

**Agenda Item 15.B  
Meeting of 6/7/23****ORDINANCE 2023-15112**

**AN ORDINANCE FOR THE PURPOSE OF AMENDING CHAPTER 16, CONSTRUCTION, REHABILITATION AND PROPERTY MAINTENANCE REGULATIONS, OF THE CODE OF ORDINANCES, CITY OF NAPLES, REMOVING LANGUAGE THROUGHOUT CHAPTER 16 RELATING TO FLOODWAYS, RIVERINE AND WATERCOURSES NOT PRESENT IN THE CITY TO BE CONSISTENT WITH FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REGULATIONS; AMENDING THE DEFINITION OF MARKET VALUE IN CHAPTER 16-144 TO DEFER TO A QUALIFIED INDEPENDENT APPRAISER OR THE COLLIER PROPERTY APPRAISER FOR VALUATIONS AND ADJUSTMENTS AND TO ALIGN OTHER DEFINITIONS TO BE CONSISTENT WITH FEMA DEFINITIONS; AMENDING SECTION 16-81, GENERALLY; SECTION 16-82(a)(2), (3) AND (4), VARIANCES AND APPEALS TO FLOODPLAIN MANAGEMENT REGULATIONS; SECTION 16-112(a), FLORIDA BUILDING CODE ADOPTED; AMENDMENTS; SECTION 16-115(a), STORMWATER CONSTRUCTION STANDARDS; SECTION 16-142(1), FINDINGS OF FACT; SECTION 16-144 DEFINITIONS, TO AMEND THE DEFINITION OF MARKET VALUE; SECTION 16-146, DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR; SECTION 16-148 (1) (a), (g)(2) AND (3), SITE PLANS AND CONSTRUCTION DOCUMENTS; SECTIONS 16-146 (8), b., c., d., e., AND f. AND (9), DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR; AND SECTION 16-150 (3)b.1 AND (4)d., FLOOD-RESISTANT DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE; A REPEALER PROVISION AND PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS,** the Federal Emergency Management Agency ("FEMA") has identified special flood hazard areas within the boundaries of the City of Naples, which are subject to periodic inundation resulting in the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, an extraordinary public expenditure for flood protection and relief, and the impairment of the tax base; and

**WHEREAS,** on July 2, 1971, the City of Naples became a participant in FEMA's National Flood Insurance Program and the City Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation: and

**WHEREAS,** compliance with the National Flood Insurance Program is facilitated by regulations contained in the Florida Building Code and local codes and floodplain management regulations; and

**WHEREAS**, the Code of Ordinances of the City of Naples currently adds 20 percent to the property appraiser value to determine the 50 percent threshold for a substantial damage/substantial improvement determination; and

**WHEREAS**, on December 7, 2022, The Florida Department of Emergency Management Office of Floodplain Management (FDEM OFM), in consultation with FEMA, has determined that local communities must not codify a fixed factor to be added to the property appraiser value; and

**WHEREAS**, upon the review of the existing language in the Naples floodplain ordinance, FDEM Office of Floodplain Management has recommended other revisions to remove language associated with floodways, riverine and watercourses as Naples does not have any FEMA mapped floodways, riverine and watercourses within the city limits, and align other definitions to state floodplain model ordinance and FEMA definitions; and

**WHEREAS**, adoption of this Ordinance is in the best interest of the residents of the City of Naples and promotes the health, safety and welfare of the City; and

**WHEREAS**, Section 553.73(4), Florida Statutes governs the adoption of local amendments to the Florida Building Code, and requires transmission to the Florida Building Commission within 30 days after enactment; and

**WHEREAS**, an advertisement of the public hearing for adoption of the proposed ordinance was published in the Naples Daily News on the 28th day of May, 2023 as required by Section 166.041, Florida Statutes and City of Naples Code of Ordinances; and

**WHEREAS**, for purposes of this Ordinance, underlined type shall constitute additions to the original text, \*\*\* shall constitute ellipses to omitted original text, and strikethrough shall constitute deletions to the original text;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:**

**Section 1.** The above "Whereas" clauses are ratified, confirmed, and incorporated by reference as if set forth herein as the City Council's legislative findings.

**Section 2.** That Chapter 16 – Construction, Rehabilitation and Property Maintenance Regulations, Article II – Administration, Division 3. – Variances, Section 16-81, Generally, of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 16-81. Generally.**

(a) *Definition.* For purposes of this section, a variance shall be deemed to be a relaxation of the provisions of the Florida Building Code or, the property maintenance code ~~or~~

~~the flood insurance criteria as set forth in article IV of this chapter~~, where such variance will not be contrary to the public interest and where, owing to special conditions and circumstances peculiar to the property, a literal enforcement of the provisions of such codes ~~and the flood insurance criteria~~ would result in unnecessary and undue hardship.

- (b) *Standards for approval; procedure.* A variance shall not be granted unless and until:
- (1) A written petition is submitted to the board of appeals demonstrating that special conditions and circumstances exist that justify the granting of the requested variance, that literal enforcement of the provisions of such codes ~~or the flood insurance criteria~~ would deprive the petitioner of rights commonly enjoyed by other properties, that granting the variance will not confer on the petitioner any special privilege that is denied to others, that literal enforcement of the provisions of such codes ~~or the flood insurance criteria~~ will work undue and unnecessary hardship on the petitioner, and that granting the variance will, for reasons stated in the petition, be in the public interest.
  - (2) Public notice shall be given and a public hearing held as required in chapter 2, article II, division 3.
  - (3) The board of appeals shall make findings as required by subsection (a)(2) of this section and shall further find that the variance is the minimum variance necessary to accomplish the intent and purpose of such codes ~~and the flood insurance criteria as set forth in article IV of this chapter~~.
  - (4) The board of appeals shall further make a finding that granting of the variance will not be detrimental to the health of the neighborhood or the occupants of the structure, or otherwise detrimental to the public welfare.

In granting a variance, the board may attach reasonable conditions and safeguards in conformity with such codes ~~and article IV of this chapter~~. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Florida Building Code, or the property maintenance code ~~or article IV of this chapter~~.

**Section 3.** That paragraphs (2), (3) and (4) of Subsection (a) of Section 16-82, Variances and appeals to floodplain management regulations, of the Code of Ordinances, City of Naples, are hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 16-82. Variances and appeals to floodplain management regulations.**

- (a) *Generally.* The board of appeals will hear and decide requests for appeals and requests for variances from the strict application of article IV of this chapter. Pursuant to section F.S. § 553.73(5), the board of appeals will also hear and decide appeals and requests for variances from the strict application of the flood-resistant construction requirements of the Florida Building Code. The article does not apply to Section 3109 of the Florida Building Code, Building. General requirements for variances to floodplain management regulations are as follows:

\* \* \*

(2) ~~Restrictions in floodways.~~ A variance will not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in subsection 16-148(3).

(3)(2) *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 article IV of this chapter, provided the variance meets the requirements of subsection 16-82(a)(2) of this chapter, 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.

(4)(3) The floodplain administrator must maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**Section 4.** That Subsection (a) of Section 16-112, Florida Building Code adopted; amendments, of Chapter 16, Article III Building and Technical Code of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 16-112. Florida Building Code adopted; amendments.**

(a) ~~There is~~ The Florida Building Codes, with the subsequent editions and associated technical codes as mandated by the state and in particular Chapter 553 of the Florida Statutes, are hereby adopted by reference ~~the Florida Building Code, Seventh Edition (2020),~~ and any amendments to it as may be adopted from time to time pursuant to general law or regulations. The council hereby retains its authority to establish fees for all permitting under this Code.

**Section 5.** That Subsection (a) of Section 16-115, stormwater construction standards of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 16-115. Stormwater construction standards.**

(a) *Activities that require review:* Any activity on a property that requires an application for a new construction permit, an addition or alteration permit, a driveway permit, a site work permit, or a pool permit that will be reviewed by the city manager's designated representative to determine whether the activity constitutes new development; remodeling or redevelopment; or substantial improvement as defined in § 16-112 16-51.

**Section 6.** That Subsection (1) of Section 16-142, Findings of Fact, of Chapter 16 Article IV, Floodplain Management of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 16-142. Findings of fact.**

- (1) Portions of the ~~The~~ City of Naples lie wholly ~~lies~~ within a floodplain and are ~~is~~ subject to periodic inundation from intense rain storms and tropical cyclone storm surge, which could 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 could adversely affect the public health, safety and general welfare of the city.

**Section 7.** That Section 16-144, Definitions, of Chapter 16 Article IV, Floodplain Management of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 16-144. Definitions.**

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

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

Accessory structure means, for the purpose of this Article, a structure on the same parcel of property as a principal structure and the use of which is limited to parking and storage incidental to the use of the principal structure.

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

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

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

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 the flood having a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood and the regulatory flood).

*Base flood elevation (BFE)* means the water surface elevation associated with the base flood relative to the datum specified on the Flood Insurance Rate Map.

*Basement* means any area of the building having its floor sub-grade (below ground level) on all sides. [Note: The City of Naples does not have a basement exception from FEMA.]

*Building* means a structure with two or more rigid walls and a fully secured roof, that is affixed to a permanent site; or a manufactured home; or a travel trailer without wheels built on a chassis and affixed to a permanent foundation that is regulated in this article.

*Coastal A Zone* means an area within a special flood hazard area, landward of the V Zone or landward of an open coast without mapped coastal high hazard areas. The inland limit of the Coastal A Zone is either the limit of moderate wave action (LiMWA) delineated on the Flood Insurance Rate Map (FIRM).

*Coastal construction control line (CCCL)* means the landward extent of that portion of the beach-dune system which is subject to severe fluctuations based upon a 100-year storm surge, storm waves, or other predictable weather conditions as established by the Florida Department of Environmental Protection on June 28, 1989, in accordance with F.S. § 161.053, as amended or superseded.

*Coastal high hazard area* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. 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 flood associated with the greater of the following two areas:

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

*Design flood elevation* means the elevation of the "design flood" including wave height, relative to the datum specified on the community's legally designated flood hazard map.

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

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

*Existing building and existing structure* means any buildings and structures for which the start of construction commenced before January 17, 1973.

~~*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before January 17, 1973.~~

~~*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

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

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

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

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

*Flood or flooding* means:

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

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

*Flood insurance study (FIS)* means the official hydraulic and hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an

examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM and other related data and information.

*Floodplain* means any land area susceptible to being inundated by water from any source.

*Floodplain administrator* means the person in a position designated by the city manager responsible for the administration, implementation and enforcement of this article.

*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 the floodplain and that are determined to be compliant with this article.

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

*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; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

*Functionally dependent use* means a use that 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; this term does not include long-term storage or related manufacturing facilities.

*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.

*Letters 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)* means an amendment based on technical data showing that a property was incorrectly included in a designated flood hazard area. A LOMA amends the current effective FIRM and establishes that a specific property, portion of a property, or a structure is not located in a special flood hazard area.
- (2) *Letter of map revision (LOMR)* means 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)* means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer within the special flood hazard area. In

order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

- (4) *Conditional letter of map revision (CLOMR)* means 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.

*Limit of moderate wave action (LIMWA)* means the line shown on the FIRM to indicate the inland limit of the 1½-foot breaking wave height during the base flood.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.

*Manufactured home* means a structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term does not include a "recreational vehicle" or "park trailer".

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

*Market value (of the structure)* means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site ~~as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach),~~ is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction of building) determined by a qualified independent appraiser, within six months of prior to permit submittal, or the current Collier County Property Appraiser's assessment value adjusted by a factor provided by the County Property Appraiser to approximate market value plus 20 percent.

*New construction* means for the purpose 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 January 17, 1973 and includes any subsequent improvements to such structures.

*Non-conversion agreement (declaration of land restriction)* means a document required by this article to be signed by the owner and recorded on the property deed in official records of the clerk of courts, whereby the property owner agrees to not convert or modify a newly constructed enclosed area to make it more susceptible to flood damage.

*North American Vertical Datum of 1988 (NAVD 88)* means a vertical control used as a reference for establishing varying elevations within the floodplain. NAVD is the only official civilian vertical datum for the continental United States. After June 13, 2012, all elevation information submitted with a development permit must utilize NAVD.

*Park trailer* means a transportable unit which has a body width not to exceed 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

*Recreational vehicle* means a vehicle that is:

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

~~*Rivoline* means relating to, formed by, or resembling a river, including tributaries, stream, or brook.~~

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

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

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

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

*Substantial improvement* means any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a one-year period from the date of permit issuance, in which the cumulative cost of which equals

or exceeds 50 percent of the current market value of the structure before the improvement or repair is started. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to June 13, 2012. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. This term does not, however, include either:

- (1) Any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

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

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

*Zone X* means either: (1) an area determined to be outside the 500-year floodplain or, (2) an area of the 500-year floor or 100-year flood with average depths of less than one foot or with drainage areas less than one square mile. For purposes of this article, the flood elevation in Zone X must be equivalent to 18 inches above the elevation of the average crown of the adjacent roads abutting the property.

**Section 8.** That paragraphs b., c., d., e., and f., of Subsection (8), and Subsection (9) of Section 16-146, Duties and powers of the floodplain administrator, of Chapter 16, Article IV Floodplain Management of the Code of Ordinances, City of Naples, are hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

\* \* \*

**Sec. 16-146. Duties and powers of the floodplain administrator.**

- (8) *Other duties of the floodplain administrator.* The floodplain administrator will have other duties, including but not limited to:

\* \* \*

~~b. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State~~

~~Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);~~

- ~~b. e.~~ 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 boundaries, ~~or floodway designations~~; such submissions must be made within six months of such data becoming available;
  - ~~c. d.~~ 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;
  - ~~d. e.~~ Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Naples are modified; and
  - ~~e. f.~~ 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."
- (9) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator will 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 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 will be available for public inspection at the City of Naples Building Department, 295 Riverside Circle, Naples, Florida, 34102.

**Section 9.** That Subparagraphs (a) and (g) of Subsection (1), Subsection (2), and Subsection (3) of Section 16-148, Site plans and construction documents, of the Code of Ordinances, City of Naples, are hereby amended to read as follows (with underlining indicating additions and ~~striketrough~~ indicating deletions):

**Sec. 16-148. Site plans and construction documents.**

(1) *Information for development in the floodplain.* The site plan or construction documents for any development subject to the requirements of this article must be drawn to scale and must include, as applicable to the proposed development:

- a. Delineation of flood hazard areas, ~~flood way boundaries and~~ flood zone(s), base flood elevation(s), and ground elevations, if necessary for review of the proposed development.

\* \* \*

~~g. Existing and proposed alignment of any proposed alteration of a watercourse.~~

\* \* \*

(2) *Additional analyses and certifications.* ~~As applicable to the location and nature of the proposed development activity, and in In addition to the requirements of this section, for activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), the applicant must have an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents, :~~

- a. ~~For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant must submit such analysis to FEMA as specified in subsection 16-148(3) of this article and must submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.~~
- b. ~~For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.~~
- e. ~~For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse must be maintained in a manner which preserves the channel's flood carrying capacity, the applicant must submit the analysis to FEMA as specified in subsection 16-148(3) of this article.~~

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

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

**Section 10.** That Subparagraph 1. of paragraph b. of Subsection (3), Subdivisions, and paragraph d. of Section (4), Site improvements, utilities and limitations, of Section 16-150, Flood-resistant development, of the Code of Ordinances, City of Naples, are hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

Sec. 16-150. Flood-resistant development.

\* \* \*

(3) Subdivisions.

\* \* \*

b. *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following will be required:

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

(4) *Site improvements, utilities and limitations.*

\* \* \*

~~d. *Limitations on sites in regulatory floodways.* No development, including but not limited to site improvements, and land disturbing activity involving fill or re-grading, will be authorized in the regulatory floodway unless the floodway encroachment analysis required in subsection 16-148(2)(a) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.~~

\* \* \*

**Section 11.** That if any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional, invalid, or ineffective, the same

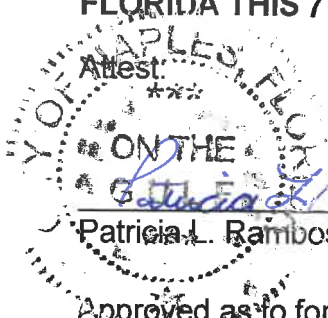
shall not affect the validity of any remaining portions of this Ordinance. In such event, the pre-existing word, phrase, clause, subsection, or section, will be revived.

**Section 12.** That all sections or parts of sections of the Code of Ordinances, City of Naples, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict. This Ordinance shall be codified and made a part of the official Code of Ordinances of the City of Naples.

**Section 13.** That this Ordinance will take effect immediately upon adoption.

**APPROVED AT FIRST READING THE 17th DAY OF MAY 2023.**

**PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 7TH DAY OF JUNE 2023.**



Attest:

*Patricia L. Rambosk*  
\_\_\_\_\_  
Patricia L. Rambosk, City Clerk

*Teresa Lee Heitmann*  
\_\_\_\_\_  
Teresa Lee Heitmann, Mayor

Approved as to form and sufficiency:

*July 6, 2023*  
\_\_\_\_\_  
Vose Law Firm, City Attorney

Date filed with City Clerk: *6-20-23*