ITEM 12A

To:	Honorable Mayor and Village Council	Date:	November 7, 2016
From:	Edward Silva, Village Manager	Re:	Floodplain Management Ordinance - Revised 2nd Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; AMENDING SECTION 30-100(6), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, THE LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Administration)

UPDATE SINCE FIRST READING:
On October 17, 2016 this item was approved for First Reading. No further changes were made.

RECOMMENDATION:
Approval is recommended.

To:	Honorable Mayor and Village Council	Date:	October 17th, 2016
From:	Edward Silva, Village Manager	Re:	Floodplain Management Ordinance - Revised 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; AMENDING SECTION 30-100(6), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, THE LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Administration)

BACKGROUND:

The Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Palmetto Bay that may be subject to periodic inundation which may result in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. The Village was accepted for participation in the National Flood Insurance Program in 2008 (as the Village), and the Village desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation.

The proposed amendment to the floodplain regulations are offered in order to bring the Village into eligibility for participation in the Community Rating System (CRS). The Village's last amendment to the Floodplain Ordinance was on March 7th 2016, and was consistent with that effort. However, a subsequent review by the Florida State agency assisting the Village with its application identified additional need modifications. The attached proposed ordinance is reflective of that review.

The CRS eligibility process involves scoring the programs and laws of a jurisdiction that facilitates flood prevention and education. The higher number of points earned, the greater the discount that would apply to the flood insurance premiums of Village residents. The base rating is 10. For every 500 points earned, the overall CRS rating of the Village is reduced by one (1), and the insurance premium reduction increases by 5%. Hence, a rating of 9 equals a 5% reduction, an 8 equals a 10% reduction. The maximum possible insurance premium reduction is 45%. It is the desire of the Village to attain the highest score possible in order to achieve the lowest rating.

PROPOSED CHANGES:

Miscellaneous Changes. Many of the changes involved the removal of redundant regulations, scrivener corrections, and recitations of code sections that were renumbered or recorded incorrectly.

Freeboard. This provision was relocated and clarified in a different area of the code.

Minimum Finished Floor Elevation. This provision was located elsewhere within the ordinance. It was relocated with the ordinance and restated to provide greater clarification. Further, a Crown of Road definition was added in support thereof.

Technical Amendments to the Florida Building Code. The previous ordinance incorporated the Village's Freeboard and Minimum Finished Floor Elevation into the Florida Building Code. Subsequent review by the Village's State sponsored consultant found the amendment unnecessary as the Village was already covered by certain amendments already performed by Miami-Dade County. Adoption of those provisions into the Village's local floodplain ordinance is sufficient to comply with CRS qualification requirements.

ANALYSIS:

Land Development Regulations Section 30-100.6

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

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

Analysis: The Comprehensive Plan and the Village's concurrency management plan seeks to ensure future development does not have a dilatory impact on the community and conforms with FEMA guidelines as provided at Objective 4C.1, 4C.2 4C.4, 5.1, 5.3, 5.4, and 5.5 and their corresponding policies applicable thereto. The revisions are consistent with FEMA requirements and the 2014 Florida Building Code, effective June 30, 2015.

Finding: Consistent.

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

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

Findings: Consistent.

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

Analysis: The revisions are consistent with FEMA requirements and the 2014 Florida Building Code, effective June 30, 2015.

Findings: Consistent.

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

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

Finding: Consistent.

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

Analysis: The proposed Ordinance does not change the list of permitted uses within the Village's zoning districts thus it does not affect the capacity of existing facilities or services as described above. It does affect construction and ensures compliance with federal law (FEMA) and the 2014 Florida Building Code, effective June 30, 2015.

Finding: Consistent.

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

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

Finding: Consistent.

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

Analysis The proposed amendment brings clarity to the Village's procedures as to floodplain management. The changes ensure that insurance can be maintained and is consistent with FEMA and FBC requirements. The revisions would ensure that property values are not affected or adversely affect the general welfare.

Findings: Consistent.

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

Analysis The revisions ensures compliance with federal and state laws and only effects the land development pattern in so far as it seeks to prevent flooding conditions.

Findings: Consistent.

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

Analysis: The proposed amendment brings clarity to the Village's floodplain management Ordinance and brings the Village's Code into consistency with FEMA requirements and the 2014 Florida Building Code, effective June 30, 2015.

Findings: Consistent.

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

Analysis: Discretion of Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:
None at this time.

RECOMMENDATION:
Approval is recommended.

Darby P. Delsalle, AICP
Planning and Zoning Director

ORDINANCE NO. 2016-_____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; AMENDING SECTION 30-100(6), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, THE LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Administration)

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

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

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

WHEREAS, the Village was accepted for participation in the National Flood Insurance Program on February 2, 2005 and the Village Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

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

WHEREAS, the Village Council has reviewed the criteria of 30-30.7(b) and find the amendments to Section 2 of this Ordinance to be in compliance with the applicable standards; and

WHEREAS, the Village Council previously adopted requirements to increase the minimum elevation requirement, to require accumulation of costs of improvements and repairs of buildings based on issued building permits over a 5-year period, and to require buildings that sustain repetitive flood damage over a 10-year period to be included in the definition of "substantial damage" for buildings and structures in flood hazard areas, and, pursuant to Chapter

8 Article III of the Miami-Dade County Code and section 553.7(5), F.S., is formatting those requirements to coordinate with the Florida Building Code; and

WHEREAS, the Village Council is adopting a requirement to require declarations of land restriction (nonconversion agreements) for enclosures below elevated buildings in flood hazard areas, and, pursuant to Chapter 8 Article III of the Miami-Dade County Code and section 553.7(5), F.S., is formatting that requirement to coordinate with the Florida Building Code; and

WHEREAS, the Mayor and Village Council now desires to adopt the ordinance as provided below.

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

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

Section 2. Pursuant to 30-30.7(b) the Village Council finds the ordinance in compliance with the applicable standards; and, therefore, Section 30-100.6 of the Code of Ordinances of the Village of Palmetto Bay is amended to read as follows:

30-100.6 FLOODPLAIN MANAGEMENT REGULATIONS.

(a) **General Provisions.**

(2) *Scope.* The provisions of this section shall apply to all development that is wholly within or partially within any flood hazard area except as otherwise specified in Section w(2) below, and including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

* * *

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

* * *

(i) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this section and the flood resistant construction requirements of the *Florida Building Code,* including flood insurance rate maps; letters of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this section; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this section and the flood resistant construction requirements of the *Florida Building Code.* These records shall be available for public inspection at Village Hall, 9705 East Hibiscus Street, Building Department, Palmetto Bay, Florida 33157.

* * *

(l) **Buildings, structures and facilities exempt from the *Florida Building Code.*** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Section 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this section:

* * *

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

* * *

(6) For projects proposing to enclose areas under elevated buildings, a signed Nonconversion Agreement; the agreement shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

(~~6~~7) Be signed by the applicant or the applicant's authorized agent.

(~~7~~8) Give such other data and information as required by the floodplain administrator.

* * *

(r) **Site Plans and Construction Documents.** ~~All new construction, repairs of substantial damage, and substantial improvements shall provide a freeboard of one (1) foot above base flood elevation. For those lands above base flood elevation, finished floor shall be eight (8) inches above the average height of the crown of the road. In addition, all~~ All site plans and construction documents shall comply with the following:

(1) **Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this section shall be drawn to scale and shall include, as applicable to the proposed development:

* * *

ii. Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 30-100.6(r)(2)(ii) or (iii) of this section.

* * *

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

* * *

iii. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

* * *

(B) Specify that the base flood elevation is ~~one (1) foot~~ two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than ~~one (1) foot~~ two (2) feet. ~~In all cases the finished floor shall not be less than eight (8) inches above the average height of the crown of road.~~

* * *

(3) **Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses -signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

i. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake

development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 30-100.6(r)(4) of this section and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

* * *

iii. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 30-100.6(r)(4) of this section.

* * *

(s) **Inspections**

* * *

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

* * *

ii. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with subsection 30-100.6(r)(2)(iii)(B) of this section, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(5) **Buildings, structures, and facilities exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 30-100.6(~~u~~s)(4) of this section.

* * *

(t) **Variances And Appeals**

* * *

(4) **Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result,

as evidenced by the applicable analyses and certifications required in Section 30-100.6(r)(3) of this ordinance.

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

* * *

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

* * *

iv. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25.00 for $100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

* * *

(v) **Definitions - Generally**

* * *

(4) **Definitions**

* * *

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this section ~~or a request for a variance~~.

* * *

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on flood insurance rate maps (FIRM) as Zone V1—V30, VE, or V. ~~[Note: the FBC,B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas."]~~

* * *

Crown of Road. The elevation of the highest surface of street pavement within the right-of-way abutting the property relative to the National Geodetic Vertical Datum (NGVD) or North America Vertical Datum (NAVD). Depending on site conditions, if there is a variation in the crown elevations abutting the property, the highest and lowest elevations may be averaged to obtain the regulatory crown elevation provided the elevation is above the base flood elevation.

* * *

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

* * *

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~~ 12, Historic Buildings.*

* * *

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

* * *

Nonconversion Agreement. A form provided by the Floodplain Administrator to be signed by the owner and recorded on the property deed in Official Records of the Clerk of Courts, for the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, enclosures below elevated buildings.

* * *

Start of construction. The date of issuance of permits for new construction and substantial improvements ~~to existing structures~~, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of

permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

* * *

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to March 7, 2016. ~~the effective date if this section.~~ If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

* * *

2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure ~~and the alteration is approved by variance issued pursuant to subsection 30-100.6(v) of this section~~.

* * *

(w) **Flood Resistant Development**

(1) **Buildings and structure.**

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

* * *

(4) **Specific methods of construction and requirements.** Pursuant to Chapter 8 Article III of the Miami-Dade County Code, the following specific methods of construction and requirements apply:

i. Additional Elevation of Buildings - Freeboard.

A. For buildings located in the special flood hazard area, the minimum elevation requirements in the *Florida Building Code* shall be to or above the base flood elevation plus one (1) foot, or the back of the sidewalk elevation plus one (1) foot, or if there is no

sidewalk, the elevation of the crown of the road or street abutting such building site plus one (1) foot, whichever is higher.

B. For residential buildings not located in the special flood hazard area, the minimum lowest floor elevation requirements shall be a minimum of eight (8) inches above the back of sidewalk elevation, or if there is no sidewalk, a minimum of eight (8) inches above the elevation of the crown of road or street abutting such building site whichever is higher.

C. For non-residential buildings not located in the special flood hazard area, the minimum lowest floor elevation shall be a minimum of four (4) inches above the back of sidewalk, or if there is no sidewalk, a minimum of (4) inches above the elevation of the crown of road or street abutting such building site, whichever is higher.

ii. *Limitations on Enclosures Under Elevated Buildings.* For buildings, applications for enclosed areas under elevated buildings shall be accompanied by a Nonconversion Agreement. Enclosures shall:

A. Have the minimum necessary access to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the elevated building (stairway or elevator).

B. Not have the interior portion partitioned or finished into separate rooms.

iii. *Cumulative Substantial Improvement.* The definition of "substantial improvement" shall be as follows:

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to March 7, 2016. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

iv. *Include repetitive loss in the definition for Substantial Damage.* The definition of

"substantial damage" shall be as follows:

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

* * *

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

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

ii. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the information required in subsection 30-100.6(r)(2)(i) of this section; and

iii. Compliance with the site improvement and utilities requirements of subsection ~~(w)~~(x) of this section.

(x) **Site Improvements, Utilities And Limitations**

* * *

(4) **Limitations on sites in regulatory floodways.** No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading shall ~~not~~ be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 30-100.6(r)(~~3~~2)(i) of this section demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

* * *

(6) **Limitations on sites in coastal high hazard areas (Zone V).** In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 30-100.6(r)(~~3~~2)iv of this section demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 30-100.6(bb)(8)(iii) of this section.

(y) **Manufactured Homes**

* * *

(3) **Foundations.** All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

i. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this ordinance. Foundations for manufactured homes subject to Section 30-100.6(y)(7) of this ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

* * *

(5) **Elevation.** Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 30-100.6(y)(6)~~(j)(4)(vi)~~ or 30-100.6(y)(7)~~(j)(4)(vii)~~ of this ordinance, as applicable.

(6) **General elevation requirement.** Unless subject to the requirements of Section 30-100.6(y)(7)~~(j)(4)(vii)~~ of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).

(7) **Elevation requirement for certain existing manufactured home parks and subdivisions.** Manufactured homes that are not subject to Section 30-100.6(y)(6)~~(j)(4)(vi)~~ of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

i. Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or

ii. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(~~7~~8) **Enclosures.** Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the flood hazard area.

(~~8~~9) **Utility equipment.** Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

(z) **Recreational Vehicles And Park Trailers**

* * *

(2) **Permanent Placement.** Recreational vehicles and park trailers that do not meet the limitations in Section 30-100.6(z~~t~~)(1) of this section for temporary placement shall meet the requirements of Section 30-100.6(y)(6) or (7) of this section for manufactured homes.

(aa) **Tanks**

* * *

(2) **Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 30-100.6(~~t~~)(aa)(3) of this section shall:

* * *

(bb) **Other Development**

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

* * *

ii. Meet the limitations of Section 30-100.6(~~w~~)(aa)(4) of this ordinance if located in a regulated floodway;

* * *

v. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

* * *

(2) **Fences in regulated floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire

mesh fences, shall meet the limitations of Section 100.6~~(w)~~(aa)(4) of this section.

(3) **Retaining walls, sidewalks and driveways in regulated floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 30-100.6~~(w)~~(aa)(4) of this ordinance.

(4) **Roads and watercourse crossings in regulated floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 100.6~~(w)~~(aa)(4)of this section. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 30-100.6(r)(3)(iii) of this section.

* * *

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

* * *

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

* * *

Section 3. Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code, the Village Council finds the amendment in compliance with the applicable standards; and, therefore, the technical amendments to the Residential provisions of the Florida Building Code are amended to read as follows:

* * *

~~**R322.2.1 Elevation requirements.**~~

~~1. Buildings, structures, and mechanical and electrical systems in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus one (1) foot or the design flood elevation, whichever is higher.~~

~~2. Buildings, structures, and mechanical and electrical systems in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus one (1) foot (305 mm), or to the design flood elevation, whichever is higher.~~

~~3. In areas of shallow flooding (AO Zones), buildings, structures, and mechanical and electrical systems shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus one (1) foot, or at least three (3) feet if a depth number is not specified.~~

~~4. Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus one (1) foot or the design flood elevation, whichever is higher.~~

~~**Exception:** Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.~~

* * *

~~**R322.3.2 Elevation requirements.**~~

~~1. All buildings and structures erected within coastal high hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of mat or raft foundations, piling, pile caps, columns, grade beams and bracing, is:~~

~~1.1 Located at or above the base flood elevation plus one (1) foot or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented parallel to the direction of wave approach, where parallel shall mean less than or equal to 20 degrees (0.35 rad) from the direction of approach, or~~

~~1.2 Located at or above the base flood elevation plus two (2) foot or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented perpendicular to the direction of wave approach, where perpendicular shall mean greater than 20 degrees (0.35 rad) from the direction of approach.~~

~~2. Basement floors that are below grade on all sides are prohibited.~~

~~3. The use of fill for structural support is prohibited.~~

~~4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.~~

~~**Exception:** Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.~~

* * *

Section 4. Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code, the Village Council finds the amendment in compliance with the applicable standards; and, therefore, the technical provisions of the Florida Building Code are amended to read as follows:

Modify of definitions within in Section 1612.2, as follows:

~~**Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~**Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date if this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

~~1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.~~

~~2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.~~

* * *

Modify of definitions in Section 202, as follows:

~~**Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~**Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year~~

~~period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date if this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

~~1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.~~

~~2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.~~

* * *

Section 5. **Fiscal Impact Statement.** In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

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

Section 7. **Inclusion into the Code of Ordinances.** It is the intent of the Village Council that the provisions of this ordinance shall become and be made a part of the Village of Palmetto Bay Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "Section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

Section 8. **Severability.** If any Section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

Section 9. **Effective Date.** This ordinance amending the Village's Land Development Regulations shall take effect immediately.

PASSED and ENACTED this 17th day of October, 2016.

First Reading: _____

Second Reading: _____

Attest: _____ _____

Missy Arocha
Village Clerk

Eugene Flinn
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

_____

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____

Council Member Tim Schaffer _____

Council Member Larissa Siegel Lara _____

Vice-Mayor John DuBois _____

Mayor Eugene Flinn _____