

ARTICLE VIII. - FLOODPLAIN MANAGEMENT

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Sec. 101-90. - Floodplain management; general.

- (1) *Title.* These regulations shall be known as the Floodplain Management Ordinance of the City of Key Colony Beach, hereinafter referred to as "this article."
- (2) *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to, the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; installation or replacement of tanks; installation of swimming pools; and any other development.
- (3) *Intent.* The purposes of this article and the flood load and flood-resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
 - (a) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (b) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (c) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - (d) Manage the alteration of flood hazard areas and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
 - (e) Minimize damage to public and private facilities and utilities;
 - (f) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 - (g) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 - (h) Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44 Code of Federal Regulations, Section 59.22.
- (4) *Coordination with the Florida Building Code.* This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- (5) *Warning.* The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may

be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this article.

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

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-91. - Applicability.

- (1) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (2) *Areas to which this article applies.* This article shall apply to all flood hazard areas within the City of Key Colony Beach, as established in Section 101-91(3) of this article.
- (3) *Basis for establishing flood hazard areas and Species Focus Areas and Real Estate Numbers.*
- (a) The Flood Insurance Study for Monroe County, Florida and Incorporated Areas, dated February 18, 2005, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at City Hall, 600 West Ocean Drive, Key Colony Beach, FL 33051.
- (b) The Species Focus Area Maps (SFAMs) and the real estate numbers of parcels (RE List) that are within the SFAMs identified by the U.S. Fish and Wildlife Service in accordance with the Biological Opinion, dated April 30, 2010, as amended, for the City of Key Colony Beach, and any subsequent revisions there to, are hereby declared to be a part of this article. The SFAMs and RE list are on file at the City Hall.
- (4) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to Section 101-95 of this article the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:
- (a) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
- (b) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
- (5) *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.
- (6) *Abrogation and greater restrictions.* This article supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to, land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other ordinance, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.

(7) *Interpretation.* In the interpretation and application of this article, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-92. - Duties and powers of the floodplain administrator.

- (1) *Designation.* The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
- (2) *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Section 101-97 of this article.
- (3) *Applications and permits.* The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:
 - (a) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
 - (b) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;
 - (c) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
 - (d) Provide available flood elevation and flood hazard information;
 - (e) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
 - (f) Review applications to determine whether proposed development will be reasonably safe from flooding;
 - (g) Issue building permits for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
 - (h) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.
- (4) *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
 - (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared

- by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" and for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage"; and
 - (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the Florida Building Code and this article is required.
- (5) *Modifications of the strict application of the requirements of the Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood-resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 101-97 of this article.
- (6) *Notices and orders.* The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.
- (7) *Inspections.* The Floodplain Administrator shall make the required inspections as specified in Section 101-96 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (8) *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:
- (a) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 101-92(4) of this article;
 - (b) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations or flood hazard area boundaries; such submissions shall be made within 6 months of such data becoming available;
 - (c) 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) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Key Colony Beach are modified; and
 - (e) 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 shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood-resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood-resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City Hall, 600 West Ocean Drive, Key Colony Beach, FL 33051.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-93. - Permits.

- (1) *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.
- (2) *Building permits.* Building permits shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a building permit is required in addition to a building permit.
- (3) *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), building permits shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:
- (a) Railroads and ancillary facilities associated with the railroad.
 - (b) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
 - (c) Temporary buildings or sheds used exclusively for construction purposes.
 - (d) Mobile or modular structures used as temporary offices.
 - (e) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
 - (f) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or

- other non-wood features.
- (g) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - (h) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
 - (i) Structures identified in section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.
- (4) *Application for a permit or approval.* To obtain a building permit the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:
- (a) Identify and describe the development to be covered by the permit or approval.
 - (b) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 - (c) Indicate the use and occupancy for which the proposed development is intended.
 - (d) Be accompanied by a site plan or construction documents as specified in Section 101-95 of this article.
 - (e) State the valuation of the proposed work.
 - (f) Be signed by the applicant or the applicant's authorized agent.
 - (g) Give such other data and information as required by the Floodplain Administrator.
 - (h) For projects proposing to enclose areas under elevated buildings, include signed Declaration of Land Restriction (Nonconversion Agreement); the agreement shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- (5) *Validity of permit or approval.* The issuance of a building permit pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.
- (6) *Expiration.* A building permit shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
- (7) *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a building permit if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of this community.
- (8) *Other permits required.* Floodplain building permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:
- (a) The South Florida Water Management District; section 373.036, F.S.
 - (b) Florida Department of Economic Opportunity, section 380.05, F.S., Areas of Critical State Concern, and Chapter 553, Part IV, F.S., Florida Building Code.
 - (c) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S.

and Chapter 64E-6, F.A.(3).

- (d) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (e) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (f) Federal permits and approvals.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-94. - Protection of endangered species.

- (1) *Applications with Determination of Unsuitable Habitat.* Upon receipt of a floodplain building permit application for a property that is determined to be on the SFAMs and the RE list as containing unsuitable habitat, the Floodplain Administrator shall place a letter in the floodplain building permit file that indicates:
 - (a) The name of the city official that made the determination;
 - (b) The date of the determination; and
 - (c) The date of the SFAM and RE list used to make the determination.

Once the determination has been made, the City of Key Colony Beach may take action on the floodplain building permit application without further concern for Federally threatened and endangered species and their habitat.

- (2) *Species Assessment Guides and Acceptance Form.* The Species Assessment Guide for the City of Key Colony Beach provided by the U.S. Fish and Service (Service), dated November 2011, and any subsequent revisions there to, is hereby declared to be a part of this article. The Species Assessment Guide is on file at the City Hall.
 - (a) The City of Key Colony Beach shall use the Species Assessment Guide to determine whether the applicant for a floodplain building permit application must seek technical assistance by the Service. For applications that require such assistance, the City of Key Colony Beach shall provide copies of the applications to the Service for review on a weekly basis.
 - (b) Based on the Service's technical assistance, the City of Key Colony Beach shall condition the floodplain building permit to incorporate the Service's recommendations to avoid and/or to minimize possible impacts on Federally listed threatened and endangered species and their habitat.
 - (c) The City shall maintain an Acceptance Form of the Service's recommendations in the permit file. The Acceptance Form shall be signed by the permit applicant and the building official.
 - (d) The City shall use the Species Assessment Guide (SAG) for properties that exist within the boundaries of a completed Habitat Conservation Plan and which are subject to the SFAMs. The Real Estate folio number list which accompanies the SFAMs will be utilized in combination to determine if a building permit application must be provided to the Service for technical assistance in order to meet the full requirements of the Endangered and Threatened sections of this section.
- (3) *Avoiding Impacts on Federally Listed Species.* All proposed development shall meet the conditions attached to floodplain building permits in accordance with Section 101-94(b) to avoid possible impacts to Federally threatened and endangered species and their habitat.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-95. - Site plans and construction documents.

- (1) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:
 - (a) Delineation of flood hazard areas, flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
 - (b) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
 - (c) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (d) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 - (e) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.

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

- (2) *Additional analyses and certifications.* For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis signed and sealed by a Florida licenses engineer that demonstrates that the proposed alteration will not increase the potential for flood damage shall be submitted with the site plan and construction documents.
- (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 or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-96. - Inspections.

- (1) *General.* Development for which a building permit is required shall be subject to inspection.
- (2) *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued building permits.
- (3) *Buildings, structures and facilities exempt from the Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued building permits.
- (4) *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon

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

- (5) *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 101-96(4) of this article.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-97. - Variances and appeals.

- (1) *General; recommendations.* The Planning and Zoning Committee Commission shall hear requests for appeals and requests for variances from the strict application of this article and the flood-resistant construction requirements of the Florida Building Code. Based on the provisions of this section, the Planning and Zoning Committee shall make recommendations to the City Commission. Pursuant to section 553.73(5), F.S., the City Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the flood-resistant construction requirements of the Florida Building Code.
- (2) *Appeals.* The City Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this article. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- (3) *Limitations on authority to grant variances.* The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 101-97(6) of this article, the conditions of issuance set forth in Section 101-97(7) of this article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.
- (4) *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood-resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- (5) *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article 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.
- (6) *Considerations for issuance of variances.* In reviewing requests for variances, the City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building

Code, this article, and the following:

- (a) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - (d) The importance of the services provided by the proposed development to the community;
 - (e) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
 - (f) The compatibility of the proposed development with existing and anticipated development;
 - (g) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - (h) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
 - (i) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.
- (7) *Conditions for issuance of variances.* Variances shall be issued only upon:
- (a) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
 - (b) Determination by the City Commission that:
 - (i) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - (ii) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - (iii) The variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (c) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
 - (d) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-98. - Violations.

- (1) *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this article or the conditions established by grants of variance, shall be deemed a violation of this article and punishable as a non-criminal violation. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
- (2) *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.
- (3) *Unlawful continuance; fine.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(Ord. No. 2018-456A, § 2, 1-10-19)

Secs. 101-99, 101-100. - Reserved.

Sec. 101-101. - Buildings and structures.

Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to Section 101-93(3) of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 101-106 of this article.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-102. - Subdivisions.

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

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

- (a) Delineation of flood hazard areas and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats; and
- (b) Compliance with the site improvement and utilities requirements of Section 101-103 of this article.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-103. - Site improvements, utilities and limitations.

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

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

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

(3) *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.(3) and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(4) *Limitations on placement of fill.* Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

(5) *Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 101-95(2) of this article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 101-106(6) (c) of this article.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-104. - Manufactured homes and recreational vehicles.

Installation of manufactured homes shall not be permitted. Recreational vehicles are permitted to be stored but not occupied.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-105. - Tanks.

- (1) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- (2) *Above ground tanks, not elevated.* Above ground tanks that do not meet the elevation requirements of Section 101-104(3) of this article shall:
 - (a) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
 - (b) Not be permitted in coastal high hazard areas (Zone V).
- (3) *Above ground tanks, elevated.* Above ground tanks in flood hazard areas shall be elevated to or above the design flood elevation and attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- (4) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - (a) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 2018-456A, § 2, 1-10-19)

Sec. 101-106. - Other development.

- (1) *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:
 - (a) Be located and constructed to minimize flood damage;
 - (b) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 - (c) Be constructed of flood damage-resistant materials; and
 - (d) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- (2) *Detached accessory structures in coastal high hazard areas (Zone V).* In coastal high hazard areas, detached garages are not permitted. Detached accessory structures used only for storage that are 100 square feet or less in area are permitted below the base flood elevation provided the structures comply with Section 101-106(1) of this article.
- (3) *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar*

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

- (a) Structurally independent of the foundation system of the building or structure;
 - (b) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
 - (c) Have a maximum slab thickness of not more than four (4) inches.
- (4) *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:
- (a) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
 - (b) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
 - (c) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
 - (d) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.
- (5) *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include, but are not limited to:
- (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
 - (c) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.(3), as filled systems or mound

systems.

(6) *Nonstructural fill in coastal high hazard areas (Zone V)*. In coastal high hazard areas:

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

(Ord. No. 2018-456A, § 2, 1-10-19)