

CITY OF AVENTURA ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, REPEALING AND REPLACING ARTICLE IV, "FLOODS," OF CHAPTER 30, "ENVIRONMENT," OF THE CITY CODE OF ORDINANCES RELATING TO FLOODPLAIN MANAGEMENT AND FLOOD RESISTANT DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Aventura (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 of Aventura was accepted for participation in the National Flood Insurance Program ("NFIP") on October 22, 1997; and

WHEREAS, the City Commission desires to update its flood regulations under Article IV, "Floods," of Chapter 30 of the City Code to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary to continue participation in the NFIP; and

WHEREAS, the City Commission previously adopted prior to July 1, 2010 requirements to (a) require accumulation of costs of improvements and repairs of buildings, based on issued building permits over a one (1) year or five (5) year period depending on flood zone; and (b) limit partitioning of and access to enclosed areas below elevated buildings and, pursuant to Chapter 8 Article III of the Miami-Dade County Code and section 553.73(5), F. S., is formatting that requirement to coordinate with the Florida Building Code; and

WHEREAS, the City Commission is adopting a change to require accumulation of costs of improvements and repairs of buildings in all flood zones based on building permits issued over a five (5) year period for the purpose of participating in the National

Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the Florida Building Code; and

WHEREAS, the City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations with the Florida Building Code and that the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes; and

WHEREAS, the City Commission finds that this Ordinance is in the best interest of the City and the City's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, AS FOLLOWS:¹

Section 1. Recitals Incorporated. That each of the above-stated recitals are hereby adopted and confirmed.

Section 2. Repeal and Replacement. That Article IV, "Floods," of Chapter 30 of the Code of Ordinances of the City of Aventura, Florida, is hereby repealed in its entirety as set forth in Exhibit "A," attached hereto and incorporated herein, and replaced as set forth in Exhibit "B," attached hereto and incorporated herein.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. That it is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

¹ Additions to existing City Code text are indicated by underline; deletions from existing City Code text are indicated by strikethrough.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner Narotsky, who moved its adoption on first reading. This motion was seconded by Commissioner Landman and upon being put to a vote, the vote was as follows:

Commissioner Jonathan Evans	<u>Absent</u>
Commissioner Denise Landman	<u>Yes</u>
Commissioner Dr. Linda Marks	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Commissioner Robert Shelley	<u>Yes</u>
Vice Mayor Rachel S. Friedland	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

The foregoing Ordinance was offered by Commissioner Shelley, who moved its adoption on second reading. This motion was seconded by Commissioner Landman and upon being put to a vote, the vote was as follows:

Commissioner Jonathan Evans	<u>Absent</u>
Commissioner Denise Landman	<u>Yes</u>
Commissioner Dr. Linda Marks	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Commissioner Robert Shelley	<u>Yes</u>
Vice Mayor Rachel S. Friedland	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

PASSED on first reading on this 4th day of January, 2022.

PASSED AND ADOPTED on second reading on this 1st day of February, 2022.

ENID WEISMAN, MAYOR

ATTEST:

ELLISA L. HORVATH, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

EXHIBIT A

Chapter 30 – Environment

ARTICLE IV. – FLOODS

DIVISION 1. GENERALLY.

~~Sections 30-121—30-160. Reserved.~~

~~DIVISION 2. FLOOD DAMAGE PREVENTION~~

~~Section 30-161. Statutory authority and legislative findings.~~

- ~~(a) The Legislature of the State has in F.S. ch. 166 and ch. 163, granted the authority and responsibility to local governmental units, including the City, to adopt regulations designed to promote the public health, safety and general welfare, as well as to adopt development regulations controlling the use of land.~~
- ~~(b) 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.~~
- ~~(c) 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, floodproofed, or otherwise unprotected from flood damages.~~

~~Section 30-162. Intent and purpose.~~

~~It is the purpose of this division 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, or which result in damaging increases in erosion or in flood heights or velocities;~~
- ~~(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement;~~
- ~~(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 flood waters or which may increase flood hazards to other lands.~~

~~This division is intended to be administered and enforced in conjunction with the provisions of the Florida Building Code, as amended from time to time.~~

~~Section 30-163. Objectives.~~

~~The objectives of this division are:~~

- ~~(1) To protect human life and health;~~

- ~~(2) To minimize expenditure of public money for costly flood control projects;~~
- ~~(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;~~
- ~~(4) To minimize prolonged business interruptions;~~
- ~~(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodplains;~~
- ~~(6) To help 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;~~
- ~~(7) To insure that potential home buyers are notified that property is in a flood area; and~~
- ~~(8) To comply with the requirements of the National Flood Insurance Program so as to ensure the availability of flood insurance for residents and property owners.~~

~~Section 30-164. Definitions.~~

~~In construing the provisions of this division, where the context will permit and no definition is provided herein, the definitions provided in F.S. ch. 403, as may be amended from time to time, and in the rules and regulations promulgated thereunder, as may be amended from time to time, shall apply. The following words and phrases when used in this division shall have the meanings ascribed to them in this section.~~

~~*Accessory structure* shall mean a non-habitable, garage, or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building.~~

~~*Area of special flood hazard* shall mean the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.~~

~~*Base flood elevation* means the elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it. The base flood elevations are indicated on the City FIRM.~~

~~*Base flood* shall mean a flood having a one percent chance of being equaled or exceeded in any given year.~~

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

~~*Breakaway wall* shall mean any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which is not a part of the structural support of the building and which is intended through design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system or any other building to which they might be carried by flood waters.~~

~~*Building* shall mean any structure built for support, shelter or enclosure for any occupancy or storage.~~

~~*City* shall mean the City of Aventura.~~

~~*Coastal high hazard area* shall mean an area of special flood hazard extending from off-shore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI-30, VE or V.~~

~~*Development or development activity* shall mean any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other~~

~~structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.~~

~~Development permit means any building permit, zoning permit, subdivision approval, rezoning, recertification, special exception, variance or any other official action of the City having the effect of permitting the development of land.~~

~~Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.~~

~~Flood or flooding shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from:~~

- ~~(1) The overflow of streams, rivers, or other inland water; or~~
- ~~(2) Abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes or tsunamis; or~~
- ~~(3) The unusual and rapid accumulation of run-off of surface water from any source.~~

~~Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.~~

~~Floodproofing shall mean any combination of structural and nonstructural additions, changes, or adjustments (other than elevating) to structures which reduce or eliminate flood damage to real estate or improved real property, water supply and sanitary sewage facilities, structures, and their contents. Floodproofing includes by way of illustration, not limitation, the following measures:~~

- ~~(1) Anchorage to resist flotation and lateral movement.~~
- ~~(2) Installation of watertight doors, bulkheads, and shutters, or similar methods of construction to protect against winds, wave action, or flood waters.~~
- ~~(3) Reinforcement of walls to resist water pressures.~~
- ~~(4) Use of paints, membranes, or mortars to reduce seepage of water through walls.~~
- ~~(5) Addition of mass or weight to structures to resist flotation.~~
- ~~(6) Installation of pumps to lower water levels in structures.~~
- ~~(7) Construction of water supply and wastewater treatment and disposal systems to prevent the entrance or infiltration of flood waters.~~
- ~~(8) Construction to resist rupture or collapse caused by water pressure or flooding debris.~~
- ~~(9) Installation of valves or controls of sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and stormwaters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.~~
- ~~(10) Locate all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the base flood.~~
- ~~(11) Locate any structure, storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to the public health, safety, and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation or are adequately floodproofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.~~

~~Floodway shall mean 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 foot.~~

~~Flood hazard boundary map means an official map of the City, issued prior to the FIRM by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been identified.~~

~~Flood Insurance Rate Map (FIRM) shall mean an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.~~

~~Flood Insurance Study shall mean the official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the water surface elevation of the base flood.~~

~~Floor shall mean the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.~~

~~Functionally dependent structure shall mean a structure which 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, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.~~

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

~~Historic building or structure shall mean any structure that's:~~

- ~~(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; or~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or~~
- ~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have 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 an approved State program as determined by the Secretary of the Interior; or~~
 - ~~b. Directly by the Secretary of the Interior in States without approved programs.~~~~

~~Lowest floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, 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 applicable non-elevation design requirements of this division.~~

~~Mangrove stand shall mean an assemblage of mangrove trees which consist of one or more of the following species: black mangrove (Avicennia Germinans); red mangrove~~

~~(Rhizophora Mangle); white mangrove (Languncularian Racemosa) and buttonwood (Conocarpus Erecta).~~

~~Manufactured home (trailer) shall mean a structure, 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 manufactured home does not include a recreational vehicle; however, park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer shall be regulated as manufactured homes.~~

~~NGVD shall mean the sea-level datum now used for the United States Coast and Geodetic Survey (now known as National Ocean Survey) level net which is officially known as the "Sea Level Datum of 1929," the year referring to the last general adjustment of the net. The datum itself can be considered to be an adjustment based on the tide observations taken at various tide stations along the coasts of the United States over a number of years.~~

~~New construction shall mean any structure for which the start of construction commenced on or after the effective date of this division. The term also includes any subsequent improvements to the structure. 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 the 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 structures, such as garages or sheds not occupied as dwelling units or not part of the main building. 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.~~

~~New manufactured home park or new manufactured home subdivision shall mean 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 this division.~~

~~Recreational vehicle shall mean a vehicle which is:~~

- ~~(1) Built on a single chassis; and~~
- ~~(2) 400 square feet or less when measured at the largest horizontal projection; and~~
- ~~(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.~~

~~Residential or residence shall mean any lot, plot, parcel, tract, area, piece of land or building used exclusively for family dwelling purposes or intended to be so used,~~

~~including concomitant uses as specified in the prevailing land development regulations of the City.~~

~~Sand dunes shall mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~

~~Start of construction shall mean 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 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 and 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.~~

~~Structure shall mean a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.~~

~~Substantial damage shall mean 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 shall mean any combination of additions, rehabilitation, reconstruction, alteration, or other improvements to a structure, taking place during a one-year period in the "A" zones and a five-year period in the "V" zones, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure shall be the appraised value of the structure prior to the start of the initial work. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which incur substantial damage regardless of actual work performed. The term does not include either:~~

- ~~(1) Any project for improvement of a structure required to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~
- ~~(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure for which a variance has been granted pursuant to this division; or~~
- ~~(3) Repairs for damage from any origin which are determined to be less than substantial damage.~~

~~Variance is a grant of relief from the requirements of this division which permits construction in a manner otherwise prohibited by this division where specific enforcement would result in unnecessary hardship.~~

~~Violation shall mean the failure of a structure or other development to be fully compliant with the provisions of this division.~~

~~Section 30-165. General provisions.~~

- ~~(a) *Lands to which this division applies.* This division shall apply to all areas of the City.~~
- ~~(b) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study and Flood Insurance Rate Map, for Miami-Dade County, Florida and incorporated areas, dated "Revised: September 11, 2009", with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this division. The majority of lands within the City are within an area of special flood hazard.~~
- ~~(c) *Development permits required.* A development permit shall be required in conformance with the provision of this division prior to the commencement of any development activities.~~
- ~~(d) *Compliance.* No development activity shall occur without full compliance with the terms of this division and other applicable regulations.~~
- ~~(e) *Abrogation and greater restrictions.* This division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division and another regulation, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~
- ~~(f) *Interpretation.* In the interpretation and application of this division 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.~~
- ~~(g) *Warning and disclaimer of liability.* The degree of flood protection required by this division 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 division 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 division shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made hereunder.~~
- ~~(h) *Penalties for violation.* Violation of the provisions of this division or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of a variance shall constitute a municipal ordinance violation. Any person who violates this division or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 60 days, or both, 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 City from taking such other lawful actions as are necessary to prevent or remedy any violation.~~
- ~~(i) *Severability.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.~~

~~Section 30-166. Administration.~~

- ~~(a) Designation of local administrator. The city manager hereby designates the community development director as the floodplain administrator to administer and implement the provisions of this division. Whenever the term city manager is used in this division, it is intended to include any designee. The floodplain administrator may delegate performance of certain duties to other employees.~~
- ~~(b) Permit procedures for building construction. Application for a development permit for constructing or substantially improving a structure shall be made to the City Manager on forms furnished by the City Manager's office 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 NGVD of the proposed lowest floor, or the lowest surface of any heating or air conditioning duct work installed below the lowest floor, or the lowest horizontal supporting member in a coastal high hazard area (V-Zone), of all proposed buildings or substantial improvements;~~
 - ~~b. Elevation in relation to NGVD to which any proposed building or substantial improvement, not located in a coastal high hazard area (V-zone), will be floodproofed;~~
 - ~~c. Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that the floodproofed building will meet the floodproofing criteria in this division;~~
 - ~~d. Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that a new or substantially improved building located in the coastal high hazard area (V-Zone) will meet the construction standards contained in section 30-167(c);~~
 - ~~e. Description of the extent to which any watercourse, swamp, marsh, lake, or pond will be altered, relocated, or created as result of proposed construction, including evidence that the carrying capacity of any such altered or relocated watercourses will be maintained; and~~
 - ~~f. Description of the type, extent, and depth of proposed fill and the elevation in relation to NGVD of the top surface of the fill; and~~
 - ~~g. Description of the type, extent, and depth of proposed excavation in relation to NGVD;~~
 - ~~h. Plot plan, to scale, illustrating the locations of all proposed construction, fill, excavating, and other aspects of the development.~~
 - ~~i. Copy of the proposed stormwater management report and floodplain study, if any, complete with technical supporting data.~~
 - ~~j. Grading and drainage plans.~~
 - ~~k. Upon request, stormwater management plans.~~
 - ~~l. In A zones, in the absence of FEMA base flood elevation data and floodway data, other available data may be considered as the basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level.~~

- ~~m. Within AE zones without a designated floodway, new development shall not be permitted unless it is demonstrated that the cumulative effect of all past and projected development will not increase the base flood elevation by more than one foot.~~
- ~~n. In a regulatory floodway, any encroachment is prohibited which would cause any increase in the base flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment will not increase flood levels during the base flood discharge.~~
- ~~(2) Construction stage. Floor elevation or floodproofing certifications.~~
 - ~~a. Upon placement of the lowest floor, or, in the coastal high hazard areas (V-zones) upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the City Manager a certification of the elevation of the top of the lowest floor, or the lowest surface of any heating or air conditioning duct work installed below the lowest floor, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to NGVD. Said certification shall be made on a FEMA elevation certificate form no. 81-31, or a form containing at least the same information, and shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer.~~
 - ~~b. When floodproofing is utilized for a building, the permit holder shall submit to the City Manager a floodproofing certification at the time the exterior walls are completed to the required floodproofed elevation. Said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same, utilizing the FEMA floodproofing certificate form no. 81-65, or the equivalent.~~
 - ~~c. Any additional work undertaken prior to submission and approval of the certification shall be at the permit holder's risk.~~
 - ~~d. The City Manager shall review the floor elevation survey data or floodproofing certification submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Acceptance of the floodproofing certification by the City Manager shall not relieve the certifying professional of risk and/or liability for the certification.~~
 - ~~e. Failure to submit the elevation or floodproofing certifications or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.~~
 - ~~f. Prior to issuance of a certificate of occupancy for new construction or substantial improvement in the coastal high hazard area (V-Zones), the permit holder shall submit a signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect certifying that the building has been constructed in compliance with the standards contained in section 30-167(c). A certificate of occupancy will not be issued until this certification has been received and accepted by the City Manager.~~
- ~~(c) Duties and responsibilities of the local administrator. Duties of the City Manager, as the local administrator of this division, shall include, but not be limited to:~~
 - ~~(1) Review all applications for development permits to assure that the permit~~

~~requirements of this division have been satisfied.~~

- ~~(2) Advise permittees that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.~~
- ~~(3) Verify and record the actual elevation (in relation to NGVD) of the lowest floor of all new or substantially improved buildings, in accordance with section 30-167(b)(1).~~
- ~~(4) Verify and record the actual elevation (in relation to NGVD) to which the new or substantially improved buildings have been elevated or floodproofed, in accordance with section 30-167(b)(2).~~
- ~~(5) In coastal high hazard areas, requiring permittees to provide certification from a registered professional engineer or architect that the building is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, in compliance with section 30-167(2),(3),(4).~~
- ~~(6) In coastal high hazard areas, the City Manager shall review plans for adequacy of breakaway walls in accordance with section 30-167(c)(8), (9) and (10).~~
- ~~(7) When floodproofing is utilized for a particular building, the City Manager shall obtain certification from a registered professional engineer or architect, in accordance with this division.~~
- ~~(8) The office of the City Manager shall serve as the official map repository for FEMA Flood Insurance Rate Maps, flood boundary and floodway maps (if applicable), and flood hazard boundary maps for the community, together with letters of map amendment (LOMAs) and letters of map revision (LOMRs). At least one copy of all current and superseded maps, LOMAs and LOMRs shall be maintained for public use and viewing.~~
- ~~(9) All records pertaining to the provisions of this division shall be maintained in the office of the City Manager and shall be open for public inspection. Copies of all development permits and summary supporting documentation shall be filed by geographic area for ease of coordinating all floodplain development activities.~~

~~Section 30-167. Provisions for flood hazard reduction.~~

- ~~(a) *General standards.* In all areas of special flood hazard the following provisions are required:~~
 - ~~(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.~~
 - ~~(2) Manufactured homes shall be anchored to prevent flotation, collapse, or 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.~~
 - ~~(4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.~~
 - ~~(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, including duct work, and other service facilities 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 improvement to a building which is in compliance with the provisions of this division, shall meet the requirements of new construction as contained in this division.~~
- ~~(10) Adequate drainage paths shall be provided around structures to guide stormwater runoff away from them.~~
- ~~(11) Any improvements made to new or substantially improved buildings for which permits were issued on or after the effective date of this division shall conform to the requirements for new construction under this division.~~
- ~~(12) Functionally dependent structures and any improvements to historic buildings may be exempted from one or all of the standards contained in this division, provided the request for an exemption is approved as a variance, as provided in this division, and with regard to historic buildings the proposed improvements are certified by a certified local government or the State Historic Preservation Officer as maintaining the historical integrity and classification of the building.~~
- ~~(b) *Specific standards for A-zoned flood hazard areas.* In all areas of special flood hazard, areas denoted with an "A" prefix on the FIRM where base flood elevation data have been provided, as set forth in section 30-165(b), the following provisions are required, in addition to the general standards of section 30-167(a).~~
 - ~~(1) *Residential construction.* New construction or substantial improvement of any residential building (or manufactured home) shall be the lowest floor, together with all mechanical and electrical equipment, including duct work, and including any basement, elevated no lower than one foot above the base flood elevation or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with section 30-167(b)(3). The floor of an attached garage may be placed below the base flood elevation, provided the openings required in section 30-167(b)(3) are installed and all mechanical and electrical equipment, including laundry facilities and food freezers, are elevated above base flood elevation.~~
 - ~~(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, together with all mechanical and electrical equipment, including duct work, and including any basement, elevated no lower than one foot above the base flood elevation or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher. The floor of an attached garage or loading dock may be placed below the base flood elevation, provided the openings required in section 30-167(b)(3) are installed and all mechanical and electrical equipment are elevated above the base flood elevation. Buildings may be floodproofed to an~~

~~elevation of one foot above the required base flood elevation noted above, or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 30-166(c)(4).~~

~~(3) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and shall be 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:~~

- ~~1. Provide a minimum of two openings (in walls or doors) having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;~~
- ~~2. The bottom of all openings shall be no higher than one foot above grade; and~~
- ~~3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.~~

~~b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~

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

~~d. Use of such enclosed areas shall be limited to parking, storage, and building access.~~

~~(4) *Manufactured homes and recreational vehicles.*~~

~~a. All manufactured homes placed within the City must meet all the requirements for new residential construction contained in this division, including installation on permanent foundation systems, elevation, and anchoring. At minimum, a permanent foundation system shall constitute reinforced piers placed on poured footings, or other foundation elements of equivalent strength. Any additions to manufactured homes subject to provisions of this subsection shall also be considered new construction and must therefore comply with the requirements of this division, including elevation requirements.~~

~~b. All recreational vehicles placed on sites must either:~~

- ~~1. Be fully licensed and ready for highway use, or~~
- ~~2. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of this division.~~

~~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 structures.~~

~~(5) Accessory structures. Accessory structures may be exempted from the elevation requirement of section 30-167(b), provided the following criteria are met:-~~

- ~~a. The structure is not used for human habitation, including occupancy as a workplace for extended periods of time;-~~
- ~~b. The structure is designed and constructed so as to have a low potential for damage during a flood (e.g., using flood resistant materials as provided in FEMA Technical Bulletin #88-2, and any subsequent revisions thereto);-~~
- ~~c. The structure shall be located so as to offer the minimum resistance to the flow of floodwaters (e.g., parallel to a stream, perpendicular to the ocean);-~~
- ~~d. The structure is firmly anchored to prevent flotation, per section 30-167(a)(1);-~~
- ~~e. All electrical service, heating/cooling equipment, and other mechanical or electrical equipment is either elevated above the base flood elevation, or is floodproofed. One ground-fault interrupt circuit may be installed below the base flood elevation, and all construction below that elevation shall be of flood-resistant materials.-~~

~~(6) Temporary structures. Certain types of structures (e.g., fruit stands, construction-site offices) may be sited temporarily on property without having to comply with the general standards of section 30-167(a), or the elevation standard of section 30-167(b), provided the following criteria are met:-~~

- ~~a. The structure is mobile, or can be made so, and is capable of being removed from the site with a minimum of 36 hours warning.-~~
- ~~b. The structure does not have an approval to remain on the property for more than 180 days.-~~
- ~~c. The applicant submits a plan for the removal of the structure, containing the following documentation:-~~
 - ~~1. The name, address, phone number and emergency contact point of the individual responsible for the removal of the structure.-~~
 - ~~2. The time at which the structure will be removed (i.e., a minimum of 72 hours in advance of the projected landfall of a hurricane).-~~
 - ~~3. A copy of a contract or other suitable instrument with a trucking company to ensure the availability of removal of the structure when needed, together with the name, address, and emergency phone number of the responsible trucking company agent.-~~
 - ~~4. Designation, accompanied by documentation (e.g., signed consent of the property owner), of a site outside the City to which the structure will be moved.-~~
 - ~~5. Signatures of the applicant, property owner on which the structure will be placed, and owner of the structure, agreeing to abide by the terms of the removal plan.-~~

~~A temporary development permit shall be issued when a temporary structure is approved, and the expiration date shall be clearly marked on the face of the permit. The original copy of the removal plan shall be attached to the permit, and the documentation shall be kept on file in the City Manager's office. A copy~~

~~of the permit, together with the removal plan, shall be provided by the owner to the local emergency management coordinator.~~

~~(c) Reserved.~~

~~(d) *Standards for subdivision proposals.*~~

- ~~(1) All subdivision proposals shall be consistent with the need to minimize flood damage;~~
- ~~(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;~~
- ~~(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;~~
- ~~(4) Base flood elevation and flood hazard area mapping shall be provided in accordance with this division for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.~~
- ~~(5) The base flood boundary, floodway and/or V-zone boundary if applicable, and the applicable base flood elevation for the building site on each lot shall be clearly marked on all recorded subdivision plats, be they for residential, commercial, or industrial use.~~

~~Section 30-168. Variances.~~

- ~~(a) The City Commission shall hear and decide requests for variances from the requirements of this division.~~
- ~~(b) Any person aggrieved by the decision of the City Commission may appeal such decision to the Circuit Court, as provided in the Florida Rules of Appellate Procedure.~~
- ~~(c) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.~~
- ~~(d) In passing upon such requests, the City Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this division, and:~~
 - ~~(1) The danger that materials may be swept onto other lands to the injury of others;~~
 - ~~(2) The danger to 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 of the facility to a waterfront location, in the case of a functionally dependent facility;~~
 - ~~(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~
 - ~~(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 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.~~
- ~~(e) Upon consideration of the factors listed above, and the purposes of this division, the City Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this division.~~
- ~~(f) Conditions for variances:~~
 - ~~(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.~~
 - ~~(2) Variances shall only be issued upon:~~
 - ~~a. A showing of good and sufficient cause;~~
 - ~~b. A determination that failure to grant the variance would result in exceptional hardship; and~~
 - ~~c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~
 - ~~(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~
 - ~~(4) The City Manager shall maintain the records of all variances and report any variances to the Federal Emergency Management Agency upon request.~~

~~Section 30-169. Administrative appeals.~~

- ~~(a) The City Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the City Manager in the administration of this division.~~
- ~~(b) Any person aggrieved by the decision of the City Commission may appeal such decision to the Circuit Court, as provided in the Florida Rules of Appellate Procedure.~~
- ~~(c) The City Manager shall maintain the records of all appeal actions under this section.~~

~~Section 30-170. Repeal of conflicting provisions.~~

~~All provisions of the Code of Metropolitan Dade County as made applicable to the City by article VIII, section 8.03 of the City Charter which are in conflict with this division are hereby repealed.~~

EXHIBIT B

Chapter 30 – Environment

ARTICLE IV. – FLOODS

DIVISION 1 – FLOODPLAIN MANAGEMENT ADMINISTRATION.

Section 30-121. - General.

(a) Title. These regulations shall be known as the *Floodplain Management Ordinance* of the City of Aventura.

(b) 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*; installation or replacement of tanks;; installation of swimming pools; and any other development.

(c) 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 City participation as set forth in Title 44 Code of Federal Regulations, Section 59.22.

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

(e) Warning. The degree of flood protection required by this article and the *Florida Building Code*, as amended by the City, 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 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.

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

Section 30-122. -Definitions.

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

Accessory structure means a non-habitable, garage or storage building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building, but pertaining to the use of the main building.

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

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

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

Base flood elevation (BFE) means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum

(NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

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

Coastal A Zone means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped coastal high hazard areas. In a coastal A zone, the principal source of flooding must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave height shall be greater than or equal to 1 ½ feet (457 mm). The inland limit of the Coastal A Zone is (a) the Limit of Moderate Wave Action if delineated on a FIRM, or (b) designated by the City.

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

Coastal high hazard area means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as “high hazard areas subject to high velocity wave action” or “V Zones” and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

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

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

Design flood elevation means the elevation of the “design flood,” including wave height, relative to the datum specified on the City’s legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet.

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

Existing building and existing structure means any buildings and structures for which the “start of construction” commenced before September 29, 1972.

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

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

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

Flood damage-resistant materials mean any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

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

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

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

Flood Insurance Study (FIS) means the official report provided by 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 means 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 means an official document or certificate issued by the City, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

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

Functionally dependent use means 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 means the. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

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

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

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

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

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

(4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

Market value means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this 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 means 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 September 29, 1972 and includes any subsequent improvements to such structures.

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

Special flood hazard area means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

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

Substantial improvement means any combination of repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure taking place during a five year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building is permitted after February 15, 2021. 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.
- (3) Repairs for damage from any origin which are determined to be less than substantial damage.

Variance means 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*.

Section 30-123. - Applicability.

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

(b) Areas to which this article applies. This article shall apply to all areas of the City of Aventura.

(c) Basis for establishing flood hazard areas. The Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas dated September 11, 2009, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this 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 City of Aventura Government Center, 19200 West Country Club Drive.

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

(e) 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 management 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.

(f) 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.

Section 30-124. - Duties and Powers of the Floodplain Administrator.

(a) Designation. The City Manager's designee shall serve as the City's Floodplain Administrator. The City's Floodplain Administrator shall be a certified floodplain manager and shall maintain floodplain management certification at all times while serving as the City's Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees provided such employees obtain and maintain certified floodplain manager certification from the Association of State Floodplain Managers, Inc.

(b) 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 Section 30-128 of this article.

(c) Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the City, 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 development permits 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.

(d) Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other

improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

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

(e) Modifications of the strict application of the requirements of the *Florida Building Code*. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 30-128 of this article.

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

(g) Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 30-127 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.

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

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 30-124(d) of this article.
- (2) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to

change base flood elevations, or flood hazard area boundaries; such submissions shall be made within 6 months of such data becoming available.

- (3) Review required design certifications and documentation of elevations specified by this article and the *Florida Building Code* to determine that such certifications and documentations are complete.
- (4) Notify the Federal Emergency Management Agency when the corporate boundaries of the City are modified.
- (5) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

(h) 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, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, 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 the City of Aventura Government Center, 19200 West Country Club Drive.

Section 30-125. - Permits.

(a) Permits required. Any 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 make application to the City 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.

(b) *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 is required in addition to a building permit.

(c) Buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits 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, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

(d) Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the City. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Section 30-126 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.

(e) Validity of permit or approval. The issuance of a floodplain development permit 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 the City. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

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

(g) Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit 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 the City.

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

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

Section 30-126. - Site Plans and Construction Documents.

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

- (1) Delineation of flood hazard areas and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Location of the proposed activity and proposed structures, and locations of existing buildings and structures;
- (3) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (4) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (5) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
- (6) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this 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.

(b) Additional analyses and certifications. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), the applicant shall have an engineering analysis that demonstrates the proposed alteration will not increase the potential for flood damage. The analysis shall be signed and sealed by a Florida licensed engineer and submitted with the site plan and construction documents.

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

Section 30-127. - Inspections.

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

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

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

(d) Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor.

(e) Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 30-127(d) of this article.

Section 30-128. - Variance and Appeals.

(a) General. The City 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), F.S., the City 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. This section does not apply to section 3109 of the *Florida Building Code, Building*.

(b) Appeals. The City 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.

(c) Limitations on authority to grant variances. The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 30-128(f) of this article, the conditions of issuance set forth in Section 30-128(g) of this article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

(d) Historic buildings. A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building, Chapter 12 Historic Buildings*, upon a determination that the proposed repair,

improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

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

(f) Considerations for issuance of variances. In reviewing requests for variances, the City Commission shall consider all technical evaluations, all relevant factors, 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 City;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

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

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

(2) Determination by the City 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, provided however that increased costs to satisfy the requirements of this article or inconvenience do not constitute hardship;
 - (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Section 30-129. - Violations.

(a) 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.

(b) 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.

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

(c) Penalties for violation. 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 under Section 2-343 of the City Code. Each day such violation continues shall be considered a separate offense. Nothing contained herein shall prevent the floodplain administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.

DIVISION 2. - FLOOD RESISTANT DEVELOPMENT

Section 30-141. - Buildings and Structures.

(a) Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to Section 30-125(c) 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 ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 30-147 of this article.

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

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

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

- (1) Elevation of buildings. For all buildings and structures, the minimum elevation requirements are the elevations specified in the *Florida Building Code* or 18 inches above the highest point of the adjacent road crown elevation, whichever is higher.
- (2) Cumulative Substantial Improvement. In the *Florida Building Code*, *Building* and *Florida Building Code*, *Existing Building*, definitions for the term "Substantial Improvement" shall be as follows:

SUBSTANTIAL IMPROVEMENT. For the purpose of determining compliance with the flood provisions of this code, any combination of repair, reconstruction, rehabilitation, alteration, addition or

improvement of a building or structure taking place during a five year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building is permitted after January 15, 2021. 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:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions;

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure;

(c) Repairs for damage from any origin which are determined to be less than substantial damage.

(3) Limitations on Enclosures Under Elevated Buildings and Dwellings. Enclosed areas shall: (a) have the minimum necessary access to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the elevated building (stairway or elevator); and (b) not have the interior portion partitioned or finished into separate rooms except for stairwells, ramps and elevators, unless partitions are required by the fire code; and c) in coastal high hazard areas, be enclosed by insect screening or open lattice. . The limitation on partitions does not apply to load bearing walls interior to perimeter wall foundations (crawlspaces).

(4) Detached accessory structures. Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

(a) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section R322.2 of the *Florida Building Code, Residential*.

(b) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

(c) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

(d) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot, with

the exception of no more than one switch and one outlet below the base flood elevation if connected to a ground fault interrupt circuit breaker.

(5) All buildings and structures shall adhere to the stricter of either the state or federal elevation requirement.

(d) Temporary structures. Certain types of structures (e.g., fruit stands, construction-site offices) may be sited temporarily on property for not more than 180 days without having to comply with the anchoring, elevation and other requirements for buildings provided the following criteria are met:

(1) The structure is mobile, or can be made so, and is capable of being removed from the site with a minimum of 36 hours warning.

(2) The applicant submits a plan for the removal of the structure, containing the following documentation:

a. The name, address, phone number and emergency contact point of the individual responsible for the removal of the structure.

b. The time at which the structure will be removed (i.e., a minimum of 72 hours in advance of the projected landfall of a hurricane).

c. A copy of a contract or other suitable instrument with a trucking company to ensure the availability of removal of the structure when needed, together with the name, address, and emergency phone number of the responsible trucking company agent.

d. Designation, accompanied by documentation (e.g., signed consent of the property owner), of a site outside the City to which the structure will be moved.

e. Signatures of the applicant, property owner on which the structure will be placed, and owner of the structure, agreeing to abide by the terms of the removal plan.

(3) Upon review and approval by the Floodplain Administrator, the permittee shall provide a copy of the permit and removal plan to the local emergency management coordinator.

Section 30-142. - Subdivisions.

(a) Minimum requirements. Subdivision proposals shall be reviewed to determine that:

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

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

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

(b) Subdivision plats. Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be required:

- (1) Delineation of flood hazard areas and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats; and
- (2) Compliance with the site improvement and utilities requirements of Section 30-143 of this article.

Section 30-143. - Site Improvements, Utilities, and Limitations.

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

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

(b) Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

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

(d) Limitations on placement of fill. Subject to the limitations of this 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*.

(e) Limitations on sites in coastal high hazard areas (Zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 30-

126(b) of this article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 30-147(e) of this article.

Section 30-144. - Manufactured Homes.

Manufactured homes shall(defined in 15C-1.0101, Florida Administrative Code) not be permitted in the City.

Section 30-145. - Recreational Vehicles and Park Trailers.

Recreational vehicles and park trailers shall not be permitted in the City.

Section 30-146. - TANKS

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

(b) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 30-146(c) of this article shall:

(1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas and Coastal A Zones, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(2) Not be permitted in coastal high hazard areas (Zone V) and Coastal A Zones.

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

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

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Section 30-147. - Other Development.

(a) General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the *Florida Building Code*, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

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

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

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

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- (2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site

drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

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

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

(e) Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.. In coastal high hazard areas and Coastal A Zones:

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