

ORDINANCE #ORD2017-17

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, AMENDING THE CITY OF DUNNELLON LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 82 ARTICLE II, BUILDING CODE, TO ADOPT THE 2017 EDITION OF THE FLORIDA BUILDING CODE AS AMENDED; VACATING AND DELETING THE PROVISIONS OF CHAPTER 90, ARTICLE II - FLOODPLAIN PREVENTION AND ADOPTING NEW PROVISIONS TO COMPLY WITH FEDERAL EMERGENCY MANAGEMENT AGENCY REGULATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

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

WHEREAS, Section 166.021, Florida Statutes, as amended, empowers the City Council of the City of Dunnellon, Florida, hereinafter referred to as the City Council, to prepare, adopt and enforce land development regulations; and

WHEREAS, Sections 163.3161 through 163.3248, Florida Statutes, as amended, requires the City Council to prepare and adopt regulations concerning the use of land and water to implement the Comprehensive Plan; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Dunnellon, Florida, hereinafter referred to as the City, 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, was accepted for participation in the National Flood Insurance Program on February 1, 1985 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, the Florida Division of Emergency Management, acting as the Florida State Coordinating Agency for the National Flood Insurance Program, has determined certain amendments and corrections are required; 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; and

WHEREAS, Chapter 553, Florida Statutes, as amended, 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, as amended, allows adoption of local technical amendments to the Florida Building Code to implement the National Flood Insurance Program; and

WHEREAS, the City Council desires to adopt the 2017 Florida Building Code 6th edition, as amended; and

WHEREAS, the Planning Commission has been designated as the Local Planning Agency of the City of Dunnellon, Florida, hereinafter referred to as the Local Planning Agency; and

WHEREAS, pursuant to Section 163.3174, Florida Statutes, as amended, and the City's Land Development Regulations, the Local Planning Agency, held the required public hearing, with public notice having been provided, on this ordinance and at said public hearing, the Local Planning Agency, reviewed and considered all comments received during said public hearing concerning this ordinance, and recommended to the City Council approval of this ordinance; and

WHEREAS, the City Council held the required public hearing, with public notice having been provided, under the provisions of the regular amendment public hearing procedures established in Sections 163.3161 through 163.3248, Florida Statutes, as amended, on this ordinance, and at said public hearing, the City Council reviewed and considered all comments received during said public hearing, including the recommendation of the Local Planning Agency, concerning this ordinance; and

WHEREAS, the City Council has determined and found that a need and justification exists for the approval of this ordinance; and

WHEREAS, the Planning Commission and City Council have determined and found that approval of this ordinance is consistent with the purposes and objectives of the City's Comprehensive Plan; and

WHEREAS, the City Council has determined and found that approval of this ordinance will further the purposes of the Land Development Regulations and other ordinances, regulations, and actions designed to implement the Comprehensive Plan; and

WHEREAS, the City Council has determined and found that approval of this ordinance promotes the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare.

LEGISLATIVE UNDERSCORING: Underlined words constitute additions to the City of Dunnellon Land Development Regulations, ~~striketrough~~ constitutes deletions from the original, and asterisks (***) indicate an omission from the existing text which is intended to remain

unchanged.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNNELLON, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The foregoing “whereas” clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 82, Article II. - Building Code, of the City’s Land Development Regulations is hereby amended to read, as follows:

Chapter 82 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. - BUILDING CODE

Sec. 82-31. - ~~Standard~~ Florida Building Code adopted.

All structures to be constructed within the city shall be constructed in strict compliance with the standards set forth in the ~~Standard Building Code, 1991 edition~~ 2017 Florida Building Code, and all revisions and amendments thereof, ~~as published by the Southern Building Code Congress International, Inc.,~~ which is hereby adopted as the minimum building requirements for any structure constructed within the city.

Sec. 82-32. - Reports on amendments.

The city hereby designates the building inspector as the person responsible for informing the council from time to time of amendments to the ~~Standard Building Code~~ Florida Building Code.

SECTION 3. The provisions of Chapter 90, Article II. - Floodplain Prevention, of the City’s Land Development Regulations are hereby vacated and deleted in their entirety and replaced by the following. The provisions to be vacated and deleted are attached as Exhibit “A.”

CHAPTER 90 – FLOODS

ARTICLE II FLOODPLAIN PREVENTION

DIVISION 1 ADMINISTRATION, GENERAL

Sec. 90-31 Title.

These regulations shall be known as the Flood Damage Prevention Regulations of the City, hereinafter referred to as “this Article.”

Sec. 90-32 Scope.

The provisions of this Article 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.

Sec. 90-33 Intent.

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

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

Sec. 90-34 Coordination with the *Florida Building Code*.

This Article is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, American Society of Civil Engineers 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

Sec. 90-35 Warning.

The degree of flood protection required by this Article and the *Florida Building Code*, as amended by the City Council, 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 Article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code

of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring the City Council 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 Article.

Sec. 90-36 Disclaimer of Liability.

This Article shall not create liability on the part of the City Council of the City of Dunnellon or by any officer or employee thereof for any flood damage that results from reliance on this Article or any administrative decision lawfully made there under.

DIVISION 2. APPLICABILITY

Sec. 90-37 General.

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

Sec. 90-38 Areas to Which this Article Applies.

This Article shall apply to all flood hazard areas within the City, as established in Section 90-39 of this Article.

Sec. 90-39 Basis for Establishing Flood Hazard Areas.

The Flood Insurance Study for Marion County, Florida and Incorporated Areas, dated April 19, 2017 and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps, and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Article 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 Office of the City Clerk, located at 20750 River Drive, Dunnellon, Florida.

Sec. 90-40 Submission of Additional Data to Establish Flood Hazard Areas.

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

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a Flood Insurance Rate Map, the area shall be considered as flood hazard area and subject to the requirements of this Article and, as applicable, the requirements of the *Florida Building Code*.

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

Sec. 90-41 Other Laws.

The provisions of this Article shall not be deemed to nullify any provisions of local, state or federal law.

Sec. 90-42 Abrogation and Greater Restrictions.

This Article supersedes any ordinance in effect for management of development in flood hazard

areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater regulations or the Florida Building Code. In the event of a conflict between this Article and any other ordinance, the more restrictive shall govern. This Article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this Article.

Sec. 90-43 Interpretation.

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

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

DIVISION 3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Sec. 90-44 Designation.

The Community Development Manager is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

Sec. 90-45 General.

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Article. The Floodplain Administrator shall have the authority to render interpretations of this Article consistent with the intent and purpose of this Article 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 Article without the granting of a variance pursuant to Division 7 of this Article.

Sec. 90-46 Applications and Permits.

The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

1. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Article;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;
7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this

Article is demonstrated, or disapprove the same in the event of noncompliance; and

8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Article.

Sec. 90-47 Substantial Improvement and Substantial Damage Determinations.

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

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

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

3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; 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 Article is required.

Sec. 90-48 Modifications of the Strict Application of the Requirements of the *Florida Building Code*.

The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Division 7 of this Article.

Sec. 90-49 Notices and Orders.

The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this Article.

Sec. 90-50 Inspections.

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

Sec. 90-51 Other Duties of the Floodplain Administrator.

The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 90-47 of this Article;

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 the Federal Emergency Management Agency;

3. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to Federal Emergency Management Agency the data and information necessary to maintain the Flood Insurance Rate Maps 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;

4. Review required design certifications and documentation of elevations specified by this Article and the *Florida Building Code* to determine that such certifications and documentations are complete; and

5. Notify the Federal Emergency Management Agency when the corporate boundaries of the City are modified.

Sec. 90-52 Floodplain Management Records.

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Article and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this Article; notifications to adjacent communities, Federal Emergency Management Agency, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Article and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at Office of the City Clerk, located at 20750 River Drive, Dunnellon, Florida, during regular business hours.

DIVISION 4 PERMITS

Sec. 90-53 Permits Required.

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

Sec. 90-54 Floodplain Development Permits or Approvals.

Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Sec. 90-55 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 Code of Federal Regulations 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 Article:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in Section 604.50, Florida Statutes, as amended.
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, as amended, 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 two hundred and fifty (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 Florida Department of Corrections to any prisoner in the state correctional system.
9. Structures identified in Section 553.73(10)(k), Florida Statutes, as amended, are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

Sec. 90-56 Application for a Permit or Approval.

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

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 Division 5 of this Article.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

Sec. 90-57 Validity of Permit or Approval.

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

Sec. 90-58 Expiration.

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

Sec. 90-59 Suspension or Revocation.

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

Sec. 90-60 Other Permits Required.

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

1. The Suwannee River Water Management District; Section 373.036, Florida Statutes, as amended.
2. Florida Department of Health for onsite sewage treatment and disposal systems; Section 381.0065, Florida Statutes, as amended, and Chapter 64E-6, Florida Administration Code.
3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; Section 161.055, Florida Statutes, as amended.
4. 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.
5. Federal permits and approvals.

DIVISION 5 SITE PLANS AND CONSTRUCTION DOCUMENTS

Sec. 90-61 Information for Development in Flood Hazard Areas.

The site plan or construction documents for any development subject to the requirements of this

Article 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 Flood Insurance Rate Map or in the Flood Insurance Study, they shall be established in accordance with Section 90-62.2 or Section 90-62.3 of this Article.

3. Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (5) acres and the base flood elevations are not included on the Flood Insurance Rate Map or in the Flood Insurance Study, such elevations shall be established in accordance with Section 90-62.1 of this Article.

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

Sec. 90-62 Information in Flood Hazard Areas Without Base Flood Elevations (approximate Zone A).

Where flood hazard areas are delineated on the Flood Insurance Rate Map and base flood elevation data have not been provided, the Floodplain Administrator 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 Federal Emergency Management Agency, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by Federal Emergency Management Agency, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

Sec. 90-63 Additional Analyses and Certifications.

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

1. For 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 Federal Emergency Management Agency as specified in Section 90-64 of this Article and shall submit the Conditional Letter of Map Revision, if issued by Federal Emergency Management Agency, 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 Flood Insurance Study or on the Flood Insurance Rate Map 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 Federal Emergency Management Agency as specified in Section 90-64 of this Article.

Sec. 90-64 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 Federal Emergency Management Agency to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on Flood Insurance Rate Maps, and to submit such data to Federal Emergency Management Agency for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by Federal Emergency Management Agency. Submittal requirements and processing fees shall be the responsibility of the applicant.

DIVISION 6 INSPECTIONS

Sec. 90-65 General.

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

Sec. 90-66 Development Other Than Buildings and Structures.

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Article and the conditions of issued floodplain development permits or approvals.

Sec. 90-67 Buildings, Structures and Facilities Exempt From the Florida Building Code.

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

Sec. 90-68 Buildings, Structures and Facilities Exempt From the Florida Building Code, Lowest Floor Inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

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 Section 90-62.3(b) of this Article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

Sec. 90-69 Buildings, Structures and Facilities Exempt From the Florida Building Code, Final Inspection.

As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 90-68 of this Article.

Sec. 90-70 Manufactured Homes.

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

DIVISION 7 VARIANCES AND APPEALS

Sec. 90-71 General.

The Planning Commission shall hear and decide on requests for appeals and requests for variances from the strict application of this Article. Pursuant to Section 553.73(5), Florida Statutes, as amended, the Planning 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.

Sec. 90-72 Appeals.

The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this Article. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes, as amended.

Sec. 90-73 Limitations on Authority to Grant Variances.

The Planning Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 90-77 of this Article, the conditions of issuance set forth in Section 90-78 of this Article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Planning Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this Article.

Sec. 90-74 Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 90-63 of this Article.

Sec. 90-75 Historic Buildings.

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

Sec. 90-76 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 Article, provided the variance meets the requirements of Section 90-74, 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.

Sec. 90-77 Considerations for Issuance of Variances.

In reviewing requests for variances, the Planning Commission shall consider all technical evaluations, all relevant factors, and all other applicable provisions of the *Florida Building Code*, this Article, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood

damage and the effect of such damage on current and future owners;

4. The importance of the services provided by the proposed development to the community;

5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

6. The compatibility of the proposed development with existing and anticipated development;

7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;

9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

Sec. 90-78 Conditions for issuance of variances.

Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Article or the required elevation standards;

2. Determination by the Planning Commission that:

a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

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

c. The variance is the minimum necessary, considering the flood hazard, to afford relief;

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

4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as twenty-five dollars (\$25) for

one hundred dollars (\$100) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

DIVISION 8 VIOLATIONS

Sec. 90-79 Violations.

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

Sec. 90-80 Authority.

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

Sec. 90-81 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.

DIVISION 9 DEFINITIONS

Sec. 90-82 Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Article, have the meanings shown in this section.

Sec. 90-83 Terms Defined in the *Florida Building Code*.

Where terms are not defined in this Article and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

Sec. 90-84 Terms Not Defined.

Where terms are not defined in this Article or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

Sec. 90-85 Definitions:

Alteration of a Watercourse. 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.

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

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

Base Flood. A flood having a one (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 "one (1) percent-annual chance flood."

Base Flood Elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum, North American Vertical Datum or other datum specified on the Flood Insurance Rate Map.

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

Design Flood. The flood associated with the greater of the following two areas:

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

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

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

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

Existing Building and Existing Structure. Any buildings and structures for which the "start of construction" commenced before February 1, 1985.

Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before February 1, 1985.

Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Flood Hazard Area. 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 community's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map. The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study. The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data.

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

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

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

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

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

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

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

Historic Structure. Any structure that is determined eligible for the exception to the flood hazard

area requirements of the *Florida Building Code*, Existing Building, Chapter 12 Historic Buildings.

Letter of Map Change. An official determination issued by Federal Emergency Management Agency that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

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

2. Letter of Map Revision: 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.

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

4. Conditional Letter of Map Revision: 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 Conditional Letter of Map Revision does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by Federal Emergency Management Agency to revise the effective Flood Insurance Rate Map.

Light-Duty Truck. As defined in 40 Code of Federal Regulations 86.082-2, any motor vehicle rated at eight thousand five hundred (8,500) pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (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 twelve (12) persons; or

3. Available with special features enabling off-street or off-highway operation and use.

Lowest Floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or American Society of Civil Engineers 24.

Manufactured Home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to

the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer."

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

Market Value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this Article, 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.

New Construction. For the purposes of administration of this Article and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after February 1, 1985 and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after February 1, 1985

Park Trailer. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

Recreational Vehicle. 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. An area in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. Special flood hazard areas are shown on Flood Insurance Rate Maps as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

Start of Construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, or the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations,

the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial Damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred.

Substantial Improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty (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. A grant of relief from the requirements of this Article, 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 Article or the *Florida Building Code*.

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

DIVISION 10 BUILDINGS AND STRUCTURES

Sec. 90-86 Design and Construction of Buildings, Structures And Facilities Exempt from the *Florida Building Code*.

Pursuant to Section 90-55 of this Article, 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 American Society of Civil Engineers 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Division 16 of this Article.

DIVISION 11 SUBDIVISIONS

Sec. 90-87 Minimum Requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

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

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

3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Sec. 90-88 Subdivision Plats.

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

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

2. Where the subdivision has more than fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the Flood Insurance Rate Map, the base flood elevations determined in accordance with Section 90-62.1 of this Article; and

3. Compliance with the site improvement and utilities requirements of Division 12 of this Article.

DIVISION 12 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

Sec. 90-89 Minimum Requirements.

All proposed new development shall be reviewed to determine that:

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

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

3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Sec. 90-90 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, Florida Administrative Code and American Society of Civil Engineers 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.

Sec. 90-91 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, Florida Administrative Code and American Society of Civil Engineers 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

Sec. 90-92 Limitations on Sites in Regulatory Floodways.

No development, including but not limited to site improvements, and land disturbing activity involving fill or re-grading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 90-63.1 of this Article demonstrates that the proposed

development or land disturbing activity will not result in any increase in the base flood elevation.

Sec. 90-93 Limitations on Placement of Fill.

Subject to the limitations of this Article, 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.

DIVISION 13 MANUFACTURED HOMES

Sec. 90-94 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, as amended, and shall comply with the requirements of Chapter 15C-1, Florida Administrative Code and the requirements of this Article.

Sec. 90-95 Limitations on Installation in Floodways.

New installations of manufactured homes shall not be permitted in floodways.

Sec. 90-96 Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this Article. Foundations for manufactured homes subject to Section 90-100 of this Article are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

Sec. 90-97 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.

Sec. 90-98 Elevation.

Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 90-99 or 90-100 of this Article, as applicable.

Sec. 90-99 General Elevation Requirement.

Unless subject to the requirements of Section 90-100 of this Article, all manufactured homes that are placed, replaced, or substantially improved on sites located:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. 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).

Sec. 90-100 Elevation Requirement for Certain Existing Manufactured Home Parks and Subdivisions.

Manufactured homes that are not subject to Section 90-99 of this Article, 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
2. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than forty-eight (48) inches in height above grade.

Sec. 90-101 Enclosures.

Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code*, Residential Section R322 for such enclosed areas.

Sec. 90-102 Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code*, Residential Section R322.

DIVISION 14 RECREATIONAL VEHICLES AND PARK TRAILERS

Sec. 90-103 Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be on the site for fewer than one hundred eighty (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.

Sec. 90-104 Permanent Placement.

Recreational vehicles and park trailers that do not meet the limitations in Section 90-103 of this Article for temporary placement shall meet the requirements of Division 13 of this Article for manufactured homes.

DIVISION 15 TANKS

Sec. 90-105 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.

Sec. 90-106 Above-Ground Tanks, Not Elevated.

Above-ground tanks that do not meet the elevation requirements of Section 90-107 of this Article

shall be permitted in flood 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.

Sec. 90-107 Above-Ground Tanks, Elevated.

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

Sec. 90-108 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.

DIVISION 16 OTHER DEVELOPMENT

Sec. 90-109 General Requirements for Other Development.

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Article or the *Florida Building Code*, shall:

1. Be located and constructed to minimize flood damage;

2. Meet the limitations of Section 90-92 of this Article 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 or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Sec. 90-110 Fences in Regulated Floodways.

Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 90-92 of this Article.

Sec. 90-111 Retaining Walls, Sidewalks and Driveways in Regulated Floodways.

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 90-92 of this Article.

Sec. 90-112 Roads and Watercourse Crossings in Regulated Floodways.

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 90-92 of this Article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 90-63.3 of this Article.

SECTION 4. CODIFICATION. It is the intent of the City Council of the City of Dunnellon that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance.

SECTION 5. SEVERABILITY. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

SECTION 6. CONFLICTS. All ordinances or portions of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon adoption.

Upon motion duly made and carried, the foregoing Ordinance was approved upon the first reading on the 11th day of December, 2017.

Upon motion duly made and carried, the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 8th day of January, 2018.

Ordinance Posted on the City's website on December 8, 2017. Public hearing advertised on the City's website on December 8, 2017 and advertised in the Riverland News on December 28, 2017.

Attest:

CITY OF DUNNELLON

Amanda L. Roberts, CMC
City Clerk

Walter Green, Mayor

CERTIFICATE OF POSTING

I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and Dunnellon Library, in the City of Dunnellon, Florida, and on the City's Official Website this 8th day of December 2017.

EXHIBIT "A"

~~Article II. FLOODPLAIN PREVENTION~~

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

~~Sec. 90-31. Statutory authorization.~~

~~The legislature of the state has authorized and delegated in F.S. chapter 166, the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the City of Dunnellon does hereby adopt the following floodplain management regulations.~~

~~Sec. 90-32. Findings of fact.~~

- ~~(a) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.~~
- ~~(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.~~

~~Sec. 90-33. Statement of purpose.~~

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

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

~~Sec. 90-34. Objectives.~~

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

- ~~(1) Protect human life, health and to eliminate or minimize property damage;~~

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

~~DIVISION 2. DEFINITIONS~~

~~Sec. 90-41. Definitions.~~

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

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

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

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

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

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

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

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

~~*Building*—see structure.~~

~~*Datum.* A reference surface used to ensure that all elevation records are properly related. Many communities have their own datum that was developed before there was a national standard. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929,~~

which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

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

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

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

~~*Existing construction* means, for the purposes of floodplain management, structures for which "the start of construction" commenced before the date of the initial flood insurance rate map (FIRM). Existing construction, means for the purposes of determining rates structures for which the "start of construction" commenced before January 1, 1975.~~

~~*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 July 28, 2008 the effective date of the floodplain management regulations adopted by a community.~~

~~*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).~~

~~*Flood or flooding* means:~~

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

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

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

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

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

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

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

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

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

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

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

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

~~*Hardship* as related to variances from this article means the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community~~

~~requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.~~

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

~~*Historic structure* means any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the secretary to qualify as a registered historic district;~~
- ~~(3) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or~~
- ~~(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By the approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior.~~

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

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

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

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

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

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

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

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

~~*New construction* means, for floodplain management purposes, any structure for which the "start of construction" commenced on or after the effective date July 28, 2008 of the initial floodplain management code, ordinance, or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard — include only one date. The term also includes any subsequent improvements to such structures. For flood insurance rates, structures for which the start of construction commenced on or after the effective date of the date of an initial FIRM or after December 31, 1974, whichever is later, 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 the effective date of the first floodplain management code, ordinance or standard.~~

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

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

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

~~*Reasonably safe from flooding* means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.~~

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

- ~~(1) Built on a single chassis;~~
- ~~(2) 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.~~

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

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

~~*Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.~~

~~*Shallow flooding* means the same as area of shallow flooding.~~

~~*Special flood hazard area* means the same as area of special flood hazard.~~

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

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

~~*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.~~

~~*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the~~

~~application for permit for improvement, and which are the minimum necessary to assure safe living conditions.~~

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

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

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

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

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

~~DIVISION 3. GENERAL PROVISIONS~~

~~Sec. 90-51. Lands to which this article applies.~~

~~This article shall apply to all areas of special flood hazard within the jurisdiction of the city.~~

~~Sec. 90-52. Basis for establishing the areas of special flood hazard.~~

~~The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for the city, dated August 28, 2008, with the accompanying maps and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this article. The Flood Insurance Study and Flood Insurance Rate Map are on file at city hall.~~

~~Sec. 90-53. Designation of floodplain administrator.~~

~~The city council hereby appoints the community development director to administer and implement the provisions of this article and is herein referred to as the floodplain administrator.~~

~~Sec. 90-54. Establishment of development permit.~~

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

~~Sec. 90-55. Compliance.~~

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

~~Sec. 90-56. Abrogation and greater restrictions.~~

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

~~Sec. 90-57 Interpretation.~~

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

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

~~Sec. 90-58. Warning and disclaimer of liability.~~

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

~~Sec. 90-59. Penalties for violation.~~

~~Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable for a non-criminal violation. Any person who violates this article or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the floodplain administrator from taking such other lawful actions as is necessary to prevent or remedy any violation.~~

~~DIVISION 4. ADMINISTRATION~~

~~Sec. 90-71. Permit procedures.~~

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

- ~~(1) Application stage:
 - ~~a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;~~~~

- ~~b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;~~
- ~~c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in article 4, section a (2) and article 5, section b (2); and~~
- ~~d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~
 - ~~(2) Construction stage: Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder' risk. The floodplain administrator shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop work order for the project.~~

~~Sec. 90-72. Duties and responsibilities of the floodplain administrator.~~

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

- ~~(1) Review permits to assure sites are reasonably safe from flooding;~~
- ~~(2) Review all development permits to assure that the permit requirements of this article have been satisfied;~~
- ~~(3) Advise permittee that additional federal, state or local permits may be required, and if such additional permits are necessary, especially as it relates to F.S. §§ 161.053; 320.8249; 320.8359; 373.036; 380.05; 381.0065, and ch. 553, part IV, require that copies of such permits be provided and maintained on file with the development permit;~~
- ~~(4) Notify adjacent communities, the department of community affairs, division of emergency management, the Southwest Florida Water Management District, the Federal Emergency Management Agency and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;~~
- ~~(5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;~~
- ~~(6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-zones) of all new or substantially improved buildings, in accordance with subsections 90-82(1) and (2) and subsection 90-95(2), respectively;~~
- ~~(7) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with subsection 90-82(2);~~

- ~~(8) Review certified plans and specifications for compliance. When flood proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with subsection 90-82(2) of this article;~~
- ~~(9) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;~~
- ~~(10) When base flood elevation data or floodway data have not been provided in accordance with section 90-52, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of division 5;~~
- ~~(11) Coordinate all change requests to the FIS and/or FIRM with the requester, state, and FEMA; and~~
- ~~(12) Where base flood elevation is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with subsections 90-82(1) and (2), respectively.~~

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

~~Sec. 90-81. General standards.~~

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

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

- ~~(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;~~
- ~~(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;~~
- ~~(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;~~
- ~~(8) On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;~~
- ~~(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article;~~
- ~~(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;~~
- ~~(11) All applicable additional federal, state, and local permits shall be obtained and submitted to the floodplain administrator. Copies of such permits shall be maintained on file with the development permit. State permits may include, but not be limited to the following:
 - ~~a. Southwest Florida Water Management District: In accordance with F.S. § 373.036(2)(a).~~
 - ~~b. Department of community affairs: In accordance with F.S. § 380.05 and F.S. ch. 553, Part IV.~~
 - ~~c. Department of health: In accordance with F.S. § 381.0065 F.S.~~~~
- ~~(12) Standards for subdivision proposals and other proposed development (including manufactured homes):
 - ~~a. All subdivision proposals shall be consistent with the need to minimize flood damage;~~
 - ~~b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;~~
 - ~~c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.~~~~

~~Sec. 90-82. Specific standards.~~

~~In all A zones where base flood elevation data have been provided (zones AE, A1-30, and AH), as set forth in section 90-52, the following provisions, in addition to those of section 90-81, shall apply:~~

- ~~(1) Residential construction. All new construction and substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on both sides of~~

~~the exterior walls shall be provided in accordance with standards of subsection 90-82(3).~~

~~(2) *Non residential construction.* All new construction and substantial improvement of any commercial, industrial, or non residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A zones may be flood proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.~~

~~(3) *Elevated buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.~~

~~a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:~~

~~i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;~~

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

~~iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.~~

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

~~c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.~~

~~(4) *Standards for manufactured homes and recreational vehicles.*~~

~~a. All manufactured homes that are placed, or substantially improved within zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to {no lower than one foot above} the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~

- ~~b. All manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision within zones A-1, AH, and AE, that are not subject to the provisions of paragraph (4)a. of this section, must be elevated so that either:
 - ~~i. The lowest floor of the manufactured home is elevated to no lower than one foot above the base flood elevation, or~~
 - ~~ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength that are no less than 36 inches (48 inches if one foot of freeboard adopted) in height above the grade and securely anchored to an adequate foundation system to resist flotation, collapse, and lateral movement.~~~~
- ~~c. All recreational vehicles placed on sites within zones A1-30, AH, and AE must either:
 - ~~i. Be on the site for fewer than 180 consecutive days,~~
 - ~~ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or~~
 - ~~iii. Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with subsections (4)a. and b. of this section.~~~~
- ~~(5) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.~~
- ~~(6) Standards for streams with established base flood elevations, without regulatory floodways~~

~~Located within the areas of special flood hazard established in section 90-52, where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (zones AE and A1-30), the following additional provisions shall also apply:~~

- ~~a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.~~
- ~~b. Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies with the community's endorsement for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency.~~
- ~~(7) Floodways. Located within areas of special flood hazard established in section 90-52, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and have significant erosion potential, the following additional provisions shall also apply:
 - ~~a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydraulic and hydrologic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.~~~~

- ~~b. Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of subsection 90-81(2), and the elevation standards of subsection 90-82(1) and (2), and the encroachment standards of subsection 90-82(7)a., are met.~~
- ~~c. Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood may be allowed, provided that the developer or applicant first applies—with the community's endorsement—for a conditional FIRM revision, and receives the approval of FEMA.~~
- ~~d. When fill is proposed, in accordance with the permit issued by the state department of health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with subsection 90-82(7)(a).~~

~~Sec. 90-83. Specific standards for A-zones without base flood elevations and regulatory floodways.~~

~~Located within the areas of special flood hazard established in section 90-82, where there exist A-zones for which no base flood elevation data and regulatory floodway have been provided or designated by the Federal Emergency Management Agency, the following provisions shall apply:~~

- ~~(1) Require standards of section 90-81.~~
- ~~(2) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data.~~
- ~~(3) The floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of this article. When such data is utilized, including that developed by the requirement of subsection 90-83(2), provisions of section 90-82 shall apply. The floodplain administrator shall:
 - ~~a. Obtain the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures,~~
 - ~~b. Obtain, if the structure has been floodproofed in accordance with the requirements of section 90-82(2), the elevation in relation to the mean sea level to which the structure has been floodproofed, and~~
 - ~~c) Maintain a record of all such information.~~~~
- ~~(4) Notify, in riverine situations, adjacent communities, the state department of community affairs, NFIP coordinating office, and the applicable water management district prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.~~
- ~~(5) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.~~
- ~~(6) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral~~

~~movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.~~

- ~~(7) When the data is not available from any source as in paragraph (2) of this section, the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade.~~

~~Sec. 90-84. Standards for AO zones.~~

~~Located within the areas of special flood hazard established in section 90-52, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; the following provisions, in addition to those of section 90-81, shall apply:~~

- ~~(1) All new construction and substantial improvements of residential structures in all AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the flood insurance rate map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to no less than two feet above the highest adjacent grade.~~
- ~~(2) All new construction and substantial improvements of non-residential structures shall:~~
- ~~a. Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the flood insurance rate map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to at least two feet above the highest adjacent grade, or~~
- ~~b. Together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in subsection 90-82(2).~~
- ~~(3) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.~~

~~DIVISION 6. VARIANCE PROCEDURES~~

~~Sec. 90-91. Designation of variance and appeals board.~~

~~The board of adjustment as established by the city council shall hear and decide appeals and requests for variances from the requirements of this article.~~

~~Sec. 90-92. Duties of variance and appeals board.~~

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

~~Sec. 90-93. Variance procedures.~~

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

- ~~(1) The danger that materials may be swept onto other lands to the injury of others;~~
- ~~(2) The danger of life and property due to flooding or erosion damage;~~
- ~~(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~(4) The importance of the services provided by the proposed facility to the community;~~
- ~~(5) The necessity to the facility of a waterfront location, where applicable;~~
- ~~(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~(7) The compatibility of the proposed use with existing and anticipated development;~~
- ~~(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
- ~~(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~(10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and~~
- ~~(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~

~~Sec. 90-94. Conditions for variances.~~

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

~~Sec. 90-95. Variance notification.~~

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

~~(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and~~

~~(2) Such construction below the base flood level increases risks to life and property.~~

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

~~Sec. 90-96. Historic structures.~~

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

~~Sec. 90-97. Structures in regulatory floodway.~~

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