

**CITY OF ANNA MARIA**

**ORDINANCE 09-705**

**AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, PROVING FOR FLOOD DAMAGE PREVENTION; PROVIDING FOR STATUTORY AUTHORIZATION; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR SPECIFIC REQUIREMENTS; PROVIDING FOR A PERMITTING PROCESS; PROVIDING FOR VARIANCE PROCEDURES; PROVIDING FOR MONITORING REQUIREMENTS; PROVIDING FOR SUSPENSION, REVOCATION, AND APPEALS OF PERMIT; PROVIDING FOR REMEDIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Anna Maria, Florida, is authorized to regulate land use and building construction within its corporate boundaries by the Florida Constitution, Florida Statutes, and the City Code; and

**WHEREAS**, the City of Anna Maria is located on a barrier island and construction is subject to certain regulations requiring structures be protected from flood damage

**WHEREAS**, This ordinance provides for flood damage mitigation technique in order to comply with Federal flood regulations; and

**WHEREAS**, the City Commission has held hearings and taken comment on this matter and finds that flood damage protection and participation in the National Flood insurance program is beneficial to the citizens of the City and is an appropriate subject for regulation within the City of Anna Maria; and

**WHEREAS**, the City Commission has found that this ordinance is in the best interest of the public health, safety, and welfare.

**NOW, THEREFORE**, be it ordained by the city commission of the city of Anna Maria, Florida, in regular session, the following,

**SECTION 1:** Article II. Flood damage prevention; Sections 82-31 through 82-98 are repealed and replaced in entirety as follows herein:

## ARTICLE II. FLOOD DAMAGE PREVENTION

### DIVISION 1. GENERALLY (based upon Ord. No. 06-674, § 2, Exh. A, 1-11-07)

#### Sec. 82-31. Statutory authorization.

The Legislature of the State of Florida has authorized and delegated in F.S. Ch. 166, the responsibility of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Anna Maria of Manatee County, Florida does hereby adopt the following floodplain management regulations.

#### Sec. 82-32. Findings of fact.

(a) The flood hazard areas of the City of Anna Maria are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of severe storms, hurricanes, wind events and obstructions causing increases in flood heights, wave height and coastal erosion, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

#### Sec. 82-33. Statement of purpose.

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

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

#### Sec. 82-34. Objectives.

The objectives of this article are to:

- (1) Protect human life, health and to eliminate or minimize property damage;
- (2) Minimize expenditure of public money for costly flood control projects;

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

## DIVISION 2. DEFINITIONS

### Sec. 82-35. Definitions.

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

*Accessory structure (Appurtenant structure)* means a structure that is allowed by City Zoning Code to be located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds and comfort stations.

*Aggrieved party* means any person or local government that will suffer an adverse effect to an interest protected or furthered by this article, including interests related to health and safety of persons and property. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development order.

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

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

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

*Base flood elevation (BFE)* means the water-surface elevation associated with the base static flood level.

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

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its 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. For the purposes of this section, a break way wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of break way

walls which comply with the current NFIP Technical Bulletins (either by design or when so required by local or state codes) may be permitted only if a Florida licensed professional engineer or registered architect certifies that the designs proposed meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,
- (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by the Florida Building Code.

*Building*; see Structure.

Coastal High Hazard Areas

*Coastal high hazard A zone* means an area of special flood hazard extending from the primary frontal dune along an open coast to inland areas of the barrier island. The area is designated on the Current FIRM as the numbered A zones. These zones are subject to high velocity wave action from storms or seismic sources and can be expected to receive wave crest height of less than three feet above static flood level.

*Coastal high hazard V zone* 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. The area is designated on the FIRM as any of the zones V1--V30. These zones can be expected to have wave action with a crest height three feet or greater above static flood level.

*Community rating system (CRS)* means a program under the National Flood Insurance Reform Act of 1994 that rewards communities that are doing more than meeting the minimum NFIP requirements to help their citizens prevent or reduce flood losses. The CRS also provides an incentive for communities to initiate new flood protection activities. The goal of the CRS is to encourage, by the use of flood insurance premium adjustments, community and state activities beyond those required by the National Flood Insurance Program. Under the CRS, flood insurance premium rates are adjusted to reflect the reduced flood risk resulting from community activities that meet the three goals of the CRS;—reduce flood losses, facilitate accurate insurance rating and to promote the awareness of flood insurance availability.

*Critical facility* includes but is not limited to hospitals, fire stations, EMS stations, police stations, storage of critical records, operations centers and staging areas, government buildings, law enforcement offices, medical services, potable water supply/treatment facilities, Florida Power & Light substations, sewer treatment facilities, schools and universities, convalescent and assisted living facilities, evacuation shelters, airports, radio/cellular/TV towers, landfill and hazardous material storage sites.

*Comfort Station* means an open air accessory structure or open air stand alone municipal structure with minimal walls and roof containing a toilet and a lavatory sink with the waste and vent pipes protected during flooding events from backflow of sewage and the potable water lines protected from backflow. As an accessory structure a comfort Station must be built outside of the footprint of the main building and cannot encroach into the required yard setbacks.

*Datum* means a reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is

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

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

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

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

*Existing construction* means, for the purposes of floodplain management, structures for which "the start of construction" commenced before the date of the initial flood insurance rate map or before January 1, 1975, this term is synonymous with the term "existing structure".

*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 section 82-35 of this article.

*Flood boundary and floodway map (FBFM)* means the official map of the community on which the Federal Emergency Management Agency (FEMA) has delineated the areas of special flood hazard and regulatory floodways.

*Flood hazard boundary map (FHBM)* means an official map of the community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as only approximate zone A.

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

*Flood insurance study (FIS)* means the official hydraulic and hydrologic report provided by FEMA used for preparation of the FIRM map. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations and other flood-related erosion hazards.

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

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

*Floodplain administrator* means the individual appointed by the mayor to administer and enforce the floodplain management regulations of the community and includes the title of CRS coordinator.

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

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

*Freeboard* means the height above the base flood elevation set by the municipality, usually expressed in feet, above a base flood elevation for purposes of floodplain management.

Freeboard tends to compensate for many unknown factors, such as wave action, bridge openings and hydrological effect of development in the SFHA that could contribute to flood heights greater than the height calculated and shown on the most recent flood information rate maps.

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

*Government buildings* means any federal, state or county buildings used for the administration of government and does not include municipal buildings as defined.

*Hardship* as related to variances from this article means the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the secretary to qualify as a registered historic district; or
- (3) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in accordance with the city's historic preservation program.

*Increased Cost of Compliance (ICC) coverage* means the program by which the National Flood Insurance Program may offset a portion of the cost of complying with local flood regulations for Substantially Damaged and Repetitive Loss Properties when damages are caused by flooding. You can only file an ICC claim if your community determines that your home or business has been substantially damaged or repetitively damaged by a flood. This determination is made when you apply for a building permit to begin repairing your home or business.

*Lateral Addition, compliant* means construction of an addition to a structure that, although connected to the existing structure, is a separate structure independent to the existing structure. If it is determined that the condition of "separateness and independence" is maintained, the triggering of the retroactive conformance of the existing structure to flood zone regulations (substantial improvement) will not occur. If a lateral addition constitutes a substantial improvement to a V zone building, both the addition and the existing building must comply with the current floor elevation, foundation, and other flood requirements. If a lateral addition constitutes a substantial improvement to an A zone building, only the addition must comply with the current floor elevation, foundation, and other flood requirements for new construction, as long as the alterations to the existing building are the minimum necessary. Minimum alterations necessary means the existing building is not altered, except for cutting an entrance through the existing building wall into the addition and the minimum alterations necessary to tie the structurally independent addition to the existing structure. If more extensive alterations are made to the existing building, it too must be brought into compliance with the requirements for new construction.

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

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure without partitions except to separate the garage from the storage area and a foyer for building access, 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 design standards of this article.

*Lowest horizontal structural member of the lowest floor* means the lowest beam, joist, or other horizontal member that supports the building is the lowest horizontal structural member. For Horizontal structural members not meeting definition of *Lowest Horizontal structural member* see Sec. 82-77 (7) Specific standards.

*Major permit* means a permit for work to a pre-firm structure that is proposed to exceed 35% of the Fair Market Value of the structure after completion of the work.

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

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

term does not include Florida State DCA third party approved modular/ "manufactured" homes without permanent chassis built to Florida Building Code standards.

*Market value* means the tax-assessed values. In cases where the assessment level is unacceptably low or where the projected ratio of cost of proposed construction to market value is close to 50%, adjustments for assessment level must be made. Adjustments cannot exceed 120% of tax assessed value. If the use of assessed value is questioned, an appeal is warranted, but the burden of proof can be placed on the permit applicant who can be required to submit an independent appraisal by a qualified appraiser establishing actual cash value; (replacement cost depreciated for age and quality of construction of building).

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

*Municipal buildings* mean nonresidential buildings and structures owned by the City of Anna Maria. These buildings should be given special consideration when formulating regulatory alternatives and floodplain management plans. The building shall be provided a higher level of protection so that it can function and provide services after the flood. New municipal structures must be built to the current requirements of State Statute – at a minimum.

*National Flood Insurance Program* means a pre-disaster flood mitigation and insurance protection program designed to reduce the exorbitant cost of disasters. The National Flood Insurance Program, which is a voluntary program, provides a quid pro quo approach to floodplain management, which makes Federal backed flood insurance available to residents and business owners in communities that agree to adopt and adhere to sound flood mitigation measures that guide development in its floodplains.

*National Geodetic Vertical Datum (NGVD) of 1929* means a vertical control used as a reference for establishing varying elevations within the floodplain as shown on the 1984 FIRM. The datum was used to measure elevation or altitude above, and depression or depth below, mean sea level (MSL).

*New construction* means for floodplain management purposes, any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management code, article, or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard or January 1, 1975 whichever is later. The term also includes any subsequent improvements or repairs to such structures including those resulting from substantial damage or voluntary substantial demolition. New construction must meet all of the requirements of this Chapter.

*North American Vertical Datum (NAVD) of 1988* means the vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988. The NAVD 88 was established in 1991 by the minimum-constraint adjustment of geodetic leveling observations in Canada, the United States, and Mexico. It held fixed the height of the primary tidal bench mark, referenced to the International Great Lakes Datum of 1985 local mean sea level height value, at Rimouski, Quebec, Canada. Additional tidal bench mark elevations were not used due to the demonstrated variations in sea surface topography, i.e., the fact that mean sea level is not the same equipotential surface at all tidal bench marks. The NAVD 88 replaced the National Geodetic Vertical Datum of 1929 (NGVD 29), previously known as the Sea Level Datum of 1929.



*Non-Conversion Agreement* means a document required by this ordinance whereby the owner agrees to not modify a newly constructed enclosed area to make it more susceptible to flood damage. The Non-Conversion agreement is required to be filed with the deed and other property records.

*Free of obstruction* means any type of lower area enclosure or other construction element that will obstruct the flow of velocity water and wave action beneath the lowest horizontal structural member of the lowest floor of an elevated building during a base flood event is not allowed. This requirement applies to the structures in velocity zones (V-zones).

*Phasing* means application for any permits for a structure within twelve months of a prior permit that increased the space occupied by the structure or refurbished, remodeled or otherwise changed the interior or exterior of the structure.

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

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

*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.

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

*Repetitive loss* means a structure, covered by a contract of flood insurance issued under the NFIP, that has suffered flood damage on two occasions during a 10-year period that ends on the date of the second loss, in which the cost to repair the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each flood loss. Repetitive loss structures qualify for increased cost of compliance (ICC) benefits allowed by a National Flood Insurance Program flood policy claim.

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

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

*Special flood hazard area* means the same as area of special flood hazard. The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP FIRM maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones prefixed with A 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 and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. For manufactured (mobile) homes not located in manufactured (mobile) home parks or subdivisions, but located on individually owned lots or tracts of land, the date of construction is the date the manufactured (mobile) home was permanently affixed to the site or the permit date if affixed to the site within 180 days of the date of permit.

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

*Substantial damage* means any repair to a building for which the cost of repairs equals or exceeds fifty (50) percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss. For the purposes of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences. The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure", or
- c.) Any improvement to a building

*Substantial demolition* for floodplain management purposes means the demolition of fifty (50) percent or more of the aggregate components of a building. Each component may be prorated; the components are given the value of:

Thirty (30) percent for the roof system (plus a prorated percentage for building utilities)

Thirty (30) percent for the foundation (plus a prorated percentage for all other components)

Thirty (30) percent for the exterior perimeter walls

Ten (10) percent for windows and doors

Ten (10) percent for non-bearing interior partitions

Ten (10) percent for bearing interior partitions

Thirty (30) percent for utility systems such as mechanical, electrical and plumbing including low voltage

Ten (10) percent for built in features such as appliances, bookshelves, etc.

Five (5) percent for attached extensions such as decks or carports

*Substantial improvement* means any combination of demolition, reconstruction, alteration, or improvement to a building, taking place during a one (1) year period, in which the cumulative percentage of improvement equals or exceeds fifty (50) percent of the current market value of the building. (see Phasing) For the purposes of this definition, an improvement occurs 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 building. The term does not apply to:

- a) any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure.", or
- c) Any building that has been damaged from any source or is categorized as repetitive loss.

Floodplain management requirements for new construction apply to substantial improvements. Increased Cost of Compliance (ICC) coverage does not apply to substantial improvements unless a structure is substantially damaged due to flooding.

*Variance* means a grant of relief from the requirements of this article.

*Velocity zone* or *V zone* represents areas subject to 100-year flood with additional velocity hazard (wave action). See Coastal High Hazard V area.

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

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

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

### DIVISION 3. GENERAL PROVISIONS

Sec. 82-36. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Anna Maria, Manatee County, Florida as designated on the current FIRM.

Sec. 82-37. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the federal emergency management agency in the flood insurance study (FIS) for the City of Anna Maria, dated August 1, 1983, with the accompanying maps and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this article. The flood insurance study and flood insurance rate map are on file at the City of Anna Maria Building Department.

Sec. 82-38. Designation of floodplain administrator.

The Mayor of the City of Anna Maria hereby appoints the floodplain administrator to administer, interpret and implement the provisions of this article.

Sec. 82-39. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities and may be combined with other permits required by the City of Anna Maria Code of Articles.

Sec. 82-40. Compliance.

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

Sec. 82-41. Abrogation and greater restrictions.

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

Sec. 82-42. 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 Florida State Statutes.

Sec. 82-43. Warning and disclaimer of liability.

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

Sec. 82-44. Penalties for violation.

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

Secs. 82-45--82-60. Reserved.

## DIVISION 4. ADMINISTRATION

### Sec. 82-61. Permit procedures.

Application for a development permit shall be made to the floodplain administrator on forms furnished by him or her prior to any development activities, and shall 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 or as waived by the floodplain administrator.

Specifically, the following information is required:

#### (1) **Application stage:**

- a. Elevation Certificate from a Florida Licensed professional engineer or architect or Surveyor of the building's elevation in relation to the current elevation datum standard giving the proposed lowest floor (including basement) of all buildings;
- b. Certificate from a Florida Licensed professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in subsection 82-61(2) and subsection 82-77(3);
- c. When required by the building official, a demolition plan shall be submitted at the time of permit application. The demolition plan must adequately show the extent and percentage of each component to be removed (as set forth the definition of Substantial Demolition). The plan must contain photos of the existing structure. A demolition permit based upon this detailed plan will be required to be issued and completed prior to release of any permit to alter, add to or otherwise refurbish a pre-FIRM structure. A site visit by the Building Official may be required. When prorating percentages of system demolition types use the following guide; where 50% of the area of any system demolition type listed is to be removed, altered or modified, the entire system demolition type percentage shall be used.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- e. In V-Zones and Seaward of the CCCL; provide elevation data in the current elevation datum standard (NGVD or NAVD as applicable) showing on the construction plans the proposed elevation of the bottom of the lowest horizontal structural member of the lowest floor and a V-Zone certification form and a written statement from a registered engineer or architect indicating that they have developed and or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in coastal high hazard areas.
- f. For Pre-firm homes built prior to January 1, 1975 a substantial improvement determination packet must be submitted. This packet is generated by the City of Anna Maria must contain detailed information on the scope of work and an estimate of the value of the work to be performed under the scope of work. If the value of work is over 35% of the Fair Market

Value of the structure the Substantial Improvement Determination packet must contain proposals from the subcontractors and a contract signed by the owner and contractor. In the event that the contract is a cost plus type invoices for all work must be submitted at the completion of the work. Any major permits for the structure that increase the space occupied by the structure or refurbish, remodel or otherwise change the interior or exterior of the structure will be considered phasing and the permit will be denied.

**(2) Construction stage:**

- a. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation datum standard (NGVD or NAVD) elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor and certified by same.
- b. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.
- c. The floodplain administrator shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

**(3) Final completion stage:**

Submittal of a final construction Elevation Certificate prepared by a Florida Registered Surveyor and as applicable an executed and recorded Non-Conversion Agreement.

Sec. 82-62. Community rating system.

The City of Anna Maria participates in the community rating system (CRS). Under the CRS, the City of Anna Maria has adopted a higher regulatory standard than those required by NFIP. As part of the CRS program, the City of Anna Maria flood insurance premiums are adjusted to reflect community activities that: reduce flood damage to existing buildings, protect new buildings beyond the minimum NFIP protection level, help insurance agents obtain flood data, and allow building owners obtain flood insurance. The community rating system coordinator will present an annual report of activities with a copy of the annual recertification to the mayor.

Secs. 82-63---82-75. Reserved.

## **DIVISION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION**

Sec. 82-76. General standards.

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

- (1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Construction of new and substantially improved critical facilities shall be located outside the limits of the special flood hazard area (one percent chance floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three or more feet above the base flood elevation at the site (the 0.2 percent chance flood elevation). Floodproofing and sealing measures must be implemented to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the base flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical facilities must not only be protected to the 0.2 percent chance flood, but must remain operable during such an event.
- (3) Manufactured homes of any type 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 of Florida requirements for resisting wind forces;
- (4) A Florida licensed registered professional engineer or architect shall develop or review the structural design, specifications and plans for all construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. Geotechnical Soil Reports are required for new construction.
- (5) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable FEMA technical bulletin(s) for guidance;
- (6) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable FEMA technical bulletin(s) for guidance;
- (7) Electrical, heating, ventilation, plumbing, air conditioning equipment including duct work, shall be located above the base flood elevation. Only those electrical outlets, switches and equipment such as disconnects required by the National Electrical Code (N.E.C.) for safety reasons may be allowed below B.F.E.. Outlets and switched circuits must be equipped to preclude the entry and/or accumulation of floodwaters and equipped with ground fault interrupt protection;
- (8) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (9) New or 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;
- (10) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (11) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article;

- (12) Any alteration, repair, reconstruction or improvements to a building that is not in conformance with the provisions of this article, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;
- (11) All applicable additional federal, State of Florida, and local permits shall be obtained and submitted to the floodplain administrator prior to issuance of a development permit. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to the following;
- a. Southwest Florida Water Management District(s): in accordance with F.S. Ch. 373.036, subsection (2)(a)--Flood Protection and Floodplain Management;
  - b. Department of Environmental Protection: in accordance with Ch. 380.05 F. S.. Areas of Critical State Concern;
  - c. Chapter 553, Part IV, Florida Building Code adopted herein by the City of Anna Maria;
  - d. Department of Health: in accordance with F.S. Ch. 381.0065, Onsite Sewage Treatment and Disposal Systems.
  - e. Department of Environmental Protection, Coastal Construction Control Line: in accordance with F. S. Ch. 161.053, Coastal Construction and Excavation.
- (13) Standards for subdivision proposals and other proposed development (including manufactured homes and DCA approved manufactured homes intended for permanent installation:
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
  - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
  - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
  - d. Prohibit the use of fill for structural support. No development permit shall be issued for development involving fill in coastal high hazard areas unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or adjacent structures. Placement of fill that would result in an increase in the base flood elevation or cause adverse impacts by wave ramping and deflection may be permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.
  - e. For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or the base flood elevation or by FEMA in accordance with section 82-37, whichever is higher.
  - f. When fill is proposed, in accordance with the permit issued by the Florida Department of Environmental Protection in coastal high hazard areas, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.
  - g. Prohibit manmade alteration of sand dunes and mangrove stands that would increase potential flood damage.



Sec. 82-77. Specific standards.

In all *Coastal high hazard A zone areas*, the base flood elevation data have been established and construction shall comply with the following provisions:

- (1) Be elevated on pilings or pier and column foundation as required by accepted engineering practice to meet sound engineering principles so that:
  - a. The lowest floor as defined herein is elevated to no lower than 13 feet NGVD and
  - b. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than the base flood elevation shown on the latest adopted Flood Information Rate Map and All horizontal structural members such as grade beams or pile caps must be installed below the scour level established by the Florida Department of Environmental Protection or in areas where the scour level has not been defined, below the existing grade
  - c. The pile or pier and column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable State of Florida building standards.
- (2) *Residential construction.* All new construction or substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than 13 feet NGVD. All new construction and substantial improvements shall have all walls used for an enclosure below the lowest floor at minimum constructed of a breakaway wall system. Additionally, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of subsection 82-77(5).
- (3) *Non-residential construction.* All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than 13 feet NGVD or be flood proofed. All *Non-residential construction* buildings located in A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the Federal flood proofing certificate OMB 81-65. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.
- (4) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space by not partitioning the space except to allow for the separation of the garage from the storage area and the construction of a foyer for building access, all enclosed areas shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on walls.
- (5) Designs for complying with the requirement for flood venting must be certified by a professional engineer or architect and shall at minimum meet the following criteria:
  - a. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding or an engineered product that is shown

by testing by an accredited agency to meet the same or greater water flow characteristics. (Note: The requirement for flow through vents also applies to those structures located in an A zone that is located seaward of a Coastal Construction Control Line);

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

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

d. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator) and e. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures (see Stormwater Management regulations).

(6) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest structural member of all new construction and substantial improvements shall be elevated to the regulatory flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with section 82-37, whichever is higher.

(7) All horizontal structural members such as grade beams or pile caps must be installed below the scour level established by the Florida Department of Environmental Protection or in areas where the scour level has not been defined, below the existing grade

#### Sec. 82-78. *Coastal high hazard V zone*

In all *Coastal high hazard V zone areas*, the base flood elevation data has been established and construction shall comply with the following provisions:

(1) Meet the requirements of sections 82-76 and 82-77.

(2) All new construction and substantial improvements in V zones shall be elevated on pile foundation systems and;

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) shall be elevated to no lower than the base flood elevation shown on the latest adopted Flood Information Rate Map or 13 feet NGVD whichever is highest and all horizontal structural members such as grade beams or pile caps must be installed below the scour level established by the Florida Department of Environmental Protection or in areas where the scour level has not been defined, below the existing grade

b. The pile foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values shall be those required by applicable State of Florida or local, if more stringent than those of the State of Florida, building standards.

(3) All new construction and substantial improvements shall have all walls used for an enclosure below the lowest floor either free of obstruction or open wood lattice-work, insect screening or other wall systems approved by FEMA intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space by not partitioning the space except to allow for the separation of the garage from the storage area and the construction of a foyer for building access, all enclosed areas shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on walls.

(5) Designs for complying with the requirement for flood venting must be certified by a professional engineer or architect and shall at minimum meet the following criteria;

- a. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding or an engineered product that is shown by testing by an accredited agency to meet the same or greater water flow characteristics;
- b. The bottom of all openings shall be no higher than one foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade);
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both direction.

(6) Prohibit the use of fill for structural support. No development permit shall be issued for development involving fill in coastal high hazard areas unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or adjacent structures. Placement of fill that would result in an increase in the base flood elevation or cause adverse impacts by wave ramping and deflection may be permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.

(7) Prohibit manmade alteration of sand dunes and mangrove stands that would increase potential flood damage.

(8) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or the base flood elevation, whichever is the higher.

(a) When fill is proposed, in accordance with the permit issued by the Florida Department of Environmental Protection in coastal high hazard areas, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.

Secs. 82-79--82-90. Reserved.

## DIVISION 6. VARIANCE PROCEDURES

Sec. 82-91. Designation of variance and appeals board.

The City of Anna Maria City Commission shall be the appeals board and shall hear and decide appeals and requests for variances from the requirements of this article.

Sec. 82-92. Duties of variance and appeals board.

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

Sec. 82-93. Variance procedures.

In acting upon such applications, the City of Anna Maria City Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

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

Sec. 82-94. Procedures for variances.

- (a) Variances shall only be issued when there is:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship, such as the inability to have a reasonable use of the property but for approval of a variance; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or articles.
- (b) Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this article.
- (c) Variances shall not be granted solely because the work giving rise to the request for variance has commenced or has been completed. Variances shall not be granted to relieve inconveniences associated with building in accordance with the established codes and articles.
- (d) The floodplain administrator shall maintain the records of all variance actions, including justification for their issuance or denial, and report such variances in the community's NFIP Biennial Report or upon request to FEMA and the State of Florida, Department of Community Affairs, NFIP coordinating office.

(d) An applicant for a variance shall file an application on forms supplied by the city. The applicant shall file with the application a letter or other document addressing the factors set forth in this article as justification for the variance. In addition, the applicant shall provide the information required for complete review and final action on the application. The information may include surveys no more than six months old, engineering calculations necessary to understand the scope of the request and its impact on the surrounding properties, and such other information reasonably needed to process the application. The city is authorized to promulgate rules intended to facilitate the application process. The applicant shall have the burden of persuasion.

(e) Once the application for a variance is deemed complete, a hearing before the city commission shall be scheduled. The hearing shall be noticed by posting the property subject to the variance application. The posted notice shall be located facing the public right(s)-of-way adjoining the property. Additionally, a notice shall be posted at city hall and at any other public place the city customarily posts notices. This notice is deemed minimum notice and additional notice may be required when necessary. The notice shall contain at a minimum the date, time, and place of the hearing, a brief description of the requested variance, and how persons may get additional information. Notice shall be posted a minimum of ten calendar days prior to the hearing. The applicant shall be responsible for posting notice on the property.

(f) The city commission is authorized to attach conditions to any variance approved if the conditions are reasonably intended to relieve or mitigate the impacts of the variance upon the subject property or adjoining or adjacent public or private properties.

#### Sec. 82-95. Variance notification.

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

(1) The issuance of a variance from this article may result in increased premium rates for flood insurance and;

(2) Construction below the base flood level increases risks to life and property.

A copy of the notice shall be recorded by the floodplain administrator in the office of the clerk of court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. No variance will be effective until recording has been completed.

#### Sec. 82-96. Appeal procedures.

(a) Any aggrieved person may appeal a decision of the floodplain administrator interpreting or administering this article. The appeal shall be to city commission. A request for appeal shall be filed with the city no later than 21 calendar days following the building official's decision. A person shall file the request for appeal with the city and shall describe with particularity the building official's decision and why the decision is in contravention with this article.

(b) A hearing before the city commission shall be scheduled as soon as practical following receipt of a complete request for appeal. The hearing shall be noticed as if for a variance pursuant to subsection 82-94(e), above. The appeal shall be based on the record presented to the floodplain administrator at time of the original decision and no new information shall be presented to the commission, it being the intent of this article that any new information discovered, created, or presented, shall first be presented to the floodplain administrator with a

request for reconsideration of the original decision so that floodplain administrator may first determine whether the new information affects the original decision.

(c) The city commission shall hear the appeal request. Its decision on the appeal shall be pursuant to the policies enumerated in section 82-33, above. The floodplain administrator's decision shall be presumed correct unless overturned by a majority of the commission. The person bringing the appeal shall have the burden of persuading the commission that the floodplain administrator's decision is incorrect. The city commission's decision shall be final and any further appeal shall be to the judicial system in accordance with the applicable court rules.

**Sec. 82-97. Historic structures.**

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

**Sec. 82-98. Administration.**

The administration is authorized to promulgate forms intended to assist persons affected by this article. Additionally, the city may adopt by resolution a series of fees for implementing this article.

**Section 2. Repeal of Ordinances in Conflict.** All Ordinances of the City of Anna Maria in direct conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 3. Severability.** Should any portion of this Ordinance be found by a court of competent jurisdiction to be illegal or unconstitutional, then such portion shall be severed and the remaining portions of the Ordinance shall be unaffected thereby.

**Section 4. Effective Date.** This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Anna Maria.

**PASSED AND ADOPTED**, by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this 24<sup>th</sup> day of September 2009

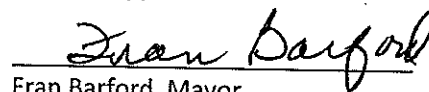
  
John Quam, Commission Chairperson

ATTEST:

  
Alice Baird, City Clerk

John Quam, Commission Chairperson  
Charles "Chuck" H. Webb, Commissioner  
Jo Ann Mattick, Commissioner  
Christine Tollette, Commissioner  
Dale Woodland, Commissioner

I hereby approve this Ordinance:

  
Fran Barford, Mayor

,2009