

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; AMENDING ORDINANCE NO. 09-04 TO MODIFY PARK RENTAL FEES RELATING TO THE EDWARD AND ARLENE FELLER COMMUNITY ROOM AT LUDOVICI PARK; PROVIDING FOR AN ADMINISTRATIVE WAIVER OF RENTAL FEES FOR ALL NONPROFITS OR COMMUNITY GROUPS FOR USE OF THE EDWARD AND ARLENE FELLER COMMUNITY ROOM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

WHEREAS, the Village adopted and established fees, permit conditions, requirements and other guidelines for rental activities at all Park facilities, including the Edward and Arlene Feller Community Room and Amphitheater at Ludovici Park, under Ordinance 09-04 relating to "Park Fees"; and,

WHEREAS, the existing fees and conditions are deemed appropriate and comparable to similar neighboring facilities; and,

WHEREAS, several community groups and nonprofit organizations do not have a regular location to meet and desire to use the Edward and Arlene Feller Community Room at Ludovici Park; and,

WHEREAS, the Edward and Arlene Feller Community Room, like all Village Park areas, requires a fee for the use of said facilities; and,

WHEREAS, certain nonprofit organizations and community groups do not have the funding available to rent facilities; and,

WHEREAS, the Edward and Arlene Feller Community Room, since the opening of Village Hall, is not utilized as frequently as in the past, and expanded use of the asset may benefit the community; and,

WHEREAS, the Village desires to provide a waiver process for nonprofit organizations and community groups as to the rental fees associated with the use of the Edward and Arlene Feller Community Room.

1 BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE
2 OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

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4 **Section 1** Ordinance 09-04, at Section 2, entitled "Park Fees" shall be amended as
5 follows:

6
7 * * *

8 **Park Fees**

9
10 * * *

11 **Edward and Arlene Feller Community Room and Amphitheater at Ludovici Park Fees**

12
13 **Community Room:**

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15 Accommodates up to 50 people; includes use of light-food/beverage prep area. All Community
16 Room rentals are subject to prior written approval from Village Manager.

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18 Weekdays 8:00 am to 5:00 pm: \$75.00 per hour, with a minimum three (3) hour rental requirement;
19 Daily rate: 8:00 a.m. to 5:00 p.m. = \$375.00

20
21 Nights 5:00-11:00 pm, Weekends/Holidays 8:00 am to 11:00 pm: \$100.00 per hour, with a minimum
22 three (3) hour rental; Daily rate weekends/holidays = \$500.00

23
24 *** AV equipment (set-up/break down by Village personnel only!)**
25 ***\$500.00 refundable damage/clean-up deposit for any of the above rentals**

26
27 * * *

28
29 **Administrative Waiver of Rental Fee:**

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31 1. The Village Manager is authorized to provide an administrative waiver of user rental fees
32 for the Edward and Arlene Feller Community Room for nonprofit charitable organizations
33 (registered with IRS) and community groups. A request for waiver of the rental fees must issue at
34 least ten (10) days prior to the requested day of use. The Ludovici room can only be used for up to
35 10 hours a week by community groups or nonprofits, and the hours of use may not interfere with
36 library operating hours.

37
38 2. The Village Manager shall review the request for administrative waiver of rental fees for use
39 of the Edward and Arlene Feller Community room and determine if the request by the nonprofit
40 organization or community group is accompanied by appropriate documentation to support the
41 request. The administrative waiver applies solely to the rental fee, the refundable damage/clean-up
42 deposit amount shall be required prior to use of the facility.

43
44 3. Use of the Edward and Arlene Feller Community Room is limited to once per week by
45 nonprofit organizations and community groups who are seeking use through administrative waiver

1 of rental fees. Use of the facility may be more frequent; however, the nonprofit organization or
2 community group will be required to pay the full rental amount if the room is required more than
3 once per week.

4
5 4. Should the nonprofit organization or community group requesting and/or receiving an
6 administrative waiver of the rental fees conduct a fund raising activity in the Edward and Arlene
7 Feller Community Room, the organization or group will be required to pay the full rental amount.

8
9 5. Village use of the Edward and Arlene Feller Community room has priority over any
10 nonprofit organization or community group, and the organization or group will be required to move
11 their meeting to another time or date to accommodate the Village's use of the room.

12
13 6. Any community or nonprofit group utilizing an administrative waiver will have to complete
14 the Edward and Arlene Feller Community room facility use agreement.

15 * * *

16
17
18 **Section 2.** All ordinances or parts of ordinances in conflict with the provisions of this
19 ordinance are repealed. The fee schedule shall be adopted in accordance with the Florida Statutes.

20
21 **Section 3.** If any section, clause, sentence, or phrase of this ordinance is for any reason held
22 invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
23 validity of the remaining portions of this ordinance.

24
25 **Section 4.** This ordinance shall take effect immediately upon enactment. There will be a staff
26 review of the provisions relating to community groups and nonprofit group use in six months.

27
28
29 PASSED AND ENACTED this [] day of June, 2012.

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32
33 Attest: _____
34 Meighan Alexander
35 Village Clerk

Shelley Stanczyk
Mayor

36
37 APPROVED AS TO FORM:

38
39 _____
40 Eve Boutsis
41 Village Attorney

- 1 FINAL VOTE AT ADOPTION:
- 2
- 3 Council Member Patrick Fiore _____
- 4
- 5 Council Member Howard Tendrich _____
- 6
- 7 Council Member Joan Lindsay _____
- 8
- 9 Vice-Mayor Brian W. Pariser _____
- 10
- 11 Mayor Shelley Stanczyk _____

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL, OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING DIVISION 30-150, ENTITLED "HISTORIC PRESERVATION," OF THE VILLAGE'S LAND DEVELOPMENT CODE, TO BE CONSISTENT WITH SECTION 16A, ENTITLED "HISTORIC PRESERVATION," OF THE MIAMI-DADE CODE OF ORDINANCES, WITH REGARDS TO AUTHORITY, RESPONSIBILITIES AND CRITERIA; PROVIDING FOR A LEGISLATIVE REVIEW CLAUSE; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, on June 18, 2007, the Village of Palmetto Bay adopted Division 30-150, entitled Historic Preservation (Ord. No. 07-28), with the intent to preserve and record the history of the development of the Village; and,

WHEREAS, the Ordinance created the Village's Historic Preservation Board, granting it the authority to approve various development certificates for historically designated properties and to recommend to the Mayor and Village Council, buildings and structures for historic designation; and,

WHEREAS, Miami-Dade County, under its Home Rule Authority, has a county-wide Historic Preservation Ordinance at Section 16A of the Miami-Dade County Code of Ordinances, which is applicable to the entire county and all municipalities, thus preempting the authorities granted under the Village's Code; and,

WHEREAS, though Village is permitted to create its own historic code, it may only serves in an advisory capacity to the appropriate County board/agency; and,

WHEREAS, pursuant to Object 6.10 of the Village's Comprehensive Plan, a survey was completed identifying potential structures and buildings within the Village that may be eligible for historic designation; and,

WHEREAS, it is the Village's desire to fulfill that Objective and consider those structures and buildings for historic designation, but to do so the existing Ordinance must be amended to properly assign such final authority to the County; and,

WHEREAS, once the work of the Historic Preservation Board and Village Council completes that review, that this Ordinance may be subject to additional legislative review or be allowed to sunset effective October 1, 2014.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The above whereas clauses are incorporated by reference herein.

Section 2. Chapter 30, of the Village's Land Development Code, at Division 30-150, Section, entitled "Historic Preservation", is amended to read as follows:

Chapter 30
ZONING

* * *

Article II. Village of Palmetto Bay, Florida-Land Development Code

* * *

DIVISION 30-150. - HISTORIC PRESERVATION

30-150.1. - Declaration of Legislative Intent.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural, archeological, paleontological, aesthetic and architectural merit are in the interests of the health, prosperity and welfare of the people of Village of Palmetto Bay. Therefore, this Division is intended to:

(a) Effect and accomplish the protection, enhancement and perpetuation of buildings, structures, improvements, landscape features, paleontological and archeological resources of sites and districts which represent distinctive elements of the county's cultural, social, economic, political, scientific, religious, prehistoric and architectural history;

(b) Safeguard the Village and Miami-Dade County's historical, cultural, archeological, paleontological and architectural heritage, as embodied and reflected in such individual sites, districts and archeological zones;

(c) Foster civic pride in the accomplishments of the past;

(d) Protect and enhance the Village's attraction to visitors and the support and stimulus to the economy thereby provided; and

(e) Promote the use of individual sites and districts for the education, pleasure and welfare of the people of Village of Palmetto Bay.

30-150.2. - Definitions.

For the purpose of this Division, the terms below shall be defined as follows:

Archeological or paleontological zone. An area designated pursuant to Section 16A of Miami-Dade County Code of Ordinances, which is likely to yield information on the paleontology, history and prehistory of Village of Palmetto Bay and Miami-Dade County based on prehistoric settlement patterns in Miami-Dade County as determined by the results of the Miami-Dade County historic survey. These zones will tend to conform to natural physiographic features which were the focal points for prehistoric and historic activities and paleontology.

Certificate of appropriateness. A certificate issued by Miami-Dade County permitting certain alterations or improvements to a designated individual site or property in a designated district.

Regular certificate of appropriateness. A regular certificate of appropriateness shall be issued Miami-Dade County for all designated properties, based on the guidelines for preservation pursuant to Section 16A of the Miami-Dade Code of Ordinances.

Certificate to dig. A certificate that gives permission for certain digging projects that may involve the discovery of as yet unknown or known archeological or paleontological sites in an archeological or paleontological zone. This certificate is issued pursuant to Section 16A of the Miami-Dade Code of Ordinances.

Certificate of recognition. A certificate issued by the board recognizing properties designated pursuant to this Division.

Demolition. The complete constructive removal of a building on any site.

Designated property. A property which has received historic preservation designation by the National Historic Register, State of Florida, or Miami-Dade County.

Districts. A collection of archeological or paleontological sites, buildings, structures, landscape features or other improvements that are concentrated in the same area and have been designated as a district pursuant to Section 16A of the Miami-Dade Code of Ordinances.

Exterior. All outside surfaces of a building or structure.

Guidelines for designation. Criteria pursuant to Section 16A of the Miami-Dade Code of Ordinances to be used by staff in determining the validity of applications for a regular certificate of appropriateness and any certificate to dig and to establish a set of guidelines for the preservation of buildings in South Florida.

Historic preservation board. An advisory board as created by this Division as described in section 30-150.3

Historic survey. A comprehensive survey compiled by the Historic Preservation Division of the Miami-Dade County Office of Community and Economic Development involving the identification, research and documentation of buildings, sites and structures of any historical, cultural, archeological, paleontological or architectural importance in Miami-Dade County, Florida.

Individual site. An archeological site, a paleontological site, building, structure, place or other improvement that has been designated as an individual site pursuant to this Division. Pursuant to Section 16A of the Miami-Dade Code of Ordinances, interior spaces may be regulated only where a building or structure is a designated individual site and where its interiors are specifically designated.

National Register of Historic Places. A federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966, as amended.

Ordinary repairs or maintenance. Work done to prevent deterioration of a building or structure or decay of or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

Owner of a designated property. As reflected on the current Miami-Dade County tax rolls or current title holder.

Undue economic hardship. Failure to issue a certificate would place an onerous and excessive financial burden upon the owner that would amount to the taking of the owner's property without just compensation.

Landscape feature. Any improvement or vegetation including, but not limited to outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture and exterior lighting.

Sec. 30-150.3. - Creation and Membership of Advisory Board.

There is hereby created a Historic Preservation Board, as an advisory board for the Village.

(a) The Historic Preservation Board shall consist of five members, to be confirmed by the Mayor and Village Council.

(b) The board shall be comprised of architects, planners, archeologists, historians, art historians, historic preservationist. One member of the Advisory Board by virtue of the civic involvement or concern for historic preservation may be appointed to the Advisory Board.

(c) It is intended that members of the Historic Preservation Board established by this section shall be persons of knowledge, experience, mature judgment, and background, having ability and desire to act in the public interest and representing, insofar as may be possible, the various special professional training, experience, and interest required to make informed and equitable decisions concerning conservation and protection of the physical environment.

(d) The term of office of membership shall be a term of two-years for each member. Members shall be eligible for reappointment. Terms shall not automatically renew. Each Advisory Board position shall expire at the end of the two-year term and shall remain vacant until reappointment or selection of new Advisory Board member occurs.

(e) Any vacancy occurring on the Advisory Board shall be filled by the Mayor and Village Council for the remainder of the unexpired term.

(f) Special advisors may be appointed by the Mayor and Village Council upon recommendation by the Historic Preservation Board.

30-150.4. - Powers and Duties of Board.

The Village recognizes through the County's Home rule authority that the designation of any property, creation of any district or listing, and the issuance of the any certificate is preempted by Miami-Dade County. The Village's Historic Preservation Board shall serve as a supplementary Advisory Board which has the authority to forward recommendations to the Mayor and Village Council with whom shall have the authority to issue recommendations to the appropriate board/agency of Miami-Dade County. The Historic Preservation Board shall have the following enumerated powers and duties:

(a) Recommend designation of individual sites, districts and archeological and paleontological zones to the Mayor and Village Council.

(b) Recommend to the Mayor and Village Council properties for designation as historic landmarks and historic landmark districts.

(d) Recommend approval or denial of certificates of appropriateness pursuant to this Division and the requirements of Miami-Dade County.

(e) Recommend to the Mayor and Village Council whether a historic landmark destroyed by fire or other natural disaster should be reconstructed. If so, the Advisory Board may recommend to the Village that an exception to the zoning code be granted.

(f) Make recommendations to the Mayor and Village Council concerning the transfer of development rights on sites designated under this Division.

(g) Increase public awareness of the value of historic conservation by developing and participating in public information programs.

(h) Make recommendations to the Mayor and Village Council concerning the utilization of grants from federal and state agencies or private groups and individuals, and utilization of Village funds to promote the preservation of archaeologically, historically and aesthetically significant sites, districts and zones.

(i) Approve historic markers and plaques and issue recognition to designated historic landmarks and historic landmark districts within the Village.

(j) Advise the Village on all matters related to the use, administration and maintenance of Village-owned designated historic landmarks and historic landmark districts.

30-150.5. – Standards for Review.

Review criteria and eligibility for all recommendations issued by the Advisory Board shall be pursuant to Section 16A of the Miami Dade Code of Ordinances.

30-150.6. - Procedures for designation.

Applications for historic preservation, whether reviewed by the Advisory Board or the Council, shall be consistent with Section 16A of the Miami Dade Code of Ordinances. Any recommendation of the Advisory Board shall be forwarded to the Village Council for their consideration. Final recommendation by the Council shall be forwarded to the appropriate board/agency of Miami-Dade County.

30-150.7. Appeals.

(a) As both the Advisory Board and the Village Council act as advisory groups to the Miami-Dade County review for Historic Preservation, appeals of the Miami-Dade County decision shall be pursuant to the County's regulations relating to same.

30-150.8. - Enforcement of Maintenance and Repair Provisions.

Where the Historic Preservation Board or board's staff determines that any improvement within a designated historic landmark or historic district is endangered by lack of maintenance and repair, or that other improvements in visual proximity to an historic landmark or historic landmark lack maintenance and repair to such an extent as to detract from the desirable character of the historic landmark or historic landmark district, it shall request appropriate officials or agencies of the Village to require correction of such deficiencies under authority of applicable laws and regulations.

30-150.9. - Unsafe Structures.

In the event the building official determines that any structure within a designated historic landmark or historic landmark district is unsafe pursuant to the Florida Building Code, he or she shall immediately notify the Historic Preservation Board with copies of such findings. Where reasonably feasible within applicable laws and regulations the building official shall endeavor to have the structure repaired rather than demolished and shall take into consideration any comments and recommendations by the advisory board. The advisory board may take appropriate actions to effect and accomplish preservation of such structure, including, but not limited to, negotiations with the owner and other interested parties, provided that such actions do not interfere with procedures in the Florida Building Code.

30-150.10. - Economic Incentives.

It is the policy of the Village to assist the owners of historic properties to obtain applicable state and federal tax benefits for preserving historical properties. The board's decision on an application for a certificate of appropriateness shall be based upon an evaluation of the compatibility of the physical alteration or improvement with surrounding properties and, where applicable, compliance with the following:

(a) The Secretary of Interior's Standard for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as revised from time to time; and

(b) Other guidelines/policies/plans adopted or approved by resolution or ordinance by the Village.

Sec. 30-150.11. - Penalties for Offenses.

Any person who carries out or causes to be carried out any work in violation of this Division and Miami-Dade County, Chapter 16A, shall be required to restore the subject improvement, landscape feature, or site, either to its appearance prior to the violation or in accordance with a certificate of appropriateness approved by Miami-Dade County,. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty otherwise provided under state law.

This section shall stand repealed on October 1, 2014, unless reviewed and saved from repeal through reenactment by the Mayor and Village Council.

* * *

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

Section 5. This ordinance shall not be codified in the Code of Ordinances but shall be included in the history table.

Section 6. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. This ordinance shall take effect immediately upon enactment.

PASSED AND ENACTED this [] day of _____, 2012.

Attest: _____
Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Howard Tendrich

Council Member Joan Lindsay

Vice-Mayor Brian W. Pariser

Mayor Shelley Stanczyk

ORDINANCE NO.

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2
3 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL
4 OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT
5 TO SECTION 30-30.7(b) RELATING TO CHAPTER 30, DIVISION
6 100, ENVIRONMENTAL REGULATIONS, REPEALING THE
7 EXISTING PROVISIONS OF 30-100.6 TO REPLACE SAME WITH
8 THE MODEL FLOODPLAIN ORDINANCE REQUIRED BY THE
9 STATE LEGISLATURE; PROVIDING FOR RESPONSIBILITIES
10 OF THE BUILDING OFFICIAL AS FLOODPLAIN
11 COORDINATOR' WHICH MODIFICATIONS ARE MANDATED
12 BY THE STATE TO BE INCLUDED IN THE VILLAGE'S
13 ORDINANCE 30-100.6, RELATING TO SAME; ADOPTING A
14 NEW SECTOIN 30-100.6; ALSO REPEALING CHAPTER 18
15 RELATING TO SAME; ADOPTING FLOOD HAZARD MAPS,
16 DESIGNATING A FLOODPLAIN ADMINISTRATOR,
17 ADOPTING PROCEDURES AND CRITERIA FOR
18 DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR
19 OTHER PURPOSES; ADOPTING LOCAL ADMINISTRATIVE
20 AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO
21 THE FLORIDA BUILDING CODE PERTAINING TO THE
22 DESIGN AND CONSTRUCTION OF BUILDINGS AND
23 STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR
24 ORDINANCES IN CONFLICT, REPEALER, CODIFICATION,
25 SEVERABILITY AND AN EFFECTIVE DATE.

26
27 WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay are
28 concerned with the health, safety, and welfare of its residents; and,
29

30 WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida
31 Statutes, conferred upon local governments the authority to adopt regulations designed to
32 promote the public health, safety, and general welfare of its citizenry; and
33

34 WHEREAS, the Federal Emergency Management Agency has identified special
35 flood hazard areas within the boundaries of the Village of Palmetto Bay and such areas are
36 subject to periodic inundation which may result in loss of life and property, health and safety
37 hazards, disruption of commerce and governmental services, extraordinary public
38 expenditures for flood protection and relief, and impairment of the tax base, all of which
39 adversely affect the public health, safety and general welfare, and
40

41 WHEREAS, the Village was accepted for participation in the National Flood
42 Insurance Program on October 6, 2008 and the Village Council desires to continue to meet
43 the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for
44 such participation; and
45

46 WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature
47 to provide a mechanism for the uniform adoption, updating, amendment, interpretation and
48 enforcement of a state building code, called the *Florida Building Code*; and

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WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the Village Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*; and

WHEREAS, the Village Council has determined that 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.

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

WHEREAS, based upon Federal Emergency Management Agency (FEMA) rules was again modified in 2009 under ordinance 09-21; and,

WHEREAS, the state legislature has again modified the requirements for running the Floodplain Management program; and,

WHEREAS, the Village Council have reviewed the criteria of 30-30.7(b) and find the ordinance in compliance with the applicable standards; and,

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

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, THAT THE FOLLOWING FLOODPLAIN MANAGEMENT REGULATIONS, AND THE FOLLOWING LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE 2010 FLORIDA BUILDING CODE, ARE HEREBY ADOPTED.AS FOLLOWS:

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

1 control projects and response to and recovery from flood events; and

2 viii. Meet the requirements of the National Flood Insurance Program for
3 community participation as set forth in the Title 44 Code of Federal Regulations, Section
4 59.22.

5
6 (4) **Coordination with the Florida Building Code.** Pursuant to the
7 requirement established in state statute that local communities administer and enforce the
8 Florida Building Code, the Village Council of the Village of Palmetto Bay does hereby
9 acknowledge that the Florida Building Code contains certain provisions that apply to the design
10 and construction of buildings and structures in flood hazard areas. Therefore, this ordinance
11 is intended to be administered and enforced in conjunction with the Florida Building Code.
12 Where Section numbers of the Florida Building Code are cited, the Section numbers refer to
13 the 2010 Florida Building Code. If cited Section numbers are changed in subsequent editions
14 of the code, then the Section numbers shall refer to comparable sections. Where cited,
15 ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

16
17 (5) **Warning.** The degree of flood protection required by this ordinance and the
18 Florida Building Code, as amended by this community, is considered reasonable for regulatory
19 purposes and is based on scientific and engineering considerations. Larger floods can and will
20 occur. Flood heights may be increased by man-made or natural causes. This ordinance does not
21 imply that land outside of mapped special flood hazard areas, or that uses permitted within such
22 flood hazard areas, will be free from flooding or flood damage.

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

28
29 (b) **Applicability**

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31 (1) **General.** Where there is a conflict between a general requirement and a
32 specific requirement, the specific requirement shall be applicable. Where, in any specific
33 case, requirements of this ordinance conflict with the requirements of the Florida Building
34 Code, the most restrictive shall govern.

35
36 (2) **Areas to which this ordinance applies.** This ordinance shall apply to all
37 flood hazard areas within the Village of Palmetto Bay, as established in Section 30-
38 100.6(b)(3) of this ordinance.

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

1 (4) Submission of additional data to establish flood hazard areas. To
2 establish flood hazard areas and base flood elevations, pursuant to Sections 30-100.6(q) - (t)
3 of this ordinance the Floodplain Administrator may require submission of additional data.
4 Where field surveyed topography prepared by a Florida licensed professional surveyor or
5 digital topography accepted by the community indicates that ground elevations:

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

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

14
15 (5) Other laws. The provisions of this ordinance shall not be deemed to nullify
16 any provisions of local, state or federal law.

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

26
27 (7) Interpretation. In the interpretation and application of this ordinance, all
28 provisions shall be:

- 29 i. Considered as minimum requirements;
30 ii. Liberal construed in favor of the governing body; and
31 iii. Deemed neither to limit nor repeal any other powers granted under
32 state statutes.

33
34 **(c) Duties And Powers Of The Floodplain Administrator**

35
36 (1) Designation. The Building Official is designated as the Floodplain
37 Administrator. The Floodplain Administrator may delegate performance of certain duties to
38 other employees.

39
40 (2) The Building Official is authorized and directed to administer and enforce
41 the provisions of this ordinance. The Floodplain Administrator shall have the authority to
42 render interpretations of this ordinance consistent with the intent and purpose of this
43 ordinance and may establish policies and procedures in order to clarify the application of its
44 provisions. Such interpretations, policies, and procedures shall not have the effect of waiving

1 requirements specifically provided in this ordinance without the granting of a variance
2 pursuant to Section 30-100.6(v) of this ordinance.
3

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

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

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

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

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

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

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

18 vii. Review applications to determine whether all necessary permits and
19 approvals have been obtained from any federal, state, or local agencies from which prior or
20 concurrent approval is required, including but {not limited to the following}:

21 (A) The South Florida Water Management District; Section
22 373.036, F.S.

23 (B) Florida Department of Health for onsite sewage treatment
24 and disposal systems; Section 381.0065, F.S. and Chapter 64E-6, F.A.C.

25 (C) Florida Department of Environmental Protection for
26 construction, reconstruction, changes, or physical activities for shore protection or other
27 activities seaward of the coastal construction control line; Section 161.141, F.S.

28 (D) Florida Department of Environmental Protection for
29 activities subject to the Joint Coastal Permit; Section 161.055, F.S.

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

33
34 viii. Issue floodplain development permits or approvals for development
35 other than buildings and structures that are subject to the *Florida Building Code*, when
36 compliance with this ordinance is demonstrated, or disapprove the same in the event of
37 noncompliance; and

38 ix. Coordinate with and provide comments to the Building Official to
39 assure that applications for building permits for buildings and structures in flood hazard
40 areas comply with the requirements of this ordinance.

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(d) **Determinations for existing buildings and structures.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Building Official, shall:

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

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

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

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

(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 and the flood resistant construction requirements of the *Florida Building Code*.

(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*. For buildings and structures subject to the *Florida Building Code*, the Building Official shall make the required inspections of structures specified in Section 30-100.6(u) of this ordinance and *Florida Building Code, Building Section 110*. The Floodplain Administrator shall 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 (1) Establish procedures for administering and documenting determinations of
2 substantial improvement and substantial damage made pursuant to Section 30-100.6(d) of
3 this ordinance;

4
5 (2) Require that applicants proposing alteration of a watercourse notify adjacent
6 communities and the Florida Division of Emergency Management, State Floodplain
7 Management Office, and submit copies of such notifications to the Federal Emergency
8 Management Agency (FEMA);

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

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

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

19 (6) Advise applicants for new buildings and structures, including substantial
20 improvements, that are located in any unit of the Coastal Barrier Resources System
21 established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier
22 Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on
23 such construction; areas subject to this limitation are identified on Flood Insurance Rate
24 Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."
25

26 (i) **Floodplain management records.** Regardless of any limitation on the period
27 required for retention of public records, the Floodplain Administrator shall maintain and
28 permanently keep and make available for public inspection all records that are necessary for
29 the administration of this ordinance and the flood resistant construction requirements of the
30 *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of
31 issuance of permits and denial of permits; determinations of whether proposed work
32 constitutes substantial improvement or repair of substantial damage; required design
33 certifications and documentation of elevations specified by the *Florida Building Code* and this
34 ordinance; notifications to adjacent communities, FEMA, and the state related to alterations
35 of watercourses; assurances that the flood carrying capacity of altered watercourses will be
36 maintained; documentation related to appeals and variances, including justification for
37 issuance or denial; and records of enforcement actions taken pursuant to this ordinance and
38 the flood resistant construction requirements of the *Florida Building Code*. These records shall
39 be available for public inspection at Village Hall, 9705 East Hibiscus Street, Building
40 Department, Palmetto Bay, Florida 33157.
41

42 (j) **Permits required.** Any owner or owner's authorized agent (hereinafter "applicant")
43 who intends to undertake any development activity within the scope of this ordinance which
44 is wholly within or partially within any flood hazard area shall first make application to the

1 Building Official, and shall obtain the required permit(s) and approval(s). No such permit or
2 approval shall be issued until compliance with the requirements of this ordinance and all other
3 applicable codes and regulations has been satisfied.

4
5 (k) **Floodplain development permits or approvals.** Floodplain development permits or
6 approvals shall be issued pursuant to this ordinance for any development activities not subject to
7 the requirements of the *Florida Building Code*. Depending on the nature and extent of proposed
8 development that includes a building or structure, the Floodplain Administrator may determine
9 that a floodplain development permit or approval is required in addition to a building permit.

10
11 (l) **Buildings, structures and facilities exempt from the *Florida Building Code*.**
12 Pursuant to the requirements of federal regulation for the National Flood Insurance
13 Program (44 C.F.R. Section 60.3), floodplain development permits or approvals shall be
14 required for the following buildings, structures and facilities that are exempt from the *Florida*
15 *Building Code, Building Section 102.2* and any further exemptions provided by law, are subject
16 to the requirements of this ordinance:

17 (1) Railroads and ancillary facilities associated with the railroad.

18 (2) Nonresidential farm buildings on farms, as provided in Section 604.50, F.S.

19 (3) Temporary buildings or sheds used exclusively for construction purposes.

20 (4) Mobile or modular structures used as temporary offices.

21 (5) Those structures or facilities of electric utilities, as defined in Section 366.02,
22 F.S., which are directly involved in the generation, transmission, or distribution of electricity.

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

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

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

32
33 (m) **Application for a permit or approval.** To obtain a floodplain development permit
34 or approval the applicant shall first file an application in writing on a form furnished by the
35 community. The information provided shall:

36
37 (1) Identify and describe the development to be covered by the permit or
38 approval.

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

42 (3) Indicate the use and occupancy for which the proposed development is
43 intended.

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

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

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

5 (7) Give such other data and information as required by the Floodplain
6 Administrator.

7
8 **(n) Validity of permit or approval.** The issuance of a floodplain development permit
9 or approval pursuant to this ordinance shall not be construed to be a permit for, or approval
10 of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of this
11 community. The issuance of permits based on submitted applications, construction
12 documents, and information shall not prevent the Floodplain Administrator from requiring
13 the correction of errors and omissions.

14
15 **(o) Expiration.** A floodplain development permit or approval shall become invalid
16 unless the work authorized by such permit is commenced within 180 days after its issuance,
17 or if the work authorized is suspended or abandoned for a period of 180 days after the work
18 commences. Extensions for periods of not more than 180 days each shall be requested in
19 writing and justifiable cause shall be demonstrated.

20
21 **(p) Suspension or revocation.** The Floodplain Administrator is authorized to suspend
22 or revoke a floodplain development permit or approval if the permit was issued in error, on
23 the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance
24 or any other ordinance, regulation or requirement of this community.

25
26 **(p) Site Plans and Construction Documents - Information for development in**
27 **flood hazard areas.** The site plan or construction documents for any development subject
28 to the requirements of this ordinance shall be drawn to scale and shall include, as applicable
29 to the proposed development:

30
31 (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s),
32 and base flood elevation(s).

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

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

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

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

1 excavation.

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

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

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

11 (9) Existing and proposed alignment of any proposed alteration of a
12 watercourse.

13
14 The Floodplain Administrator is authorized to waive the submission of site plans,
15 construction documents, and other data not required to be prepared by a registered design
16 professional if it is found that the nature of the proposed development is such that the
17 review of such submissions is not necessary to ascertain compliance with this ordinance.
18

19 (r) **Information in flood hazard areas without base flood elevations (approximate**
20 **Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation
21 data have not been provided, the Floodplain Administrator shall:
22

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

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

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

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

38 (s) **Additional analyses and certifications.** As applicable to the location and nature
39 of the proposed development activity, and in addition to the requirements of this Section,
40 the applicant shall have the following analyses prepared and sealed by a Florida licensed
41 engineer for submission with the site plan and construction documents:

42 (1) For development activities proposed to be located in a regulatory floodway, a
43 floodway encroachment analysis that demonstrates that the encroachment of the proposed

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

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

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

20 (4) For activities that propose to alter sand dunes or mangrove stands in coastal
21 high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed
22 alteration will not increase the potential for flood damage.
23

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

32 (u) **Inspections - General.** Development for which a permit or approval is required
33 shall be subject to inspection.
34

35 (1) **Development other than buildings and structures.** The Floodplain
36 Administrator shall inspect all development to determine compliance with the requirements
37 of this ordinance and the conditions of issued floodplain development permits or approvals.
38

39 (2) **Buildings and structures.** The Building Official shall inspect buildings and
40 structures subject to the *Florida Building Code* to determine compliance with the flood load
41 and flood resistant construction requirements of issued building permits and the *Florida*
42 *Building Code*. The Building Official shall inspect buildings and structures exempt from the
43 *Florida Building Code* to determine compliance with the requirements of this ordinance and
44 the conditions of issued floodplain development permits or approvals.
45

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

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

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

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

21 (v) **Variances And Appeals**
22

23 (1) **General.** Pursuant to Section 553.73(5), F.S., the Village Council shall hear
24 and decide on requests for appeals and requests for variances from the strict application of
25 the requirements of this ordinance and the flood resistant construction requirements of the
26 Florida Building Code. The Village Council shall not have the power to issue variances to any
27 requirement of the Florida Building Code, Building, Section 3109 applicable seaward of the
28 coastal construction control line.
29

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

37 (3) **Limitations on authority to grant variances.** The Village Council shall
38 base its decisions on variances on technical justifications submitted by applicants, the
39 considerations for issuance in Section 30-100.6(v)(7) of this ordinance, the conditions of
40 issuance set forth in Section 30-100.6(v)(8) of this ordinance, and the comments and
41 recommendation of the Building Official. The Village Council has the right to attach such
42 conditions as it deems necessary to further the purposes and objectives of this ordinance.
43 Pursuant to Section 553.73(5), F.S., variances shall not be granted to the requirements of
44 Section 3109 of the Florida Building Code applicable to structures seaward of the coastal
45 construction control line.
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
9 repair, improvement, or rehabilitation will not preclude the building's continued designation
10 as a 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
6 (8) **Conditions for issuance of variances.** Variances shall be issued only upon:

7 i. Submission by the applicant, of a showing of good and sufficient
8 cause that the unique characteristics of the size, configuration, or topography of the site
9 render any provision of this ordinance or the elevation standards of the *Florida Building Code*
10 inappropriate;

11 ii. Determination by the Village Council that:

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

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

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

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

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

33
34 (w) **Violations**

35
36 (1) **Violations.** Any construction or development in a flood hazard area that is
37 performed without an issued permit, that is in conflict with an issued permit, or that does
38 not fully comply with this ordinance or the *Florida Building Code*, as applicable, shall be
39 deemed a violation of this ordinance. A building or structure without the documentation of
40 elevation of the lowest floor, other required design certifications, or other evidence of
41 compliance required by this ordinance or the *Florida Building Code* is presumed to be a
42 violation until such time as that documentation is provided.
43

1 (2) **Authority.** For development that is not within the scope of the *Florida*
2 *Building Code* but that is regulated by this ordinance and that is determined to be a violation,
3 the Floodplain Administrator is authorized to serve notices of violation or stop work orders
4 to owners of the property involved, to the owner's agent, or to the person or persons
5 performing the work.

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

11
12 (x) **Definitions - Generally**

13
14 (1) **Scope.** Unless otherwise expressly stated, the following words and terms
15 shall, for the purposes of this ordinance, have the meanings shown in this Section.

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

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

24
25 (4) **Definitions**

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

31
32 **Appeal.** A request for a review of the Building Official's interpretation of any provision of
33 this ordinance or a request for a variance.

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

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

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

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

3
4 **Building Official.** The officer or other designated authority charged with the
5 administration and enforcement of the *Florida Building Code*, or a duly authorized
6 representative. [Also defined in FBC, B, Section 1612.2.]

7
8 **Building permit.** An official document or certificate issued by the community which
9 authorizes performance of specific activities that are determined to be compliant with the
10 *Florida Building Code*.

11
12 **Coastal construction control line.** The line established by the State of Florida pursuant to
13 Section 161.053, F.S., and recorded in the official records of the community, which defines
14 that portion of the beach-dune system subject to severe fluctuations based on a 100-year
15 storm surge, storm waves or other predictable weather conditions.

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

24
25 **Design flood.** The flood associated with the greater of the following two areas: [Also
26 defined in FBC, B, Section 1612.2.]

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

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

39
40 **Development.** Any man-made change to improved or unimproved real estate, including
41 but not limited to, buildings or other structures, tanks, temporary structures, temporary or
42 permanent storage of equipment or materials, mining, dredging, filling, grading, paving,
43 excavations, drilling operations or any other land disturbing activities.

44
45 **Encroachment.** The advancement or infringement of fill, excavation, buildings, permanent
46 structures or other development into a flood hazard area which may impede or alter the flow
47 capacity of riverine flood hazard areas.

1
2 **Existing building and existing structure.** Any buildings and structures for which the
3 “start of construction” commenced before October 6, 2008. [Also defined in FBC, B,
4 Section 1612.2.]

5
6 **Existing manufactured home park or subdivision.** A manufactured home park or
7 subdivision for which the construction of facilities for servicing the lots on which the
8 manufactured homes are to be affixed (including, at a minimum, the installation of utilities,
9 the construction of streets, and either final site grading or the pouring of concrete pads) is
10 completed before August 2, 2004.

11
12 **Expansion to an existing manufactured home park or subdivision.** The preparation of
13 additional sites by the construction of facilities for servicing the lots on which the
14 manufactured homes are to be affixed (including the installation of utilities, the construction
15 of streets, and either final site grading or the pouring of concrete pads).

16
17 **Federal Emergency Management Agency (FEMA).** The federal agency that, in addition
18 to carrying out other functions, administers the National Flood Insurance Program.

19
20 **Flood or flooding.** A general and temporary condition of partial or complete inundation of
21 normally dry land from: [Also defined in FBC, B, Section 1612.2.]

- 22 1. The overflow of inland or tidal waters.
23 2. The unusual and rapid accumulation or runoff of surface waters from any source.
24

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

28
29 **Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B,
30 Section 1612.2.]

- 31 1. The area within a floodplain subject to a 1-percent or greater chance of flooding in
32 any year.
33 2. The area designated as a flood hazard area on the community’s flood hazard map, or
34 otherwise legally designated.
35

36 **Flood Insurance Rate Map (FIRM).** The official map of the community on which the
37 Federal Emergency Management Agency has delineated both special flood hazard areas and
38 the risk premium zones applicable to the community. [Also defined in FBC, B, Section
39 1612.2.]

40
41 **Flood Insurance Study (FIS).** The official report provided by the Federal Emergency
42 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and
43 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting
44 technical data. [Also defined in FBC, B, Section 1612.2.]

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Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

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

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

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

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

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

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

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

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

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

4 Letter of Map Revision Based on Fill (LOMR-F): A determination that a
5 structure or parcel of land has been elevated by fill above the base flood elevation
6 and is, therefore, no longer located within the special flood hazard area. In order to
7 qualify for this determination, the fill must have been permitted and placed in
8 accordance with the community's floodplain management regulations.

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

16
17 Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500
18 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000
19 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 20 1. Designed primarily for purposes of transportation of property or is a derivation of
21 such a vehicle, or
- 22 2. Designed primarily for transportation of persons and has a capacity of more than 12
23 persons; or
- 24 3. Available with special features enabling off-street or off-highway operation and use.

25
26 Lowest floor. The floor of the lowest enclosed area of a building or structure, including
27 basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle
28 parking, building access or limited storage provided that such enclosure is not built so as to
29 render the structure in violation of the Florida Building Code or ASCE 24. [Also defined in
30 FBC, B, Section 1612.2.]

31
32 Manufactured home. A structure, transportable in one or more sections, which is eight (8)
33 feet or more in width and greater than four hundred (400) square feet, and which is built on
34 a permanent, integral chassis and is designed for use with or without a permanent
35 foundation when attached to the required utilities. The term "manufactured home" does not
36 include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

37
38 Manufactured home park or subdivision. A parcel (or contiguous parcels) of land
39 divided into two or more manufactured home lots for rent or sale.

40
41 Market value. The price at which a property will change hands between a willing buyer and
42 a willing seller, neither party being under compulsion to buy or sell and both having
43 reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the
44 market value of buildings and structures, excluding the land and other improvements on the
45 parcel. Market value may be established by a qualified independent appraiser, Actual Cash

1 Value (replacement cost depreciated for age and quality of construction), or tax assessment
2 value adjusted to approximate market value by a factor provided by the Property Appraiser.

3
4 **New construction.** For the purposes of administration of this ordinance and the building
5 code, structures for which the “start of construction” commenced on or after October 6,
6 2008 and includes any subsequent improvements to such structures.

7
8 **New manufactured home park or subdivision.** A manufactured home park or
9 subdivision for which the construction of facilities for servicing the lots on which the
10 manufactured homes are to be affixed (including at a minimum, the installation of utilities,
11 the construction of streets, and either final site grading or the pouring of concrete pads) is
12 completed on or after October 6, 2008.

13
14 **Nonresidential.** Any building or structure or portion thereof that is not classified residential
15 in accordance with the *Florida Building Code, Building* (Residential Group R or Institutional
16 Group I) and ASCE 24. [Also see definition in ASCE 24.]

17
18 **Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet
19 and which is built on a single chassis and is designed to provide seasonal or temporary living
20 quarters when connected to utilities necessary for operation of installed fixtures and
21 appliances. [Defined in 15C-1.0101, F.A.C.]

22
23 **Recreational vehicle.** A vehicle, including a park trailer, which is: [Defined in Section
24 320.01(b), F.S.]

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

31
32 **Sand dunes.** Naturally occurring accumulations of sand in ridges or mounds landward of
33 the beach.

34
35 **Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater
36 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as
37 Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. The term also includes areas shown
38 on other flood hazard maps, if such maps are adopted by the Village of Palmetto Bay or
39 otherwise legally designated. [Also defined in FBC, B Section 1612.2.]

40
41 **Start of construction.** The date of issuance for new construction and substantial
42 improvements to existing structures, provided the actual start of construction, repair,
43 reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days
44 of the date of the issuance. The actual start of construction means either the first placement
45 of permanent construction of a building (including a manufactured home) on a site, such as
46 the pouring of slab or footings, the installation of piles, the construction of columns.

1 Permanent construction does not include land preparation (such as clearing, grading,
2 or filling), the installation of streets or walkways, excavation for a basement, footings, piers,
3 or foundations, the erection of temporary forms or the installation of accessory buildings
4 such as garages or sheds not occupied as dwelling units or not part of the main buildings.
5 For a substantial improvement, the actual "start of construction" means the first alteration
6 of any wall, ceiling, floor or other structural part of a building, whether or not that alteration
7 affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]
8

9 **Substantial damage.** Damage of any origin sustained by a building or structure whereby the
10 cost of restoring the building or structure to its before-damaged condition would equal or
11 exceed 50 percent of the market value of the building or structure before the damage
12 occurred. [Also defined in FBC, B Section 1612.2.]
13

14 **Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other
15 improvement of a building or structure, the cost of which equals or exceeds 50 percent of
16 the market value of the building or structure before the improvement or repair is started. If
17 the structure has incurred "substantial damage," any repairs are considered substantial
18 improvement regardless of the actual repair work performed. The term does not, however,
19 include either. [Also defined in FBC, B, Section 1612.2.]

- 20 1. Any project for improvement of a building required to correct existing health,
21 sanitary, or safety code violations identified by the building official and that are the
22 minimum necessary to assure safe living conditions.
- 23 2. Any alteration of a historic structure provided the alteration will not preclude the
24 structure's continued designation as a historic structure and the alteration is
25 approved by variance issued pursuant to Section 30-100.6(v) of this ordinance.
26

27 **Variance.** A grant of relief from the requirements of this ordinance, or the flood load and
28 flood resistant construction requirements of the *Florida Building Code*, which permits
29 construction in a manner that would not otherwise be permitted by this ordinance or the
30 *Florida Building Code*.
31

32 **Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through,
33 or over which water flows at least periodically.
34

35 (y) **Flood Resistant Development**

36
37 (1) **Buildings And Structures**

38
39 i. **Design and construction of buildings and structures exempt**
40 **from the *Florida Building Code*.** Pursuant to Section 30-100.6(l) of this ordinance,
41 buildings, structures, and facilities that are exempt from the *Florida Building Code*, including
42 substantial improvement or repair of substantial damage of such buildings, structures and
43 facilities, shall be designed and constructed in accordance with the flood load and flood resistant
44 construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are
45 not walled and roofed buildings shall comply with the requirements of Section 30-100.6(cc) of
46 this ordinance.
47

1 ii. Buildings and structures seaward of the coastal construction
2 control line. If extending, in whole or in part, seaward of the coastal construction
3 line and also located, in whole or in part, in a flood hazard area:

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

7 (B) Minor structures and non-habitable major structures as
8 defined in Section 161.54, F.S., shall be designed and constructed to comply with the intent
9 and applicable provisions of this ordinance and ASCE 24.

10 (2) Subdivisions

11 i. Minimum requirements. Subdivision proposals, including
12 proposals for manufactured home parks and subdivisions, shall be reviewed to determine
13 that:

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

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

19 (C) Adequate drainage is provided to reduce exposure to flood
20 hazards.

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

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

27 ii. Where the subdivision has more than 50 lots or is larger than 5 acres
28 and base flood elevations are not included on the FIRM, the information required in Section
29 30-100.6(r) of this ordinance; and

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

32 (z) Site Improvements, Utilities And Limitations

33 (1) Minimum requirements. All proposed new development shall be reviewed
34 to determine that:

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

37 ii. All public utilities and facilities such as sewer, gas, electric,
38 communications, and water systems are located and constructed to minimize or eliminate
39 flood damage.

1 flood damage; and

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

3
4 (2) Sanitary sewage facilities. All new and replacement sanitary sewage
5 facilities, private sewage treatment plants (including all pumping stations and collector
6 systems), and on-site waste disposal systems shall be designed in accordance with the
7 standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and
8 ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and
9 discharge from the facilities into flood waters, and impairment of the facilities and systems.

10
11 (3) Water supply facilities. All new and replacement water supply facilities shall
12 be designed in accordance with the water well construction standards in Chapter 62-532.500,
13 F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the
14 systems.

15
16 (4) Limitations on sites in regulatory floodways. Development, site
17 improvements, and land disturbing activity involving fill or regrading shall not be authorized
18 in the regulatory floodway unless the floodway encroachment analysis required in Section
19 30-100.6(s)(1) of this ordinance demonstrates that the proposed development or land
20 disturbing activity will not result in any increase in the base flood elevation.

21
22 (5) Limitations on placement of fill. Subject to the limitations of this
23 ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise
24 and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-
25 related erosion and scour. In addition to these requirements, if intended to support buildings
26 and structures (Zone A only), fill shall comply with the requirements of the *Florida Building*
27 *Code*.

28
29 (6) Limitations on sites in coastal high hazard areas (Zone V). In coastal
30 high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if
31 such alteration is approved by the Florida Department of Environmental Protection and
32 only if the engineering analysis required by Section 30-100.6(s)(4) of this ordinance
33 demonstrates that the proposed alteration will not increase the potential for flood damage.
34 Construction or restoration of dunes under or around elevated buildings and structures shall
35 comply with Section 30-100.6(cc)(8) of this ordinance.

36
37 (aa) Recreational Vehicles And Park Trailers

38
39 (1) Temporary placement, only. Recreational vehicles and park trailers placed
40 temporarily in flood hazard areas shall:

41 i. Be on the site for fewer than 180 consecutive days; or

42 ii. Be fully licensed and ready for highway use, which means the
43 recreational vehicle or park model is on wheels or jacking system, is attached to the site only
44 by quick-disconnect type utilities and security devices, and has no permanent attachments
45 such as additions, rooms, stairs, decks and porches.

1 (bb) **Tanks**

2
3 (1) **Underground tanks.** Underground tanks in flood hazard areas shall be
4 anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic
5 and hydrostatic loads during conditions of the design flood, including the effects of
6 buoyancy assuming the tank is empty.

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

9 i. Be permitted in flood hazard areas (Zone A) other than coastal high
10 hazard areas, provided the tanks are anchored or otherwise designed and constructed to
11 prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic
12 loads during conditions of the design flood, including the effects of buoyancy assuming the
13 tank is empty and the effects of flood-borne debris.

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

15
16 (3) **Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas
17 shall be attached to and elevated to or above the design flood elevation on a supporting
18 structure that is designed to prevent flotation, collapse or lateral movement during
19 conditions of the design flood. Tank-supporting structures shall meet the foundation
20 requirements of the applicable flood hazard area.

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

22
23 i. At or above the design flood elevation or fitted with covers designed
24 to prevent the inflow of floodwater or outflow of the contents of the tanks during
25 conditions of the design flood; and

26 ii. Anchored to prevent lateral movement resulting from hydrodynamic
27 and hydrostatic loads, including the effects of buoyancy, during conditions of the design
28 flood.

29
30 (cc) **Other Development**

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

34
35 i. Be located and constructed to minimize flood damage;

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

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

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

42 v. Have mechanical, plumbing, and electrical systems above the design
43 flood elevation, except that minimum electric service required to address life safety and

1 electric code requirements is permitted below the design flood elevation provided it
2 conforms to the provisions of the electrical part of building code for wet locations.

3
4 (2) **Fences in regulated floodways.** Fences in regulated floodways that have
5 the potential to block the passage of floodwaters, such as stockade fences and wire mesh
6 fences, shall meet the limitations of Section 30-100.6(z)(4) of this ordinance.

7
8 (3) **Retaining walls, sidewalks and driveways in regulated floodways.**
9 Retaining walls and sidewalks and driveways that involve the placement of fill in regulated
10 floodways shall meet the limitations of Section 30-100.6(z)(4) of this ordinance.

11
12 (4) **Roads and watercourse crossings in regulated floodways.** Roads and
13 watercourse crossings, including roads, bridges, culverts, low-water crossings and similar
14 means for vehicles or pedestrians to travel from one side of a watercourse to the other side,
15 that encroach into regulated floodways shall meet the limitations of Section 30-100.6(z)(4) of
16 this ordinance. Alteration of a watercourse that is part of a road or watercourse crossing
17 shall meet the requirements of Section 30-100.6(s)(3) of this ordinance.

18
19 (5) **Concrete slabs used as parking pads, enclosure floors, landings, decks,**
20 walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone
21 V). In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors,
22 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or
23 adjacent to buildings and structures provided the concrete slabs are designed and
24 constructed to be:

25 i. **Structurally independent of the foundation system of the building or**
26 structure;

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

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

30
31 (6) **Decks and patios in coastal high hazard areas (Zone V).** In addition to
32 the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios
33 shall be located, designed, and constructed in compliance with the following:

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

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

44 iii. **A deck or patio that has a vertical thickness of more than twelve (12)**
45 inches or that is constructed with more than the minimum amount of fill necessary for site

1 drainage shall not be approved unless an analysis prepared by a qualified registered design
2 professional demonstrates no harmful diversion of floodwaters or wave runup and wave
3 reflection that would increase damage to adjacent elevated buildings and structures.

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

9
10 (7) Other development in coastal high hazard areas (Zone V). In coastal
11 high hazard areas, development activities other than buildings and structures shall be
12 permitted only if authorized by the appropriate state or local authority; if located outside the
13 footprint of, and not structurally attached to, buildings and structures; and if analyses
14 prepared by qualified registered design professionals demonstrate no harmful diversion of
15 floodwaters or wave runup and wave reflection that would increase damage to adjacent
16 elevated buildings and structures. Such other development activities include but are not
17 limited to:

18 i. Bulkheads, seawalls, retaining walls, revetments, and similar erosion
19 control structures;

20 ii. Solid fences and privacy walls, and fences prone to trapping debris,
21 unless designed and constructed to fail under flood conditions less than the design flood or
22 otherwise function to avoid obstruction of floodwaters; and

23 iii. On-site sewage treatment and disposal systems defined in 64E-6.002,
24 F.A.C., as filled systems or mound systems.

25
26 (8) Nonstructural fill in coastal high hazard areas (Zone V). In coastal high
27 hazard areas:

28 i. Minor grading and the placement of minor quantities of
29 nonstructural fill shall be permitted for landscaping and for drainage purposes under and
30 around buildings.

31 ii. Nonstructural fill with finished slopes that are steeper than one unit
32 vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified
33 registered design professional demonstrates no harmful diversion of floodwaters or wave
34 runup and wave reflection that would increase damage to adjacent elevated buildings and
35 structures.

36 iii. Where authorized by the Florida Department of Environmental
37 Protection or applicable local approval, sand dune construction and restoration of sand
38 dunes under or around elevated buildings are permitted without additional engineering
39 analysis or certification of the diversion of floodwater or wave runup and wave reflection if
40 the scale and location of the dune work is consistent with local beach-dune morphology and
41 the vertical clearance is maintained between the top of the sand dune and the lowest
42 horizontal structural member of the building.

1 **Sec. 104.1.2, Florida Building Code, Building**

2
3 * * *

4 **104.1.2 Assignment of duties related to flood hazard areas.** Pursuant to Section
5 553.73(5), F.S., the building official is authorized to assign duties to enforce all or part
6 of the flood-related code provisions to the office or Floodplain Administrator}.
7 The specific assigned duties shall be identified and coordinated with said agency or
8 office.

9
10 * * *

11
12 **Sec. 104.7.1, Florida Building Code, Building**

13
14 * * *

15 **104.7.1 Department records for permits in flood hazard areas.** The Building
16 Official shall the following records for building permits issued in flood hazard areas: records
17 of issuance of permits and denial of permits; determinations of whether proposed work
18 constitutes substantial improvement or repair of substantial damage; required design
19 certifications and documentation of elevations specified by the Florida Building Code; and
20 records of enforcement actions taken pursuant to the flood resistant construction
21 requirements of the Florida Building Code.

22
23 * * *

24
25 **Sec. 104.10.1, Florida Building Code, Building**

26
27 * * *

28 **104.10.1 Modifications of the strict application of the requirements of the**
29 **Florida Building Code.** The Building Official shall review requests submitted that seek
30 approval to modify the strict application of the flood load and flood resistant construction
31 requirements of the Florida Building Code to determine whether such requests require the
32 granting of a variance pursuant to Section 117 and the local floodplain management
33 ordinance.

34
35 * * *

36 **Sec. 104.12, Florida Building Code, Building**

37
38 * * *

39 **104.12 Coordination with the Floodplain Administrator.** The Building Official
40 shall identify flood hazard areas; flood elevation and flood hazard information; interpret the
41 flood hazard area boundaries; determine for existing building and structures; consider
42 variance requests; and other duties set forth in the local floodplain management ordinance.

43
44 **104.12.1 Determinations for existing buildings and structures in flood hazard**
45 **areas.** For applications for building permits for work on existing buildings and structures in

1
2 **107.2.5.2 Additional information for existing buildings and structures in flood**
3 **hazard areas.** In addition to the information necessary to demonstrate compliance with the
4 flood resistant construction requirements of the *Florida Building Code*, the site plan or
5 construction documents for proposed work on existing buildings and structures located in
6 whole or in part in flood hazard areas shall include:

7 1. If the building or structure was constructed after {date the
8 community's first floodplain management ordinance was adopted}, evidence that the
9 proposed work will not alter any aspect of the building or structure that was required for
10 compliance with the floodplain management requirements in effect at the time the building
11 or structure was permitted.

12 2. If the proposed work is a horizontal addition, a description of the
13 addition and whether it will be structurally connected or not structurally connected to the
14 existing building or structure, and the nature and extent of all other work proposed for the
15 building, if any.

16 3. If requested by the Building Official, documentation of the market
17 value of the building or structure before the start of construction of the proposed
18 improvement, or if the proposed work is repair of damage, before the damage occurred.

19 4. Documentation of the actual cost of all proposed work, including the
20 cost of all work necessary to repair and restore damage to the before-damage condition,
21 regardless of the amount of work that will be performed. The value of labor performed by
22 the owner or volunteers shall be valued at market labor rates and the value of donated or
23 discounted materials shall be valued at market rates.

24 * * *

25
26
27 **Sec. 107.6.1, Florida Building Code, Building**
28

29 **107.6.1 Building permits issued on the basis of an affidavit.** Pursuant to the
30 requirements of federal regulation (44 C.F.R. Section 60.3) for the National Flood Insurance
31 Program, the authority granted to the Building Official to issue permits, to rely on
32 inspections, and to accept plans and construction documents on the basis of affidavits and
33 plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and
34 flood resistance construction requirements of the *Florida Building Code*.

35
36
37 **Sec. 108.2.1, Florida Building Code, Building**

38 **108.2.1 Flood hazard areas.** Temporary structures, temporary storage, and
39 temporarily placed tanks shall conform to the requirements of Section 1612.4.1 of the *Florida*
40 *Building Code, Building*.

41 * * *

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45 **Sec. 117, Florida Building Code, Building**
46

1 **117 VARIANCES IN FLOOD HAZARD AREAS**

2
3 **117.1 Flood hazard areas.** Pursuant to Section 553.73(5), F.S., the variance
4 procedures adopted in the local floodplain management ordinance shall apply to requests
5 submitted to the Building Official for variances to the flood load and flood resistant
6 provisions of the *Florida Building Code*.

7
8 **117.2 Coastal construction control line.** Pursuant to Section 553.73(5), F.S., the
9 variance procedures adopted in the local floodplain management ordinance shall not apply
10 to the requirements of Section 3109 of the *Florida Building Code, Building applicable to*
11 *buildings seaward of the coastal construction control line.*

12 * * *

13
14 **Sec. 202, Florida Building Code, Building**

15
16 **Floodplain Administrator.** The office or position designated and charged with the
17 administration and enforcement of the local floodplain management ordinance (may be
18 referred to as the Floodplain Manager).

19
20 **Floodplain development permit or approval.** An official document or certificate issued
21 by the community, or other evidence of approval or concurrence, which authorizes
22 performance of specific development activities that are located in flood hazard areas and that
23 are determined to be compliant with the local floodplain management ordinance.

24
25 **Market Value.** The price at which a property will change hands between a willing buyer and
26 a willing seller, neither party being under compulsion to buy or sell and both having
27 reasonable knowledge of relevant facts. As used in the building code and the local
28 floodplain management ordinance, the term refers to the market value of buildings and
29 structures, excluding the land and other improvements on the parcel. Market value may be
30 established by a qualified independent appraiser, Actual Cash Value (replacement cost
31 depreciated for age and quality of construction), or tax assessment value adjusted to
32 approximate market value by a factor provided by the Property Appraiser.

33
34 **Variance.** A grant of relief from the requirements of the flood load and flood resistant
35 construction requirements of the *Florida Building Code*, which permits construction in a
36 manner that would otherwise not be permitted by the building code.

37 * * *

38
39
40 **Sec. 1612.2, Florida Building Code, Building**

41 * * *

42
43 **Local floodplain management ordinance.** The ~~An~~ ordinance or regulation 30-100.6
44 adopted by the Village Council pursuant to the authority granted to local governments by
45 Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National
46 Flood Insurance Program.

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Section 4. The following technical amendments to the *Florida Building Code, Building are being made as follows:*

Sec. 1612.3, Florida Building Code, Building

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the applicable governing authority shall, by local floodplain management ordinance, adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the Village of Palmetto Bay," dated September 11, 2009, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this Section.

* * *

Sec. 1612.4.1, Florida Building Code, Building

* * *

1612.4.1 Temporary structures and temporary uses. Temporary structures and temporary uses, including temporary tanks, shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood. Temporary structures and temporary uses shall not be located in floodways unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management ordinance.

* * *

Sec. 1612.4.2, Florida Building Code, Building

* * *

1612.4.2 Utility and Miscellaneous Group U. Utility and Miscellaneous Group U structures, including substantial improvement of such structures, shall comply with the requirements of this Section.

Exception: If not walled and roofed, shall

1. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
2. Have flood-damage resistant materials used below the design flood elevation; and
3. Have mechanical, plumbing, and electrical systems that meet the requirements of ASCE 24.

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Sec. 1612.4.3, Florida Building Code, Building

* * *

1612.4.3 Public and private swimming pools. Swimming pools shall be designed and constructed in accordance with ASCE 24. Above-ground pools, on-ground pools, and in-ground pools that involve placement of fill and that are located in designated floodways or in riverine flood hazard areas with base flood elevations but without floodways, shall not be permitted unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management ordinance.

1612.4.3.1 Structures associated with swimming pools. Swimming pools shall be permitted to be surrounded with open latticework and screened enclosures. Swimming pools for which the surrounding decks are below the design flood elevation shall be permitted to be surrounded with walled and roofed structures provided such structures are dry floodproofed in accordance with ASCE 24. Structures associated with pools, including structures to house equipment associated with the pools, shall comply with the requirements of Section 1612.4.

1612.4.3.2 Swimming pools under elevated buildings. Swimming pools shall be permitted under elevated buildings provided the pool deck is level with the existing grade and the area in which the pool is located is not fully enclosed by walls, including walls consisting of transparent materials such as glass. The area in which a pool is located under an elevated building shall be permitted to be surrounded by open latticework and screening.

* * *

Section 5. The following technical amendments to the *Florida Building Code, Existing Building* are hereby adopted:.

Sec. 202, Florida Building Code, Existing Building

* * *

Local floodplain management ordinance. ~~The An~~ ordinance or regulation **30-100.6** adopted by the Village Council pursuant to the authority granted to local governments by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

Section 6. The following is a technical amendments to the *Florida Building Code, Residential* and are hereby adopted:

Table R301.2(1) Climatic and Geographic Design Criteria, Florida Building Code, Residential

1 In Sec. Table R301.2(1), pursuant to footnote (g), insert required information in the “Flood
2 Hazards” cell as follows:

- 3
- 4 (a) March 2, 1994,
- 5 (b) September 11, 2009, and
- 6 (c) Revised FIRM Panel 0468L, 0601L, 0602L, and 0606L effective as of
7 September 11, 2009.

8
9 **Sec. R322.1.12, Florida Building Code, Residential**

10 * * *

11
12
13 **R322.1.12 Accessory structures, requirements.** Accessory structures, including
14 substantial improvement of such accessory structures, shall comply with the requirements of
15 Section R322.2 (A Zone) or R322.3 (V Zone), as applicable to the flood hazard area.

16 **Exception:** Accessory structures that are detached garages that comply with Section
17 R309.3 and provided:

18 1. If built in flood hazard areas (A Zone) other than coastal high hazard
19 areas, have flood openings in compliance with Section R322.2.2.

20 2. If built in coastal high hazard areas (V Zone) are no more than 100
21 square feet or less in area.

22 * * *

23
24
25 **Section 7. The following is the previous version of Section 30-100.6 and the entirety**
26 **of Chapter 18, as codified by Municipal Code Corporation, which ordinances are to**
27 **be deleted in their entirety.**

28
29
30 (a) ~~Statutory Authorization. The Legislature of the state of Florida, through the~~
31 ~~identification by the Federal Emergency Management Agency (FEMA) in its flood insurance~~
32 ~~study and flood insurance rate maps for Miami-Dade County, Florida and incorporated areas~~
33 ~~prepared by the Department of Homeland Security’s Federal Emergency Management~~
34 ~~Agency (FEMA) dated September 11, 2009 with accompanying maps (12086CIND1A,~~
35 ~~12086CIND2A, 12086C0464L, 12086C0468L, 12086C0601L, 1208C0602L, and~~
36 ~~12086C0606L) and other supporting data and any subsequent revisions thereto, delegated~~
37 ~~the responsibility to local government units to adopt regulations designed to promote the~~
38 ~~public health, safety, and general welfare of its citizenry. Therefore, the Village Council of~~
39 ~~the Village Palmetto Bay does hereby adopt the following floodplain management~~
40 ~~regulations:~~

41 (b) ~~Findings of Fact.~~

42
43
44 (1) ~~The Village Council acknowledges that there exists flood hazard areas~~
45 ~~within the Village which are subject to periodic inundation, which can result in loss of life~~
46 ~~and property, health and safety hazards, disruption of commerce and governmental services;~~

1 extraordinary public expenditures for flood protection and relief, and impairment of the tax
2 base, all of which adversely affect the public health, safety and general welfare of the Village.

3
4 ~~(2) — Losses due to floods may be caused by the cumulative effect of~~
5 ~~obstructions in floodplains causing increases in flood heights and velocities, and by the~~
6 ~~occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands~~
7 ~~which are inadequately elevated, flood-proofed, or otherwise unprotected from flood~~
8 ~~damages.~~

9
10 (e) — ~~Statement of Purpose. The purpose of this Division, the “floodplain~~
11 ~~management regulations,” is to promote the public health, safety, general welfare, and to~~
12 ~~minimize public and private losses due to flood conditions in specific areas by provisions~~
13 ~~designed to:~~

14
15 (1) — ~~Require that uses vulnerable to floods, including facilities which serve~~
16 ~~such uses, be protected against flood damage at the time of initial construction, and~~
17 ~~throughout their intended lifespan.~~

18
19 (2) — ~~Restrict or prohibit uses which are dangerous to health, safety and~~
20 ~~property due to water or erosion hazards, or which result in damaging increases in flood~~
21 ~~heights, velocities or erosion,~~

22
23 (3) — ~~Control the alteration of natural flood plains, stream channels and~~
24 ~~natural protective barriers which are involved in the accommodation of flood waters,~~

25
26 (4) — ~~Control filling, grading, dredging, and other development which may~~
27 ~~increase flood damage or erosion, and~~

28
29 (5) — ~~Prevent or regulate the construction of flood barriers which will~~
30 ~~unnaturally divert flood waters or which may increase flood hazards to other lands.~~

31
32 (d) — ~~Objectives. The objectives of these flood regulations are:~~

33
34 (1) — ~~To protect human life and health and to eliminate or minimize~~
35 ~~property damage;~~

36
37 (2) — ~~To minimize expenditure of public money for costly flood control~~
38 ~~projects;~~

39
40 (3) — ~~To minimize the need for rescue and relief efforts associated with~~
41 ~~flooding and generally undertaken at the expense of the general public;~~

42
43 (4) — ~~To minimize prolonged business interruptions;~~

44
45 (5) — ~~To minimize damage to public facilities and utilities such as water and~~
46 ~~gas mains, electric, telephone and sewer lines, and streets and bridges and culverts located in~~
47 ~~flood plains;~~

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

3
4 (7) ~~To ensure that potential home buyers are notified that property is in~~
5 ~~a flood hazard area.~~

6
7 (e) ~~Methods of Reducing Flood Losses. In order to accomplish its purpose, this~~
8 ~~Section includes methods and provisions for:~~

9
10 (1) ~~Restricting or prohibiting uses which are dangerous to health, safety,~~
11 ~~and property due to water or erosion hazards, or which result in damaging increases in~~
12 ~~erosion or in flood heights or velocities;~~

13
14 (2) ~~Requiring that uses vulnerable to floods including facilities which~~
15 ~~serve such uses be protected against flood damage throughout their intended life span;~~

16
17 (3) ~~Controlling the alteration of natural floodplains, stream channels, and~~
18 ~~natural protective barriers, which help accommodate or channel flood waters;~~

19
20 (4) ~~Controlling filling, grading, dredging, and other development which~~
21 ~~may increase flood damage, and~~

22
23 (5) ~~Preventing or regulating the construction of flood barriers~~
24 ~~that will unnaturally divert flood waters or may increase flood hazards in other areas.~~

25
26 (f) ~~Definitions.~~

27
28 ~~Accessory structure (Appurtenant structure) — For FEMA purposes, shall mean a~~
29 ~~structure that is located on the same parcel of property as the principal structure and the use~~
30 ~~of which is incidental to the use of the principal structure. Accessory structures should~~
31 ~~constitute a minimal investment, may not be used for human habitation, and be designed to~~
32 ~~have minimal flood damage potential. Examples of accessory structures are detached~~
33 ~~garages, carports, storage sheds, pole barns, and hay sheds.~~

34
35 ~~Appeal — shall mean a request for a review of the Floodplain Administrator's~~
36 ~~interpretation of any provision of this ordinance or a request for a variance.~~

37
38 ~~Area of shallow flooding — shall mean a designated AO or AH Zone on the~~
39 ~~community's Flood Insurance Rate Map (FIRM) with base flood average depths of one (1)~~
40 ~~to three (3) feet where a clearly defined channel does not exist, where the path of flooding is~~
41 ~~unpredictable, and where velocity flow may be evident. Such flooding is characterized by~~
42 ~~sheet flow or ponding.~~

43
44 ~~Area of special flood hazard — shall mean the land in the floodplain within a~~
45 ~~community subject to a one (1) percent or greater chance of flooding in any given year. The~~
46 ~~term "special flood hazard area", for purposes of these regulations, is synonymous with the~~
47 ~~phrase "area of special flood hazard."~~

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

4
5 Base Flood Elevation shall mean the water surface elevation associated with the
6 base flood.

7
8 Basement shall mean any portion of a building having its floor sub-grade (below
9 ground level) on all sides.

10
11 Breakaway wall shall mean a wall that is not part of the structural support of the
12 building and is intended through its design and construction to collapse under specific lateral
13 loading forces, without causing damage to the elevated portion of the building or the
14 supporting foundation system.

15 Building. *See* Structure.

16
17 Certification shall mean a certification by a registered professional engineer or other
18 party does not constitute a warranty or guarantee of performance, expressed or implied.
19 Certification of data is a statement that the data is accurate to the best of the certifier's
20 knowledge. Certification of analyses is a statement that the analyses have been performed
21 correctly and in accordance with sound engineering practices. Certification of structural
22 works is a statement that the works are designed in accordance with sound engineering
23 practices to provide protection from the base flood. Certification of "as built" conditions is
24 a statement that the structure(s) has been built according to the plans being certified, is in
25 place, and is fully functioning.

26
27 Coastal high hazard area shall mean an area of special flood hazard extending from
28 offshore to the inland limit of a primary frontal dune along an open coast and any other area
29 subject to high velocity wave action from storms or seismic sources. The area is designated
30 on the FIRM as Zone V1-V30, VE, or V.

31
32 Critical facility shall mean a facility that is required to maintain function during a
33 significant flood event in order to protect life, health, and safety. Critical facilities include,
34 but are not limited to hospitals, police, fire and emergency response installations.

35
36 Datum shall mean a reference surface used to ensure that all elevation records are
37 properly related. The current national datum is the National Geodetic Vertical Datum
38 (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American
39 Vertical Datum (NAVD) of 1988.

40
41 Development shall mean any man-made change to improved or unimproved real
42 estate, including, but not limited to buildings or other structures, mining, dredging, filling,
43 grading, paving, excavating, drilling operations, or storage of materials or equipment.
44
45
46

1 Elevated building shall mean a non-basement building built to have the lowest floor
2 elevated above the ground level by foundation walls, shear walls, posts, piers, pilings, or
3 columns.

4
5 Encroachment shall mean the advance or infringement of uses, plant growth, fill,
6 excavation, buildings, permanent structures or development into a floodplain, which may
7 impede or alter the flow capacity of a floodplain.

8
9 Existing construction shall mean for the purposes of floodplain management,
10 structures for which "the start of construction" commenced before the date of the initial
11 adoption of the floodplain management regulations by the Village of Palmetto Bay. Existing
12 construction, means for the purposes of determining insurance rates, structures for which
13 the "start of construction" commenced before June 18, 1974, the effective date of the
14 FIRM. This term may also be referred to as "existing structures".

15
16 Existing manufactured home park or subdivision shall mean a manufactured home
17 park or subdivision for which the construction of facilities for servicing the lots on which
18 the manufactured homes are to be affixed (including at a minimum the installation of
19 utilities, the construction of streets, and either final site grading or the pouring of concrete
20 pads) is completed before the effective date of the floodplain management regulations as
21 identified by the Federal Emergency Management Agency (FEMA) in its flood insurance
22 study and FIRM adopted by Miami-Dade County, Florida on June 18, 1974, and any
23 revisions thereto.

24
25 Expansion to an existing manufactured home park or subdivision shall mean the
26 preparation of additional sites by the construction of facilities for servicing the lots on which
27 the manufactured homes are to be affixed (including the installation of utilities, the
28 construction of streets, and either final site grading or the pouring of concrete pads).

29
30 Flood or flooding means:

31 (a) A general and temporary condition of partial or complete inundation of
32 normally dry land areas from:

33
34 (1) The overflow of inland or tidal waters;

35
36 (2) The unusual and rapid accumulation or runoff of surface
37 waters from any source.

38
39 (3) Mudslides (i.e., mudflows) which are proximately caused by
40 flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and
41 flowing mud on the surface of normally dry land areas, as when earth is carried by a current
42 of water and deposited along the path of the current.

43
44 (b) The collapse or subsidence of land along a shore of a lake or other body
45 of water as the result of erosion or undermining caused by waves or currents of water
46 exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a
47 natural body of water, accompanied by a severe storm or by an unanticipated force of
48

1 nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and
2 unforeseeable event which results in flooding as defined in paragraph (a) (1) of this
3 definition.

4
5 Flood Boundary and Floodway Map (FBFM) shall mean the official map of a
6 community, on which the FEMA has delineated the areas of special flood hazard and
7 regulatory floodways.

8
9 Flood Hazard Boundary Map (FHBM) shall mean an official map of the
10 community, issued by FEMA, where the boundaries of the special flood hazard areas have
11 been identified as Zone A.

12
13 Flood Insurance Rate Map (FIRM) shall mean an official map of a the community,
14 on which FEMA has delineated both the areas of special flood hazard and the risk premium
15 zones applicable to the community.

16
17 Flood Insurance Study (FIS) shall mean the official hydrology and hydraulics
18 report provided by FEMA. The study contains an examination, evaluation, and
19 determination of flood hazards, and, if appropriate, corresponding water surface elevations,
20 or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other
21 flood-related erosion hazards. The study may also contain flood profiles, as well as the
22 FIRM, FHBM (where applicable), and other related data and information.

23
24 Floodplain shall mean any land area susceptible to being inundated by water from
25 any source (see definition of "flooding").

26
27 Floodplain management shall mean the operation of an overall program of
28 corrective and preventive measures for reducing flood damage and preserving and
29 enhancing, where possible, natural resources in the floodplain, including but not limited to
30 emergency preparedness plans, flood control works, floodplain management regulations, and
31 open space plans.

32
33 Floodplain Administrator is the individual appointed to administer and enforce the
34 floodplain management regulations of the community.

35
36 Floodplain management regulations shall mean this Section and any other zoning
37 ordinances, subdivision regulations, building codes health regulations, special purpose
38 ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance),
39 and other applications of police power which control development in flood-prone areas.
40 This term describes Federal, State of Florida, or local regulations, in any combination
41 thereof, which provide standards for preventing and reducing flood loss and damage.

42
43 Floodproofing shall mean any combination of structural and nonstructural
44 additions, changes, or adjustments to structures which reduce or eliminate flood damage to
45 real estate or improved real property, water and sanitary facilities, structures and their
46 contents.

1 Floodway—shall mean the channel of a river or other watercourse and the adjacent
2 land areas that must be reserved in order to discharge the base flood without cumulatively
3 increasing the water surface elevation more than a designated height of one (1) foot. The
4 term is also referred to as “regulatory floodway.”
5

6 Floodway fringe—shall mean that area of the one percent (base or 100-year)
7 floodplain on either side of the regulatory floodway.
8

9 Freeboard—shall mean the additional height, usually expressed as a factor of safety in
10 feet, above a flood level for purposes of floodplain management. “Freeboard” tends to
11 compensate for the many unknown factors, such as wave action, blockage of bridge or
12 culvert openings, and hydrological effect of urbanization of the watershed, which could
13 contribute to flood heights greater than the heights calculated for a selected frequency flood
14 and floodway conditions.
15

16 Free of obstruction—shall mean any type of lower area enclosure or other
17 construction element will not obstruct the flow of velocity water and wave action beneath
18 the lowest horizontal structural member of the lowest floor of an elevated building during a
19 base flood event. This requirement applies to the structures in velocity zones (V-Zones).
20

21 Functionally dependent use—shall mean a use which cannot be used for its intended
22 purpose unless it is located or carried out in close proximity to water, such as docking
23 facilities, or port facility necessary for the loading and unloading of cargo or passengers,
24 shipbuilding or ship repair. The term does not include long term storage, manufacture,
25 sales, or service facilities.
26

27 Hardship—as related to variances from this ordinance means the exceptional
28 difficulty associated with the land that would result from a failure to grant the requested
29 variance. The community requires that the variance is exceptional, unusual, and peculiar to
30 the property involved. Mere economic or financial hardship alone is not exceptional.
31 Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the
32 disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship.
33 All of these problems can be resolved through other means without granting a variance,
34 even if the alternative is more expensive, or requires the property owner to build elsewhere
35 or put the parcel to a different use than originally intended.
36

37 Highest adjacent grade—shall mean the highest natural elevation of the ground
38 surface, prior to construction, next to the proposed walls of a structure.
39

40 Historic Structure—shall mean any structure that is:

41
42 (1) Listed individually in the National Register of Historic Places (a
43 listing maintained by the Department of Interior) or preliminarily determined by the
44 Secretary of the Interior as meeting the requirements for individual listing on the National
45 Register;
46

1 ~~(2)~~ — Certified or preliminarily determined by the Secretary of the Interior
2 as contributing to the historical significance of a registered historic or a district preliminarily
3 determined by the Secretary to qualify as a registered historic district
4

5 ~~(3)~~ — Individually listed on the Florida inventory of historic places, which
6 have been approved by the Secretary of the Interior: or
7

8 ~~(4)~~ — Individually listed on a local inventory for historic places with historic
9 preservation programs that have been certified by either:
10

11 a. — By the approved Florida program as determined by the Secretary of
12 the Interior, or
13

14 b. — Directly by the Secretary of the Interior.
15

16 Increased Cost of Compliance (ICC) — shall mean the coverage by a standard flood
17 insurance policy under the NFIP that provides for the payment of a claim for the cost to
18 comply with the state of Florida and the Village's floodplain management laws or ordinances
19 after a direct physical loss by flood, when the Village declares the structure to be
20 "substantially" or "repetitively" flood-damaged. ICC coverage is provided for in every
21 standard NFIP flood insurance policy, and will help pay for the cost to floodproof, relocate,
22 elevate, or demolish the structure.
23

24 Lowest adjacent grade — shall mean the lowest elevation, after the completion of
25 construction, of the ground, sidewalk, patio, deck support, or basement entryway
26 immediately next to the structure.
27

28 Lowest floor — shall mean the lowest floor of the lowest enclosed area (including
29 basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles,
30 building access, or storage, in an area other than a basement, is not considered a building's
31 lowest floor, provided that such enclosure is not built so as to render the structure in
32 violation of the non-elevation design requirements of this ordinance.
33

34 Mangrove stand — shall mean an assemblage of mangrove trees which are mostly low
35 trees noted for a copious development of interlacing adventitious roots above the ground
36 and which contain one (1) or more of the following species: Black mangrove (*Avicennia*
37 *Nitida*); red mangrove (*Rhizophora Mangle*); white mangrove (*Languncularia Racemosa*);
38 and buttonwood (*Conocarpus Erecta*).
39

40 Manufactured home — shall mean a building, transportable in one (1) or more
41 sections, which is built on a permanent chassis and is designed for use with or without a
42 permanent foundation when connected to the required utilities. The term also includes park
43 trailers, travel trailers, and similar transportable structures placed on a site for 180
44 consecutive days or longer and intended to be improved property.
45

46 Manufactured home park or subdivision — shall mean a parcel (or contiguous parcels)
47 of land divided into two (2) or more manufactured home lots for rent or sale.
48

1 Map shall mean the Flood Boundary and Floodways Map (FBFM), Flood Hazard
2 Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued
3 by FEMA.

4
5 Market value shall mean the building value, which is the property value excluding
6 the land value and that of the detached accessory structures and other improvements on site
7 (as agreed to between a willing buyer and seller) as established by what the local real estate
8 market will bear. Market value can be established by an independent certified appraisal
9 (other than a limited or curbside appraisal, or one based on income approach), Actual Cash
10 Value (replacement cost depreciated for age and quality of construction of building), or
11 adjusted tax-assessed values.

12
13 Mean sea level shall mean the average height of the sea for all stages of the tide. It
14 is used as a reference for establishing various elevations within the floodplain. For purposes
15 of this regulation, the term is synonymous with the National Geodetic Vertical Datum
16 (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

17
18 National Geodetic Vertical Datum (NGVD) of 1929 shall mean a vertical control
19 used as a reference for establishing varying elevations within the floodplain.

20
21 New Construction shall mean, for floodplain management purposes, any structure
22 for which the "start of construction" commenced on or after the adoption of this Section.
23 The term also includes any subsequent improvements to such structures. For flood
24 insurance rates, structures for which the start of construction commenced on or after June
25 18, 1974, the effective date of the FIRM, and includes any subsequent improvements to such
26 structures.

27
28 New manufactured home park or subdivision shall mean a manufactured home
29 park or subdivision for which the construction of facilities for servicing the lots on which
30 the manufactured homes are to be affixed (including at a minimum, the installation of
31 utilities, the construction of streets, and either final site grading or the pouring of concrete
32 pads) is completed on or after the effective date of floodplain management regulations
33 adopted by the Village.

34
35 Non-Coastal High Hazard Area shall mean an area of special flood hazard not
36 subject to high velocity wave action from storms or seismic sources. The area is designated
37 on the FIRM as Zone A, AE, AH, AO, or A99.

38
39 North American Vertical Datum (NAVD) of 1988 shall mean a vertical control
40 used as a reference for establishing varying elevations within the floodplain.

41
42 Participating community, also known as an eligible community shall mean a
43 community in which FEMA has authorized the sale of flood insurance.

44
45 Primary frontal dune shall mean a continuous or nearly continuous mound or ridge
46 of sand with relatively steep seaward and landward slopes immediately landward and
47 adjacent to the beach and subject to erosion and overtopping from high tides and waves

1 during major coastal storms. The inland limit of the primary frontal dune occurs at the point
2 where there is a distinct change from a relatively steep slope to a relatively mild slope.

3
4 ~~Principally above ground~~ shall mean that at least 51 percent of the actual cash value
5 of the structure is above ground.

6
7 ~~Program deficiency~~ shall mean a defect in the community's floodplain management
8 regulations or administrative procedures that impairs effective implementation of those
9 floodplain management regulations or of the standards required by the National Flood
10 Insurance Program.

11
12 ~~Public safety and nuisance~~ shall mean anything which is injurious to safety or
13 health of the entire community or a neighborhood, or any considerable number of persons;
14 or unlawfully obstructs the free passage or use, in the customary manner, of any navigable
15 lake, or river, bay, stream, canal, or basin.

16
17 ~~Reasonably safe from flooding~~ shall mean base flood waters will not inundate the
18 land or damage structures to be removed from the SFHA and that any subsurface waters
19 related to the base flood will not damage existing or proposed buildings.

20
21 ~~Recreational vehicle~~ shall mean a vehicle which is:

22
23 (1) ~~Built on a single chassis;~~

24
25 (2) ~~400 square feet or less when measured at the largest horizontal~~
26 ~~projection;~~

27
28 (3) ~~Designed to be self-propelled or permanently towable by a light duty~~
29 ~~truck; and~~

30
31 (4) ~~Designed primarily not for use as a permanent dwelling but as~~
32 ~~temporary living quarters for recreational, camping, travel, or seasonal use.~~

33
34 ~~Regulatory floodway~~ shall mean the channel of a river or other watercourse and the
35 adjacent land areas that must be reserved in order to discharge the base flood without
36 cumulatively increasing the water surface elevation more than a designated height.

37
38 ~~Remedy a deficiency or violation~~ shall mean to bring the regulation, procedure,
39 structure or other development into compliance with State of Florida, Federal, or local
40 floodplain management regulations; or if this is not possible, to reduce the impacts of its
41 noncompliance. Ways the impacts may be reduced include protecting the structure or other
42 affected development from flood damages, implementing the enforcement provisions of this
43 ordinance or otherwise deterring future similar violations, or reducing Federal financial
44 exposure with regard to the structure or other development.

45
46 ~~Repetitive Loss~~ shall mean flood-related damages sustained by a structure on two
47 (2) separate occasions during a 10-year period for which the cost of repairs at the time of

1 each such flood event, on the average, equaled or exceeded 25 percent of the market value
2 of the structure before the damages occurred.

3
4 ~~Riverine~~ shall mean relating to, formed by, or resembling a river (including
5 tributaries); stream, brook, etc.

6
7 ~~Sand dune~~ shall mean naturally occurring accumulations of sand in ridges or
8 mounds landward of the beach.

9
10 ~~Shallow flooding~~ see area of shallow flooding.

11
12 ~~Special flood hazard area (SFHA)~~ shall mean an area having special flood hazard
13 and shown on an FHB or FIRM as Zone A, AO, A1-30, AE, A99, AH, V1-30, VE, or V.
14 (see area of special flood hazard)

15
16 ~~Start of Construction~~ (for other than new construction or substantial improvements
17 under the Coastal Barrier Resources Act (Pub. L. 97-348)) shall include substantial
18 improvement, and shall mean the date the building permit was issued, provided the actual
19 start of construction, repair, reconstruction, rehabilitation, addition placement, or other
20 improvement was within 180 days of the permit date. The actual start means either the first
21 placement of permanent construction of a structure on a site, such as the pouring of slab or
22 footings, the installation of piles, the construction of columns, or any work beyond the stage
23 of excavation; or the placement of a manufactured home on a foundation. Permanent
24 construction does not include land preparation, such as clearing, grading and filling; nor does
25 it include the installation of streets and/or walkways; nor does it include excavation for a
26 basement, footings, piers, or foundations or the erection of temporary forms; nor does it
27 include the installation on the property of accessory buildings, such as garages or sheds not
28 occupied as dwelling units or not part of the main structure. For a substantial improvement,
29 the actual start of construction means the first alteration of any wall, ceiling, floor, or other
30 structural part of a building, whether or not that alteration affects the external dimensions of
31 the building.

32
33 ~~Storm cellar~~ shall mean a place below grade used to accommodate occupants of
34 the structure and emergency supplies as a means of temporary shelter against severe
35 tornadoes or similar windstorm activity.

36
37 ~~Structure~~ shall mean, for floodplain management purposes, a walled and roofed
38 building, including a gas or liquid storage tank that is principally above ground, as well as a
39 manufactured home.

40
41 ~~Substantial damage~~ shall mean damage of any origin sustained by a structure
42 whereby the cost of restoring the structure to its before damaged condition would equal or
43 exceed 50 percent of the market value of the structure before the damage occurred. This
44 term also includes "repetitive loss" structures as defined herein.

45
46 ~~Substantial improvement~~ shall mean any reconstruction, rehabilitation, addition, or
47 other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent
48 of the market value of the structure before the "start of construction" of the improvement.

1 The term includes structures that have incurred "substantial damage", regardless of the
2 actual work performed, or "repetitive loss". The term does not, however, include any repair
3 or improvement of a structure to correct existing violations of State of Florida or local
4 health, sanitary, or safety code specifications which have been identified by the local code
5 compliance officer prior to the application for permit for improvement, and which are the
6 minimum necessary to assure safe living conditions. This term does not include any
7 alteration of a historic structure, provided that the alteration will not preclude the structure's
8 continued designation as a historic structure.
9

10 Substantially improved existing manufactured home parks or subdivisions is where
11 the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads
12 equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair,
13 reconstruction or improvement commenced.
14

15 Variance shall mean a grant of relief by the Village from the requirements of this
16 Section.
17

18 Violation shall mean the failure of a structure or other development to be fully
19 compliant with the requirement of this Section. A structure or other development without
20 the elevation certificate, other certifications, or other evidence of compliance required in this
21 Section is presumed to be in violation until such time as that documentation is provided.
22

23 Watercourse shall mean a lake, river, creek, stream, wash, channel or other
24 topographic feature on or over which waters flow at least periodically. Watercourse includes
25 specifically designated areas in which substantial flood damage may occur.
26

27 Water surface elevation shall mean the height, in relation to the National Geodetic
28 Vertical Datum (NGVD) of 1929, or the North American Vertical Datum (NAVD) of 1988,
29 of floods of various magnitudes and frequencies in the floodplains of coastal or riverine
30 areas.
31

32 (g) General Provisions
33

34 (1) Lands to which this Section applies. This Section shall apply to all
35 areas of special flood hazard within the jurisdiction of the Village Council of the Village of
36 Palmetto Bay.
37

38 (2) Basis for establishing the areas of special flood hazard. The areas of
39 special flood hazard identified by the Federal Emergency Management Agency in the Flood
40 Insurance Study (FIS) and flood insurance rate map for Miami Dade County, Florida and
41 incorporated areas prepared by the Department of Homeland Security's Federal Emergency
42 Management Agency (FEMA) dated September 11, 2009, with the accompanying maps and
43 other supporting data, and any subsequent revisions thereto, are adopted by reference and
44 declared to be a part of this Section. The Flood Insurance Study and Flood Insurance Rate
45 Map are on file at the Department of Public Works.
46

47 (3) Designation of floodplain administrator. The Village Council of the
48 Village of Palmetto Bay hereby appoints the public works director to administer and

1 ~~implement the provisions of this Section, and shall be referred to as the Floodplain~~
2 ~~Management Administrator, or the Administrator.~~

3
4 ~~(4) — Establishment of development permit. A development permit shall~~
5 ~~be required for all proposed construction or other development, including, but not limited~~
6 ~~to, the placement of manufactured homes, in conformance with the provisions of this~~
7 ~~Section prior to the commencement of any development activity.~~

8
9 ~~(5) — Compliance. No structure or land shall hereafter be located,~~
10 ~~extended, converted or structurally altered without full compliance with the requirements of~~
11 ~~this Section and other applicable laws and regulations.~~

12
13 ~~(6) — Abrogation and greater restrictions. This Section is not intended to~~
14 ~~repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However,~~
15 ~~where this Section and another conflict or overlap, whichever imposes the more stringent~~
16 ~~restrictions shall prevail.~~

17
18 ~~(7) — Interpretation. In the interpretation and application of this Section~~
19 ~~all provisions shall be:~~

20
21 ~~a. — considered as minimum requirements;~~

22
23 ~~b. — liberally construed in favor of the governing body; and~~

24
25 ~~c. — deemed neither to limit nor repeal any other powers granted~~
26 ~~under State of Florida statutes.~~

27
28 ~~(8) — Warning and disclaimer of liability. The degree of flood protection~~
29 ~~required by this Section is considered reasonable for regulatory purposes and is based on~~
30 ~~scientific and engineering considerations. Larger floods can and will occur on rare~~
31 ~~occasions. Flood heights may be increased by man-made or natural causes. This Section~~
32 ~~does not imply that land outside the areas of special flood hazard or uses permitted within~~
33 ~~such areas will be free from flooding or flood damages. This Section shall not create liability~~
34 ~~on the part of the Village Council of the Village of Palmetto Bay or by any officer or~~
35 ~~employee of the Village for any flood damages that result from reliance on or any~~
36 ~~administrative decision lawfully made under this Section.~~

37
38 ~~(9) — Penalties for violation. Violation of the provisions of this Section or~~
39 ~~failure to comply with any of its requirements, including violation of conditions and~~
40 ~~safeguards established in connection with granting of variances or special exceptions, shall~~
41 ~~constitute a misdemeanor. Any person who violates this Section or fails to comply with any~~
42 ~~of its requirements shall, upon conviction thereof, be fined not more than \$500 or~~
43 ~~imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and~~
44 ~~expenses involved in the case. Each day such violation continues shall be considered a~~
45 ~~separate offense. Nothing in this Section shall prevent the Floodplain Management~~
46 ~~Administrator from taking such other lawful actions as is necessary to prevent or remedy any~~
47 ~~violation.~~

1 (h) Administration:

2
3 (1) Permit procedures. An application for development permit shall be
4 submitted to the Floodplain Management Administrator, on forms furnished by the Village
5 prior to any development activities, and may include, but not be limited to, the following
6 plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of
7 the area under consideration for development; existing and proposed structures, earthen fill,
8 storage of materials or equipment, drainage facilities, perimeter setbacks, environmental
9 features such as base floodplain areas, wetlands, and other protected areas; and the location
10 of the foregoing. Specifically, the following information, certified by a licensed professional
11 engineer or architect who is authorized to certify such information in this state, is required:

12
13 a. Application Stage:

14 (i) Elevations of the area (including basement) of
15 development in relation to mean sea level (such as a contour map) for both existing and
16 proposed development;

17
18 (ii) Elevation in relation to mean sea level of the lowest
19 (including basement) floors of all proposed structures;

20
21 (iii) Elevation in relation to mean sea level to which any
22 nonresidential structure will be floodproofed;

23
24 (iv) Certificate from a registered professional engineer or
25 architect that the non-residential flood proofed building will meet the flood proofing criteria
26 of this Section;

27
28 (v) Description of the extent to which any watercourse
29 will be altered or relocated as result of proposed development, and

30
31 (vi) Elevation in relation to mean sea level of the bottom
32 of the lowest horizontal structural member of the lowest floor and provide a certification
33 from a registered engineer or architect indicating that they have developed and/or reviewed
34 the structural designs, specifications and plans of the construction and certified that are in
35 accordance with accepted standards of practice in Coastal High Hazard Areas.

36
37 a. Construction Stage: Provide a regulatory floor elevation or
38 floodproofing certification after the lowest floor is completed and prior to the issuance of a
39 Certificate of Occupancy. Upon placement of the lowest floor, or instances where the
40 structure is subject to the regulations applicable to coastal high hazard areas, after placement
41 of the horizontal structural members of the lowest floor, or for nonresidential structures,
42 floodproofing, whichever is applicable, it shall be the duty of the permit holder to submit to
43 the Floodplain Management Administrator a certification of the elevation of the lowest
44 floor, or flood proofed elevation, or the elevation of the lowest portion of the horizontal
45 structural members of lowest floor, whichever is applicable, as built in relation to mean sea
46 level. Said certification shall be prepared by or under the direct supervision of a registered
47
48

1 ~~land surveyor or a state licensed professional engineer and certified by same. When~~
2 ~~floodproofing is utilized for a particular building, said certification shall be prepared by or~~
3 ~~under the direct supervision of a state licensed professional engineer or architect and~~
4 ~~certified by same. Any work undertaken prior to submission of the certification shall be at~~
5 ~~the permit holder's risk.~~

6
7 ~~The Administrator shall review the floor elevation survey data~~
8 ~~submitted and floodproofing certificate. Should these documents be found not in~~
9 ~~conformance with the requirements of this ordinance, the permit holder shall immediately~~
10 ~~cease further work, and shall correct any deficiencies. Failure of the permit holder to submit~~
11 ~~the surveyed lowest floor elevation and floodproofing certificate, and failure to correct the~~
12 ~~identified deficiencies required by the Administrator, shall be the cause to issue a stop work~~
13 ~~order for the project.~~

14
15 ~~(i) Duties and responsibilities of the Floodplain Management Administrator.~~
16 ~~Duties of the Administrator shall include, but are not be limited to the following:~~

17 ~~(1) Review permits to assure sites are reasonably safe from flooding.~~

18
19 ~~(2) Review all development permits to assure that the requirements of~~
20 ~~this Section have been fully met.~~

21
22 ~~(3) Require copies of additional Federal, State of Florida, or local~~
23 ~~permits, especially as they relate to Chapters 161.053, 320.8249, 320.8359, 373.036, 380.05,~~
24 ~~381.0065, and 553, Part IV, Florida Statutes, be submitted along with the development~~
25 ~~permit application and maintain such permits on file with the development permit;~~

26
27 ~~(4) Review and verify the V-Zone Certifications for new and~~
28 ~~substantially improved structures in coastal high hazard areas.~~

29
30 ~~(5) Review certified plans and specifications for compliance with the~~
31 ~~requirements of this Section. When flood proofing is utilized for a particular building,~~
32 ~~certification shall be obtained from a registered engineer or architect certifying that all areas~~
33 ~~of the building, together with attendant utilities and sanitary facilities, below the required~~
34 ~~elevation are water tight with walls substantially impermeable to the passage of water, and~~
35 ~~use structural components having the capability of resisting hydrostatic and hydrodynamic~~
36 ~~loads and the effects of buoyancy in compliance with these regulations. In Coastal High~~
37 ~~Hazard Areas, certification shall be obtained from a registered professional engineer or~~
38 ~~architect that the building is designed and securely anchored to pilings or columns in order~~
39 ~~to withstand velocity waters and hurricane wave wash. Additionally in Coastal High Hazard~~
40 ~~Areas, if the area below the lowest horizontal structural member of the lowest floor is~~
41 ~~enclosed, it may be done so with open wood lattice and insect screening or with non-~~
42 ~~supporting breakaway walls that meets the standards of these regulations.~~

43
44 ~~(6) Verify and record the actual elevation (in relation to mean sea level)~~
45 ~~of the lowest floor (including basement) or bottom of the lowest horizontal structural~~
46 ~~member of the lowest floor of all new or substantially improved structures, in accordance~~
47 ~~with these regulations.~~

1
2 (7) — Verify and record the actual elevation (in relation to mean sea level)
3 to which the new or substantially improved structures have been floodproofed, in
4 accordance with these regulations.

5
6 (8) — Interpret the exact location of boundaries of the areas of special
7 flood hazard and regulatory floodway. When there appears to be a conflict between a
8 mapped boundary and actual field conditions, the administrator shall make the necessary
9 interpretation. The person contesting the location of the boundary shall be given a
10 reasonable opportunity to appeal the interpretation as provided for in this Section.

11
12 (9) — When base flood elevation data or floodway data have not been
13 provided in accordance with these regulations, the administrator shall obtain, review and
14 reasonably utilize any base flood elevation and floodway data available from a federal, state,
15 or any other source, in order to administer the provisions of these regulations.

16
17 (10) — Notify, in riverine situations, adjacent communities and the
18 appropriate state and regional agencies (Florida Department of Community Affairs Division
19 of Emergency Management — NFIP Coordinating Office, South Florida Water Management
20 District, FEMA, and other Federal and/or State of Florida agencies with statutory or
21 regulatory authority prior to any alteration or relocation of a watercourse. Submit copies of
22 the notifications to FEMA, and assure that the flood carrying capacity within the altered or
23 relocated portion of any watercourse is maintained so that the flood carrying capacity is not
24 diminished.

25
26 (11) — Coordinate with planning, zoning, and public works and other
27 departments in the Village to assure that the requirements of these regulations are fully met.

28
29 (12) — Participate actively in evaluating the variance requests and provide
30 input and recommendations in variance hearings, and

31
32 (13) — Coordinate all change requests to the FIS and FIRM or FBFM, or all,
33 with the requester, state, and FEMA.

34
35 (14) — Requirement to submit new technical data.

36
37 (15) — The Village's base flood elevations may increase or decrease resulting
38 from physical changes affecting flooding conditions. As soon as practicable, but not later
39 than six (6) months after the date such information becomes available, the Village shall
40 notify FEMA of the changes by submitting technical or scientific data. The submission shall
41 be necessary so that upon confirmation of those physical changes affecting flooding
42 conditions, risk premium rates and flood plain management requirements will be based upon
43 current data. The Village may require the applicant or owner to submit the data and review
44 fees for FEMA.

45
46 (16) — In coastal high hazard areas, the Village review plans for adequacy of
47 breakaway walls in accordance with these regulations.

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

3
4 ~~(j) — Standards for Flood Hazard Reduction. In all areas of special flood hazard,~~
5 ~~all development sites including new construction and substantial improvements shall be~~
6 ~~reasonably safe from flooding, and meet the following requirements:~~

7
8 ~~(1) — Review permits for proposed construction or other development,~~
9 ~~including the placement of manufactured homes, so that a determination may be made~~
10 ~~whether or not such construction or other development is proposed within flood-prone~~
11 ~~areas.~~

12
13 ~~(2) — New construction, substantial improvements, and other development~~
14 ~~proposals shall assure that all necessary permits have been obtained from those~~
15 ~~governmental agencies from which approval is required by federal or state law, including~~
16 ~~Section 404 of the Federal Water Pollution Control Act, as amended, or by area-wide~~
17 ~~agencies.~~

18
19 ~~(3) — New construction and substantial improvements shall be constructed~~
20 ~~with materials and utility elements resistant to flood damage for any areas up to one (1) foot~~
21 ~~above base flood elevation.~~

22
23 ~~(4) — New construction or substantial improvements shall be constructed~~
24 ~~by methods and practices that minimize flood damage.~~

25
26 ~~(5) — Electrical, heating, ventilation, plumbing, air conditioning equipment~~
27 ~~and other service facilities, including duct work, shall be designed and/or located so as to~~
28 ~~prevent water from entering or accumulating within the components during conditions of~~
29 ~~flooding.~~

30
31 ~~(6) — Subdivision proposals and other proposed new development,~~
32 ~~including manufactured home parks or subdivisions, shall be assured that they will be~~
33 ~~reasonably safe from flooding. If a subdivision proposal or other proposed new~~
34 ~~development is in a flood-prone area, any such proposals shall be reviewed to assure that:~~

35
36 ~~a. — All such proposals are consistent with the need to minimize~~
37 ~~flood damage within the flood-prone area,~~

38
39 ~~b. — all public utilities and facilities, such as sewer, gas, electrical,~~
40 ~~and water systems are located and constructed to minimize or eliminate flood damage, and~~

41
42 ~~c. — adequate drainage is provided to reduce exposure to flood~~
43 ~~hazards.~~

44
45 ~~(7) — New and replacement water supply systems shall be designed to~~
46 ~~minimize or eliminate infiltration of flood waters into the systems;~~

1 (8) ~~New and replacement sanitary sewage systems shall be designed to~~
2 ~~minimize or eliminate infiltration of flood waters into the systems and discharges from the~~
3 ~~systems into flood waters, and on-site waste disposal systems shall be located and~~
4 ~~constructed to avoid impairment to them or contamination from them during flooding;~~
5

6 (9) ~~New construction and substantial improvements, when located in~~
7 ~~multiple flood zones with varying base flood elevations or in same flood zone with multiple~~
8 ~~base flood elevations shall meet the requirements for the flood zone with the most stringent~~
9 ~~requirements and the highest base flood elevation.~~
10

11 (10) ~~New construction and substantial improvements of existing~~
12 ~~structures shall be anchored to prevent flotation, collapse or lateral movement of the~~
13 ~~structure.~~
14

15 (11) ~~Manufactured homes shall be anchored to prevent flotation, collapse,~~
16 ~~or lateral movement. Methods of anchoring may include, but are not limited to, use of over-~~
17 ~~the-top or frame ties to ground anchors. This standard shall be in addition to and consistent~~
18 ~~with applicable state requirements for resisting wind forces.~~
19

20 (12) ~~Any alteration, repair, reconstruction or improvements to a structure~~
21 ~~that is in compliance with the provisions of this code shall meet the requirements as~~
22 ~~contained in this division.~~
23

24 (13) ~~Any alteration, repair, reconstruction or improvements to a building~~
25 ~~that is not in compliance with the provisions of this ordinance, shall be undertaken only if~~
26 ~~said non-conformity is not furthered, extended, or replaced.~~
27

28 (14) ~~All applicable additional Federal, State of Florida, and local permits~~
29 ~~shall be obtained and submitted to the Floodplain Management Administrator along with~~
30 ~~the application for development permit. Copies of such permits shall be maintained on file~~
31 ~~with the development permit. State of Florida permits may include, but not be limited to,~~
32 ~~the following:~~
33

34 a. ~~South Florida Water Management District: in accordance~~
35 ~~with Chapter 373.036 Florida Statutes (F.S.), Section (2) (a) — Flood Protection and~~
36 ~~Floodplain Management;~~
37

38 b. ~~Department of Community Affairs: in accordance with~~
39 ~~Chapter 380.05 F.S. Areas of Critical State Concern, and Chapter 553, Part IV F.S., Florida~~
40 ~~Building Code;~~
41

42 c. ~~Department of Health: in accordance with Chapter 381.0065~~
43 ~~F.S. Onsite Sewage Treatment and Disposal Systems; and~~
44

45 d. ~~Department of Environmental Protection, Coastal~~
46 ~~Construction Control Line: in accordance with Chapter 161.053 F.S. Coastal Construction~~
47 ~~and Excavation.~~
48

1
2 (15) ~~When proposed new construction and substantial improvements are~~
3 ~~partially located in an area of special flood hazard, the entire structure shall meet the~~
4 ~~standards for new construction.~~

5
6 (k) ~~Specific Standards for Non-Coastal High Hazard Areas. In all non-coastal~~
7 ~~areas of special flood hazard where base flood elevation data have been provided, as set~~
8 ~~forth in this Section, but no regulatory floodways have been delineated, the following~~
9 ~~provisions shall apply:~~

10
11 ~~(1) Standards of subsection (k), above.~~

12
13 ~~(2) Residential Structures.~~

14
15 a. ~~All new construction or substantial improvements of~~
16 ~~residential structures (including manufactured home) shall have the lowest floor (including~~
17 ~~basement) elevated to no lower than (one foot above) the base flood elevation. Should solid~~
18 ~~foundation perimeter walls be used to elevate a structure, there must be a minimum of two~~
19 ~~openings on different sides of each enclosed area sufficient to facilitate automatic~~
20 ~~equalization of flood hydrostatic forces in accordance with these regulations.~~

21
22 b. ~~Should solid foundation perimeter walls be used to elevate a~~
23 ~~structure, there must be a minimum of two (2) openings on different sides of each enclosed~~
24 ~~area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance~~
25 ~~with these regulations.~~

26
27 ~~(3) Nonresidential Structures.~~

28
29 a. ~~All new construction or substantial improvements of non-~~
30 ~~residential structures shall have the lowest floor (including basement) elevated to be at or~~
31 ~~above the base flood elevation. Nonresidential structures within Zones A1-30, AE, and AH~~
32 ~~may be flood proofed in lieu of being elevated provided that together with all attendant~~
33 ~~utility and sanitary facilities, be designed so that below the base flood elevation plus one (1)~~
34 ~~foot the structure is water tight with walls substantially impermeable to the passage of water,~~
35 ~~and with structural components having the capability of resisting hydrostatic and~~
36 ~~hydrodynamic loads and the effect of buoyancy. A registered professional engineer or~~
37 ~~architect, who is authorized to certify such information in the state, shall certify that the~~
38 ~~provisions of this subsection are satisfied. The FEMA Floodproofing Certificate shall be~~
39 ~~prepared, and submitted to the Floodplain Management Administrator along with the~~
40 ~~corresponding operational and maintenance plans.~~

41
42 (4) ~~Elevated Structures. For all new construction and substantial~~
43 ~~improvements, that include fully enclosed areas below the lowest floor elevation shall be~~
44 ~~usable solely for parking of vehicles, building access, or storage. These enclosed areas shall~~
45 ~~be designed and constructed to allow for the entry and exit of floodwaters to automatically~~
46 ~~equalize hydrostatic flood forces on exterior walls.~~

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

4
5 (i) ~~A minimum of two (2) openings having a total net area of~~
6 ~~not less than one (1) square inch for every square foot of enclosed area subject to flooding~~
7 ~~shall be provided;~~

8
9 (ii) ~~The bottom of all openings shall be no higher than one~~
10 ~~(1) foot above adjacent interior grade (which must be equal to or higher in elevation than the~~
11 ~~adjacent exterior grade); and~~

12
13 (iii) ~~Openings may be equipped with screens, louvers, valves,~~
14 ~~or other coverings or devices provided they provide the required net area of the openings~~
15 ~~and permit the automatic entry and exit of floodwaters.~~

16
17 b. ~~Fully enclosed areas below the lowest floor shall solely be~~
18 ~~used for parking of vehicles, storage, and building access. Access to the enclosed area shall~~
19 ~~be minimum necessary to allow for parking of vehicles (garage door) or limited storage of~~
20 ~~maintenance equipment used in connection with the premises (standard exterior door) or~~
21 ~~entry to the living area (stairway or elevator);~~

22
23 e. ~~The interior portion of such enclosed areas shall not be~~
24 ~~partitioned, temperature-controlled, or finished into separate rooms; and~~

25
26 d. ~~Where elevation requirements exceed six (6) feet above the~~
27 ~~highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the~~
28 ~~conversion of the area below the lowest floor to a use or dimension contrary to the~~
29 ~~building's originally approved design, shall be presented as a condition of issuance of the~~
30 ~~final Certificate of Occupancy.~~

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

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

34 (i) ~~outside of an existing manufactured home park or~~
35 ~~subdivision;~~

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

37 (iii) ~~in an expansion to an existing manufactured home~~
38 ~~park or subdivision; or~~

39 (iv) ~~in an existing manufactured home park or subdivision~~
40 ~~on which a manufactured home has incurred "substantial damage" as the result of a flood,~~
41 ~~be elevated on a permanent foundation and be securely anchored to an adequately anchored~~
42 ~~foundation system to resist foundation collapse and lateral movement.~~

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

5
6 (i) ~~The lowest floor of the manufactured home is elevated~~
7 ~~to be at or above the base flood elevation, or~~

8
9 (ii) ~~The manufactured home chassis is supported by~~
10 ~~reinforced piers or other foundation elements of at least an equivalent strength that are no~~
11 ~~less than 36 inches in height above the grade and be securely anchored to an adequate~~
12 ~~foundation system to resist flotation, collapse, and lateral movement.~~

13
14 c. ~~All recreational vehicles placed on sites within Zones A1-30,~~
15 ~~AH, and AE must either:~~

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

17
18 (ii) ~~Be fully licensed and ready for highway use (A~~
19 ~~recreational vehicle is ready for highway use if it is on its wheels or jacking system, is~~
20 ~~attached to the site only by quick disconnect type utilities and security devices, and has no~~
21 ~~permanently attached additions; or~~

22
23 (iii) ~~Meet the requirements for new construction,~~
24 ~~including anchoring and elevation requirements for manufactured homes in paragraphs (4)(a)~~
25 ~~or (b) of this Section.~~

26
27
28 d. ~~Standards for waterways with established Base Flood~~
29 ~~Elevations, but without Regulatory Floodways.~~

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

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

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

1
2 f. ~~Within Zones AH and AO on the FIRM, adequate drainage~~
3 ~~paths around structures shall be provided on slope to guide floodwaters around and away~~
4 ~~from proposed structures.~~

5
6 ~~(l) Standards for Floodways with established Base Flood Elevations and~~
7 ~~Floodways.~~

8
9 Located within areas of special flood hazard as established herein as areas designated
10 as floodways. Since the floodway is an extremely hazardous area due to the velocity of
11 floodwaters that carry debris, potential projectiles and have significant erosion potential, the
12 following provisions shall apply:

13
14 ~~(1) Standards of subsection (l).~~

15
16 ~~(2) Prohibit encroachments, including fill, new construction, substantial~~
17 ~~improvements and other developments within the regulatory floodway unless certification~~
18 ~~(with supporting technical data) by a registered professional engineer is provided through~~
19 ~~hydrologic and hydraulic analyses performed in accordance with standard engineering~~
20 ~~practice that the proposed encroachment would not result in any increase in flood levels~~
21 ~~within the community during the occurrence of the base flood discharge,~~

22
23 ~~(3) Development activities including new construction and substantial~~
24 ~~improvements within the regulatory floodway that increase the base flood elevation may be~~
25 ~~allowed, provided that the developer or applicant first applies with the community's~~
26 ~~endorsement for a conditional FIRM revision, and receives the approval of FEMA.~~

27
28 ~~(4) When fill is proposed, in accordance with the permit issued by the~~
29 ~~Florida Department of Health, within the regulatory floodway, the development permit shall~~
30 ~~be issued only upon demonstration by appropriate engineering analyses that the proposed fill~~
31 ~~will not increase the water surface elevation of the base flood in accordance with this~~
32 ~~Section.~~

33
34 For all structures located seaward of the Coastal Construction Control Line (CCCL),
35 the lowest floor of all new construction and substantial improvements shall be elevated to
36 no lower than the 100-year flood elevation established by the Florida Department of
37 Environmental Protection or by FEMA in accordance with these regulations, whichever is
38 higher. All non-elevation design requirements of this Section shall apply.

39
40 ~~(m) Specific standard for A-Zones without base flood elevations and regulatory~~
41 ~~floodways.~~

42
43 Located within the areas of special flood hazard established in these regulations,
44 where there exist A Zones for which no base flood elevation data and regulatory floodway
45 have been provided or designated by the Federal Emergency Management Agency, the
46 following provisions shall apply:

47
48 ~~(1) Require standards of this Section.~~

1
2 (2) ~~Require that all new subdivision proposals and other proposed~~
3 ~~developments (including proposals for manufactured home parks and subdivisions) greater~~
4 ~~than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood~~
5 ~~elevation data. Standards set forth in this Section shall apply.~~

6
7 (3) ~~The Floodplain Administrator shall obtain, review, and reasonably~~
8 ~~utilize any base flood elevation and floodway data available from a Federal, State of Florida,~~
9 ~~or any other source, in order to administer the provisions of this ordinance. When such data~~
10 ~~is utilized, provisions of this Section shall apply. The Floodplain Management Administrator~~
11 ~~shall:~~

12
13 a. ~~Obtain the elevation (in relation to the mean sea level) of the~~
14 ~~lowest floor (including the basement) of all new and substantially improved structures,~~

15
16 b. ~~Obtain, if the structure has been floodproofed in accordance~~
17 ~~with the requirements of this Section, the elevation in relation to the mean sea level to which~~
18 ~~the structure has been floodproofed, and~~

19
20 e. ~~Maintain a record of all such information.~~

21
22 (4) ~~Notify, in riverine situations, adjacent communities, the Florida~~
23 ~~Department of Community Affairs — NFIP Coordinating Office, and the South Florida~~
24 ~~Water Management District prior to any alteration or relocation of a watercourse, and~~
25 ~~submit copies of such notifications to FEMA.~~

26
27 (5) ~~Assure that the flood carrying capacity within the altered or relocated~~
28 ~~portion of any watercourse is maintained.~~

29
30 (6) ~~Manufactured homes shall be installed using methods and practices~~
31 ~~that minimize flood damage. They must be elevated and anchored to prevent flotation,~~
32 ~~collapse, and lateral movement. Methods of anchoring may include, but are not limited to,~~
33 ~~use of over-the-top or frame ties to ground anchors. This requirement is in addition to~~
34 ~~applicable State of Florida and local anchoring requirements for resisting wind forces.~~

35
36 (7) ~~When the data is not available from any source, in accordance with~~
37 ~~standard set forth in this Section, the lowest floor of the structure shall be elevated to no~~
38 ~~lower than three (3) feet above the highest adjacent grade. Standards set forth in this Section~~
39 ~~shall apply.~~

40 (n) ~~Standards for AO Zones:~~

41
42 ~~Located within the areas of special flood hazard established in these regulations, are~~
43 ~~areas designated as shallow flooding areas. These areas have flood hazards associated with~~
44 ~~base flood depths of one to three feet, where a clearly defined channel does not exist and the~~
45 ~~path of flooding is unpredictable and indeterminate; therefore, the following provisions, in~~
46 ~~addition to this Section, apply:~~

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

7
8 ~~(2) — All new construction and substantial improvements of non-~~
9 ~~residential structures shall:~~

10 ~~a. — Have the lowest floor, including basement, elevated above~~
11 ~~the highest adjacent grade at least as high as the depth number specified in feet on the Flood~~
12 ~~Insurance Rate Map. If no flood depth number is specified, the lowest floor, including~~
13 ~~basement, shall be elevated to at least three feet above the highest adjacent grade, or~~
14

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

18
19 ~~(3) — Adequate drainage paths around structures shall be provided on~~
20 ~~slopes to guide water away from structures.~~

21
22 ~~(4) — Fully enclosed areas below the lowest floor that are subject to~~
23 ~~flooding shall meet the non-elevation design requirements of this Section.~~

24
25 ~~(e) — Coastal High Hazard Areas:~~

26
27 ~~(1) — Located within areas of special flood hazard areas established in this~~
28 ~~Section, are Coastal High Hazard Areas, designated as Zones V1-30, VE, or V. These areas~~
29 ~~have special flood hazards associated with high velocity waters from hurricane and storm~~
30 ~~surges and, therefore, in addition to meeting all provisions in this ordinance, the following~~
31 ~~provisions shall also apply:~~

32 ~~a. — Standards of subsection (m).~~

33
34 ~~b. — All new construction and substantial improvements in Zones~~
35 ~~V1-30 and VE (Zone V if base flood elevation is available) shall be elevated on pilings or~~
36 ~~columns so that:~~

37
38 ~~(i) — The bottom of the lowest horizontal structural~~
39 ~~member of the lowest floor (excluding the pilings or columns) is elevated to be at or above~~
40 ~~the base flood elevation, and~~

41
42 ~~(ii) — The pile or column foundation and structure attached~~
43 ~~thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of~~
44 ~~wind and water loads acting simultaneously on all building components. Water loading~~
45 ~~values used shall be those associated with the base flood. Wind loading values used shall be~~
46 ~~those required by applicable state or local building standards.~~

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

8
9 i. — Prohibit man-made alteration of sand dunes and mangrove
10 stands that would increase potential flood damage.

11
12 j. — All manufactured homes to be placed or substantially
13 improved within Zones V1-30, VE, and V on the FIRM shall:

14
15 (i) — Meet the requirements of subsection (o)a. — h., if they
16 are located on sites:

17
18 A. — Outside of an existing manufactured home
19 park or subdivision;

20
21 B. — In a new manufactured home park or
22 subdivision;

23
24 C. — In an expansion to an existing manufactured
25 home park or subdivision; or

26
27 D. — In an existing manufactured home park or
28 subdivision in which a manufactured home has incurred “substantial damage” as the result
29 of a flood; and

30
31 (ii) — All manufactured homes placed or substantially
32 improved on other sites in an existing manufactured home park or subdivision shall meet the
33 requirements of this Section.

34
35 k. — Recreational vehicles placed on sites within Zones V1 — V30,
36 V, and VE on the FIRM shall be in conformance with the requirements of subsection
37 (k)(5)e.

38
39 (i) — Be on the site for fewer than 180 consecutive days;

40
41 (ii) — Be fully licensed and ready for highway use (on its
42 wheels or jacking system, is attached to the site only by quick disconnect type utilities and
43 security devices, and has no permanently attached additions); or

44
45 (iii) — Meet the requirements of this Section.

46
47 l. — For all structures located seaward of the Coastal Construction
48 Control Line (CCCL), the bottom of the lowest horizontal structural member of the lowest

1 floor of all new construction and substantial improvements shall be elevated to the flood
2 elevation established by the Florida Department of Environmental Protection or the base
3 flood elevation (plus one foot), whichever is higher.

4
5 m.—When fill is proposed, in accordance with the permit issued
6 by the Florida Department of Health, in coastal high hazard area, the development permit
7 shall be issued only upon demonstration by appropriate engineering analyses that the
8 proposed fill will not increase the water surface elevation of the base flood nor cause any
9 adverse impacts to the structure on site or other properties by wave ramping or deflection.

10
11 (p) — Critical Facilities

12
13 (1) — Construction of new critical facilities shall be, to the
14 extent possible, located outside the limits of the SFHA, preferably outside the point two
15 (0.2) percent annual chance floodplain. Construction of new critical facilities may be
16 permissible within the SFHA if feasible alternative sites are unavailable. Critical facilities
17 constructed within the SFHA shall have the lowest floor elevated or floodproofed to three
18 (3) or more feet above the base flood elevation at the site. Floodproofing and sealing
19 measures must be taken to ensure that toxic substances will not be displaced by or released
20 into floodwaters. Access routes elevated to or above the level of the base flood elevation
21 shall be provided to all critical facilities to the maximum extent possible.

22
23 (q) — Variances:

24
25 (1) — Designation of variance and appeals board. The
26 Village Council shall hear and decide appeals and requests for variances from the
27 requirements of this Section.

28
29 (2) — Duties of the Village Council. The Village Council as
30 the appeals board shall hear and decide appeals when it is alleged an error in any
31 requirement, decision, or determination is made by the administrator in the enforcement or
32 administration of this Section. Any person aggrieved by the decision of the board may
33 appeal such decision to the circuit court for the 11th judicial circuit as provided for under
34 Florida law.

35
36 (3) — Considerations in granting variance requests. In
37 acting upon such applications, the Village Council shall consider all technical evaluations, all
38 relevant factors, provisions specified in other sections of these regulations, and:

39
40 a. — The danger that materials may be swept onto
41 other lands to the injury of others;

42
43 b. — The danger of life and property due to
44 flooding or erosion damage;

45
46 c. — The susceptibility of the proposed facility and
47 its contents to flood damage and the effect of such damage on the individual owner;

1 d. ~~The importance of the services provided by~~
2 ~~the proposed facility to the community;~~

3
4 e. ~~The necessity to the facility of a waterfront~~
5 ~~location, where applicable;~~

6
7 f. ~~The availability of alternative locations for the~~
8 ~~proposed use which are not subject to flooding or erosion damage for the proposed use;~~

9
10 g. ~~The compatibility of the proposed use with~~
11 ~~existing and anticipated development;~~

12
13 h. ~~The relationship of the proposed use to the~~
14 ~~Comprehensive Plan and floodplain management program for that area;~~

15
16 i. ~~The safety of access to the property in times~~
17 ~~of flood for ordinary and emergency vehicles;~~

18
19 j. ~~The expected heights, velocity, duration, rate~~
20 ~~of rise, and sediment of transport of the flood waters and the effects of wave action, if~~
21 ~~applicable, expected at the site;~~

22
23 k. ~~The costs of providing governmental services~~
24 ~~during and after flood conditions, including maintenance and repair of public utilities and~~
25 ~~facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and~~

26
27 l. ~~The request for variance is not an after-the-~~
28 ~~fact request.~~

29
30 (4) ~~Conditions for variances.~~

31
32 a. ~~Variances may only be issued when there is:~~

33
34 (i) ~~A showing of good and sufficient~~
35 ~~cause;~~

36
37 (ii) ~~A determination that failure to grant~~
38 ~~the variance would result in exceptional hardship; and~~

39
40 (iii) ~~A determination that the granting of a~~
41 ~~variance will not result in increased flood heights, additional threats to public expense, create~~
42 ~~nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or~~
43 ~~ordinances.~~

44
45 b. ~~Variances may only be issued upon a~~
46 ~~determination that the variance is the minimum necessary deviation from the requirements~~
47 ~~of this Section, considering the flood hazard, to afford relief, and in the instance of an~~

1 historic structure, a determination that the variance is the minimum necessary so as not to
2 destroy the historic character and design.

3
4 ~~c. Variances shall not be issued within any~~
5 ~~designated regulatory floodway if any increase in flood levels during the base flood discharge~~
6 ~~would result.~~

7
8 ~~d. Variances may be issued for the repair or~~
9 ~~rehabilitation of historic structures upon a determination that the proposed repair or~~
10 ~~rehabilitation will not preclude the structure's continued designation as a historic structure,~~
11 ~~and the variance is the minimum necessary to preserve the historic character and design of~~
12 ~~the structure.~~

13
14 ~~e. Variances may be issued for new construction~~
15 ~~and substantial improvements and for other development necessary for the conduct of a~~
16 ~~functionally dependent use provided that:~~

17
18 ~~f. The criteria of paragraphs a. through c. of this~~
19 ~~subsection are met; and~~

20
21 ~~g. The structure or other development is~~
22 ~~protected by methods that minimize flood damages during the base flood and create no~~
23 ~~additional threats to public safety.~~

24
25 (5) ~~Variance notification.~~

26
27 ~~a. Any applicant to whom a variance is granted~~
28 ~~shall be notified in writing over the signature of the Village's administrative official that:~~

29
30 ~~(i) The issuance of a variance to~~
31 ~~construct a structure below the base flood elevation will result in increased premium rates~~
32 ~~for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and~~

33
34 ~~(ii) Such construction below the base~~
35 ~~flood level increases risks to life and property.~~

36
37 ~~b. A copy of the notice shall be recorded by the~~
38 ~~floodplain management administrator in the Village Clerk's Office and shall be recorded in a~~
39 ~~manner so that it appears in the chain of title of the affected parcel of land.~~

40
41 ~~(i) The administrator shall maintain a~~
42 ~~record of all variance actions, including justification for their issuance or denial, and report~~
43 ~~such variances issued in its biennial report submitted to FEMA.~~

44
45
46 (6) ~~Historic buildings. Variances may be issued for the~~
47 ~~repair or rehabilitation of "historic" building meeting the definition in this ordinance upon~~

1 determination that the proposed repair or rehabilitation will not preclude the structure's
2 continued designation as a "historic" building.

3
4 ~~(7) Buildings in regulatory floodway. Variances shall not~~
5 ~~be issued within any designated floodway if any impact in flood conditions or increase in~~
6 ~~flood levels during the base flood discharge would result.~~

7
8 ~~(8) Special conditions. Upon consideration of the factors~~
9 ~~listed in (t) and the purposes of this Section, the Village Council may attach such conditions~~
10 ~~to the granting of variances, as it deems necessary to further the purposes of this Section.~~

11 * * *

12
13 CHAPTER 18 Floods

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

15 * * *

16
17
18
19 **Section 8. Fiscal Impact Statement.** In terms of design, plan application review,
20 construction and inspection of buildings and structures, the cost impact as an overall average
21 is negligible in regard to the local technical amendments because all development has been
22 subject to the requirements of the local floodplain management ordinance adopted for
23 participation in the National Flood Insurance Program. In terms of lower potential for
24 flood damage, there will be continued savings and benefits to consumers.

25
26 **Section 9. Applicability.** For the purposes of jurisdictional applicability, this ordinance
27 shall apply in the Village of Palmetto Bay. This ordinance shall apply to all applications for
28 development, including building permit applications and subdivision proposals, submitted
29 on or after adoption of this ordinance.

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

35
36 **Section 11. Inclusion Into The Code Of Ordinances.** It is the intent of the Village
37 Council that the provisions of this ordinance shall become and be made a part of the Village
38 of Palmetto Bay Code of Ordinances, and that the sections of this ordinance may be
39 renumbered or relettered and the word "ordinance" may be changed to "Section," "article,"
40 "regulation," or such other appropriate word or phrase in order to accomplish such
41 intentions.

42
43 **Section 12. Severability.** If any Section, subsection, sentence, clause or phrase of this
44 ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such
45 decision shall not affect the validity of the ordinance as a whole, or any part thereof, other
46 than the part so declared.

1
2 PASSED AND ENACTED this ____ day of _____, 2012.

3
4 Attest: _____
5 Meighan Alexander Shelley Stanczyk
6 Village Clerk Mayor

7
8 APPROVED AS TO FORM:
9
10 _____
11 Eve A. Boutsis
12 Village Attorney

13 FINAL VOTE AT ADOPTION:
14
15 Council Member Patrick Fiore ____
16
17 Council Member Howard Tendrich ____
18
19 Council Member Joan Lindsay ____
20
21 Vice-Mayor Brian W. Pariser ____
22
23 Mayor Shelley Stanczyk ____
24
25