

ST. PETERSBURG CITY COUNCIL

Meeting of December 5, 2013

TO: The Honorable Karl Nurse, Chair, and Members of City Council

SUBJECT: City File LDR-2013-02: Amendment to the Land Development Regulations (“LDRs”), Chapter 16, City Code of Ordinances.

REQUEST: Second reading and (adoption) public hearing of the attached ordinance providing for the repeal and replacement of Section 16.40.050 titled, “Floodplain Management.” This amendment involves LDRs that are applied city-wide and is necessary for the City’s continuing participation in the National Flood Insurance Program (“NFIP”).

ANALYSIS: The updated 2010 Florida Building Code (“FBC”) became effective on March 15, 2012, which resulted in local floodplain management regulations and ordinances conflicting with or duplicating parts of the FBC. As the City is one of the participating communities in the National Flood Insurance Program (“NFIP”), the floodplain management ordinance has to be repealed and replaced. The Florida Division of Emergency Management (“DEM”), the Florida Building Commission and the Federal Emergency Management Agency (“FEMA”) worked on a new state model ordinance. National experts were contracted by DEM to review local governments’ proposed ordinances to ensure consistency with the 2010 flood provisions of the FBC and NFIP federal regulations. Working with City staff, the DEM consultants have reviewed and approved the proposed amendment to the City’s LDRs.

The City Attorney’s office and Construction Services and Permitting Division, in conjunction with the review provided by the consultants retained by DEM, have prepared the attached proposal to amend the LDRs, Chapter 16, City Code of Ordinances. The proposal includes repealing and removing the existing Section 16.40.050 and the adoption of a new Section 16.40.050. This amendment involves LDRs that are applied city-wide and are necessary for the City’s continuing participation in the NFIP.

Several other recent changes/additions have been made, which have been incorporated into the attached ordinance. Those changes were finalized after the staff report was prepared and provided to the DRC and are as follows:

1. Inclusion of a new requirement to increase the minimum elevation requirement of the FBC for residences in flood hazard areas (Whereas clause and Section 3).
2. Revisions to the substantial improvement and substantial damage determinations.
3. Addition of a new definition for “Declaration of Land Restriction (Nonconversion Agreement)” and “Market Value” and a change in the definition of “Substantial Improvement.”
4. Addition of administrative amendments to the FBC regarding: modifications of the strict application of the requirements of the FBC; minimum plan review criteria for buildings, commercial and residential; building permits issued on the basis of an affidavit; variances in flood hazard areas.
5. In addition to the inclusion of a new requirement to increase the minimum elevation requirement of the FBC, the ordinance includes new technical amendments to the FBC, Residential for: enclosed areas below design flood elevation; elevation requirements; walls below design flood elevation; enclosed areas below the design flood elevations.
6. Additional amendments to the FBC, Buildings for: requirements of enclosed areas and flood hazard documentation.

SUMMARY:

Administration:

The Administration recommends APPROVAL.

Development Review Commission:

On November 6, 2013 the Development Review Commission (“DRC”), acting as the Land Development Regulation Commission (“LDRC”), determined through unanimous vote that the proposed amendments are consistent with the Comprehensive Plan and recommends APPROVAL.

Citizen Input:

As of this writing, no public comments have been received.

Recommended City Council Action:

1. CONDUCT the second reading and (adoption) public hearing;
2. APPROVE the ordinance.

ATTACHMENTS: Ordinance to Amend the LDRs
DRC Staff Report

ORDINANCE NO. XX-XX

AN ORDINANCE OF THE CITY OF ST. PETERSBURG, FLORIDA AMENDING THE CITY CODE TO REPEAL THE CURRENT SECTION 16.40.050.; TO ADOPT A NEW SECTION 16.40.050.; TO RE-ADOPT FLOOD HAZARD MAPS, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE; TO FORMAT EXISTING PROVISIONS TO BE CONSISTENT WITH THE FLORIDA BUILDING CODE; PROVIDING FOR SEVERABILITY; 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 citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of St. Petersburg, Florida 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 City of St. Petersburg, Florida was accepted for participation in the National Flood Insurance Program on May 28, 1971 and the City Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

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

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local administrative amendments to the Florida Building Code to implement the National Flood Insurance Program; and

WHEREAS, prior to July 1, 2010, the City of St. Petersburg adopted certain higher and more specific standards, in part for the purpose of participating in the National Flood Insurance Program's Community Rating System and pursuant to section 553.73(5), Florida Statutes, is formatting such standards to be compatible with the Florida Building Code, including provisions for (a) limitations on enclosures below buildings; (b) limitations on use of nonstructural and noncompacted earthen fill; (c) limitations on installation of manufactured homes in certain flood

hazard areas; (d) requirement to locate buildings at least 10 feet landward of the reach of mean high tide; and (e) submission of operations and maintenance plans for dry floodproofed buildings; and

WHEREAS, the City of St. Petersburg is adopting a requirement to increase the minimum elevation requirement of the Florida Building Code, Residential for dwellings in flood hazard areas and, and a requirement to record a deed restriction applicable to enclosures below elevated buildings, and pursuant to section 553.73(5), Florida Statutes; and

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

THE CITY OF ST. PETERSBURG, FLORIDA, DOES ORDAIN:

SECTION 1. The St. Petersburg City Code is hereby amended by repealing and removing Section 16.40.050. in its entirety and adopting a new Section 16.40.050., to read as follows:

ARTICLE I. Floodplain Management

16.40.050.1. GENERALLY.

16.40.050.1.1. Title. These regulations shall be known as the Floodplain Management Ordinance of the City of St. Petersburg, Florida, hereinafter referred to as “this section.”

16.40.050.1.2. Scope. The provisions of this section 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.

16.40.050.1.3. Intent and Purpose.

The purpose of this section 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 or prolonged disruption of commerce, access and public service during times of flooding;
2. Require the use of appropriate practices, at the time of initial construction, 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 such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize future flood blight areas;
7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events;
8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22;
9. Protect human life and health;
10. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
11. Ensure that property owners are notified yearly the property is in a flood prone area;
12. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities; and
13. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

16.40.050.1.4. Findings of fact.

1. The flood hazard areas of the City are subject to periodic inundation which results in loss of life; loss of property; health and safety hazards; disruption of commerce and governmental services; extraordinary public expenditure 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 of flood hazard areas by uses vulnerable to floods or hazardous to other lands, which are inadequately elevated, floodproofed or otherwise protected from flood damage.

16.40.050.1.5. Coordination with the Florida Building Code. This section 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.

16.40.050.1.6. Warning. The degree of flood protection required by this section and the Florida Building Code 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 section 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 (FIRM) and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency (FEMA), requiring the City 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 section.

16.40.050.1.7. Disclaimer of Liability. This section shall not create liability on the part of the City, its officers, agents, elected or appointed officials or employees thereof for any flood damage that results from reliance on this section or any administrative decision lawfully made thereunder.

16.40.050.2. APPLICABILITY.

16.40.050.2.1. Conflict. Where there is a conflict between a general requirement and a specific requirement in this section, the specific requirement shall be applicable. Where the requirements of this section and another law, code or regulation conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

16.40.050.2.2. Areas to which this section applies. This section shall apply to all flood hazard areas within the City as established in 16.40.050.2.3.

16.40.050.2.3. Basis for establishing flood hazard areas. The Flood Insurance Study for Pinellas County, Florida and Incorporated Areas dated August 18, 2009, and all subsequent amendments and revisions, and the accompanying FIRMs, and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this section 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 Planning and Economic Development Department, One 4th Street N, St. Petersburg, FL 33701.

16.40.050.2.4. Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to 16.40.050.5. the Building Official may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the City 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 section 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 owner or owner's authorized agent (hereinafter "applicant") obtains a Letter of Map Change that removes the area from the special flood hazard area.

16.40.050.2.5. Other laws. The provisions of this section shall not be deemed to nullify any provisions of state or federal law.

16.40.050.2.6. Abrogation. This section supersedes any ordinance or City Code in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances or City Codes including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. This section shall not repeal, abrogate, or impair any existing deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this section.

16.40.050.2.7. Interpretation. In the interpretation and application of this section, all requirements shall be:

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

16.40.050.3. ADMINISTRATION.

16.40.050.3.1. Designation. The Building Official is designated as the Floodplain Administrator for the purposes of this section. The Building Official may delegate the performance of certain duties to other employees.

16.40.050.3.2. General. The Building Official is authorized and directed to administer and enforce the provisions of this section. The Building Official shall have the authority to render interpretations of this section consistent with the intent and purpose of this section 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 section without the granting of a variance pursuant to this section.

16.40.050.3.3. Applications and permits. The duties of the Building Official shall include, but not be limited to:

1. Review all applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review all applications for modification of any existing development in flood hazard areas for compliance with the requirements of this section;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries and a person contesting the determination shall have the opportunity to appeal the interpretation;
4. When interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Building Official shall make the necessary interpretation;

5. Provide available flood elevation and flood hazard information;
6. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
7. Review all applications to determine whether proposed development will be reasonably safe from flooding;
8. 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 section is demonstrated, or disapprove the same in the event of noncompliance;
9. Coordinate with and provide comments to the Building Department employees to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this section;
10. Review all applications for permits to ensure that the permit requirements of this section have been satisfied;
11. Advise applicant that additional federal and state permits may be required and ensure that all required stated and federal permits have been received. The Building Official shall require that copies of such permits be provided and maintained on file with the City permit.

16.40.050.3.4. 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 Building Official shall:

1. Require the applicant to obtain an appraisal of the current market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this section is required.

For the purpose of making this determination, the cost to perform the improvements and the cost to perform the repairs shall not be cumulative from project to project. Costs of improvements and costs of repairs shall include all costs attributed to a project and shall be determined:

1. By submission of a detailed cost estimate by a licensed contractor, provided such estimate includes all work required to complete the work described in the permit application;
2. By submission of a summation of the prevailing market cost for all materials and labor including all expenses normally charged or incurred if the work were performed by a contractor (e.g., construction supervision and management, insurance, overhead and profit, demolition, etc.); or
3. By the Building Official if the applicant's submission and supporting data do not, in the opinion of the Building Official, reasonably reflect the actual project cost; alternatively, the Building Official may require submission of another estimate. If determined by the Building Official, the Building Official may use (a) the most recent (at the start of construction) square foot valuation data for this area published by the International Code Council; or (b) the replacement cost (at the start of construction) identified by a qualified independent appraiser.

16.40.050.3.5. Modifications of the strict application of the requirements of the Florida Building Code. The Building Official shall review requests 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 this section.

16.40.050.3.6. Notices and orders. The Building Official shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this section.

16.40.050.3.7. Inspections. The Building Official shall make the required inspections as specified in this section for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Building Official shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

16.40.050.3.8. Other duties of the Building Official. The Building Official shall have other duties, including but not limited to:

1. Establish procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to 16.40.050.3.4.;
2. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to FEMA and ensure that the entity responsible for maintenance within the altered or relocated portion of said watercourse is identified so that the flood-carrying capacity is not diminished;
3. Inform an applicant that if the watercourse being altered or relocated is noted as a water/drainage feature on the City's Future Land Use Map, any change to the watercourse would require a Comprehensive Plan amendment to change the map, subject to agency

and local government review including the Departments of Economic Opportunity, Environmental Protection, State, Transportation, Tampa Bay Regional Planning Council and Pinellas County;

4. 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 FIRMs if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations. Such submissions shall be made within six (6) months of such data becoming available;
5. Review required design certifications and documentation of elevations specified by this section and the Florida Building Code to determine that such certifications and documentations are complete; and
6. Notify FEMA when the corporate boundaries of the City are modified.

16.40.050.3.9. Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Building Official shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this section and the flood resistant construction requirements of the Florida Building Code, including FIRMs; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this section; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, in addition to documentation kept by the Zoning Official, including justification for issuance or denial; and records of enforcement actions taken pursuant to this section and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the Planning and Economic Development Department, One 4th Street N., St. Petersburg, FL 33701.

16.40.050.4. PERMITS.

16.40.050.4.1. Permits required. Any applicant who intends to undertake any development activity within the scope of this section, 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 Building Official and shall obtain the required permit(s) and approval(s). Permits shall include a condition that all other applicable City, state or federal permits be obtained before commencement of the permitted development. Issuance of a permit by the City does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

16.40.050.4.2. Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this section 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 Building Official may determine that a floodplain development permit or approval is required in addition to a building permit.

16.40.050.4.3. 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 section:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in section 604.50, Florida Statutes.
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, Florida Statutes, 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), Florida Statutes, are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

16.40.050.4.4. Permit Procedures. To obtain a permit or approval the applicant shall first file an application with the Building Official in writing on a form furnished by the City with any required fee prior to the start of development. The information provided shall include, but shall not be limited to, the following:

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 this section;

5. The plans or construction documents must be in duplicate and drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structure, fill, storage of materials, drainage facilities and their location;
6. State the valuation of the proposed work;
7. Evidence that the proposed development will fully comply with all the provisions of this section;
8. Base flood elevation data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than 50 lots or five acres, whichever is less;
9. Be signed by the applicant or the applicant's authorized agent;
10. Give such other data and information as required by the Building Official.

16.40.050.4.5. Validity of permit or approval. The issuance of a permit pursuant to this section shall not be construed to be a permit for, or approval of, any violation of this section, the Florida Building Code, or any other ordinance or City Code. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Building Official from requiring the correction of errors and omissions.

16.40.050.4.6. Issuance of permit. The Building Official shall issue a permit if the application fully complies with the provisions of this section, and shall deny the application and refuse to issue a permit if the application does not fully comply with the provisions of this section.

16.40.050.4.7. Expiration. A permit 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.

16.40.050.4.8. Suspension or revocation. The Building Official is authorized to suspend or revoke a permit if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this section or any other City, state or federal ordinance, regulation or requirement.

16.40.050.4.9. Other permits required. Permits shall include a condition that all other applicable City, state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

1. The Southwest Florida Water Management District; section 373.036, Florida Statutes
2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, Florida Statutes 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 161.141, Florida Statutes

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

16.40.050.5. SITE PLANS AND CONSTRUCTION DOCUMENTS.

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

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
2. Where base flood elevations, or floodway data are not included on the FIRM or in the FIS, they shall be established in accordance with 16.40.050.5.2(2) or (3).
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the FIS, such elevations shall be established in accordance with 16.40.050.5.2 (1).
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
6. 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.
7. Existing and proposed alignment of any proposed alteration of a watercourse.

The Building Official is authorized to waive the submission of site plans, construction documents, and other data that are required by this section but that are not required to be prepared by a licensed 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 section.

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

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain

and use base flood elevation and floodway data available from a federal or state agency or other source.

3. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

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

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in 16.40.050.5.4. and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the FIS or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in 16.40.050.5.4.

16.40.050.5.4. 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, change floodway boundaries, 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 professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

16.40.050.6. INSPECTIONS.

16.40.050.6.1. General. Development for which a permit is required shall be subject to inspection.

16.40.050.6.2. Development other than buildings and structures. The Building Official shall inspect all development to determine compliance with the requirements of this section and the conditions of issued permits.

16.40.050.6.3. Buildings, structures and facilities exempt from the Florida Building Code. The Building Official shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this section and the conditions of issued permits.

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

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with 16.40.050.5.2(3)(b), the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

16.40.050.6.5. Buildings, structures and facilities exempt from the Florida Building Code, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Building Official 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 16.40.050.6.4.

16.40.050.6.6. Manufactured homes. The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this section 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 Building Official.

16.40.050.7. APPEALS AND VARIANCES.

16.40.050.7.1. General. The Development Review Commission (hereinafter referred to as the “Commission”) shall hear and decide on requests for appeals and requests for variances from the strict application of this section. Pursuant to section 553.73(5), Florida Statutes, the Commission 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.

16.40.050.7.2. Appeals. Appeals to the Commission may be made in the manner provided in the appeals section by any person aggrieved or affected by any order, written decision, or determination made by the Building Official in the administration and enforcement of this section. Any person aggrieved by the decision of the Commission may appeal such decision to the Circuit Court, as provided by Florida Statutes. The Building Official shall maintain the records of all appeals, both granted and denied and report any variances to FEMA as requested.

16.40.050.7.3. Limitations on authority to grant variances. The Commission may authorize variances from the provisions of this section after receipt of an application which provides all relevant information required by the Building Official. For variance procedures, see 16.70.040.1.12. of the City Code for planning and zoning decisions. The Commission shall base its decisions on variances on technical justifications, the considerations for issuance in 16.40.050.7.7., and the conditions of issuance, all of which are contained in 16.40.050.7.8., and the comments and recommendations of the Building Official, including those based upon the Florida Building Code. The Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section.

16.40.050.7.4. Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in 16.40.050.5.3.

16.40.050.7.5. Historic buildings. A variance is authorized to be issued for the repair, improvement, reconstruction, restoration 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 Buildings, upon a determination that the proposed repair, improvement, reconstruction, restoration 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, reconstruction, restoration and rehabilitation shall be subject to the requirements of the Florida Building Code. Historic properties may be required to obtain a certificate of appropriateness pursuant to the City Code. No fee shall be required for the variance application and, if the historic structure has a current certificate of appropriateness, no notice of the variance shall be required.

16.40.050.7.6. 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 section, provided the variance meets the requirements of 16.40.050.7.4., 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.

16.40.050.7.7. Considerations for issuance of variances. In reviewing requests for variances, the Commission shall consider all technical evaluations, all other applicable provisions of the Florida Building Code, this section, 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 individual 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 for the proposed use;
6. The compatibility of the proposed use with existing and anticipated development;
7. The relationship of the proposed use to the Comprehensive Plan, the FIS for the area and this section;
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;
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;
11. The necessity to the development of a waterfront location; and
12. Economic hardship and self-created hardship are not relevant factors and shall not be considered as reasons to grant a variance.

16.40.050.7.8. Conditions for issuance of variances. After consideration of the factors listed above and the purposes of this section variances shall be granted by the Commission 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 section or the required elevation standards;
2. Determination by the Commission that:
 - a. Failure to grant the variance would result in exceptional hardship, based on the considerations set forth for issuance of a variance, 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; and
 - 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 laws and ordinances; and

- c. The variance is the minimum necessary, considering the flood hazard, to afford relief; and
 - d. The variance receives the affirmative vote of at least a majority of the Commission.
 - e. No variance shall be granted for development which was constructed without a permit, or beyond the scope of a permit, unless it meets the considerations set forth for the issuance of a variance and receives the affirmative vote of a super-majority of the Commission.
3. No variance, if granted, shall be effective until a copy of the variance with the name of the owner and the legal description of the property is recorded in the Office of the Clerk of the Court so 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 Building Official 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 and stating that construction below the base flood elevation increases risks to life and property. The application shall provide notice to, and each application shall acknowledge that, the granting of a variance will result in increased premium rates for flood insurance (in some cases amounts as high as \$25 for \$100 of insurance coverage or increases of 100% or greater) and construction pursuant to the variance increases risks to life and property.

16.40.050.8. VIOLATIONS.

16.40.050.8.1. Violations. Any development that is not within the scope of the Florida Building Code but that is regulated by this section that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this section, shall be deemed a violation of this section. 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 section or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

16.40.050.8.2. Declaration of violation.

1. Where a violation of this section has been found to exist by:
 - a. A court of competent jurisdiction;
 - b. The Code Enforcement Board;
 - c. The written admission of a property owner; or
 - d. The City Council.

The violation has not been corrected, the City Council may declare the property to be in violation of this section and forward the declaration to FEMA. The issuance of the declaration may cause the property to be denied flood insurance and no permits will be issued for any improvements to the property except permits for the maintenance of structures existing at the time the declaration is made and permits for the removal of violations of this section.

2. The declaration shall be approved by resolution of the City Council and should meet the requirements of section 1316 of the National Flood Insurance Act of 1968 as implemented by part 73 of 44 CFR and any other applicable law. The declaration shall be recorded in the public records. The owner/occupant shall be required to obtain a new certificate of occupancy stating the existence of a compliant structure from the Building Official to ensure compliance. The declaration may be rescinded by resolution of the City Council, provided that the resolution meets the requirements of section 1316 of the National Flood Insurance Act.
3. Structures existing on the property at the time a declaration is approved by City Council shall not be, in addition, cited for violating the requirements of this section. Violations of the City Code, not including violations of this section, which exist on the date of the declaration, may be cited.
4. Any violation existing on the date of the declaration for which no building permit was issued which does not meet the requirements of the Florida Building Code (except the provisions of this section) shall be removed. Any violation which is required to obtain a building permit to correct shall be removed (except the provisions of this section).
5. The Building Official may require such documents and certificates and perform such inspections as are reasonably necessary prior to issuing a certificate of occupancy.
6. Any work done after the date of the declaration is a violation of this section, may be cited for violating this section, and shall be removed. No variances to this subsection shall be granted.

16.40.050.8.3. Authority. For development that is not within the scope of the Florida Building Code but that is regulated by this section and that is determined to be a violation, the Building Official 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.

16.40.050.8.4. 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.

16.40.050.9. DEFINITIONS.

16.40.050.9.1. Scope. Unless otherwise expressly stated, the following words and terms shall

have the meanings shown in this section.

16.40.050.9.2. Terms defined in the Florida Building Code. Where terms are not defined in this section or the City Code and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in the Florida Building Code.

16.40.050.9.3. Terms not defined. Where terms are not defined in this section, the City Code, or the Florida Building Code, such terms shall have the ordinarily accepted meanings such as the context implies.

16.40.050.9.4. Definitions.

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

ASCE 24 means 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 means a flood having a 1-percent chance of being equaled or exceeded in any given year. The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation means 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 FIRM.

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

Building means any structure consisting of walls and a roof, built of permanent construction that is impervious to the elements, and built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

Coastal construction control line means the line established by the State of Florida pursuant to section 161.053, Florida Statutes, and recorded in the official records of the community, 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 means 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.

Declaration of Land Restriction (Nonconversion Agreement). A form signed by the owner and recorded on the property deed in Official Records of the Clerk of Courts, to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, certain enclosures below elevated buildings.

Design flood means the flood associated with the greater of the following two areas:

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 City's flood hazard map, or otherwise legally designated.

Design flood elevation means the elevation of the "design flood," including wave height, relative to the datum specified on the City'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 two (2) feet.

Development means 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 means 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 means any buildings and structures for which the "start of construction" commenced before May 28, 1971.

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 May 28, 1971.

Expansion to an existing manufactured home park or subdivision means 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) means the federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Fill means any material (usually soil, dirt, sand or similar nonbiodegradable material) used to elevate the grade of property to a level higher than the grade of the property as it existed prior to the start of construction.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land from:

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 means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Flood hazard area means the greater of the following two areas:

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 City's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM) means the official map of the City on which FEMA has delineated both special flood hazard areas and the risk premium zones applicable to the City.

Flood Insurance Study (FIS) means the official report provided by FEMA that contains the FIRM, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data.

Floodplain development permit or approval means an official document or certificate issued by the City, 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 section.

Floodway or regulatory floodway means the channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

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

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

Historic structure means any structure that is:

- (1) Determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings;
- (2) Listed individually on 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;
- (3) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (4) Individually listed on the state inventory of historic places as long as the state historic preservation program is approved by the Secretary of the Interior; or
- (5) Individually listed as a local landmark pursuant to the City's historic preservation program as long as the City's historic preservation program is certified by the state as a certified local government program, and the state historic preservation program is approved by the Secretary of the Interior.

Letter of Map Change (LOMC) means an official determination issued by FEMA that amends or revises an effective FIRM or FIS. 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 FIRM 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 this section. .

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 National Flood Insurance Program requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS; 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 means the lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited 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 on-elevation requirements of the Florida Building Code or ASCE 24.

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

Manufactured home means 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."

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 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, 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.

Mean sea level means the mean sea level set forth in the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum of 1988.

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

New construction means for the purposes of administration of this section and the flood resistant construction requirements of the Florida Building Code, structures for which the "start

of construction” commenced on or after May 28, 1971 and 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 May 28, 1971.

Park trailer means 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.

Project means any work done for which a permit is required during the time period from when the work begins until the permit is closed and shall include all work and permits necessary to make a structure safe to be occupied. A permit may be closed by issuance of a certificate of occupancy or an approved final inspection.

Recreational vehicle means a vehicle, including a park trailer, which is:

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.

Special flood hazard area means 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.

Standard exterior door means a movable barrier used to seal or close-off entry to a building which is constructed of wood, metal or glass, not more than thirty-six (36) inches wide and that swings on hinges.

Start of construction means the date the building permit was issued, for either new construction or substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement occurred within 180 days of the date of the permit was issued. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. 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.

Substantial damage means 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 be equal to or exceed 50 percent of the market value of the building or structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

Variance means a grant of relief from the requirements of this section, 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 section or the Florida Building Code.

Watercourse means a river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

16.40.050.10. BUILDINGS AND STRUCTURES.

16.40.050.10.1. Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to 16.40.050.4.3., 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 16.40.050.16.

16.40.050.10.2. 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 or Section 1612, or Florida Building Code, Residential Section R322, as applicable.
- (2) Minor structures and non-habitable major structures as defined in section 161.54, Florida

Statutes, shall be designed and constructed to comply with the intent and applicable provisions of this section and ASCE 24.

16.40.050.11. SUBDIVISIONS.

16.40.050.11.1. 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;
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; and
4. .

16.40.050.11.2. 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 on flood hazard area, floodway boundaries and flood zones, and design flood elevations, as appropriate shall be shown on preliminary plats.
2. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with 16.40.050.5.2(1).; and
3. Compliance with the site improvement and utilities requirements of 16.40.050.12.

16.40.050.12. SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS.

16.40.050.12.1. 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. In coastal high hazard areas (Zone V), buildings and structures are located a minimum of ten (10) feet landward of the reach of mean high tide;
3. 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
4. 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.

16.40.050.12.1.1. Use of nonstructural fill in flood hazard areas (Zone A). In flood hazard areas other than coastal high hazard areas (Zone A), fill on the outside of the footprint of the

foundation of single-family through quadruplex residential structures on lots which are not part of a development with a master grading plan approved by the POD is prohibited, except for fill in the front yard which is necessary in the construction of a driveway to a garage and the front entrance for access to the structure. If a site plan with lot elevations and proposed fill is submitted for plan review prior to issuance of a permit and approved in advance by the Building Official, and if the use of fill does not create any additional stormwater runoff onto abutting properties, minor amounts of fill shall be allowed to:

1. Provide adequate lot grading for drainage;
2. Raise a side yard up to the elevation of an abutting property; and
3. The use of fill shall not create any additional stormwater runoff onto abutting property.

16.40.050.12.1.2. Use of nonstructural fill in coastal high hazard areas (Zone V). In coastal high hazard areas (Zone V), limited noncompacted fill (not exceeding six inches in depth) may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge (thereby rendering the building free of obstructions) prior to generating excessive loading forces, ramping effects or wave deflection. The Building Official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect and/or soil scientist, along with the any supporting data required by the Building Official, which demonstrates that the following factors have been fully considered:

1. Particle composition of fill material does not have a tendency for excessive material compaction.
2. Volume and distribution of fill will not cause wave deflection to adjacent properties;
3. Slope of fill will not cause wave run up or ramping; and
4. The use of fill shall not create any additional stormwater runoff onto abutting property.

16.40.050.12.2. 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.

16.40.050.12.3. 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.

16.40.050.12.4. Limitations on sites in regulatory floodways. No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in

16.40.050.5.3(1) demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

16.40.050.12.5. Limitations on placement of fill. Subject to the limitations of this section, 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, state and federal laws.

16.40.050.12.6. Limitations on sites in coastal high hazard areas (Zone V). In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by 16.40.050.5.3(4) 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 16.40.050.16.8(3).

16.40.050.13. MANUFACTURED HOMES.

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

16.40.050.13.1.1. Limitations on location. Installation of manufactured homes in regulated floodways and in coastal high hazard areas is prohibited, unless an installation is to replace an existing manufactured home in an existing manufactured home park.

16.40.050.13.2. 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 Section 16.40.050.
- (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 Section 16.40.050.

16.40.050.13.3. 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.

16.40.050.13.4. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with 16.40.050.13.5. or 16.40.050.13.6. as applicable.

16.40.050.13.5. General elevation requirement. Unless subject to the requirements of 16.40.050.13.6., all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).

16.40.050.13.6. Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to 16.40.050.13.5., including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

1. Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A) or R322.3 (Zone V); or
2. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty-six (36) inches in height above grade.

16.40.050.13.7. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section for such enclosed areas.

16.40.050.13.8. 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.

16.40.050.14. RECREATIONAL VEHICLES AND PARK TRAILERS.

16.40.050.14.1. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood 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.

16.40.050.14.2. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in 16.40.050.14.1. for temporary placement shall meet the requirements of 16.40.050.13. for manufactured homes.

16.40.050.15. TANKS.

16.40.050.15.1. 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.

16.40.050.15.2. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of 16.40.050.15.3. 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).

16.40.050.15.3. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on 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.

16.40.050.15.4. 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.

16.40.050.16. OTHER DEVELOPMENT.

16.40.050.16.1. General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in Section 16.40.050. or the Florida Building Code, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the requirements of 16.40.050.12.4. if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation, 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 Florida Building Code for wet locations.

16.40.050.16.2. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of 16.40.050.12.4.

16.40.050.16.3. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the requirements of 16.40.050.12.4.

16.40.050.16.4. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of 16.40.050.12.4. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of 16.40.050.5.3(3).

16.40.050.16.5. 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.

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

- (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.

16.40.050.16.7. 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.

16.40.050.16.8. 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.

SECTION 2. The Florida Building Code, which has previously been adopted by the City, is hereby amended by the following amendments to read as follows:

ARTICLE 2. Florida Building Code Amendments

DIVISION 1. Administrative amendments to the Florida Building Code, Building

Add a new Sec. 104.10.1 as follows:

104.10.1 Modifications of the strict application of the requirements of the Florida Building Code. The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 117.

Modify Sec. 107.3.5 as follows:

107.3.5 Minimum plan review criteria for buildings.

Commercial Buildings: Building

8. Structural requirements shall include:

Flood requirements in accordance with Section 1612, including lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), flood damage-resistant materials.

Residential (one- and two-family)

6. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), equipment, and flood damage-resistant materials.

Add a new Sec. 107.6.1 as follows:

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

Add a new Sec. 117 as follows:

117 VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the *Florida*

Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

SECTION 3. The Florida Building Code which has previously been adopted by the City, is hereby amended by the following amendments to read as follows:

DIVISION 2. Technical amendments to the Florida Building Code, Residential

Modify Sec. R322.2.1 as follows:

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.
2. Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or to the design flood elevation, whichever is higher.
3. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus 1 foot, or at least ~~3 feet 2 feet (610 mm)~~ if a depth number is not specified.
4. Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.

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

Modify Sec. R322.2.2 as follows:

R322.2.2 Enclosed areas below design flood elevation. Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

1. Be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators and shall not be temperature-controlled. The limitation on partitions does not apply to crawlspace foundations. Storage shall be limited to items which otherwise would be stored outside a building or items normally used outside (e.g., grill, lawn mower, folding chairs, etc.). Access to enclosed areas shall be the minimum necessary to allow for permitted uses and limited to garage door and no more than two standard exterior doors.

Modify Sec. R322.3.2 as follows:

R322.3.2 Elevation requirements.

1. All buildings and structures erected within coastal high-hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of mat or raft foundations, piling, pile caps, columns, grade beams and bracing, is:
 - 1.1 Located at or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented parallel to the direction of wave approach, where parallel shall mean less than or equal to 20 degrees (0.35 rad) from the direction of approach, or
 - 1.2 Located at the base flood elevation plus 2 feet 1-foot (305 mm), or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented perpendicular to the direction of wave approach, where perpendicular shall mean greater than 20 degrees (0.35 rad) from the direction of approach.
2. Basement floors that are below grade on all sides are prohibited.
3. The use of fill for structural support is prohibited.
4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

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

Modify Sec. R322.3.4 as follows:

R322.3.4 Walls below design flood elevation. Walls ~~and partitions~~ are permitted below the elevated floor, provided that such walls ~~and partitions~~ are not part of the structural support of the building or structure and:

1. Electrical, mechanical, and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and
2. Are constructed with insect screening or open lattice; or
3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 (470 Pa) and no more than 20 pounds per square foot (958 Pa); or
4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), the construction documents shall include documentation prepared and sealed by a registered design professional that:
 - 4.1. The walls ~~and partitions~~ below the design flood elevation have been designed to collapse from a water load less than that which would occur during the design flood.
 - 4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting

simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the design flood. Wind loading values used shall be those required by this code.

R322.3.5 Enclosed areas below the design flood elevation. Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators and shall not be temperature-controlled. The limitation on partitions does not apply to crawlspace foundations. Storage shall be limited to items which otherwise would be stored outside a building or items normally used outside (e.g., grill, lawn mower, folding chairs, etc.). Access to enclosed areas shall be the minimum necessary to allow for permitted uses and limited to garage door and no more than two standard exterior doors.

SECTION 4. The Florida Building Code which has previously been adopted by the City, is hereby amended by the following amendments to read as follows:

DIVISION 3. Technical amendments to the Florida Building Code, Building

1612.4.1 Requirements for enclosed areas. In addition to the requirements in ASCE 24 for enclosed areas below elevated buildings, the following limitations apply:

1. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators and shall not be temperature-controlled. The limitation on partitions does not apply to crawlspace foundations.
2. Storage shall be limited to items which otherwise would be stored outside a building or items normally used outside (e.g., grill, lawn mower, folding chairs, etc.). Access to enclosed areas shall be the minimum necessary to allow for permitted uses and limited to garage door and no more than two standard exterior doors.

1612.5 Flood hazard documentation. The following documentation shall be prepared and sealed by a registered design professional and shall be submitted to the building official:

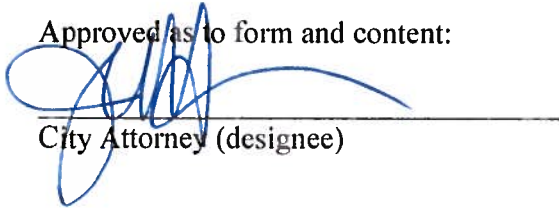
1. For construction in flood hazard areas not subject to high-velocity wave action:
 - 1.1. The elevation of the lowest floor, including basement, as required by the foundation inspection and the final inspection in Section 110.3.
 - 1.2. For fully enclosed areas below the design flood elevation where provisions to allow for the automatic entry and exit of floodwaters do not meet the minimum requirements in Section 2.6.2.1, ASCE 24, construction documents shall include a statement that the design will provide for equalization of hydrostatic flood forces in accordance with Section 2.6.2.2 of ASCE 24.
 - 1.3. For dry floodproofed nonresidential buildings, construction documents shall include a statement that the dry floodproofing is designed in accordance with ASCE 24 and shall include an operation and maintenance plan.

SECTION 5. Words that are ~~struck through~~ shall be deleted from the existing Florida Building Code and language which is underlined shall be added to the existing Florida Building Code. Provisions not specifically amended shall continue in full force and effect.

SECTION 6. The provisions of this ordinance shall be deemed to be severable. If any portion of this ordinance is deemed unconstitutional it shall not affect the constitutionality of any other portion of this ordinance.

SECTION 7. In the event this Ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the Ordinance, in which case the Ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this Ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

Approved as to form and content:



City Attorney (designee)



STAFF REPORT | LDR 2013-02

Staff Report to the St. Petersburg Development Review Commission
Prepared by the City Attorney's Office, in coordination with the
Planning and Economic Development Department

For Public Hearing on November 6, 2013
at 2:00 p.m. in the City Council Chambers, City Hall,
175 Fifth Street North, St. Petersburg, Florida.

Subject: City File LDR 2013-02: Amendment to the Land Development Regulations ("LDRs"), Chapter 16, City Code of Ordinances.

Request: It is requested that the Development Review Commission ("DRC") review and recommend approval of the attached proposed amendment to the LDRs, based on consistency with the Comprehensive Plan. Pursuant to Section 16.80.020.1 of the City Code of Ordinances, the DRC, acting as the Land Development Regulation Commission ("LDRC"), is responsible for reviewing and making a recommendation to the City Council on proposed LDR amendments, excepting those related to historic and archeological preservation.

Background: The updated 2010 Florida Building Code ("FBC") became effective on March 15, 2012. Upon that date, local floodplain management regulations and ordinances may conflict with or duplicate parts of the flood provisions in the FBC. Consequently, all of Florida's National Flood Insurance Program ("NFIP") participating communities are required to repeal and replace the local floodplain management ordinances to coordinate with the FBC. The Florida Division of Emergency Management ("DEM"), the Florida Building Commission and the Federal Emergency Management Agency ("FEMA") worked on a new state model ordinance. National experts were contracted by DEM to review local governments' proposed ordinances to ensure consistency with the 2010 flood provisions of the FBC and NFIP federal regulations. Working with City staff, the DEM consultants have been in process over the past year of reviewing and revising the City's proposed amendment to the LDRs.

Proposal: The City Attorney's office and Construction Services and Permitting Division, in conjunction with the review provided by the consultants retained by DEM, have prepared the attached proposal to amend the LDRs, Chapter 16, City Code of Ordinances. The proposal includes repealing and removing the existing Section 16.40.050 and the adoption of a new Section 16.40.050. This amendment involves LDRs that are applied city-wide and are necessary for the City's continuing participation in the NFIP.

Summary of Changes:

- Removal of all duplicative sections of the City Code which are now contained in the FBC.
- Inclusion of administrative amendments of the FBC regarding: the Building Official handling modifications to the strict application of FBC; building permits issued on the basis of an affidavit; and variances in flood hazard areas.
- Removal of the following terms in the definition section: accessory structure; appraisal report; area of special flood hazard; breakaway wall; elevated building; flood opening; flood proofing; lowest horizontal structure; replacement cost; structure; substantial improvement of existing manufactured home parks.
- Inclusion of the following new terms in the definition section: alteration of a watercourse; ASCE 24; coastal construction line; design flood; design flood elevation; encroachment; existing building and existing structure; flood damage-resistant materials; flood hazard area; floodplain development permit or approval; floodway encroachment analysis; Florida Building Code; Letter of Map Change; light-duty truck; park trailer; special flood hazard area; watercourse.
- Broadening stated intent and purpose of floodplain section to include the FBC.
- Additional requirements added as follows: submission of additional data to establish flood hazard areas; the issuance of floodplain development permits or approvals.
- Revisions to Building Official's responsibilities, as floodplain administrator, including: expansion of requirements as to floodplain management records and applications and permits, substantial improvement and substantial damage determinations, review of requests for modifications to the strict application of the FBC, inspections.
- In order to be consistent with state statute, permits shall include a condition that all other applicable permits, including state and federal, are obtained before the start of the permitted development. Issuance of a permit on the part of the City does not give the applicant a right to a state or federal permit, nor does it create any liability for the City should the applicant fail to obtain the necessary approvals or permits from those agencies.
- Addition of new sections that: recognizes exemption from the FBC for certain buildings, structures, and facilities; expansion of information requirements for development in flood hazard areas; analysis and certifications for development in floodways, riverine flood hazard areas or the alteration of a watercourse; submission of additional data to support site plan and construction documents; inspection section which addresses manufactured homes and exempted buildings, structures and facilities.
- Revisions to the permit procedures including: additional information requirements for the application stage; the deletion of requirements at the construction stage; the addition of the length a permit may be valid, authorization for suspension or revocation of a permit, other permits that are required.

- Extensive revisions to appeals and variances section including: the Development Review Commission taking over the responsibility from the Community Preservation Commission for the hearing of appeals and variance requests; limitations on the authority of the DRC to grant variances, specifically allowing variances for certain circumstances related to historic buildings and functionally dependant uses, but disallowing variances for proposed development in a floodway; and expansion of the considerations for issuance of a variance and the conditions for a variance.
- Removal of existing code sections related to: general requirements for construction and improvements in all areas of special flood hazard; specific requirements for A-zones; specific requirements for Coastal High Hazard Areas; floodways; and standards for streams in A-zones without established base flood elevations.
- New sections for: buildings and structures; subdivisions; site improvements; utilities; and limitations. Expansion of the manufactures homes section and expansion of the recreational vehicles section, including the addition of park trailers.
- New section which addresses other development including fences, retaining walls, sidewalks, driveways, roads and watercourses in regulated floodways, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar nonstructural uses in coastal high hazard areas, and nonstructural fill in coastal high hazard areas.

Compliance with the Comprehensive Plan:

The following objectives and policies from the City's Comprehensive Plan are applicable to the attached proposed amendments:

Objective C1: The City of St. Petersburg shall attempt to reduce the potential for property damage and safety hazards caused by storm flooding through complying with or exceeding of minimum FEMA regulations.

Policy C1.1: The City will actively enforce minimum building standards identified in the adopted Flood Damage Prevention Ordinance for construction within the 100-year flood plain.

Policy C1.2: The City will cooperate with the Federal Emergency Management Agency to regularly update the 100-year flood plain and to continue FEMA regulations.

Objective CM11: The City will reduce natural hazard impacts through compliance with FEMA regulations and by targeting repetitive flood loss and vulnerable properties for mitigation.

Policy CM11.1: Variances to required flood elevations shall not be approved unless documented to be in the best interest of the public health, safety and welfare.

Policy CM11.2: The City shall enforce applicable recommendations of Post-Disaster Hazard Mitigation plans, required under Section 406 of the Disaster Relief Act of 1974.

Policy CM11.3: The City shall minimize the disturbance of natural shorelines which provide stabilization and protect landward areas from storm impacts.

Objective LU7: The City will continue to revise and amend the land development regulations, as necessary, to ensure compliance with the requirements of Chapter 163.3202, Florida Statutes [and Chapter 9J-24 F.A.C.]¹. The City will amend its land development regulations consistent with the requirements of Chapter 163.3202, Florida Statutes [and Chapter 9J-24 F.A.C.] so that future growth and development will continue to be managed through the preparation, adoption, implementation and enforcement of land development regulations that are consistent with the Comprehensive Plan.

Policy LU7.1: Pursuant to the requirements of Chapter 163.3202 F.S. and Chapter 9J-24 F.A.C. the land development regulations will be amended, as necessary, to ensure consistency with the goals, objectives and policies of the Comprehensive Plan.

Objective LU20: The City shall, on an ongoing basis, review and consider for adoption, amendments to existing and/or new innovative land development regulations that can provide additional incentives for the achievement of Comprehensive Plan Objectives.

Policy LU20.1: The City shall continue to utilize its innovative development regulations and staff shall continue to examine new innovative techniques by working with the private sector, neighborhood groups, special interest groups and by monitoring regulatory innovations to identify potential solutions to development issues that provide incentives for the achievement of the goals, objectives and policies of the Comprehensive Plan.

**Housing Affordability
Impact Statement:**

The proposed amendments will have a no impact on housing affordability, availability or accessibility. A Housing Affordability Impact Statement is attached.

Recommendation:

The Planning and Economic Development Department finds that the proposed amendments to the LDRs, Chapter 16, City Code of Ordinances, are consistent with the Comprehensive Plan and recommends APPROVAL.

Process:

The Planning and Economic Development Department is prepared to bring forward these proposed amendments to the City Council for the required first reading on November 25, 2013, and second reading and public hearing on December 5, 2013.

Attachments:

1. Ordinance to Amend the LDRs
2. Housing Affordability Impact Statement

¹ Chapter 9J-24 F.A.C. is no longer a valid reference in State statute. As of this writing, the city's Comprehensive Plan has not been updated to reflect this legislative change.

**City of St. Petersburg
Housing Affordability Impact Statement**

Each year, the City of St. Petersburg receives approximately \$2 million dollars in State Housing Initiative Partnership (SHIP) funds for its affordable housing programs. To receive these funds, the City is required to maintain an ongoing process for review of local policies, ordinances, resolutions, and plan provisions that *increase the cost of housing construction, or of housing redevelopment*, and to establish a tracking system to estimate the cumulative cost per housing unit from these actions for the period July 1– June 30 annually. This form should be attached to all policies, ordinances, resolutions, and plan provisions which increase housing costs, and a copy of the completed form should be provided to the City’s Housing and Community Development Department.

I. Initiating Department: Planning and Economic Development

II. Policy, Procedure, Regulation, or Comprehensive Plan Amendment Under Consideration for adoption by Ordinance or Resolution:

See attached proposed amendments to Chapter 16, City Code of Ordinances (City File LDR 2013-02).

III. Impact Analysis:

A. Will the proposed policy, procedure, regulation, or plan amendment, (being adopted by ordinance or resolution) increase the cost of housing development? (i.e. more landscaping, larger lot sizes, increase fees, require more infrastructure costs up front, etc.)

No (No further explanation required.)
Yes Explanation:

If Yes, the per unit cost increase associated with this proposed policy change is estimated to be: \$ _____.

B. Will the proposed policy, procedure, regulation, plan amendment, etc. increase the time needed for housing development approvals?

No (No further explanation required.)
Yes Explanation:

IV: Certification

It is important that new local laws which could counteract or negate local, state and federal reforms and incentives created for the housing construction industry receive due consideration. If the adoption of the proposed regulation is imperative to protect the public health, safety and welfare, and therefore its public purpose outweighs the need to continue the community's ability to provide affordable housing, please explain below:

CHECK ONE:

- The proposed regulation, policy, procedure, or comprehensive plan amendment will **not** result in an increase to the cost of housing development or redevelopment in the City of St. Petersburg and no further action is required. (Please attach this Impact Statement to City Council Material, and provide a copy to Housing and Community Development department.)

David J. Kilborn
Department Director (signature)

10.28.2013
Date

OR

- The proposed regulation, policy, procedure, or comprehensive plan amendment being proposed by resolution or ordinance *will increase housing costs* in the City of St. Petersburg. (Please attach this Impact Statement to City Council Material, and provide a copy to Housing and Community Development department.)

Department Director (signature)

Date

Copies to: City Clerk
Joshua A. Johnson, Director, Housing and Community Development