosa~~);
2 and buttonwood (~~Conocarpus Erecta~~);
3

4 ~~Manufactured home~~ shall mean a building, transportable in one (1) or more
5 sections, which is built on a permanent chassis and is designed for use with or without a
6 permanent foundation when connected to the required utilities. The term also includes park
7 trailers, travel trailers, and similar transportable structures placed on a site for 180
8 consecutive days or longer and intended to be improved property.
9

10 ~~Manufactured home park or subdivision~~ shall mean a parcel (or contiguous parcels)
11 of land divided into two (2) or more manufactured home lots for rent or sale.
12

13 ~~Map~~ shall mean the Flood Boundary and Floodways Map (FBFM), Flood Hazard
14 Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued
15 by FEMA.
16

17 ~~Market value~~ shall mean the building value, which is the property value excluding
18 the land value and that of the detached accessory structures and other improvements on site
19 (as agreed to between a willing buyer and seller) as established by what the local real estate
20 market will bear. Market value can be established by an independent certified appraisal
21 (other than a limited or curbside appraisal, or one based on income approach), Actual Cash
22 Value (replacement cost depreciated for age and quality of construction of building), or
23 adjusted tax-assessed values.
24

25 ~~Mean sea level~~ shall mean the average height of the sea for all stages of the tide. It
26 is used as a reference for establishing various elevations within the floodplain. For purposes
27 of this regulation, the term is synonymous with the National Geodetic Vertical Datum
28 (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.
29

30 ~~National Geodetic Vertical Datum (NGVD) of 1929~~ shall mean a vertical control
31 used as a reference for establishing varying elevations within the floodplain.
32

33 ~~New Construction~~ shall mean, for floodplain management purposes, any structure
34 for which the "start of construction" commenced on or after the adoption of this Section.
35 The term also includes any subsequent improvements to such structures. For flood
36 insurance rates, structures for which the start of construction commenced on or after June
37 18, 1974, the effective date of the FIRM, and includes any subsequent improvements to such
38 structures.
39

40 ~~New manufactured home park or subdivision~~ shall mean a manufactured home
41 park or subdivision for which the construction of facilities for servicing the lots on which
42 the manufactured homes are to be affixed (including at a minimum, the installation of
43 utilities, the construction of streets, and either final site grading or the pouring of concrete
44 pads) is completed on or after the effective date of floodplain management regulations
45 adopted by the Village.
46

1 ~~Non-Coastal High Hazard Area~~ shall mean an area of special flood hazard not
2 subject to high velocity wave action from storms or seismic sources. The area is designated
3 on the FIRM as Zone A, AE, AH, AO, or A99.

4
5 ~~North American Vertical Datum (NAVD) of 1988~~ shall mean a vertical control
6 used as a reference for establishing varying elevations within the floodplain.

7
8 ~~Participating community, also known as an eligible community~~ shall mean a
9 community in which FEMA has authorized the sale of flood insurance.

10
11 ~~Primary frontal dune~~ shall mean a continuous or nearly continuous mound or ridge
12 of sand with relatively steep seaward and landward slopes immediately landward and
13 adjacent to the beach and subject to erosion and overtopping from high tides and waves
14 during major coastal storms. The inland limit of the primary frontal dune occurs at the point
15 where there is a distinct change from a relatively steep slope to a relatively mild slope.

16
17 ~~Principally above ground~~ shall mean that at least 51 percent of the actual cash value
18 of the structure is above ground.

19
20 ~~Program deficiency~~ shall mean a defect in the community's floodplain management
21 regulations or administrative procedures that impairs effective implementation of those
22 floodplain management regulations or of the standards required by the National Flood
23 Insurance Program.

24
25 ~~Public safety and nuisance~~ shall mean anything which is injurious to safety or
26 health of the entire community or a neighborhood, or any considerable number of persons,
27 or unlawfully obstructs the free passage or use, in the customary manner, of any navigable
28 lake, or river, bay, stream, canal, or basin.

29
30 ~~Reasonably safe from flooding~~ shall mean base flood waters will not inundate the
31 land or damage structures to be removed from the SFHA and that any subsurface waters
32 related to the base flood will not damage existing or proposed buildings.

33
34 ~~Recreational vehicle~~ shall mean a vehicle which is:

35
36 (1) ~~Built on a single chassis;~~

37
38 (2) ~~400 square feet or less when measured at the largest horizontal~~
39 ~~projection;~~

40
41 (3) ~~Designed to be self-propelled or permanently towable by a light duty~~
42 ~~truck; and~~

43
44 (4) ~~Designed primarily not for use as a permanent dwelling but as~~
45 ~~temporary living quarters for recreational, camping, travel, or seasonal use.~~

1 Regulatory floodway ~~shall mean the channel of a river or other watercourse and the~~
2 adjacent land areas that must be reserved in order to discharge the base flood without
3 cumulatively increasing the water surface elevation more than a designated height.

4
5 Remedy a deficiency or violation ~~shall mean to bring the regulation, procedure,~~
6 structure or other development into compliance with State of Florida, Federal, or local
7 floodplain management regulations; or if this is not possible, to reduce the impacts of its
8 noncompliance. Ways the impacts may be reduced include protecting the structure or other
9 affected development from flood damages, implementing the enforcement provisions of this
10 ordinance or otherwise deterring future similar violations, or reducing Federal financial
11 exposure with regard to the structure or other development.

12
13 Repetitive Loss ~~shall mean flood related damages sustained by a structure on two~~
14 (2) separate occasions during a 10-year period for which the cost of repairs at the time of
15 each such flood event, on the average, equaled or exceeded 25 percent of the market value
16 of the structure before the damages occurred.

17
18 Riverine ~~shall mean relating to, formed by, or resembling a river (including~~
19 tributaries), stream, brook, etc.

20
21 Sand dune ~~shall mean naturally occurring accumulations of sand in ridges or~~
22 mounds landward of the beach.

23
24 Shallow flooding ~~see area of shallow flooding.~~

25
26 Special flood hazard area (SFHA) ~~shall mean an area having special flood hazard~~
27 and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V1-30, VE, or V.
28 (see area of special flood hazard)

29
30 Start of Construction (for other than new construction or substantial improvements
31 under the Coastal Barrier Resources Act (Pub. L. 97-348)) ~~shall include substantial~~
32 improvement, and shall mean the date the building permit was issued, provided the actual
33 start of construction, repair, reconstruction, rehabilitation, addition placement, or other
34 improvement was within 180 days of the permit date. The actual start means either the first
35 placement of permanent construction of a structure on a site, such as the pouring of slab or
36 footings, the installation of piles, the construction of columns, or any work beyond the stage
37 of excavation; or the placement of a manufactured home on a foundation. Permanent
38 construction does not include land preparation, such as clearing, grading and filling; nor does
39 it include the installation of streets and/or walkways; nor does it include excavation for a
40 basement, footings, piers, or foundations or the erection of temporary forms; nor does it
41 include the installation on the property of accessory buildings, such as garages or sheds not
42 occupied as dwelling units or not part of the main structure. For a substantial improvement,
43 the actual start of construction means the first alteration of any wall, ceiling, floor, or other
44 structural part of a building, whether or not that alteration affects the external dimensions of
45 the building.

1 ~~Storm cellar~~ shall mean a place below grade used to accommodate occupants of
2 the structure and emergency supplies as a means of temporary shelter against severe
3 tornadoes or similar windstorm activity.

4
5 ~~Structure~~ shall mean, for floodplain management purposes, a walled and roofed
6 building, including a gas or liquid storage tank that is principally above ground, as well as a
7 manufactured home.

8
9 ~~Substantial damage~~ shall mean damage of any origin sustained by a structure
10 whereby the cost of restoring the structure to its before damaged condition would equal or
11 exceed 50 percent of the market value of the structure before the damage occurred. This
12 term also includes "repetitive loss" structures as defined herein.

13
14 ~~Substantial improvement~~ shall mean any reconstruction, rehabilitation, addition, or
15 other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent
16 of the market value of the structure before the "start of construction" of the improvement.
17 The term includes structures that have incurred "substantial damage", regardless of the
18 actual work performed, or "repetitive loss". The term does not, however, include any repair
19 or improvement of a structure to correct existing violations of State of Florida or local
20 health, sanitary, or safety code specifications which have been identified by the local code
21 compliance officer prior to the application for permit for improvement, and which are the
22 minimum necessary to assure safe living conditions. This term does not include any
23 alteration of a historic structure, provided that the alteration will not preclude the structure's
24 continued designation as a historic structure.

25
26 ~~Substantially improved existing manufactured home parks or subdivisions~~ is where
27 the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads
28 equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair,
29 reconstruction or improvement commenced.

30
31 ~~Variance~~ shall mean a grant of relief by the Village from the requirements of this
32 Section.

33
34 ~~Violation~~ shall mean the failure of a structure or other development to be fully
35 compliant with the requirement of this Section. A structure or other development without
36 the elevation certificate, other certifications, or other evidence of compliance required in this
37 Section is presumed to be in violation until such time as that documentation is provided.

38
39 ~~Watercourse~~ shall mean a lake, river, creek, stream, wash, channel or other
40 topographic feature on or over which waters flow at least periodically. Watercourse includes
41 specifically designated areas in which substantial flood damage may occur.

42
43 ~~Water surface elevation~~ shall mean the height, in relation to the National Geodetic
44 Vertical Datum (NGVD) of 1929, or the North American Vertical Datum (NAVD) of 1988,
45 of floods of various magnitudes and frequencies in the floodplains of coastal or riverine
46 areas.

47
48 ~~(g)~~ General Provisions

1
2 ~~(1) — Lands to which this Section applies. This Section shall apply to all~~
3 ~~areas of special flood hazard within the jurisdiction of the Village Council of the Village of~~
4 ~~Palmetto Bay.~~

5
6 ~~(2) — Basis for establishing the areas of special flood hazard. The areas of~~
7 ~~special flood hazard identified by the Federal Emergency Management Agency in the Flood~~
8 ~~Insurance Study (FIS) and flood insurance rate map for Miami-Dade County, Florida and~~
9 ~~incorporated areas prepared by the Department of Homeland Security's Federal Emergency~~
10 ~~Management Agency (FEMA) dated September 11, 2009, with the accompanying maps and~~
11 ~~other supporting data, and any subsequent revisions thereto, are adopted by reference and~~
12 ~~declared to be a part of this Section. The Flood Insurance Study and Flood Insurance Rate~~
13 ~~Map are on file at the Department of Public Works.~~

14
15 ~~(3) — Designation of floodplain administrator. The Village Council of the~~
16 ~~Village of Palmetto Bay hereby appoints the public works director to administer and~~
17 ~~implement the provisions of this Section, and shall be referred to as the Floodplain~~
18 ~~Management Administrator, or the Administrator.~~

19
20 ~~(4) — Establishment of development permit. A development permit shall~~
21 ~~be required for all proposed construction or other development, including, but not limited~~
22 ~~to, the placement of manufactured homes, in conformance with the provisions of this~~
23 ~~Section prior to the commencement of any development activity.~~

24
25 ~~(5) — Compliance. No structure or land shall hereafter be located,~~
26 ~~extended, converted or structurally altered without full compliance with the requirements of~~
27 ~~this Section and other applicable laws and regulations.~~

28
29 ~~(6) — Abrogation and greater restrictions. This Section is not intended to~~
30 ~~repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However,~~
31 ~~where this Section and another conflict or overlap, whichever imposes the more stringent~~
32 ~~restrictions shall prevail.~~

33
34 ~~(7) — Interpretation. In the interpretation and application of this Section~~
35 ~~all provisions shall be:~~

36 ~~a. — considered as minimum requirements;~~

37 ~~b. — liberally construed in favor of the governing body; and~~

38 ~~c. — deemed neither to limit nor repeal any other powers granted~~
39 ~~under State of Florida statutes.~~

40
41 ~~(8) — Warning and disclaimer of liability. The degree of flood protection~~
42 ~~required by this Section is considered reasonable for regulatory purposes and is based on~~
43 ~~scientific and engineering considerations. Larger floods can and will occur on rare~~
44 ~~occasions. Flood heights may be increased by man-made or natural causes. This Section~~
45 ~~does not imply that land outside the areas of special flood hazard or uses permitted within~~
46
47
48

1 such areas will be free from flooding or flood damages. This Section shall not create liability
2 on the part of the Village Council of the Village of Palmetto Bay or by any officer or
3 employee of the Village for any flood damages that result from reliance on or any
4 administrative decision lawfully made under this Section.
5

6 (9) — Penalties for violation. Violation of the provisions of this Section or
7 failure to comply with any of its requirements, including violation of conditions and
8 safeguards established in connection with granting of variances or special exceptions, shall
9 constitute a misdemeanor. Any person who violates this Section or fails to comply with any
10 of its requirements shall, upon conviction thereof, be fined not more than \$500 or
11 imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and
12 expenses involved in the case. Each day such violation continues shall be considered a
13 separate offense. Nothing in this Section shall prevent the Floodplain Management
14 Administrator from taking such other lawful actions as is necessary to prevent or remedy any
15 violation.
16

17 (h) — Administration.
18

19 (1) — Permit procedures. An application for development permit shall be
20 submitted to the Floodplain Management Administrator, on forms furnished by the Village
21 prior to any development activities, and may include, but not be limited to, the following
22 plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of
23 the area under consideration for development; existing and proposed structures, earthen fill,
24 storage of materials or equipment, drainage facilities, perimeter setbacks, environmental
25 features such as base floodplain areas, wetlands, and other protected areas; and the location
26 of the foregoing. Specifically, the following information, certified by a licensed professional
27 engineer or architect who is authorized to certify such information in this state, is required:
28

29 a. — Application Stage:
30

31 (i) — Elevations of the area (including basement) of
32 development in relation to mean sea level (such as a contour map) for both existing and
33 proposed development;
34

35 (ii) — Elevation in relation to mean sea level of the lowest
36 (including basement) floors of all proposed structures;
37

38 (iii) — Elevation in relation to mean sea level to which any
39 nonresidential structure will be floodproofed;
40

41 (iv) — Certificate from a registered professional engineer or
42 architect that the non-residential flood-proofed building will meet the flood-proofing criteria
43 of this Section;
44

45 (v) — Description of the extent to which any watercourse
46 will be altered or relocated as result of proposed development, and
47
48

1 (vi) — Elevation in relation to mean sea level of the bottom
2 of the lowest horizontal structural member of the lowest floor and provide a certification
3 from a registered engineer or architect indicating that they have developed and/or reviewed
4 the structural designs, specifications and plans of the construction and certified that are in
5 accordance with accepted standards of practice in Coastal High Hazard Areas.

6
7 a. — Construction Stage: Provide a regulatory floor elevation or
8 floodproofing certification after the lowest floor is completed and prior to the issuance of a
9 Certificate of Occupancy. Upon placement of the lowest floor, or instances where the
10 structure is subject to the regulations applicable to coastal high hazard areas, after placement
11 of the horizontal structural members of the lowest floor, or for nonresidential structures,
12 floodproofing, whichever is applicable, it shall be the duty of the permit holder to submit to
13 the Floodplain Management Administrator a certification of the elevation of the lowest
14 floor, or flood proofed elevation, or the elevation of the lowest portion of the horizontal
15 structural members of lowest floor, whichever is applicable, as built in relation to mean sea
16 level. Said certification shall be prepared by or under the direct supervision of a registered
17 land surveyor or a state licensed professional engineer and certified by same. When
18 floodproofing is utilized for a particular building, said certification shall be prepared by or
19 under the direct supervision of a state licensed professional engineer or architect and
20 certified by same. Any work undertaken prior to submission of the certification shall be at
21 the permit holder's risk.

22
23 The Administrator shall review the floor elevation survey data
24 submitted and floodproofing certificate. Should these documents be found not in
25 conformance with the requirements of this ordinance, the permit holder shall immediately
26 cease further work, and shall correct any deficiencies. Failure of the permit holder to submit
27 the surveyed lowest floor elevation and floodproofing certificate, and failure to correct the
28 identified deficiencies required by the Administrator, shall be the cause to issue a stop work
29 order for the project.

30
31 (i) — Duties and responsibilities of the Floodplain Management Administrator.
32 Duties of the Administrator shall include, but are not be limited to the following:

33
34 (1) — Review permits to assure sites are reasonably safe from flooding.

35
36 (2) — Review all development permits to assure that the requirements of
37 this Section have been fully met.

38
39 (3) — Require copies of additional Federal, State of Florida, or local
40 permits, especially as they relate to Chapters 161.053; 320.8249; 320.8359; 373.036; 380.05;
41 381.0065; and 553, Part IV, Florida Statutes, be submitted along with the development
42 permit application and maintain such permits on file with the development permit;

43
44 (4) — Review and verify the V-Zone Certifications for new and
45 substantially improved structures in coastal high hazard areas.

46
47 (5) — Review certified plans and specifications for compliance with the
48 requirements of this Section. When flood proofing is utilized for a particular building,

1 certification shall be obtained from a registered engineer or architect certifying that all areas
2 of the building, together with attendant utilities and sanitary facilities, below the required
3 elevation are water tight with walls substantially impermeable to the passage of water, and
4 use structural components having the capability of resisting hydrostatic and hydrodynamic
5 loads and the effects of buoyancy in compliance with these regulations. In Coastal High
6 Hazard Areas, certification shall be obtained from a registered professional engineer or
7 architect that the building is designed and securely anchored to pilings or columns in order
8 to withstand velocity waters and hurricane wave wash. Additionally in Coastal High Hazard
9 Areas, if the area below the lowest horizontal structural member of the lowest floor is
10 enclosed, it may be done so with open wood lattice and insect screening or with non-
11 supporting breakaway walls that meets the standards of these regulations.

12
13 (6) ~~Verify and record the actual elevation (in relation to mean sea level)~~
14 ~~of the lowest floor (including basement) or bottom of the lowest horizontal structural~~
15 ~~member of the lowest floor of all new or substantially improved structures, in accordance~~
16 ~~with these regulations.~~

17
18 (7) ~~Verify and record the actual elevation (in relation to mean sea level)~~
19 ~~to which the new or substantially improved structures have been floodproofed, in~~
20 ~~accordance with these regulations.~~

21
22 (8) ~~Interpret the exact location of boundaries of the areas of special~~
23 ~~flood hazard and regulatory floodway. When there appears to be a conflict between a~~
24 ~~mapped boundary and actual field conditions, the administrator shall make the necessary~~
25 ~~interpretation. The person contesting the location of the boundary shall be given a~~
26 ~~reasonable opportunity to appeal the interpretation as provided for in this Section.~~

27
28 (9) ~~When base flood elevation data or floodway data have not been~~
29 ~~provided in accordance with these regulations, the administrator shall obtain, review and~~
30 ~~reasonably utilize any base flood elevation and floodway data available from a federal, state,~~
31 ~~or any other source, in order to administer the provisions of these regulations.~~

32
33 (10) ~~Notify, in riverine situations, adjacent communities and the~~
34 ~~appropriate state and regional agencies (Florida Department of Community Affairs Division~~
35 ~~of Emergency Management - NFIP Coordinating Office, South Florida Water Management~~
36 ~~District, FEMA, and other Federal and/or State of Florida agencies with statutory or~~
37 ~~regulatory authority prior to any alteration or relocation of a watercourse. Submit copies of~~
38 ~~the notifications to FEMA, and assure that the flood carrying capacity within the altered or~~
39 ~~relocated portion of any watercourse is maintained so that the flood carrying capacity is not~~
40 ~~diminished.~~

41
42 (11) ~~Coordinate with planning, zoning, and public works and other~~
43 ~~departments in the Village to assure that the requirements of these regulations are fully met.~~

44
45 (12) ~~Participate actively in evaluating the variance requests and provide~~
46 ~~input and recommendations in variance hearings, and~~

1 (13) ~~Coordinate all change requests to the FIS and FIRM or FBFM, or all,~~
2 ~~with the requester, state, and FEMA.~~

3
4 (14) ~~Requirement to submit new technical data.~~

5
6 (15) ~~The Village's base flood elevations may increase or decrease resulting~~
7 ~~from physical changes affecting flooding conditions. As soon as practicable, but not later~~
8 ~~than six (6) months after the date such information becomes available, the Village shall~~
9 ~~notify FEMA of the changes by submitting technical or scientific data. The submission shall~~
10 ~~be necessary so that upon confirmation of those physical changes affecting flooding~~
11 ~~conditions, risk premium rates and flood plain management requirements will be based upon~~
12 ~~current data. The Village may require the applicant or owner to submit the data and review~~
13 ~~fees for FEMA.~~

14
15 (16) ~~In coastal high hazard areas, the Village review plans for adequacy of~~
16 ~~breakaway walls in accordance with these regulations.~~

17
18 (17) ~~All records pertaining to the provisions of these flood regulations~~
19 ~~shall be maintained by the Village and shall be open for public inspection.~~

20
21 (f) ~~Standards for Flood Hazard Reduction. In all areas of special flood hazard,~~
22 ~~all development sites including new construction and substantial improvements shall be~~
23 ~~reasonably safe from flooding, and meet the following requirements:~~

24
25 (1) ~~Review permits for proposed construction or other development,~~
26 ~~including the placement of manufactured homes, so that a determination may be made~~
27 ~~whether or not such construction or other development is proposed within flood-prone~~
28 ~~areas.~~

29
30 (2) ~~New construction, substantial improvements, and other development~~
31 ~~proposals shall assure that all necessary permits have been obtained from those~~
32 ~~governmental agencies from which approval is required by federal or state law, including~~
33 ~~Section 404 of the Federal Water Pollution Control Act, as amended, or by area-wide~~
34 ~~agencies.~~

35
36 (3) ~~New construction and substantial improvements shall be constructed~~
37 ~~with materials and utility elements resistant to flood damage for any areas up to one (1) foot~~
38 ~~above base flood elevation.~~

39
40 (4) ~~New construction or substantial improvements shall be constructed~~
41 ~~by methods and practices that minimize flood damage.~~

42
43 (5) ~~Electrical, heating, ventilation, plumbing, air conditioning equipment~~
44 ~~and other service facilities, including duct work, shall be designed and/or located so as to~~
45 ~~prevent water from entering or accumulating within the components during conditions of~~
46 ~~flooding.~~

1 ~~(6) Subdivision proposals and other proposed new development,~~
2 ~~including manufactured home parks or subdivisions, shall be assured that they will be~~
3 ~~reasonably safe from flooding. If a subdivision proposal or other proposed new~~
4 ~~development is in a flood-prone area, any such proposals shall be reviewed to assure that:~~
5

6 ~~a. All such proposals are consistent with the need to minimize~~
7 ~~flood damage within the flood-prone area;~~
8

9 ~~b. all public utilities and facilities, such as sewer, gas, electrical,~~
10 ~~and water systems are located and constructed to minimize or eliminate flood damage, and~~
11

12 ~~c. adequate drainage is provided to reduce exposure to flood~~
13 ~~hazards.~~
14

15 ~~(7) New and replacement water supply systems shall be designed to~~
16 ~~minimize or eliminate infiltration of flood waters into the systems;~~
17

18 ~~(8) New and replacement sanitary sewage systems shall be designed to~~
19 ~~minimize or eliminate infiltration of flood waters into the systems and discharges from the~~
20 ~~systems into flood waters, and on-site waste disposal systems shall be located and~~
21 ~~constructed to avoid impairment to them or contamination from them during flooding;~~
22

23 ~~(9) New construction and substantial improvements, when located in~~
24 ~~multiple flood zones with varying base flood elevations or in same flood zone with multiple~~
25 ~~base flood elevations shall meet the requirements for the flood zone with the most stringent~~
26 ~~requirements and the highest base flood elevation.~~
27

28 ~~(10) New construction and substantial improvements of existing~~
29 ~~structures shall be anchored to prevent flotation, collapse or lateral movement of the~~
30 ~~structure.~~
31

32 ~~(11) Manufactured homes shall be anchored to prevent flotation, collapse,~~
33 ~~or lateral movement. Methods of anchoring may include, but are not limited to, use of over-~~
34 ~~the-top or frame ties to ground anchors. This standard shall be in addition to and consistent~~
35 ~~with applicable state requirements for resisting wind forces.~~
36

37 ~~(12) Any alteration, repair, reconstruction or improvements to a structure~~
38 ~~that is in compliance with the provisions of this code shall meet the requirements as~~
39 ~~contained in this division.~~
40

41 ~~(13) Any alteration, repair, reconstruction or improvements to a building~~
42 ~~that is not in compliance with the provisions of this ordinance, shall be undertaken only if~~
43 ~~said non-conformity is not furthered, extended, or replaced.~~
44

45 ~~(14) All applicable additional Federal, State of Florida, and local permits~~
46 ~~shall be obtained and submitted to the Floodplain Management Administrator along with~~
47 ~~the application for development permit. Copies of such permits shall be maintained on file~~

1 with the development permit. State of Florida permits may include, but not be limited to,
2 the following:

3
4 a. ~~South Florida Water Management District: in accordance~~
5 ~~with Chapter 373.036 Florida Statutes (F.S), Section (2) (a) Flood Protection and~~
6 ~~Floodplain Management;~~

7
8 b. ~~Department of Community Affairs: in accordance with~~
9 ~~Chapter 380.05 Florida Statutes Areas of Critical State Concern, and Chapter 553, Part IV~~
10 ~~Florida Statutes, Florida Building Code;~~

11
12 c. ~~Department of Health: in accordance with Chapter 381.0065~~
13 ~~Florida Statutes Onsite Sewage Treatment and Disposal Systems; and~~

14
15 d. ~~Department of Environmental Protection, Coastal~~
16 ~~Construction Control Line: in accordance with Chapter 161.053 Florida Statutes Coastal~~
17 ~~Construction and Excavation.~~

18
19
20 (15) ~~When proposed new construction and substantial improvements are~~
21 ~~partially located in an area of special flood hazard, the entire structure shall meet the~~
22 ~~standards for new construction.~~

23
24 (k) ~~Specific Standards for Non-Coastal High Hazard Areas. In all non-coastal~~
25 ~~areas of special flood hazard where base flood elevation data have been provided, as set~~
26 ~~forth in this Section, but no regulatory floodways have been delineated, the following~~
27 ~~provisions shall apply:~~

28
29 ~~(1) Standards of subsection (k), above.~~

30
31 ~~(2) Residential Structures.~~

32
33 a. ~~All new construction or substantial improvements of~~
34 ~~residential structures (including manufactured home) shall have the lowest floor (including~~
35 ~~basement) elevated to no lower than (one foot above) the base flood elevation. Should solid~~
36 ~~foundation perimeter walls be used to elevate a structure, there must be a minimum of two~~
37 ~~openings on different sides of each enclosed area sufficient to facilitate automatic~~
38 ~~equalization of flood hydrostatic forces in accordance with these regulations.~~

39
40 b. ~~Should solid foundation perimeter walls be used to elevate a~~
41 ~~structure, there must be a minimum of two (2) openings on different sides of each enclosed~~
42 ~~area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance~~
43 ~~with these regulations.~~

44
45 (3) ~~Nonresidential Structures.~~

46
47 a. ~~All new construction or substantial improvements of non-~~
48 ~~residential structures shall have the lowest floor (including basement) elevated to be at or~~

1 above the base flood elevation. Nonresidential structures within Zones A1-30, AE, and AH
2 may be flood-proofed in lieu of being elevated provided that together with all attendant
3 utility and sanitary facilities, be designed so that below the base flood elevation plus one (1)
4 foot the structure is water-tight with walls substantially impermeable to the passage of water,
5 and with structural components having the capability of resisting hydrostatic and
6 hydrodynamic loads and the effect of buoyancy. A registered professional engineer or
7 architect, who is authorized to certify such information in the state, shall certify that the
8 provisions of this subsection are satisfied. The FEMA Floodproofing Certificate shall be
9 prepared, and submitted to the Floodplain Management Administrator along with the
10 corresponding operational and maintenance plans.

11
12 (4) ~~Elevated Structures.~~ For all new construction and substantial
13 improvements, that include fully enclosed areas below the lowest floor elevation shall be
14 usable solely for parking of vehicles, building access, or storage. These enclosed areas shall
15 be designed and constructed to allow for the entry and exit of floodwaters to automatically
16 equalize hydrostatic flood forces on exterior walls.

17
18 a. ~~Designs for meeting with this requirement must either be~~
19 ~~certified by a professional engineer or architect, who is authorized to such information in the~~
20 ~~state, or meet or exceed the following minimum criteria:~~

21
22 (i) ~~A minimum of two (2) openings having a total net area of~~
23 ~~not less than one (1) square inch for every square foot of enclosed area subject to flooding~~
24 ~~shall be provided;~~

25
26 (ii) ~~The bottom of all openings shall be no higher than one~~
27 ~~(1) foot above adjacent interior grade (which must be equal to or higher in elevation than the~~
28 ~~adjacent exterior grade); and~~

29
30 (iii) ~~Openings may be equipped with screens, louvers, valves,~~
31 ~~or other coverings or devices provided they provide the required net area of the openings~~
32 ~~and permit the automatic entry and exit of floodwaters.~~

33
34 b. ~~Fully enclosed areas below the lowest floor shall solely be~~
35 ~~used for parking of vehicles, storage, and building access. Access to the enclosed area shall~~
36 ~~be minimum necessary to allow for parking of vehicles (garage door) or limited storage of~~
37 ~~maintenance equipment used in connection with the premises (standard exterior door) or~~
38 ~~entry to the living area (stairway or elevator);~~

39
40 c. ~~The interior portion of such enclosed areas shall not be~~
41 ~~partitioned, temperature-controlled, or finished into separate rooms; and~~

42
43 d. ~~Where elevation requirements exceed six (6) feet above the~~
44 ~~highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the~~
45 ~~conversion of the area below the lowest floor to a use or dimension contrary to the~~
46 ~~building's originally approved design, shall be presented as a condition of issuance of the~~
47 ~~final Certificate of Occupancy.~~

1 (5) ~~Provisions for Manufactured Homes and Recreational Vehicles.~~

2 a. ~~All manufactured homes that are placed, or substantially~~
3 ~~improved within Zones A1-30, AH, and AE, on sites:~~

4
5 (i) ~~outside of an existing manufactured home park or~~
6 ~~subdivision;~~

7
8 (ii) ~~in a new manufactured home park or subdivision;~~

9
10 (iii) ~~in an expansion to an existing manufactured home~~
11 ~~park or subdivision; or~~

12
13 (iv) ~~in an existing manufactured home park or subdivision~~
14 ~~on which a manufactured home has incurred "substantial damage" as the result of a flood;~~
15 ~~be elevated on a permanent foundation and be securely anchored to an adequately anchored~~
16 ~~foundation system to resist foundation collapse and lateral movement.~~

17
18 b. ~~All manufactured homes to be placed or substantially~~
19 ~~improved in an existing manufactured home park or subdivision within Zones A1-30, AH,~~
20 ~~and AE, that are not subject to the provisions of subsection (5)(a) must be elevated so that~~
21 ~~either:~~

22
23 (i) ~~The lowest floor of the manufactured home is elevated~~
24 ~~to be at or above the base flood elevation, or~~

25
26 (ii) ~~The manufactured home chassis is supported by~~
27 ~~reinforced piers or other foundation elements of at least an equivalent strength that are no~~
28 ~~less than 36 inches in height above the grade and be securely anchored to an adequate~~
29 ~~foundation system to resist flotation, collapse, and lateral movement.~~

30
31 c. ~~All recreational vehicles placed on sites within Zones A1-30,~~
32 ~~AH, and AE must either:~~

33
34 (i) ~~Be on the site for fewer than 180 consecutive days;~~

35
36 (ii) ~~Be fully licensed and ready for highway use (A~~
37 ~~recreational vehicle is ready for highway use if it is on its wheels or jacking system, is~~
38 ~~attached to the site only by quick disconnect type utilities and security devices, and has no~~
39 ~~permanently attached additions; or~~

40
41 (iii) ~~Meet the requirements for new construction,~~
42 ~~including anchoring and elevation requirements for manufactured homes in paragraphs (4)(a)~~
43 ~~or (b) of this Section.~~

44
45 d. ~~Standards for waterways with established Base Flood~~
46 ~~Elevations, but without Regulatory Floodways.~~

1 e. — Located within the areas of special flood hazard established in
2 these regulations, where streams exist for which base flood elevation data has been provided
3 by the Federal Emergency Management Agency without the delineation of the regulatory
4 floodway (Zones AE and A1-30), the following provisions, in addition to those set forth in
5 these regulations, shall apply:

6
7 (i) — Until a regulatory floodway is designated, that no new
8 construction, substantial improvements, or other development (including fill) shall be
9 permitted within Zones A1-30 and AE on the FIRM, unless it is demonstrated that the
10 cumulative effect of the proposed development, when combined with all other existing and
11 anticipated development, will not increase the water surface elevation of the base flood more
12 than one (1) foot at any point within the community.

13 (ii) — Development activities which increase the water
14 surface elevation of the base flood by more than one foot may be allowed, provided that the
15 developer or applicant first applies — with the community's endorsement — for a conditional
16 FIRM revision, and receives the approval of the Federal Emergency Management Agency
17 (FEMA).

18
19 f. — Within Zones AH and AO on the FIRM, adequate drainage
20 paths around structures shall be provided on slope to guide floodwaters around and away
21 from proposed structures.

22
23 (1) — Standards for Floodways with established Base Flood Elevations and
24 Floodways.

25
26 Located within areas of special flood hazard as established herein as areas designated
27 as floodways. Since the floodway is an extremely hazardous area due to the velocity of
28 floodwaters that carry debris, potential projectiles and have significant erosion potential, the
29 following provisions shall apply:

30
31 (1) — Standards of subsection (1).

32
33 (2) — Prohibit encroachments, including fill, new construction, substantial
34 improvements and other developments within the regulatory floodway unless certification
35 (with supporting technical data) by a registered professional engineer is provided through
36 hydrologic and hydraulic analyses performed in accordance with standard engineering
37 practice that the proposed encroachment would not result in any increase in flood levels
38 within the community during the occurrence of the base flood discharge,

39
40 (3) — Development activities including new construction and substantial
41 improvements within the regulatory floodway that increase the base flood elevation may be
42 allowed, provided that the developer or applicant first applies — with the community's
43 endorsement — for a conditional FIRM revision, and receives the approval of FEMA.

44
45 (4) — When fill is proposed, in accordance with the permit issued by the
46 Florida Department of Health, within the regulatory floodway, the development permit shall
47 be issued only upon demonstration by appropriate engineering analyses that the proposed fill

1 ~~will not increase the water surface elevation of the base flood in accordance with this~~
2 ~~Section.~~

3
4 For all structures located seaward of the Coastal Construction Control Line (CCCL),
5 the lowest floor of all new construction and substantial improvements shall be elevated to
6 ~~no lower than the 100-year flood elevation established by the Florida Department of~~
7 ~~Environmental Protection or by FEMA in accordance with these regulations, whichever is~~
8 ~~higher. All non-elevation design requirements of this Section shall apply.~~

9
10 ~~(m) — Specific standard for A-Zones without base flood elevations and regulatory~~
11 ~~floodways.~~

12
13 ~~Located within the areas of special flood hazard established in these regulations,~~
14 ~~where there exist A-Zones for which no base flood elevation data and regulatory floodway~~
15 ~~have been provided or designated by the Federal Emergency Management Agency, the~~
16 ~~following provisions shall apply:~~

17
18 ~~(1) — Require standards of this Section.~~

19
20 ~~(2) — Require that all new subdivision proposals and other proposed~~
21 ~~developments (including proposals for manufactured home parks and subdivisions) greater~~
22 ~~than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood~~
23 ~~elevation data. Standards set forth in this Section shall apply.~~

24
25 ~~(3) — The Floodplain Administrator shall obtain, review, and reasonably~~
26 ~~utilize any base flood elevation and floodway data available from a Federal, State of Florida,~~
27 ~~or any other source, in order to administer the provisions of this ordinance. When such data~~
28 ~~is utilized, provisions of this Section shall apply. The Floodplain Management Administrator~~
29 ~~shall:~~

30
31 ~~a. — Obtain the elevation (in relation to the mean sea level) of the~~
32 ~~lowest floor (including the basement) of all new and substantially improved structures,~~

33
34 ~~b. — Obtain, if the structure has been floodproofed in accordance~~
35 ~~with the requirements of this Section, the elevation in relation to the mean sea level to which~~
36 ~~the structure has been floodproofed, and~~

37
38 ~~c. — Maintain a record of all such information.~~

39
40 ~~(4) — Notify, in riverine situations, adjacent communities, the Florida~~
41 ~~Department of Community Affairs — NFIP Coordinating Office, and the South Florida~~
42 ~~Water Management District prior to any alteration or relocation of a watercourse, and~~
43 ~~submit copies of such notifications to FEMA.~~

44
45 ~~(5) — Assure that the flood carrying capacity within the altered or relocated~~
46 ~~portion of any watercourse is maintained.~~

1 ~~(6) — Manufactured homes shall be installed using methods and practices~~
2 ~~that minimize flood damage. They must be elevated and anchored to prevent flotation,~~
3 ~~collapse, and lateral movement. Methods of anchoring may include, but are not limited to,~~
4 ~~use of over the top or frame ties to ground anchors. This requirement is in addition to~~
5 ~~applicable State of Florida and local anchoring requirements for resisting wind forces.~~

6
7 ~~(7) — When the data is not available from any source, in accordance with~~
8 ~~standard set forth in this Section, the lowest floor of the structure shall be elevated to no~~
9 ~~lower than three (3) feet above the highest adjacent grade. Standards set forth in this Section~~
10 ~~shall apply.~~

11
12 ~~(n) — Standards for AO Zones.~~

13
14 ~~Located within the areas of special flood hazard established in these regulations, are~~
15 ~~areas designated as shallow flooding areas. These areas have flood hazards associated with~~
16 ~~base flood depths of one to three feet, where a clearly defined channel does not exist and the~~
17 ~~path of flooding is unpredictable and indeterminate; therefore, the following provisions, in~~
18 ~~addition to this Section, apply:~~

19
20 ~~(1) — All new construction and substantial improvements of residential~~
21 ~~structures in all AO Zones shall have the lowest floor, including basement, elevated above~~
22 ~~the highest adjacent grade at least as high as the depth number specified in feet on the Flood~~
23 ~~Insurance Rate Map plus one foot. If no flood depth number is specified, the lowest floor,~~
24 ~~including basement, shall be elevated to no less than two feet above the highest adjacent~~
25 ~~grade.~~

26
27 ~~(2) — All new construction and substantial improvements of non-~~
28 ~~residential structures shall:~~

29
30 ~~a. — Have the lowest floor, including basement, elevated above~~
31 ~~the highest adjacent grade at least as high as the depth number specified in feet on the Flood~~
32 ~~Insurance Rate Map. If no flood depth number is specified, the lowest floor, including~~
33 ~~basement, shall be elevated to at least three feet above the highest adjacent grade, or~~

34
35 ~~b. — Together with attendant utility and sanitary facilities be~~
36 ~~completely floodproofed to (no less than one foot above) that level to meet the~~
37 ~~floodproofing standard specified in Article 5, Section D (2) (a).~~

38
39 ~~(3) — Adequate drainage paths around structures shall be provided on~~
40 ~~slopes to guide water away from structures.~~

41
42 ~~(4) — Fully enclosed areas below the lowest floor that are subject to~~
43 ~~flooding shall meet the non-elevation design requirements of this Section.~~

44
45 ~~(o) — Coastal High Hazard Areas.~~

46
47 ~~(1) — Located within areas of special flood hazard areas established in this~~
48 ~~Section, are Coastal High Hazard Areas, designated as Zones V1-30, VE, or V. These areas~~

1 have special flood hazards associated with high velocity waters from hurricane and storm
2 surges and, therefore, in addition to meeting all provisions in this ordinance, the following
3 provisions shall also apply:

4 a. ~~Standards of subsection (m).~~

5
6 b. ~~All new construction and substantial improvements in Zones
7 V1-30 and VE (Zone V if base flood elevation is available) shall be elevated on pilings or
8 columns so that:~~

9
10 (i) ~~The bottom of the lowest horizontal structural
11 member of the lowest floor (excluding the pilings or columns) is elevated to be at or above
12 the base flood elevation, and~~

13
14 (ii) ~~The pile or column foundation and structure attached
15 thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of
16 wind and water loads acting simultaneously on all building components. Water loading
17 values used shall be those associated with the base flood. Wind loading values used shall be
18 those required by applicable state or local building standards.~~

19
20 (iii) ~~For all buildings located seaward of the Coastal
21 Construction Control Line (CCCL), the bottom of the lowest horizontal structural member
22 of the lowest floor of all new construction and substantial improvements shall be elevated to
23 the 100-year flood elevation established by the Florida Department of Environmental
24 Protection or the base flood elevation, whichever is the higher.~~

25
26 c. ~~A registered professional engineer or architect shall develop
27 or review the structural design, specifications and plans for the construction, and shall certify
28 that the design and methods of construction to be used are in accordance with accepted
29 standards of practice for meeting the provisions of paragraph b. of this subsection.~~

30
31 d. ~~Obtain the elevation (in relation to mean sea level) of the
32 bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and
33 columns) of all new and substantially improved structures in Zones V1-30 and VE. The
34 administrator shall maintain a record of all such information.~~

35
36 e. ~~All new construction shall be located landward of the reach
37 of mean high tide.~~

38
39 f. ~~Provide that all new construction and substantial
40 improvements have the space below the lowest floor either free of obstruction or
41 constructed with non-supporting breakaway walls, open wood lattice work, or insect
42 screening intended to collapse under wind and water loads without causing collapse,
43 displacement, or other structural damage to the elevated portion of the building or
44 supporting foundation system. For the purpose of this subsection, a breakaway wall shall
45 have a design safe loading resistance of not less than ten (10) and no more than 20 pounds
46 per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20
47 pounds per square foot (either by design or when so required by local or state codes) may be~~

1 permitted only if a registered professional engineer or architect certifies that the designs
2 proposed meet the following conditions:

3
4 (i) ~~Breakaway wall collapse shall result from water load~~
5 ~~less than that which would occur during the base flood, and~~

6
7 (ii) ~~The elevated portion of the building and supporting~~
8 ~~foundation system shall not be subject to collapse, displacement, or other structural damage~~
9 ~~due to the effects of wind and water loads acting simultaneously on all building components~~
10 ~~(structural and nonstructural). Water loading values used shall be those associated with the~~
11 ~~base flood. Wind loading values used shall be those required by applicable state or local, if~~
12 ~~more stringent than those of the State of Florida, building standards.~~

13
14 (iii) ~~Such enclosed space shall be useable solely for~~
15 ~~parking of vehicles, building access, or storage.~~

16
17 g. ~~The enclosed space below the lowest floor shall be useable~~
18 ~~solely for parking of vehicles, building access, or storage. Such space shall not be partitioned~~
19 ~~into multiple rooms, temperature-controlled, or used for human habitation.~~

20
21 h. ~~Prohibit the use of fill for structural support of structures.~~
22 ~~No development permit shall be issued for development involving fill in coastal high hazard~~
23 ~~area unless it has been demonstrated through appropriate engineering analyses that the~~
24 ~~subject fill does not cause any adverse impacts to the structure on site or adjacent structures.~~
25 ~~Placement of fill that would result in an increase in the base flood elevation may be~~
26 ~~permitted, provided that the permit applicant first applies for and receives a conditional~~
27 ~~FIRM revision, fulfilling the requirements for such revisions as established by FEMA.~~

28
29 i. ~~Prohibit man-made alteration of sand dunes and mangrove~~
30 ~~stands that would increase potential flood damage.~~

31
32 j. ~~All manufactured homes to be placed or substantially~~
33 ~~improved within Zones V1-30, VE, and V on the FIRM shall:~~

34
35 (i) ~~Meet the requirements of subsection (o)a. - h., if they~~
36 ~~are located on sites:~~

37
38 A. ~~Outside of an existing manufactured home~~
39 ~~park or subdivision;~~

40
41 B. ~~In a new manufactured home park or~~
42 ~~subdivision;~~

43
44 C. ~~In an expansion to an existing manufactured~~
45 ~~home park or subdivision; or~~

1 D. ~~In an existing manufactured home park or~~
2 ~~subdivision in which a manufactured home has incurred "substantial damage" as the result~~
3 ~~of a flood; and~~

4
5 ~~(ii) All manufactured homes placed or substantially~~
6 ~~improved on other sites in an existing manufactured home park or subdivision shall meet the~~
7 ~~requirements of this Section.~~

8
9 k. ~~Recreational vehicles placed on sites within Zones V1-V30,~~
10 ~~V, and VE on the FIRM shall be in conformance with the requirements of subsection~~
11 ~~(k)(5)e.~~

12
13 ~~(i) Be on the site for fewer than 180 consecutive days;~~

14
15 ~~(ii) Be fully licensed and ready for highway use (on its~~
16 ~~wheels or jacking system, is attached to the site only by quick disconnect type utilities and~~
17 ~~security devices, and has no permanently attached additions); or~~

18
19 ~~(iii) Meet the requirements of this Section.~~

20
21 ~~l. For all structures located seaward of the Coastal Construction~~
22 ~~Control Line (CCCL), the bottom of the lowest horizontal structural member of the lowest~~
23 ~~floor of all new construction and substantial improvements shall be elevated to the flood~~
24 ~~elevation established by the Florida Department of Environmental Protection or the base~~
25 ~~flood elevation (plus one foot), whichever is higher.~~

26
27 m. ~~When fill is proposed, in accordance with the permit issued~~
28 ~~by the Florida Department of Health, in coastal high hazard area, the development permit~~
29 ~~shall be issued only upon demonstration by appropriate engineering analyses that the~~
30 ~~proposed fill will not increase the water surface elevation of the base flood nor cause any~~
31 ~~adverse impacts to the structure on site or other properties by wave ramping or deflection.~~

32
33 ~~(p) Critical Facilities~~

34
35 ~~(1) Construction of new critical facilities shall be, to the~~
36 ~~extent possible, located outside the limits of the SFHA, preferably outside the point two~~
37 ~~(0.2) percent annual chance floodplain. Construction of new critical facilities may be~~
38 ~~permissible within the SFHA if feasible alternative sites are unavailable. Critical facilities~~
39 ~~constructed within the SFHA shall have the lowest floor elevated or floodproofed to three~~
40 ~~(3) or more feet above the base flood elevation at the site. Floodproofing and sealing~~
41 ~~measures must be taken to ensure that toxic substances will not be displaced by or released~~
42 ~~into floodwaters. Access routes elevated to or above the level of the base flood elevation~~
43 ~~shall be provided to all critical facilities to the maximum extent possible.~~

44
45 ~~(q) Variances.~~

1 k. ~~The costs of providing governmental services~~
2 ~~during and after flood conditions, including maintenance and repair of public utilities and~~
3 ~~facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and~~

4
5 l. ~~The request for variance is not an after-the-~~
6 ~~fact request.~~

7
8 (4) ~~Conditions for variances.~~

9
10 a. ~~Variances may only be issued when there is:~~

11
12 (i) ~~A showing of good and sufficient~~
13 ~~cause;~~

14
15 (ii) ~~A determination that failure to grant~~
16 ~~the variance would result in exceptional hardship; and~~

17
18 (iii) ~~A determination that the granting of a~~
19 ~~variance will not result in increased flood heights, additional threats to public expense, create~~
20 ~~nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or~~
21 ~~ordinances.~~

22
23 b. ~~Variances may only be issued upon a~~
24 ~~determination that the variance is the minimum necessary deviation from the requirements~~
25 ~~of this Section, considering the flood hazard, to afford relief, and in the instance of an~~
26 ~~historic structure, a determination that the variance is the minimum necessary so as not to~~
27 ~~destroy the historic character and design.~~

28
29 c. ~~Variances shall not be issued within any~~
30 ~~designated regulatory floodway if any increase in flood levels during the base flood discharge~~
31 ~~would result.~~

32
33 d. ~~Variances may be issued for the repair or~~
34 ~~rehabilitation of historic structures upon a determination that the proposed repair or~~
35 ~~rehabilitation will not preclude the structure's continued designation as a historic structure,~~
36 ~~and the variance is the minimum necessary to preserve the historic character and design of~~
37 ~~the structure.~~

38
39 e. ~~Variances may be issued for new construction~~
40 ~~and substantial improvements and for other development necessary for the conduct of a~~
41 ~~functionally dependent use provided that:~~

42
43 f. ~~The criteria of paragraphs a. through c. of this~~
44 ~~subsection are met; and~~

45
46 g. ~~The structure or other development is~~
47 ~~protected by methods that minimize flood damages during the base flood and create no~~
48 ~~additional threats to public safety.~~

1
2 ~~(5) Variance notification.~~

3
4 a. ~~Any applicant to whom a variance is granted~~
5 ~~shall be notified in writing over the signature of the Village's administrative official that:~~

6
7 (i) ~~The issuance of a variance to~~
8 ~~construct a structure below the base flood elevation will result in increased premium rates~~
9 ~~for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and~~

10
11 (ii) ~~Such construction below the base~~
12 ~~flood level increases risks to life and property.~~

13
14 b. ~~A copy of the notice shall be recorded by the~~
15 ~~floodplain management administrator in the Village Clerk's Office and shall be recorded in a~~
16 ~~manner so that it appears in the chain of title of the affected parcel of land.~~

17
18 (i) ~~The administrator shall maintain a~~
19 ~~record of all variance actions, including justification for their issuance or denial, and report~~
20 ~~such variances issued in its biennial report submitted to FEMA.~~

21
22
23 ~~(6) Historic buildings. Variances may be issued for the~~
24 ~~repair or rehabilitation of "historic" building meeting the definition in this ordinance upon~~
25 ~~determination that the proposed repair or rehabilitation will not preclude the structure's~~
26 ~~continued designation as a "historic" building.~~

27
28 ~~(7) Buildings in regulatory floodway. Variances shall not~~
29 ~~be issued within any designated floodway if any impact in flood conditions or increase in~~
30 ~~flood levels during the base flood discharge would result.~~

31
32 ~~(8) Special conditions. Upon consideration of the factors~~
33 ~~listed in (r) and the purposes of this Section, the Village Council may attach such conditions~~
34 ~~to the granting of variances, as it deems necessary to further the purposes of this Section.~~

35
36 * * *

37
38 CHAPTER 18 Floods

39 Section 18-1 through 18-34 are repealed in their entirety.

40
41 * * *

42
43 **Section 8. Fiscal Impact Statement.** In terms of design, plan application review,
44 construction and inspection of buildings and structures, the cost impact as an overall average
45 is negligible in regard to the local technical amendments because all development has been
46 subject to the requirements of the local floodplain management ordinance adopted for
47 participation in the National Flood Insurance Program. In terms of lower potential for
48 flood damage, there will be continued savings and benefits to consumers.

1
2 **Section 9. Applicability.** For the purposes of jurisdictional applicability, this ordinance
3 shall apply in the Village of Palmetto Bay. This ordinance shall apply to all applications for
4 development, including building permit applications and subdivision proposals, submitted
5 on or after adoption of this ordinance.
6

7 **Section 10. Repealer.** Any and all ordinances and regulations in conflict herewith are
8 hereby repealed to the extent of any conflict. This ordinance specifically repeals and replaces
9 the following ordinance(s) and regulation(s): Chapter 18, Section 18-1 through 18-34, and
10 30-100.6, as enacted on October 5, 2009.
11

12 **Section 11. Inclusion Into The Code Of Ordinances.** It is the intent of the Village
13 Council that the provisions of this ordinance shall become and be made a part of the Village
14 of Palmetto Bay Code of Ordinances, and that the sections of this ordinance may be
15 renumbered or relettered and the word "ordinance" may be changed to "Section," "article,"
16 "regulation," or such other appropriate word or phrase in order to accomplish such
17 intentions.
18

19 **Section 12. Severability.** If any Section, subsection, sentence, clause or phrase of this
20 ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such
21 decision shall not affect the validity of the ordinance as a whole, or any part thereof, other
22 than the part so declared.
23

24 **Section 13. Effective Date.** This ordinance shall take effect immediately.
25
26
27

28 PASSED AND ENACTED this ____ day of _____, 2012.
29

30 Attest: _____
31 Meighan Alexander Shelley Stanczyk
32 Village Clerk Mayor
33

34 APPROVED AS TO FORM:
35
36

37 _____
38 Eve A. Boutsis
39 Village Attorney

40 FINAL VOTE AT ADOPTION:
41

42 Council Member Patrick Fiore _____
43

44 Council Member Howard Tendrich _____
45

46 Council Member Joan Lindsay _____
47

48 Vice-Mayor Brian W. Pariser _____

1
2 Mayor Shelley Stanczyk _____
3