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To: Honorable Mayor and Village Council

Date: October 17<sup>th</sup>, 2016

From: Edward Silva, Village Manager

Re: Floodplain Management Ordinance -  
Revised 1<sup>st</sup> Reading

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**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 7<sup>th</sup> 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 uses.

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

**Finding:** Consistent.

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

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

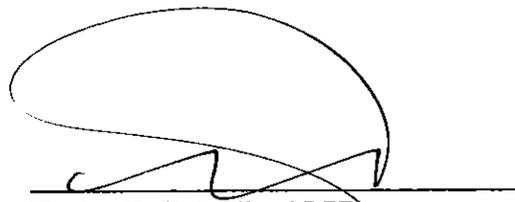
**Finding:** As determined by the Village Council.

**FISCAL/BUDGETARY IMPACT:**

None at this time.

**RECOMMENDATION:**

Approval is recommended.



**Darby P. Delsalle, AICP**  
Planning and Zoning Director

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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

1 8 Article III of the Miami-Dade County Code and section 553.7(5), F.S., is formatting those  
2 requirements to coordinate with the Florida Building Code; and  
3

4 **WHEREAS**, the Village Council is adopting a requirement to require declarations of  
5 land restriction (nonconversion agreements) for enclosures below elevated buildings in flood  
6 hazard areas, and, pursuant to Chapter 8 Article III of the Miami-Dade County Code and section  
7 553.7(5), F.S., is formatting that requirement to coordinate with the Florida Building Code; and  
8

9 **WHEREAS**, the Mayor and Village Council now desires to adopt the ordinance as  
10 provided below.  
11

12 **NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL**  
13 **OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**  
14

15 **Section 1.** The foregoing whereas clauses are incorporated herein by reference and  
16 made a part hereof.  
17

18 **Section 2.** Pursuant to 30-30.7(b) the Village Council finds the ordinance in  
19 compliance with the applicable standards; and, therefore, Section 30-100.6 of the Code of  
20 Ordinances of the Village of Palmetto Bay is amended to read as follows:  
21

22 **30-100.6 FLOODPLAIN MANAGEMENT REGULATIONS.**  
23

24 **(a) General Provisions.**  
25

26 (2) *Scope.* The provisions of this section shall apply to all development that is wholly  
27 within or partially within any flood hazard area except as otherwise specified in  
28 Section w(2) below, and including but not limited to the subdivision of land;  
29 filling, grading, and other site improvements and utility installations; construction,  
30 alteration, remodeling, enlargement, improvement, replacement, repair, relocation  
31 or demolition of buildings, structures, and facilities that are exempt from the  
32 Florida Building Code; placement, installation, or replacement of manufactured  
33 homes and manufactured buildings; installation or replacement of tanks;  
34 placement of recreational vehicles; installation of swimming pools; and any other  
35 development.  
36

37 \* \* \*

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40 (4) *Coordination with the Florida Building Code.* This section is intended to be  
41 administered and enforced in conjunction with the *Florida Building Code*. ~~Where~~  
42 ~~section numbers of the Florida Building Code are cited, the section numbers refer to~~  
43 ~~the 2010 Florida Building Code. If cited section numbers are changed in subsequent~~  
44 ~~editions of the code, then the Section numbers shall refer to comparable sections.~~  
45 Where cited, ASCE 24 refers to the edition of the standard that is referenced by  
46 the *Florida Building Code*.  
47

48 \* \* \*

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

17  
18 \* \* \*

19  
20 (l) **Buildings, structures and facilities exempt from the *Florida Building Code*.**  
21 Pursuant to the requirements of federal regulation for participation in the National Flood  
22 Insurance Program (44 C.F.R. Section 59 and 60), floodplain development permits or approvals  
23 shall be required for the following buildings, structures and facilities that are exempt from the  
24 *Florida Building Code* and any further exemptions provided by law, which are subject to the  
25 requirements of this section:

26  
27 \* \* \*

28  
29 (m) **Application for a permit or approval.** To obtain a floodplain development permit or  
30 approval the applicant shall first file an application in writing on a form furnished by the  
31 community. The information provided shall:

32  
33 \* \* \*

34  
35 (6) For projects proposing to enclose areas under elevated buildings, a signed  
36 Nonconversion Agreement; the agreement shall be recorded on the property deed  
37 prior to issuance of the Certificate of Occupancy.

38 (67) Be signed by the applicant or the applicant's authorized agent.

39 (78) Give such other data and information as required by the floodplain administrator.

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41  
42 \* \* \*

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

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(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

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

5 \* \* \*

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7  
8 iii. For alteration of a watercourse, an engineering analysis prepared in  
9 accordance with standard engineering practices which demonstrates that  
10 the flood-carrying capacity of the altered or relocated portion of the  
11 watercourse will not be decreased, and certification that the altered  
12 watercourse shall be maintained in a manner which preserves the  
13 channel's flood-carrying capacity; the applicant shall submit the analysis to  
14 FEMA as specified in Section 30-100.6(r)(4) of this section.

15 \* \* \*

16  
17 (s) **Inspections**

18 \* \* \*

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

26 \* \* \*

27  
28 ii. If the elevation used to determine the required elevation of the lowest  
29 floor was determined in accordance with subsection 30-100.6(r)(2)(iii)(B)  
30 of this section, the documentation of height of the lowest floor above  
31 highest adjacent grade, prepared by the owner or the owner's authorized  
32 agent.

33  
34 (5) **Buildings, structures, and facilities exempt from the *Florida Building***  
35 ***Code, final inspection.*** As part of the final inspection, the owner or owner's  
36 authorized agent shall submit to the floodplain administrator a final certification  
37 of elevation of the lowest floor or final documentation of the height of the lowest  
38 floor above the highest adjacent grade; such certifications and documentations  
39 shall be prepared as specified in Section 30-100.6(4) of this section.

40 \* \* \*

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42  
43 (t) **VariANCES And Appeals**

44 \* \* \*

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

1 as evidenced by the applicable analyses and certifications required in Section 30-  
2 100.6(r)(3) of this ordinance.

- 3  
4 (5) **Historic buildings.** A variance is authorized to be issued for the repair,  
5 improvement, or rehabilitation of a historic building that is determined eligible for  
6 the exception to the flood resistant construction requirements of the *Florida*  
7 *Building Code, Existing Building, Chapter 44—12 Historic Buildings*, upon a  
8 determination that the proposed repair, improvement, or rehabilitation will not  
9 preclude the building's continued designation as a historic building and the  
10 variance is the minimum necessary to preserve the historic character and design  
11 of the building. If the proposed work precludes the building's continued  
12 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  
14 requirements of the *Florida Building Code*.

15 \* \* \*

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

19 \* \* \*

- 20  
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22 iv. If the request is for a variance to allow construction of the lowest floor of  
23 a new building, or substantial improvement of a building, below the  
24 required elevation a copy in the record of a written notice from the  
25 floodplain administrator to the applicant for the variance, specifying the  
26 difference between the base flood elevation and the proposed elevation of  
27 the lowest floor, stating that the cost of federal flood insurance will be  
28 commensurate with the increased risk resulting from the reduced floor  
29 elevation (up to amounts as high as \$25.00 for \$100.00 of insurance  
30 coverage), and stating that construction below the base flood elevation  
31 increases risks to life and property.

32 \* \* \*

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35 (v) **Definitions - Generally**

36 \* \* \*

- 37  
38  
39 (4) **Definitions**

40 \* \* \*

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

45 \* \* \*

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

8  
9 \* \* \*

10  
11 **Crown of Road.** The elevation of the highest surface of street pavement within the right-of-way  
12 abutting the property relative to the National Geodetic Vertical Datum (NGVD) or North  
13 America Vertical Datum (NAVD). Depending on site conditions, if there is a variation in the  
14 crown elevations abutting the property, the highest and lowest elevations may be averaged to  
15 obtain the regulatory crown elevation provided the elevation is above the base flood elevation.

16  
17 \* \* \*

18  
19 **Expansion to an existing manufactured home park or subdivision.** The preparation of  
20 additional sites by the construction of facilities for servicing the lots on which the manufactured  
21 homes are to be affixed (including the installation of utilities, the construction of streets, and  
22 either final site grading ~~of or~~ the pouring of concrete pads).

23  
24 \* \* \*

25 **Historic structure.** Any structure that is determined eligible for the exception to the flood  
26 hazard area requirements of the *Florida Building Code, Existing Building, Chapter 44 12, Historic*  
27 *Buildings.*

28  
29 \* \* \*

30  
31 **Lowest floor.** The lowest floor of the lowest enclosed area of a building or structure, including  
32 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement,  
33 usable solely for vehicle parking, building access or limited storage provided that such enclosure  
34 is not built so as to render the structure in violation of the non-elevation requirements of the  
35 *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

36  
37 \* \* \*

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

42  
43 \* \* \*

44  
45 **Start of construction.** The date of issuance of permits for new construction and substantial  
46 improvements ~~to existing structures~~, provided the actual start of construction, repair,  
47 reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of  
48 the date of the issuance. The actual start of construction means either the first placement of

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

3  
4 \* \* \*

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

15  
16 \* \* \*

17  
18 2. Any alteration of a historic structure provided the alteration will not preclude the  
19 structure's continued designation as a historic structure ~~and the alteration is~~  
20 ~~approved by variance issued pursuant to subsection 30-100.6(v) of this section.~~

21  
22 \* \* \*

23  
24 (w) **Flood Resistant Development**

25  
26 (1) **Buildings and structure.**

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

36 \* \* \*

37  
38 (4) **Specific methods of construction and requirements.** Pursuant to Chapter 8  
39 Article III of the Miami-Dade County Code, the following specific methods of  
40 construction and requirements apply:

41  
42 i. *Additional Elevation of Buildings - Freeboard.*

43  
44 A. For buildings located in the special flood hazard area, the  
45 minimum elevation requirements in the *Florida Building Code* shall  
46 be to or above the base flood elevation plus one (1) foot, or the  
47 back of the sidewalk elevation plus one (1) foot, or if there is no

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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



1  
2 (y) **Manufactured Homes**  
3

4 \* \* \*

5  
6 (3) **Foundations.** All new manufactured homes and replacement manufactured  
7 homes installed in flood hazard areas shall be installed on permanent, reinforced  
8 foundations that:

- 9 i. In flood hazard areas (Zone A) other than coastal high hazard areas, are  
10 designed in accordance with the foundation requirements of the Florida  
11 Building Code, Residential Section R322.2 and this ordinance.  
12 Foundations for manufactured homes subject to Section 30-100.6(y)(7) of  
13 this ordinance are permitted to be reinforced piers or other foundation  
14 elements of at least equivalent strength.  
15

16 \* \* \*

17  
18 (5) **Elevation.** Manufactured homes that are placed, replaced, or substantially  
19 improved shall comply with Section 30-100.6(y)(6)(f)(4)(vi) or 30-  
20 100.6(y)(7)(f)(4)(vii) of this ordinance, as applicable.  
21

22 (6) **General elevation requirement.** Unless subject to the requirements of Section  
23 30-100.6(y)(7)(f)(4)(vii) of this ordinance, all manufactured homes that are placed,  
24 replaced, or substantially improved on sites located: (a) outside of a manufactured  
25 home park or subdivision; (b) in a new manufactured home park or subdivision;  
26 (c) in an expansion to an existing manufactured home park or subdivision; or (d)  
27 in an existing manufactured home park or subdivision upon which a  
28 manufactured home has incurred "substantial damage" as the result of a flood,  
29 shall be elevated such that the bottom of the frame is at or above the elevation  
30 required, as applicable to the flood hazard area, in the Florida Building Code,  
31 Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).  
32

33 (7) **Elevation requirement for certain existing manufactured home parks and**  
34 **subdivisions.** Manufactured homes that are not subject to Section 30-  
35 100.6(y)(6)(f)(4)(vi) of this ordinance, including manufactured homes that are  
36 placed, replaced, or substantially improved on sites located in an existing  
37 manufactured home park or subdivision, unless on a site where substantial  
38 damage as result of flooding has occurred, shall be elevated such that either the:

- 39 i. Bottom of the frame of the manufactured home is at or above the  
40 elevation required, as applicable to the flood hazard area, in the Florida  
41 Building Code, Residential Section R322.2 (Zone A) or Section R322.3  
42 (Zone V); or  
43 ii. Bottom of the frame is supported by reinforced piers or other foundation  
44 elements of at least equivalent strength that are not less than 36 inches in  
45 height above grade.  
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(78) **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.

(89) **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#)(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(~~z~~)(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

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

2  
3 (3) **Retaining walls, sidewalks and driveways in regulated floodways.** Retaining  
4 walls and sidewalks and driveways that involve the placement of fill in regulated  
5 floodways shall meet the limitations of Section 30-100.6~~(w)~~(aa)(4) of this  
6 ordinance.

7  
8 (4) **Roads and watercourse crossings in regulated floodways.** Roads and  
9 watercourse crossings, including roads, bridges, culverts, low-water crossings and  
10 similar means for vehicles or pedestrians to travel from one side of a watercourse  
11 to the other side, that encroach into regulated floodways shall meet the limitations  
12 of Section 100.6~~(w)~~(aa)(4) of this section. Alteration of a watercourse that is part  
13 of a road or watercourse crossing shall meet the requirements of Section 30-  
14 100.6(r)(3)(iii) of this section.

15 \* \* \*

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

22 \* \* \*

23  
24  
25 ii. A deck or patio that is located below the design flood elevation shall be  
26 structurally independent from buildings and structures and their  
27 foundation systems, and shall be designed and constructed either to  
28 remain intact and in place during design flood conditions or to break apart  
29 into small pieces to minimize debris during flooding that is capable of  
30 causing structural damage to the building or structure or to adjacent  
31 buildings and structures.

32 \* \* \*

33  
34  
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36  
37 **Section 3.** Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code,  
38 the Village Council finds the amendment in compliance with the applicable standards; and,  
39 therefore, the technical amendments to the Residential provisions of the Florida Building Code  
40 are amended to read as follows:

41 \* \* \*

42  
43  
44 **~~R322.2.1 Elevation requirements:~~**

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

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

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

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

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

16 \* \* \*

17  
18  
19 **R322.3.2 Elevation requirements.**

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

24 ~~1.1 Located at or above the base flood elevation plus one (1) foot or~~  
25 ~~the design flood elevation, whichever is higher, if the lowest~~  
26 ~~horizontal structural member is oriented parallel to the direction~~  
27 ~~of wave approach, where parallel shall mean less than or equal to~~  
28 ~~20 degrees (0.35 rad) from the direction of approach, or~~

29 ~~1.2 Located at or above the base flood elevation plus two (2) foot or~~  
30 ~~the design flood elevation, whichever is higher, if the lowest~~  
31 ~~horizontal structural member is oriented perpendicular to the~~  
32 ~~direction of wave approach, where perpendicular shall mean~~  
33 ~~greater than 20 degrees (0.35 rad) from the direction of approach.~~

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

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

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

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

42 \* \* \*

43  
44  
45 **Section 4.** Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code, the  
46 Village Council finds the amendment in compliance with the applicable standards; and, therefore,  
47 the technical provisions of the Florida Building Code are amended to read as follows:  
48

1 Modify of definitions within in Section 1612.2, as follows:  
2

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

10  
11  
12 ~~**Substantial improvement.** Any combination of repair, reconstruction,  
13 rehabilitation, addition, or other improvement of a building or structure taking  
14 place during a five (5) year period, the cumulative cost of which equals or exceeds  
15 50 percent of the market value of the building or structure before the  
16 improvement or repair is started. For each building or structure, the five (5) year  
17 period begins on the date of the first improvement or repair of that building or  
18 structure subsequent to the effective date of this ordinance. If the structure has  
19 sustained substantial damage, any repairs are considered substantial improvement  
20 regardless of the actual repair work performed. The term does not, however,  
21 include either:~~

- 22 1. ~~Any project for improvement of a building required to correct  
23 existing health, sanitary, or safety code violations identified by the  
24 building official and that are the minimum necessary to assure safe  
25 living conditions.~~  
26 2. ~~Any alteration of a historic structure provided the alteration will  
27 not preclude the structure's continued designation as a historic  
28 structure.~~

29  
30 \* \* \*

31  
32 Modify of definitions in Section 202, as follows:  
33

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

41  
42  
43 ~~**Substantial improvement.** Any combination of repair, reconstruction,  
44 rehabilitation, addition, or other improvement of a building or structure taking  
45 place during a five (5) year period, the cumulative cost of which equals or exceeds  
46 50 percent of the market value of the building or structure before the  
47 improvement or repair is started. For each building or structure, the five (5) year~~

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

- 6 1. ~~Any project for improvement of a building required to correct~~  
7 ~~existing health, sanitary, or safety code violations identified by the~~  
8 ~~building official and that are the minimum necessary to assure safe~~  
9 ~~living conditions.~~
- 10 2. ~~Any alteration of a historic structure provided the alteration will~~  
11 ~~not preclude the structure's continued designation as a historic~~  
12 ~~structure.~~

13 \* \* \*

14  
15  
16 **Section 5. Fiscal Impact Statement.** In terms of design, plan application review,  
17 construction and inspection of buildings and structures, the cost impact as an overall average is  
18 negligible in regard to the local amendments because all development has been subject to the  
19 requirements of the local floodplain management ordinance adopted for participation in the  
20 National Flood Insurance Program. In terms of lower potential for flood damage, there will be  
21 continued savings and benefits to consumers.

22  
23 **Section 6. Applicability.** For the purposes of jurisdictional applicability, this ordinance  
24 shall apply in the Village of Palmetto Bay. This ordinance shall apply to all applications for  
25 development, including building permit applications and subdivision proposals, submitted on or  
26 after adoption of this ordinance.

27  
28  
29 **Section 7. Inclusion into the Code of Ordinances.** It is the intent of the Village Council  
30 that the provisions of this ordinance shall become and be made a part of the Village of Palmetto  
31 Bay Code of Ordinances, and that the sections of this ordinance may be renumbered or re-  
32 lettered and the word "ordinance" may be changed to "Section," "article," "regulation," or such  
33 other appropriate word or phrase in order to accomplish such intentions.

34  
35 **Section 8. Severability.** If any Section, subsection, sentence, clause or phrase of this ordinance  
36 is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not  
37 affect the validity of the ordinance as a whole, or any part thereof, other than the part so  
38 declared.

39  
40 **Section 9. Effective Date.** This ordinance amending the Village's Land Development  
41 Regulations shall take effect immediately.

42  
43  
44 **PASSED and ENACTED** this 17<sup>th</sup> day of October, 2016.  
45  
46  
47  
48

1 First Reading: \_\_\_\_\_

2  
3 Second Reading: \_\_\_\_\_

4  
5  
6  
7 Attest: \_\_\_\_\_  
8 Missy Arocha Eugene Flinn  
9 Village Clerk Mayor

10  
11  
12 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
13 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

14  
15  
16  
17 \_\_\_\_\_  
18 Dexter W. Lehtinen  
19 Village Attorney

20  
21  
22  
23 FINAL VOTE AT ADOPTION:

24 Council Member Karyn Cunningham \_\_\_\_\_  
25  
26 Council Member Tim Schaffer \_\_\_\_\_  
27  
28 Council Member Larissa Siegel Lara \_\_\_\_\_  
29  
30 Vice-Mayor John DuBois \_\_\_\_\_  
31  
32 Mayor Eugene Flinn \_\_\_\_\_  
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