

ORDINANCE NO. 706-14

AN ORDINANCE OF THE MIAMI SHORES VILLAGE COUNCIL AMENDING THE VILLAGE CODE OF ORDINANCES, CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS, BY ADDING NEW SECTIONS, SECTION 6-9 THROUGH SECTION 6-14, PROVIDING FOR REGULATIONS AND AMENDMENTS TO THE FLORIDA BUILDING CODE ADDRESSING MINIMUM REQUIRED BUILDING ELEVATIONS TO CONFORM TO THE REQUIREMENTS SET FORTH IN CHAPTER 8.5 OF THE CODE OF ORDINANCES: FLOOD MANAGEMENT, PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Miami Shores Village Council recently amended the Village Code of Ordinances adopting a new Flood Management ordinance which included sections addressing building requirements and the Florida Building Code; and,

WHEREAS, The sections of the new ordinance pertaining to building requirements and the Florida Building Code are better situated in Chapter 6 of the Village's Code of Ordinances; "Buildings and Building Regulations"; and,

WHEREAS, It is in the best interest of the Village to separate the language and appropriately place the requirements within the code chapter addressing building construction;

NOW THEREFORE, BE IT ORDAINED by the Miami Shores Village Council that:

Section 1. The Code of Ordinances of Miami Shores Village is hereby amended by adding sections to be numbered 6-9 through 6-13 which said sections read as follows:

Sec. 6-9. General elevation requirements.

In all areas of the Miami Shores Village buildings and structures shall meet or exceed the following requirements:

- (a) **Residential uses.** New construction or a change of use shall have the lowest floor, including basement, elevated to or above the higher of:
 - (1) Eight (8) inches above the elevation of the highest crown of road or street abutting such building site, or the highest edge of cross section of the road if the road has no crown, or
 - (2) If in a flood hazard area, the elevation specified in the *Florida Building Code, Residential* or *Florida Building Code, Building*, as applicable, or as specified in Sec. 6-9 (a) (1).
- (b) **Uses other than residential (nonresidential).** New construction or a change of use shall have the lowest floor, including basement, elevated to or above the higher of:
 - (1) Four (4) inches above the elevation of the highest crown of road or street abutting such building site, or the highest edge of cross section of the road if the road has no crown.

- (2) If in a flood hazard area, the elevation specified in the *Florida Building Code, Building Code, Building*, or as specified in Sec. 6-9 (b) (1).
- (c) **Definition:** Crown of Road. The elevation of the highest surface of street pavement within the right-of-way abutting the property relative to the National Geodetic Vertical Datum (NGVD) or North America Vertical Datum (NAVD), unless otherwise approved by the Miami Shores Village.

Sec. 6-10. Substantial damage and improvement requirements.

The provisions of this section shall apply to all development that is wholly within or partially within any flood hazard area:

- (a) **Definition:** Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns. Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]
- (b) **Definition:** Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]
- (c) **Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a one (1)-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure the one (1)-year period begins on the date of the first improvement or repair of that building or structure subsequent to July 21, 2009. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]
- (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.

Sec. 6-11. The *Florida Building Code, Building* is hereby amended by the following administrative amendments:

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

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

117 VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the *Florida Building Code, Building* or, as applicable, the provisions of R322 of the *Florida Building Code, Residential*. This section shall not apply to Section 3109 of the *Florida Building Code, Building*.

Sec. 6-12. The *Florida Building Code, Residential* is hereby amended by the following technical amendments:

R322.2 Flood hazard areas (including A Zones).

All areas that have been determined to be prone to flooding but not subject to high velocity wave action shall be designated as flood hazard areas. Flood hazard areas that have been delineated as subject to wave heights between 1½ feet (457 mm) and 3 feet (914 mm) and flood hazard areas that are identified on the Flood Insurance Rate Map as AE 10, shall be designated as Coastal A Zones. All building and structures constructed in whole or in part in flood hazard areas shall be designed and constructed in accordance with Sections R322.2.1 through R322.2.3, and Section R322.3 if in a designated Coastal A Zone.

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the design flood elevation.

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

~~2.~~ 3. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM, or at least 2 feet (610 mm) if a depth number is not specified.

3. 4- Basement floors that are below grade on all sides shall be elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.

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

R322.3.2 Elevation requirements.

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

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

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

1. Electrical, mechanical, and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and
2. Are constructed with insect screening or open lattice; or
3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading

resistance of not less than 10 (479 Pa) and no more than 20 pounds per square foot (958 Pa); or

4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), the *construction documents* shall include documentation prepared and sealed by a registered *design professional* that:
 - 4.1. The walls and partitions below the design flood elevation have been designed to collapse from a water load less than that which would occur during the design flood.
 - 4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the design flood. Wind loading values shall be those required by this code.
5. If located in flood hazard areas designated as Coastal A Zones, the walls are provided with flood openings that meet the criteria in R322.2.2.

Sec. 6-13. The *Florida Building Code, Building* is hereby amended by the following technical amendment.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 1-year period begins on the date of the first improvement or repair of that building or structure subsequent to July 21, 2009. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

Sec. 6-14. The *Florida Building Code, Existing Building* is hereby amended by the following technical amendment.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 1-year period begins on the date of the first improvement or repair of that building or structure subsequent to July 21, 2009. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

Section 2. All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

Section 3. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance, which shall be deemed to be severable therefrom.

PASSED ON first reading this 7th day of October, 2014.

PASSED AND ADOPTED ON second and final reading this 21st day of October, 2014.

Herta Holly, Mayor

ATTEST:

Barbara A. Estep, MMC
Village Clerk

APPROVED AS TO FORM:

Richard Sarafan, Village Attorney