

ORDINANCE NO. 2019- 11097

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, REPEALING AND REPLACING CHAPTER 42 “FLOODS” RELATING TO THE TOWN’S FLOODPLAIN MANAGEMENT REGULATIONS, INCLUDING ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS; TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOOD PLAIN ADMINISTRATOR; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Town of Surfside (“Town”) and such areas may be 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 Town was accepted for participation in the National Flood Insurance Program and the Town Commission 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, the *Florida Building Code*; and

WHEREAS, the Town Commission previously adopted requirements to (1) increase the minimum elevation requirement for single-family residences; (2) require accumulation of costs of improvements and repairs of buildings, based on issued building permits, over a five-year period; and (3) limit partitioning of enclosed areas below elevated buildings and to limit access to enclosed areas prior to July 1, 2010; and

WHEREAS, for the purpose of joining and participating in the National Flood Insurance Program's Community Rating System and in an effort to conform to Chapter 8, Article III of the Miami-Dade County Code and Section 553.73(5), Florida Statutes, the Town Commission is, among other things, adopting the requirements contained herein and coordinating these requirements with the *Florida Building Code*; and

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

WHEREAS, the Planning & Zoning Board, sitting as the Town's Local Planning Agency, has reviewed the proposed Ordinance and has recommended its approval; and

WHEREAS, pursuant to law, notice has been given by publication in a paper of general circulation in the Town, notifying the public of the proposed ordinance and of the public hearings; and

WHEREAS, two public hearings before the Town Commission were held pursuant to the published notice described above; and

WHEREAS, the Town Commission finds that adoption of this Ordinance is in the best interest and welfare of the Town, its residents and property owners.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS¹:

Section 1. **Recitals.** That the above recitals are true and correct and incorporated herein by this reference.

Section 2. **Repeal and Replacement of Chapter 42.** That Chapter 42 of the Code of Surfside, Florida, titled "Floods" is hereby repealed in its entirety as set forth in Exhibit "A" attached hereto and incorporated herein, and replaced with Chapter 42 - "Floods", as set forth in Exhibit "B" attached hereto and incorporated herein.

Section 3. **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 technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted double-strikethrough** and **double underline**.

the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

Section 4. Codification. That it is the intent of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered 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 5. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. That this Ordinance shall be effective at adoption on second reading.

PASSED on first reading this 11th day of June, 2019.


PASSED AND ADOPTED on second reading this 9th day of July, 2019.

On Final Reading Moved By: Commissioner Karukin

On Final Reading Second By: Vice Mayor Gielchinsky


FINAL VOTE ON ADOPTION

Commissioner Barry Cohen	<u>yes</u>
Commissioner Michael Karukin	<u>yes</u>
Commissioner Tina Paul	<u>yes</u>
Vice Mayor Daniel Gielchinsky	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>



Daniel Dietch
Mayor

ATTEST:



Sandra Novoa, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Weiss Serota Hellman Cole & Bierman, P.L.
Town Attorney

EXHIBIT A

Repeal of Chapter 42 - Floods

~~Chapter 42—FLOODS⁺⁺~~

~~Footnotes:~~

~~—(1)—~~

~~Cross reference— Bulkhead lines, § 14-76 et seq.; environment, ch. 34; zoning, ch. 90.~~

~~ARTICLE I.— IN GENERAL~~

~~Secs. 42-1—42-25.— Reserved.~~

~~ARTICLE II.— FLOOD DAMAGE PREVENTION⁺⁺~~

~~Footnotes:~~

~~—(2)—~~

~~Editor's note— Ord. No. 1498, § 1, adopted September 9, 2008, amended article II in its entirety to read as herein set out. Former article II, §§ 42-26—42-36, 42-46—42-50, 42-61, 42-62, pertained to similar subject matter, and derived from Ord. No. 1300, arts. 1—5, 10-13-92; Ord. No. 1308, § 1, 1-12-93.~~

~~Cross reference— Buildings and building regulations, ch. 14.~~

~~DIVISION 1.— STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES~~

~~Sec. 42-26.— Statutory authorization.~~

~~The Legislature of the State of Florida has authorized and delegated in Chapter 166 Florida Statutes, the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Commission of Town of Surfside does hereby adopt the following floodplain management regulations.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1582, § 2, 10-11-11)~~

~~Sec. 42-27.— Findings of fact.~~

~~(1) The flood hazard areas of the Town of Surfside are subject to periodic inundation, which results 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.~~

~~(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses~~

~~vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-28. Statement of purpose.~~

~~It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:~~

- ~~(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;~~
- ~~(2) Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;~~
- ~~(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;~~
- ~~(4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and~~
- ~~(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-29. Objectives.~~

~~The objectives of this article are to:~~

- ~~(1) Protect human life, health and to eliminate or minimize property damage;~~
- ~~(2) Minimize expenditure of public money for costly flood control projects;~~
- ~~(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;~~
- ~~(4) Minimize prolonged business interruptions;~~
- ~~(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;~~
- ~~(6) Maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas; and~~
- ~~(7) Ensure that potential homebuyers are notified that property is in a flood hazard area.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Secs. 42-30—42-40. Reserved.~~

~~DIVISION 2. DEFINITIONS~~

~~Sec. 42-41. Definitions.~~

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

~~*Accessory structure (Appurtenant structure)* means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.~~

~~*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this Ordinance or a request for a variance.~~

~~*Area of shallow flooding* means a designated AO or AH zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~*Area of special flood hazard* is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."~~

~~*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood"). Base flood is the term used throughout this article.~~

~~*Base flood elevation* means the water surface elevation associated with the base flood.~~

~~*Basement* means that portion of a building having its floor subgrade (below ground level) on all sides.~~

~~*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.~~

~~*Building.* See "structure."~~

~~*Coastal high hazard area* means an area of special flood hazard 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. The area is designated on the FIRM as zone V1—V30, VE, or V.~~

~~*Datum* means a reference surface used to ensure that all elevation records are properly related. Many communities have their own datum that was developed before there was a national standard. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.~~

~~*Development* means any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.~~

~~*Elevated building* means a nonbasement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.~~

~~*Encroachment* means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.~~

~~*Existing construction* means, for the purposes of floodplain management, structures for which "the start of construction" commenced before September 20, 1972, the date of the initial floodplain management regulations. This term may also be referred to as "existing structures."~~

~~*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be~~

affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 20, 1972.

Flood or flooding means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood insurance rate map (FIRM) means an official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

Floodplain administrator is the individual appointed to administer and enforce the floodplain management regulations of the community.

Floodplain management regulations means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. This term describes federal, State of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway fringe means that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Free of obstruction means any type of lower area enclosure or other construction element that will obstruct the flow of velocity water and wave action beneath the lowest horizontal structural member of the

lowest floor of an elevated building during a base flood event is not allowed. This requirement applies to the structures in velocity zones (V-zones).

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockages in bridge and culvert openings and hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

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

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

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By the approved Florida program as determined by the Secretary of the Interior; or
 2. Directly by the Secretary of the Interior.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the nonelevation design standards of this article.

Mangrove stand means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above ground and which contain one or more of the following species: Black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Conocarpus Erecta*).

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

~~Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.~~

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

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

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

~~New construction means, for floodplain management purposes, any structure for which the "start of construction" commenced on or after September 29, 1972, the effective date of the initial floodplain management regulations based upon specific technical base flood elevation data that establishes the area of special flood hazard. The term also includes any subsequent improvements to such structures.~~

~~New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 29, 1972.~~

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

~~Program deficiency means a defect in the community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.~~

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

~~Recreational vehicle means a vehicle that is:~~

- ~~(a) Built on a single chassis;~~
- ~~(b) Four hundred square feet or less when measured at the largest horizontal projection;~~
- ~~(c) Designed to be self-propelled or permanently towable by a light duty truck; and~~
- ~~(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.~~

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

~~Remedy a deficiency or violation means to bring the regulation, procedure, structure or other development into compliance with State of Florida, federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.~~

~~Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. Sand dune means naturally occurring accumulations of sand in ridges or mounds landward of the~~

beach. Shallow flooding means the same as area of shallow flooding. Special flood hazard area means the same as area of special flood hazard.

~~*Start of construction.* For other than new construction or substantial improvements under the Coastal Barrier Resources Act P.L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~*Storm collar* means a place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.~~

~~*Structure* means for floodplain management purposes a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.~~

~~*Substantial damage* means 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.~~

~~*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure taking place during a five year consecutive period, in which the cumulative costs of such improvements equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. All substantially improved residential structures shall have the lowest floor elevated to or above the base flood elevation, and all horizontal expansions shall likewise have the lowest floor of the expansion elevated to or above the base flood elevation. This term does not, however, include any repair or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.~~

~~*Variance* is a grant of relief from the requirements of this article.~~

~~*Violation* means the failure of a structure or other development to be fully compliant with the requirements of this article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.~~

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

~~*Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1512, § 2, 1-13-09; Ord. No. 1582, § 2, 10-11-11; Ord. No. 1592, § 2, 10-9-12; Ord. No. 1596, § 2, 12-11-12)~~

~~Secs. 42-42—42-55. Reserved.~~

~~DIVISION 3. GENERAL PROVISIONS~~

~~Sec. 42-56. Lands to which this article applies.~~

~~This article shall apply to all areas of special flood hazard within the jurisdiction of the Town of Surfside of Miami-Dade County.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-57. Basis for establishing the areas of special flood hazard.~~

~~The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for Miami-Dade County, dated September 11, 2000, with the accompanying maps and other supporting data and any revisions thereto, are adopted by reference and declared to be a part of this chapter. The flood insurance study and flood insurance rate maps are on file at 9293 Harding Avenue, Town of Surfside, FL 33154.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1531, § 2, 8-11-09; Ord. No. 1582, § 2, 10-11-11; Ord. No. 1582, § 2, 10-11-11)~~

~~Sec. 42-58. Designation of floodplain administrator.~~

~~The Town of Surfside of Miami-Dade County hereby appoints the town administrator to administer and implement the provisions of this article and is herein referred to as the floodplain administrator.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-59. Establishment of development permit.~~

~~A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-60. Compliance.~~

~~No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-61. Abrogation and greater restrictions.~~

~~This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-62. Interpretation.~~

In the interpretation and application of this Ordinance all provisions shall be:

- ~~(1) Considered as minimum requirements;~~
- ~~(2) Liberally construed in favor of the governing body; and~~
- ~~(3) Deemed neither to limit nor repeal any other powers granted under State of Florida statutes.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-63. Warning and disclaimer of liability.~~

~~The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of Town of Surfside of Miami Dade County or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-64. Penalties for violation.~~

~~Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable for a noncriminal violation. Any person who violates this article or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than the maximum allowable fines established by Florida Statute, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the floodplain administrator from taking such other lawful actions as is necessary to prevent or remedy any violation.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1621, § 2, 6-10-14)~~

~~Secs. 42-65 – 42-75. Reserved. DIVISION 4. ADMINISTRATION~~

~~Sec. 42-76. Permit procedures.~~

~~Application for a development permit shall be made to the floodplain administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:~~

~~(1) Application stage:~~

- ~~a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;~~
- ~~b. Elevation in relation to mean sea level to which any nonresidential building will be floodproofed;~~
- ~~c. Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the flood proofing criteria in subsection (2) and division 5, subsection 42-92(2) of the Surfside Code of Ordinances;~~
- ~~d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and~~

- e. ~~Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in coastal high hazard areas.~~
- (2) ~~Construction stage: Upon placement of the lowest floor, or floodproofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood proofed elevation, or bottom of the lowest horizontal structural member of the lowest floor as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. The floodplain administrator shall review the lowest floor and floodproofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop work order for the project.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1592, § 2, 10-9-12; Ord. No. 1596, § 2, 12-11-12)~~

~~Sec. 42-77. Duties and responsibilities of the floodplain administrator.~~

~~Duties of the administrator shall include, but are not be limited to:~~

- ~~(1) Review permits to assure sites are reasonably safe from flooding;~~
- ~~(2) Review all development permits to assure that the permit requirements of this article have been satisfied;~~
- ~~(3) Require copies of additional Federal, State of Florida, or other permits, especially as it relates to F.S. §§ 161.053, 320.8240, 320.8350, 373.036, 380.05, 381.0065, and ch. 553, pt. IV, Florida Statutes be provided and maintained on file with the development permit.~~
- ~~(4) Notify adjacent communities, the Florida Division of Emergency Management State Floodplain Management Office, the South Florida Water Management District, the Federal Emergency Management Agency and other federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;~~
- ~~(5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;~~
- ~~(6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-zones) or bottom of the lowest horizontal structural member of the lowest floor (V-zones) of all new construction and substantial improvements, in accordance with division 5, subsection 42-92(1) and (2) and subsection 42-95(2), respectively;~~
- ~~(7) Verify and record the actual elevation (in relation to mean sea level) to which the new construction and substantial improvements of nonresidential buildings have been floodproofed, in accordance with division 5, subsection 42-92(2);~~
- ~~(8) Review certified plans and specifications for compliance. When floodproofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with division 5, subsection 42-92(2) of this article. In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the~~

~~building is designed and securely anchored to pilings or columns in order to withstand velocity waters and hurricane wave wash. Additionally in coastal high hazard areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of division 5, subsection 42-95(6) of this article;~~

- ~~(9) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;~~
- ~~(10) When base flood elevation data or floodway data have not been provided in accordance with division 3, section 42-57, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, State of Florida, or any other source, in order to administer the provisions of division 5;~~
- ~~(11) Coordinate all change requests to the FIS, FIRM and FBFM with the requestor, State of Florida, and FEMA; and~~
- ~~(12) Where base flood elevation is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with division 5, subsections 42-92(1) and (2), respectively.~~
- ~~(13) Notify FEMA within six months when new technical or scientific data becomes available to the community concerning physical changes affecting flooding conditions so that risk premium rates and floodplain management requirements will be based on current data.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1582, § 2, 10-11-11; Ord. No. 1592, § 2, 10-9-12; Ord No. 1596, § 2, 12-11-12)~~

~~Secs. 42-78—42-90. Reserved.~~

~~DIVISION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION~~

~~Sec. 42-91. General standards.~~

~~In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:~~

- ~~(1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;~~
- ~~(2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;~~
- ~~(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable technical bulletin or bulletins for guidance;~~
- ~~(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable technical bulletin or bulletins for guidance;~~

- ~~(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;~~
- ~~(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;~~
- ~~(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters;~~
- ~~(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;~~
- ~~(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance shall meet the requirements of "new construction" as contained in this article;~~
- ~~(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said nonconformity is not furthered, extended, or replaced;~~
- ~~(11) All applicable additional federal, State of Florida, and local permits shall be obtained and submitted to the floodplain administrator. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to the following:

 - ~~a. South Florida Water Management District(s): in accordance with F.S. ch. 373.036, Section (2)(a) - Flood Protection and Floodplain Management.~~
 - ~~b. Department of community affairs: In accordance with F.S. § 380.05 - Areas of Critical State Concern, and F.S. ch. 553, pt. IV, Florida Building Code.~~
 - ~~(c) Department of health: In accordance with F.S. § 381.0065 - Onsite Sewage Treatment and Disposal Systems.~~
 - ~~(d) Department of environmental protection, coastal construction control line: In accordance with F.S. § 161.053 - Coastal Construction and Excavation.~~~~
- ~~(12) Standards for subdivision proposals and other proposed development (including manufactured homes parks or subdivisions):

 - ~~a. All such proposals shall be consistent with the need to minimize flood damage;~~
 - ~~b. All such proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;~~
 - ~~c. All such proposals shall have adequate drainage provided to reduce exposure to flood hazards.~~~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1592, § 2, 10-9-12; Ord. No. 1596, § 2, 12-11-12)~~

~~Sec. 42-92. Specific standards.~~

~~In all A-zones where base flood elevation data have been provided (zones AE, A1-30, and AH), as set forth in division 3, section 42-57, the following provisions shall apply in addition to those specified in section 42-91:~~

- ~~(1) Residential construction.

 - ~~a. Single family residential construction. All new construction and substantial improvement of a single family structure (including manufactured home) shall have the lowest floor, including basement, elevated to at least two feet above the base flood elevation.~~
 - ~~b. All other residential construction. All new construction and substantial improvements of any residential building other than single family residential or manufactured home shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of division 5, subsection 42-92(3).~~~~

- (2) ~~Nonresidential construction.~~ All new construction and substantial improvements of any commercial, industrial, or nonresidential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.
- (3) ~~Elevated buildings.~~ New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- a. ~~Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:~~
- (i) ~~Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;~~
 - (ii) ~~The bottom of all openings shall be no higher than one foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and~~
 - (iii) ~~Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.~~
- b. ~~Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary 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 living area (stairway or elevator); and~~
- c. ~~The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.~~
- (4) ~~Standards for manufactured homes and recreational vehicles.~~
- a. ~~All manufactured homes that are placed, or substantially improved within zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~
- (5) ~~Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.~~
- (6) ~~For all structures located seaward of the Coastal Construction Control Line (CCCL), the lowest floor of all new construction and substantial improvements shall be elevated to the regulatory flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with section 42-91, whichever is higher. All non-elevation design requirements of section 42-95 shall apply.~~

(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1553, § 2, 6-8-10; Ord. No. 1582, § 2, 10-11-11; Ord. No. 1592, § 2, 10-9-12; Ord. No. 1596, § 2, 12-11-12; [Ord. No. 18-1674](#), § 2, 2-13-18)

Secs. 42-93, 42-94. — Reserved.

~~Sec. 42-95. Coastal high hazard areas (V-zones).~~

~~Located within areas of special flood hazard established in division 3, section 42-57 are coastal high hazard areas, designated as zones V1-30, VE, or V (with BFE). The following provisions shall apply for all development activities:~~

- ~~(1) Meet the requirements of division 4, section 42-76, and division 5, sections 42-91, and 42-92.~~
- ~~(2) All new construction and substantial improvements in zones V1-V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:
 - ~~a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than one foot above the base flood elevation whether or not the structure contains a basement; and~~
 - ~~b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable State of Florida or local, if more stringent than those of the State of Florida, building standards.~~~~
- ~~(3) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.~~
- ~~(4) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new construction and substantial improvements. The floodplain administrator shall maintain a record of all such information.~~
- ~~(5) All new construction and substantial improvements shall be located landward of the reach of mean high tide.~~
- ~~(6) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - ~~a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and~~
 - ~~b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable Florida or local, if more stringent than those of the State of Florida, building standards.~~
 - ~~c. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be finished, partitioned into multiple rooms, or temperature controlled.~~~~
- ~~(7) Prohibit the use of fill for structural support. No development permit shall be issued for development involving fill in coastal high hazard areas unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on-site or adjacent structures. Placement of fill that would result in an increase in the base flood elevation or cause adverse impacts by wave ramping and deflection may be~~

~~permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.~~

~~(8) Prohibit manmade alteration of sand dunes and mangrove stands that would increase potential flood damage.~~

~~(9) Standards for manufactured homes.~~

~~a. Prohibit the placement of manufactured homes.~~

~~(10) Standard for recreational vehicles.~~

~~a. Prohibit the placement of recreational vehicles.~~

~~(11) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or to no lower than one foot above the base flood elevation, whichever is the higher. All non-elevation design requirements Division 5, section 42-95 shall apply.~~

~~(12) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1582, § 2, 10-11-11; Ord. No. 1592, § 2, 10-9-12; Ord. No. 1596, § 2, 12-11-12)~~

~~Secs. 42-96—42-110. Reserved.~~

~~DIVISION 6. VARIANCE PROCEDURES~~

~~Sec. 42-111. Designation of variance and appeals board.~~

~~The variance and appeals board as established by the Town of Surfside of Miami-Dade County shall hear and decide appeals and requests for variances from the requirements of this article.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-112. Duties of variance and appeals board.~~

~~The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the floodplain management administrator in the enforcement or administration of this article. Any person aggrieved by the decision of the board may appeal such decision to the circuit court.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1582, § 2, 10-11-11)~~

~~Sec. 42-113. Variance procedures.~~

~~In acting upon such applications, the variance and appeals board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article;~~

~~(1) The danger that materials may be swept onto other lands to the injury of others;~~

- ~~(2) The danger of life and property due to flooding or erosion damage;~~
- ~~(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~(4) The importance of the services provided by the proposed facility to the community;~~
- ~~(5) The necessity to the facility of a waterfront location, where applicable;~~
- ~~(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~(7) The compatibility of the proposed use with existing and anticipated development;~~
- ~~(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
- ~~(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~(10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and~~
- ~~(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~

~~(Ord. No. 1498, § 1, 9-9-08)~~

~~Sec. 42-114. Conditions for variances.~~

- ~~(1) Variances shall only be issued when there is:
 - ~~a. A showing of good and sufficient cause;~~
 - ~~b. A determination that failure to grant the variance would result in exceptional hardship; and~~
 - ~~c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~~~
- ~~(2) Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this article.~~
- ~~(3) Variances shall not be granted after the fact.~~
- ~~(4) The floodplain administrator shall maintain the records of all variance actions, including justification for their issuance or denial, and report such variances upon request to FEMA and the Florida Division of Emergency Management State Floodplain Management Office.~~

~~(Ord. No. 1498, § 1, 9-9-08; Ord. No. 1582, § 2, 10-11-11)~~

~~Sec. 42-115. Variance notification.~~

~~Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:~~

- ~~(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and~~
- ~~(2) Such construction below the base flood level increases risks to life and property.~~

A copy of the notice shall be recorded by the floodplain administrator in the office of the clerk of court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(Ord. No. 1498, § 1, 9-9-08)

~~Sec. 42-116. Historic structures.~~

~~Variances may be issued for the repair or rehabilitation of "historic" structures meeting the definition in this article upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic" structure.~~

(Ord. No. 1498, § 1, 9-9-08)

~~Sec. 42-117. Structures in regulatory floodway.~~

~~Variances shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.~~

(Ord. No. 1498, § 1, 9-9-08)

EXHIBIT B

Replace and Adopt Chapter 42 - Floods

Chapter 42 - Floods

SECTION 42-1 GENERAL.

(a) Title. These regulations shall be known as the *Floodplain Management Ordinance* of the Town of Surfside ("Town"), hereinafter referred to as "this Ordinance."

(b) Scope. The provisions of this Ordinance shall apply to all development that is wholly within or partially within any flood hazard area, 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.

(c) Intent. The purposes of this Ordinance and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44 Code of Federal Regulations, Section 59.22.

(d) Coordination with the Florida Building Code. This Ordinance is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

(e) Warning. The degree of flood protection required by this Ordinance and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this Ordinance.

(f) Disclaimer of Liability. This Ordinance shall not create liability on the part of the Town Commission of the Town of Surfside or by any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION 42-2 APPLICABILITY.

(a) General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(b) Areas to which this Ordinance applies. This Ordinance shall apply to all flood hazard areas within the Town of Surfside, as established in Section 42-2(c) of this Ordinance.

(c) Basis for establishing flood hazard areas. The Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas dated September 11, 2009, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Building Department, 9293 Harding Avenue, Surfside, Florida 33154.

(d) Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 42-5 of this Ordinance the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Ordinance and, as applicable, the requirements of the Florida Building Code.**
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.**

(e) Other laws. The provisions of this Ordinance shall not be deemed to nullify any provisions of local, state or federal law.

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

(g) Interpretation. In the interpretation and application of this Ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 42-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.

(a) Designation. The Town Manager or the Town Manager's designee is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

(b) General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Ordinance. The Floodplain Administrator shall have the authority to render interpretations of this Ordinance consistent with the intent and purpose of this Ordinance and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Ordinance without the granting of a variance pursuant to Section 42-7 of this Ordinance.

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

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Ordinance;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;

- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this Ordinance is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Ordinance.

(d) Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this Ordinance is required.

(e) Modifications of the strict application of the requirements of the *Florida Building Code*. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 42-7 of this Ordinance.

(f) Notices and orders. The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this Ordinance.

(g) Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 42-6 of this Ordinance for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

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

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 42-3(d) of this Ordinance;**
- (2) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, or flood hazard area boundaries; such submissions shall be made within 6 months of such data becoming available;**
- (3) Review required design certifications and documentation of elevations specified by this Ordinance and the *Florida Building Code* to determine that such certifications and documentations are complete;**
- (4) Notify the Federal Emergency Management Agency when the corporate boundaries of Town of Surfside are modified; and**
- (5) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."**

(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 Ordinance 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 Ordinance; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the Building Department, 9293 Harding Avenue, Surfside, Florida 33154.

SECTION 42-4 PERMITS.

(a) Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Ordinance, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this Ordinance and all other applicable codes and regulations has been satisfied.

(b) Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this Ordinance for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt

from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(c) 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. Sections 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 Ordinance:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

(d) 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 Town. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Section 42-5 of this Ordinance.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the Floodplain Administrator.

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

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

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

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

- (1) The South Florida Water Management District; section 373.036, F.S.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.041, F.S.
- (4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (6) Federal permits and approvals.

SECTION 42-5 SITE PLANS AND CONSTRUCTION DOCUMENTS.

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

- (1) Delineation of flood hazard areas, flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
- (3) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

- (4) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (5) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
- (6) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.

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

(b) 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:

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

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

SECTION 42-6 INSPECTIONS.

(a) General. Development for which a floodplain development permit or approval is required shall be subject to inspection.

(b) Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Ordinance and the conditions of issued floodplain development permits or approvals.

(c) Buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this Ordinance and the conditions of issued floodplain development permits or approvals.

(d) 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, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator the

certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor.

(e) 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 42-6(d) of this Ordinance.

(f) Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this Ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

SECTION 42-7 VARIANCES AND APPEALS.

(a) General. The Variance and Appeals Board shall hear and decide on requests for appeals and requests for variances from the strict application of this Ordinance. Pursuant to section 553.73(5), F.S., the Variance and Appeals Board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

(b) Appeals. The Variance and Appeals Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this Ordinance. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

(c) Limitations on authority to grant variances. The Variance and Appeals Board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 42-7(f) of this Ordinance, the conditions of issuance set forth in Section 42-7(g) of this Ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Variance and Appeals Board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this Ordinance.

(d) 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 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.

(e) Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this Ordinance, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage

during occurrence of the base flood.

(f) Considerations for issuance of variances. In reviewing requests for variances, the Variance and Appeals Board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this Ordinance, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

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

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Ordinance or the required elevation standards;
- (2) Determination by the Variance and Appeals Board that:
 - (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

- (4) 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 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.
- (5) Variances shall not be granted after-the-fact.

SECTION 42-8 VIOLATIONS.

(a) Violations. Any development that is not within the scope of the *Florida Building Code* but that is regulated by this Ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Ordinance, shall be deemed a violation of this Ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Ordinance or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

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

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

(d) Penalties for violation. In addition to the foregoing remedies, a violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable for a noncriminal violation. Any person who violates this article or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than the maximum allowable fines established by Florida Statute, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as is necessary to prevent or remedy any violation.

SECTION 42-9 DEFINITIONS.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Ordinance, have the meanings shown in this section. Where terms are not defined in this Ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code. Where terms are not defined in this Ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance.

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

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see "Basement (for flood loads)"].

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

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.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

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

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

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

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the “start of construction” commenced before September 29, 1972. [Also defined in FBC, B, Section 202.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 29, 1972.

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 or the pouring of concrete pads).

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

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

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

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

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

Flood Insurance Rate Map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

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

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

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

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

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

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

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

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

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

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

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

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum

NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

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

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 202.]

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

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

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

New construction. For the purposes of administration of this Ordinance and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after September 29, 1972 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 29, 1972.

Park trailer. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living

quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

Recreational vehicle. A vehicle, including a park trailer, which is: [See section 320.01, F.S.]

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

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance of permits for new construction and substantial improvements, 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, or the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

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. [Also defined in FBC, B Section 202.]

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure taking place during a five-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. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to September 9, 2008. 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 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official prior to the application for permit for improvement 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.

Variance. A grant of relief from the requirements of this Ordinance, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this Ordinance or the *Florida Building Code*.

SECTION 42-11 BUILDINGS AND STRUCTURES.

(a) Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to Section 42-4(c) of this Ordinance, 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 Section 42-17 of this Ordinance.

(b) Buildings and structures seaward of the coastal construction control line. If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

- (1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.
- (2) Minor structures and non-habitable major structures as defined in section 161.54, F.S., shall be designed and constructed to comply with the intent and applicable provisions of this Ordinance and ASCE 24.

(c) 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:

(1) Additional Elevation of Single-Family Residential Buildings or Structures. For single-family buildings or structures, including manufactured homes, 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 two (2) feet.

(2) Cumulative Substantial Improvement. In the Florida Building Code, Building and Florida Building Code, Existing Building, definitions for the term "Substantial Improvement" shall be as follows:

SUBSTANTIAL IMPROVEMENT. For the purpose of determining compliance with the flood provisions of this Ordinance, any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to September 9, 2009. 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 prior to the application for

permit for improvement and that is the minimum necessary to assure safe living conditions. 2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(3) Limitations on Enclosures Under Elevated Buildings and Dwellings. Enclosed areas 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 except for stairwells, ramps and elevators, unless a partition is required by the fire code; and c) in coastal high hazard areas, be enclosed by insect screening or open lattice.

SECTION 42-12 SUBDIVISIONS.

(a) Minimum requirements. Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) 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:

- (1) Delineation of flood hazard areas, flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats; and
- (2) Compliance with the site improvement and utilities requirements of Section 42-13 of this Ordinance.

SECTION 42-13 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS.

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

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage

treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

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

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

(e) 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 42-5(b)(1) of this Ordinance 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 42-17(e)(3) of this Ordinance.

SECTION 42-14 MANUFACTURED HOMES.

(a) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this Ordinance. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

(b) Limitations on installation in coastal high hazard areas (Zone V). New installations of manufactured homes shall not be permitted in coastal high hazard areas (Zone V).

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

- (1) 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 42-14(g) of this Ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.**
- (2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential Section R322.3* and this Ordinance.**

(d) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(e) Elevation. Manufactured homes that are placed, replaced, or substantially improved 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).*

(h) Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential Section R322.2 or R322.3* for such enclosed areas, as applicable to the flood hazard area.

(i) 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.

SECTION 42-15 RECREATIONAL VEHICLES AND PARK TRAILERS.

(a) Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas not designated as coastal high hazard areas shall:

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

(b) Notwithstanding the foregoing, temporary and permanent placement of recreational vehicles and park trailers is not permissible for a period longer than 24 hours in a calendar year per Section 90-66 of this Code.

SECTION 42-16 TANKS.

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

(b) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 42-16(c) of this Ordinance shall:

- (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (2) Not be permitted in coastal high hazard areas (Zone V).

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

hazard area.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

SECTION 42-17 OTHER DEVELOPMENT.

(a) 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 Ordinance or the *Florida Building Code*, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) 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.

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

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four (4) inches.

(c) 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:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- (2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or 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.

- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

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

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
- (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

(e) Nonstructural fill in coastal high hazard areas (Zone V). In coastal high hazard areas:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- (3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.