VILLAGE COUNCIL
REGULAR MEETING
Agenda

Village Hall
21500 Three Oaks Parkway,
Estero, FL

Wednesday, June 17, 2015
6:30 p.m.

Village Council: *District 1 – Bill Ribble; District 2 – Howard Levitan, Vice Mayor; District 3 – Donald Brown; District 4 – Katy Errington; District 5 – Jim Boesch; District 6 – Nick Batos, Mayor; District 7 – Jim Wilson*

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1. ***CALL TO ORDER***

2. ***PLEDGE OF ALLEGIANCE***

3. ***INVOCATION***

   Pastor Jack Strom – Living Waters Church

4. ***ROLL CALL***

5. ***PROCLAMATIONS AND EXPRESSIONS OF APPRECIATION***

6. ***APPROVAL OF AGENDA***

7. ***CONSENT AGENDA***

8. ***COUNCIL BUSINESS***

   The public will have an opportunity to speak during each agenda item. Each individual has one opportunity to speak for three minutes per agenda item.

   (A) APPROVAL OF MINUTES – Approval of minutes for the May 20, 2015 Regular Meeting and the May 20, 2015 Workshop.

   Attachment Included

(B) SECOND READING AND PUBLIC HEARING – ORDINANCE 15-07

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, RELATING TO THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR THE LEVY OF THE LOCAL COMMUNICATIONS SERVICES TAX AND SPECIFYING A RATE; ELECTING TO ADJUST THE TAX RATE IN LIEU OF PERMIT FEES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Attachment Included

(C) SECOND READING AND PUBLIC HEARING – ORDINANCE 15-08

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING LEE COUNTY ORDINANCE NO. 15-09 AMENDING THE LEE COUNTY CODE OF ORDINANCES IN EFFECT IN THE VILLAGE OF ESTERO, PURSUANT TO SECTION 12(5)(a) OF THE OF ESTERO CHARTER AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTERS 6 AND 10 AND CERTAIN SECTIONS OF THE FLORIDA BUILDING CODE TO AUTHORIZE THE BOARD OF ADJUSTMENTS AND APPEALS TO HEAR CERTAIN VARIANCE REQUESTS FROM THE FLORIDA BUILDING CODE; LIMIT BUILDING PERMITS BASED ON AFFIDAVIT; AMEND THE DEFINITION OF SUBSTANTIAL IMPROVEMENT; REPEAL AND REPLACE LAND DEVELOPMENT CODE ARTICLE IV FLOOD HAZARD REDUCTION (SECS. 6-401 - 6-476) IN ITS ENTIRETY, TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

Attachment Included

(D) RESOLUTION – Designating _____ to serve as Estero's Voting Delegate at the annual Business Session of the 89th Annual Conference of the Florida League of Cities, Inc., August 13 – 15, 2015 in Orlando, Florida (Village Manager)

Attachment Included

(E) DISCUSSION – Seniors Homestead Exemptions (Village Manager)

(F) US-41 FDOT Street Lighting Project (Village Manager)

Attachment Included

9. PUBLIC INPUT OF NON-AGENDA ITEMS

10. COUNCIL COMMUNICATIONS/FUTURE AGENDA ITEMS

11. INTERIM VILLAGE MANAGER COMMENTS

12. VILLAGE ATTORNEY COMMENTS

13. ADJOURN

If you desire to address the Council, please complete a Public Comment Card located on the table in the lobby and return it to the Clerk. Citizens desiring to speak must step up to the podium, state their full name and address and/or whom he or she represents.

ADA Assistance – Anyone needing special assistance at the Board meeting due to a disability or physical impairment, should contact Peter Lombardi, at 239-390-8000, at least 48 hours prior to the meeting.

Pursuant to Section 286.0105, Florida Statutes:
"If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a recording of the proceeding, and that, for such purpose, he or she may need to ensure that a verbatim recording of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

VILLAGE COUNCIL REGULAR MEETING OF MAY 20, 2015

The Village of Estero Council Regular Meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida, with the following Council members present:

Nick Batos – Mayor, District 6
Howard Levitan – Vice-Mayor, District 2
Bill Ribble - District 1
Donald Brown - District 3
Katy Errington - District 4
Jim Boesch - District 5
Jim Wilson - District 7

CALL TO ORDER

The Mayor called the meeting to order at 6:31 pm.

INVOCATION

The Invocation was offered by Father Tony Gilborges of Our Lady of Light Catholic Church.

ROLL CALL

Interim Village Manager Peter Lombardi called the roll; all members were present.

APPROVAL OF AGENDA

Mr. Brown moved approval, seconded by Mr. Wilson. Village Attorney Burt Saunders requested that Items 8(E) and 8(F) be moved to the beginning of the meeting. The maker and the seconder of the motion agreed to the change, and the motion was carried unanimously.

COUNCIL BUSINESS

8(A) Approval of May 8, 2015 Regular Meeting Minutes and May 8, 2015 Workshop Minutes

Mr. Ribble noted a misspelling in Item 6(A) of the May 8 Regular Meeting. Mr. Ribble moved approval as amended, seconded by Mr. Wilson, called and carried unanimously.

8(B) FIRST READING AND PUBLIC HEARING – ORDINANCE 15-05
An Ordinance of the Village Council of the Village of Estero, Florida, Establishing and Adopting Uniform Travel Policies and Procedures; Providing a Process for Amending Travel Policies and Procedures; Providing for Severability; Providing an Effective Date

Mayor Batos mentioned several issues: Section 6 is missing from Exhibit A; meal allowance amounts appear to be unreasonable; and exempting expenses for all of Lee and Collier counties from reimbursement could cause hardships in the future. Discussion followed concerning the policies in other municipalities, realistic meal allowances, allowing no reimbursement for alcoholic beverages, and setting daily or per-meal caps. Village Attorney Burt Saunders clarified the reference to Section 6, and summarized desired changes: strike out "Lee and Collier counties" and insert "Estero" in Section 5(4) on page 2 of 4; and add "no reimbursement for alcoholic beverages. Additional discussion ensued regarding a budget line item, types of expenses covered, forms and documentation needed, and notice required for first and second hearings. The Mayor called for public comment, and the following individual came forward to speak:

Stoneybrook resident, Mike St. John suggested use of Internal Revenue Service (IRS) guidelines

Mr. Wilson moved the item to second hearing as amended, seconded by Mr. Brown, called and carried unanimously via roll-call vote.

8(C) FIRST READING AND PUBLIC HEARING – ORDINANCE 15-06
An Ordinance of the Village Council of the Village of Estero, Florida, Establishing Purchasing Procedures; Designating a Purchasing Agent; Providing for Limitations on Purchases; Providing for Competitive Bidding; Establishing Competitive Bidding and Bid Opening Procedures; Providing for Awarding of Bids; Providing for Waiver of Competitive Bidding; Providing for Exemptions from Competitive Bidding; Providing for Repeal of Conflicting Provisions; Providing for Severability, Inclusion on the Code and in an Effective Date.

Village Attorney Burt Saunders stated that several minor changes would be needed and confirmed that the proposed policy was more restrictive than general law required, and clarified the definition of professional services. In response to Mr. Boesch's inquiry, Interim Village Manger Peter Lombardi described the Competitive Negotiation process, which is not included in this ordinance. The Mayor called for public comment, and no one came forward. Mr. Ribble moved the item to second hearing, seconded by Ms. Errington, called and carried unanimously via roll-call vote.

8(D) SECOND READING AND PUBLIC HEARING – ORDINANCE 15-04
An Ordinance of the Village Council of the Village of Estero, Florida Amending Section 3-2(2)(B) of Ordinance 15-01 to Change Qualifications for Membership of the Design Review Board; Providing a Severability Clause; and Providing an Effective Date

Vice-Mayor Levitan briefly reviewed the reasons for the originally requested amendments, which included replacing one of the required state-registered architects with a stage registered engineer. He reported that the Planning and Zoning Board (PZB) had reviewed the proposed amendments, and had made two requests: 1) that the requirements remain two architects, of which only one would need to be state-registered; and 2) that the Design Review Board (DRB) include a requirement in their procedures for the presence of at least one architect for any architectural plan review. After Village Attorney Burt Saunders read the title of the proposed ordinance into the record, the Mayor called for public comment, and no one came forward. Mr. Ribble moved to approve the ordinance with the changes recommended by Vice-Mayor Levitan, seconded by Ms. Errington, called and carried unanimously via roll call vote.

8(E) RESOLUTION – Resolution of Intent to Participate in the National Flood Insurance Program
ITEMS 8(E) AND 8(F) WERE DISCUSSED SIMULTANEOUSLY
Village Attorney Burt Saunders briefly described efforts to ensure that Village residents would not lose the existing 25% flood insurance discount, explained the purpose of the interlocal agreement for necessary services to be provided by the County and the invoicing for those services, and asked Council to approve the agreement and authorize staff to make any necessary changes and to negotiate the fee. After explaining the purpose of the resolution to implement performance measures to achieve eligibility for Community Rating System (CRS), he requested that Council approve the resolution and authorize staff to make any necessary changes. Referring to the second resolution, he stated that the purpose was to require the recognition and evaluation of flood or flood-related hazards in all official actions relating to land use and development. Josh Overmyer, area representative of the Florida Division of Emergency Management, provided information about the CRS, and noted that the proposed resolutions were necessary to expedite the process of enrolling the Village in CRS. Discussion followed regarding whether and how the Village could actually retain or increase the 25% discount, the assistance that Mr. Overmyer would provide, interlocal agreements between the County and other municipalities, the need for a separate agreement for these specific services from the County, and the potential effect on the primary interlocal. Throughout the discussion, Mr. Overmyer, and Attorney Saunders and Daphnie Berchier, responded to questions and provided additional information. Attorney Saunders stated that he could check on the County's fee structure and bring the interlocal back to the first meeting in June, and recommended retention of Ms. Lori Lehr of J.R. Evans Engineering as consultant for purposes of the CRS. Additional discussion occurred regarding the discount rate, the effective date for any revised discount, and an ordinance that would be

required to complete the application process. The Mayor called for public comment, and no one came forward. Attorney Saunders reviewed the items requiring action:

1. Resolution requiring the recognition and evaluation of flood or flood-related hazards in all official actions relating to land use and development. 8(E)

Mr. Ribble moved approval, seconded by Ms. Errington, called and carried unanimously via roll call vote.
RESOLUTION NO. 2015-29

2. Resolution implementing performance measures to achieve eligibility for CRS.

Mr. Wilson moved approval, seconded by Mr. Ribble, called and carried unanimously via roll call vote.
RESOLUTION NO. 2015-30

3. Interlocal Agreement

Attorney Saunders requested authorization to determine whether the agreement was necessary; and, if so, negotiate terms with the County and bring back an interlocal agreement dealing with flood plain management.
Ms. Errington so moved, seconded by Mr. Boesch, called and carried unanimously.

4. Retention of Consultant

Attorney Saunders requested authorization for Interim Village Manager Peter Lombardi to negotiate an agreement with Lori Lehr of J.R. Evans Engineering to bring back to Council for approval. Mr. Brown so moved, seconded by Ms. Errington, called and carried unanimously.
Vice-Mayor Levitan pointed out that no determination had been made of the financial impact on residents if the rate were to increase. Mr. Overmyer reported that residents of unincorporated Lee County saved over $15 million per year and that Estero represented a large portion of that amount. Additional discussion occurred regarding requirements for individual flood insurance and updating of floodplain maps. The Mayor requested a motion to authorize the Interim Village Manager to negotiate a contract with Lori Lehr of J. R. Evans Engineering. Vice-Mayor Levitan so moved, seconded by Mr. Brown called and carried unanimously.

8(F) RESOLUTION – Resolution Adopting Performance Measures for Participation in the Community Rating System (CRS) Program

ITEMS 8(E) AND 8(F) WERE DISCUSSED SIMULTANEOUSLY. SEE DISCUSSION ABOVE.

8(G) RESOLUTION – Resolution Adopting Public Records Fees

Mayor Batos noted that proposed fees were listed on Exhibit A to the resolution. There were no comments from the Council members. The Mayor called for public comment, and no one came forward. Mr. Brown moved approval, seconded by Mr. Boesch, called and carried unanimously.
RESOLUTION NO. 2015-31

8(H) RESOLUTION – Resolution Approving the Interlocal Agreement for Distribution of Local Option Gas Taxes

Village Attorney Burt Saunders clarified that approval of the resolution would authorize the Mayor to sign the Interlocal Agreement. Discussion followed regarding the roads included in the lane mile allotment and the fact that the Village was not required to assume control of the roads at this time. The Mayor called for public comment, and no one came forward. Mr. Wilson moved to approve, seconded by Ms. Errington, called and carried unanimously.
RESOLUTION NO. 2015-32

8(I) PROCLAMATION – Memorial Day Proclamation
Ms. Errington read a Proclamation recognizing the sacrifices of past and current members of the United States Armed Forces, and remembering those who have made the ultimate sacrifice to protect and preserve cherished freedoms.

PUBLIC INPUT ON NON-AGENDA ITEMS

The Mayor called for public input; and the following individual came forward:
Mike St. John, Stoneybrook resident, representing Vote Estero – Tax revenue, zoning, and roads
Mayor Batos responded to Mr. St. John's comments.

COUNCIL / MANAGER/ATTORNEY COMMUNICATIONS AND FUTURE AGENDA ITEMS

Council Members' Comments:
Ms. Errington inquired about the status of impact fees. Mayor Batos responded that he had asked Village Attorney Burt Saunders to speak to Lee County on this subject.

Mr. Boesch reported meeting with an engineer from Toll Brothers regarding the sidewalks on Estero Parkway; and requested Council authorization for himself, Interim Village Manager Peter Lombardi, and Attorney Saunders to discuss the situation with Commissioner Kiker. Attorney Saunders read part of an email from County Transportation Planning Manager, Andrew Getch, indicating that approval for the project did not include the requirement to provide sidewalks or a bond. Discussion followed regarding County records for Development Orders, who should be involved in any discussion with Commissioner Kiker, and the possibility of the Village taking over the road. There was consensus that the subject would be discussed with Commissioner Kiker at a meeting that was previously scheduled for another topic.

Mr. Boesch reported the potential formation of a Citizen's Transportation Advisory Committee, with no connection to the Council; described the mission of the committee; and noted that he had been asked to sit in on committee meetings. Following discussion, there was consensus that Council members could attend any committee meetings they desired, and report to the Council as needed.

Mayor Batos asked whether any of the public had been able to attend this meeting because it was in the evening, and there was no affirmative response. The Mayor stated that evening meetings would continue to be scheduled for several months and then evaluated to determine whether such meetings made it possible for more people to attend meetings.

Village Attorney's Comments:
Village Attorney Burt Saunders had no comments.

Interim Village Manager's Comments:
Interim Village Manager Peter Lombardi had no comments.

ADJOURN

The Mayor adjourned the meeting at 8:12 pm.

ATTEST:	VILLAGE OF ESTERO, FLORIDA
By: _____	By: _____
Kathy Hall, MMC Village Clerk	Nicholas Batos Mayor

VILLAGE COUNCIL WORKSHOP MEETING OF MAY 20, 2015

The Village of Estero Council Workshop Meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida, with the following Council members present:

Nick Batos – Mayor, District 6
Howard Levitan – Vice-Mayor, District 2
Bill Ribble - District 1
Donald Brown - District 3
Katy Errington - District 4
Jim Boesch - District 5
Jim Wilson - District 7

CALL TO ORDER

The Mayor called the meeting to order at 1:31 pm, followed by the Pledge of Allegiance to the flag.

ROLL CALL

Interim Village Manager Peter Lombardi called the roll; all members were present.

APPROVAL OF AGENDA

Mayor Batos requested addition of:
5(H) – Update on Interlocal Agreement that Staff and Vice-Mayor have discussed with Lee County
5(I) – Clarification on Advisory Committees
Ms. Errington moved approval as amended, seconded by Mr. Brown, called and carried unanimously.

COUNCIL BUSINESS

5(A) DISCUSSION – Public Financing of Council Elections

Mr. Ribble reported that he had received an email request from a constituent objecting to the idea of private fundraising and offering suggestions for taxpayer funding for common campaign resources. Village Attorney Burt Saunders explained that, although the Council has the discretion to expend funds in the public interest, there was no way to prevent "extra" private fundraising. Discussion included the validity of the premise that all private campaign contributions are suspect and the financial impact on the Village. There was consensus that the Council should not consider the idea at this time, but could bring it back in the future. The Mayor called for public comment, and the following individual came forward:

Colony at Pelican Landing resident, Nancy Cohen – clarified the intent to "level the playing field"

Additional discussion followed regarding statutory limits on individual contributions, the prohibition on limiting total contributions, the possibility of spending limits, and the effectiveness of extra expenditures.

5(B) DISCUSSION – Impact of Future Development on Corkscrew Road

Vice-Mayor Levitan stated that he would bring a resolution to the Council as soon as possible, and opined that the Council should get the view of the Conservancy. He reported that the County Commissioners had voted to transmit the Wild Blue Comprehensive Plan Amendment; and that a hearing on Corkscrew Farms would occur in June. Brief discussion followed regarding possible annexation of the areas, inclusion in the resolution of a request that the County consider impact on the roads before approving any additional development in the area, the years that it would take to complete the four-laning of Corkscrew Road, and travel delays already encountered by residents. The Mayor called for public comment, and no one came forward.

5(C) DISCUSSION – Policy Regarding Gifts and Favors

Mayor Batos commented that the Council is currently subject to state rules that set a maximum of $100.00 for gifts and favors from persons doing business with, or likely to do business with the Council; and asked whether any Council members wanted to set a different limit. Discussion followed regarding policies ranging from "no gifts" up to the maximum, the rationale of local mayors for utilizing the state maximum, possible recordkeeping and disclosure requirements, and the consequences of a total ban. Village Attorney Burt Saunders commented that the Council could set a limit and any recordkeeping requirements it deemed appropriate. There was consensus that no change was needed, and that members of the Planning and Zoning/Design Review Boards would be advised of the statute. The Mayor called for public comment, and no one came forward.

5(D) DISCUSSION – Municipal Office Space

Mr. Ribble reported that he and Interim Village Manager Peter Lombardi had selected five communities to research, that two responses had already been completed, and that he hoped to have a solid update before the next Council Meeting. Discussion followed regarding the effect on space requirements of having offices for Council members. The Mayor called for public comment, and no one came forward.

5(E) DISCUSSION – Resolution Adopting "Special Rules of Order" for Meetings and Workshops of the Village Council

ITEMS 5(E) AND 5(F) WERE DISCUSSED SIMULTANEOUSLY

After Interim Village Manager Peter Lombardi stated that the "Special Rules of Order" were from Marco Island, Village Attorney Burt Saunders confirmed that it would be appropriate to develop some rules and procedures that would inform the public while maintaining some flexibility for the Council. Discussion ensued regarding the development of general consistent rules/procedures for the Council and the Boards. The Mayor called for public comment, and no one came forward: There was consensus that Attorney Saunders should prepare draft documents for presentation to the Council at a future meeting.

5(F) DISCUSSION – Resolution Establishing General Rules Regarding the Village Council Agenda and Village Council Protocols and Procedures

ITEMS 5(E) AND 5(F) WERE DISCUSSED SIMULTANEOUSLY. SEE DISCUSSION ABOVE.

5(G) DISCUSSION – Permanent Village Manager Search

Interim Village Manager Peter Lombardi referred to information about recruitment process received from the International City Managers' Association (ICMA), noted that free recruitment services were not available to cities with over 20,000 people, and recommended that Council prepare a Request for Proposals (RFP) for a professional search firm. He provided a brief overview of search firm services, and indicated that the search process would cost $17,000-20,000 and take 90-120 days to complete. Discussion followed regarding the possibility that the Council could search on its own, resources that would be utilized in either case, and types of assistance provided by the search firm. There was consensus to direct Mr. Lombardi to prepare a draft RFP for the June 3 Regular Meeting to be approved then or on June 12. Additional discussion took place concerning determination of appropriate criteria for the position, with a request that members submit their thoughts to Mr. Lombardi and a suggestion that information be solicited from other local mayors. The Mayor called for public comment, and no one came forward.

5(H) DISCUSSION – Interlocal Agreement

Vice-Mayor Levitan stated that a meeting with Commissioner Kiker, Assistant County Manager Pete Winton, and Acting Director of Community Development Dave Loveland had gone well; and reported that:

Commissioner Kiker agreed to facilitate Village communication with County staff on Community Development issues.

Criteria for local gas tax distribution – Does not appear to be any downside to accepting. 25 lane-miles includes all major roads except regional (Corkscrew, Ben Hill Griffith, and Three Oaks); should generate $750,000 each fiscal year; not dependent which roads Estero takes until after 2019.

Population is the simplest way to divide Municipal Services Taxing Unit (MSTU) funding.
County will provide fee revenue data to determine offset to Community Development costs.
Flood maps – reduction of $50,000 for this year because it is a two-year project.
Election costs –Charter requires County to pay.

He stated that the Council needs to decide whether this is the fairest way to buy services from the County; which services are wanted; and, if unwanted, when to stop. He then requested that Village Attorney Burt Saunders check on the Village's rights to a refund of excess revenues, including the difference between 2014-15 taxes collected ($4.5 million) and fees the County says were paid with them ($3.7 million). Among items mentioned in the discussion that followed were: The County's reaction to the refund request, resumption of the Mayor's participation in negotiations, roads not included in local or regional categories, ability to drop services with a 6 month notice, extent and advantages/disadvantages of control over roads, effect of road control on franchise fee collection, and building permit/review fees. There was consensus to direct Attorney Saunders to work with the County Attorney on starting a draft of the interlocal agreement; and to direct Mr. Lombardi to get the information promised at the meeting plus information on impact fees already collected and ad valorem taxes collected for year. The Mayor called for public comment, and no one came forward.

5(I) DISCUSSION – Clarification on Advisory Committees

Mayor Batos mentioned a recent Council decision not to create any advisory committees, and emphasized that committees currently being formed are neither connected with nor sponsored by the Village. He also mentioned that the purpose of a Council liaison appointment was not to take on a position that the Council has not established. The Mayor called for public comment, and no one came forward:

PUBLIC INPUT ON NON-AGENDA ITEMS

The Mayor called for public input, and no one came forward:

COUNCIL/MANAGER/ATTORNEY COMMUNICATIONS AND FUTURE AGENDA ITEMS

Council Members' Comments:

Mr. Brown - Reported that progress on HealthCare Village had been mentioned at the Lee Memorial Health System (LMHS) meeting last week. Following some discussion about recent publicity, he assured Council that additional beds at Gulf Coast Hospital would not prevent the construction of the Estero facility.

Ms. Errington - Reported that the billboard she had mentioned at a previous meeting was no longer displaying "inappropriate" content following her conversation with the business manager.

- Mentioned that she had contacted the County about conditions at the entrance to Estero Bay Preserve, that trees had been planted, and that the gate will be opened to allow hiking.

- Noted that the "San Carlos Park" sign currently in front of the Wal-Mart will be moved to a location closer to San Carlos Park within 1-2 weeks.

Mr. Boesch - mentioned a complaint he had received that the website was only up to April 28. Mr. Lombardi explained that posting of meeting minutes was delayed due to the preparation and approval process.

Mr. Wilson – Inquired about progress in hiring a Community Development Director. Mr. Lombardi stated that the ad was still being written.

Mayor Batos – Asked about the zip code issue. Attorney Saunders stated that progress was being made and a report could be provided at today's Regular Meeting.

Village Attorney's Comments:
Village Attorney Burt Saunders had no comment.

Interim Village Manager's Comments:
Interim Village Manager Peter Lombardi had no comment.

ADJOURN

The Mayor adjourned the meeting at 3:16 pm.

ATTEST:

By: _____

Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: _____

Nicholas Batos
Mayor

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 07

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, RELATING TO THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR THE LEVY OF THE LOCAL COMMUNICATIONS SERVICES TAX AND SPECIFYING A RATE; ELECTING TO ADJUST THE TAX RATE IN LIEU OF PERMIT FEES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, during the 2000 regular Session, the Florida Legislature passed the "Communication Services Tax Simplification Law", creating Chapter 202, Florida Statutes, and

WHEREAS, Section 202.19, Florida Statutes, authorizes the Village of Estero to adopt a local communications services tax at a rate of up to 5.10 percent. This maximum rate does not include the add-on of up to 0.12 percent for municipalities which choose not to levy permit fees; and

WHEREAS, the Village of Estero is a newly incorporated municipality and therefore was not authorized to adopt a conversion rate in accordance with 202.20(1)(b), Florida Statutes.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero, Florida:

SECTION ONE. Adoption of Local Communications Services Tax Rate

There is no local communications services tax conversion rate established under Section 202.20(1)(b), Florida Statutes for the Village of Estero. Therefore, the Village adopts the local communications services tax pursuant to 202.19(2)(a), Florida Statutes. The Village of Estero hereby imposes a local communications services tax at the rate of 3.49 percent.

SECTION TWO. Adjustment of Tax Rate for Permit Fees

a. The Village of Estero hereby elects not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services, as provided in Section 337.401(3)(c) and (j), Florida Statutes.

b. The Village of Estero hereby elects to increase its local communications services tax rate as provided in Section 202.19, Florida Statutes, by an amount equal to 0.12 percent to replace revenue the Village of Estero would otherwise receive from permit fees as authorized by Section 337.401(3)(c) and (j), Florida Statutes.

c. In the aggregate, the combined local communications services tax rate for the Village of Estero is 3.61 percent

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SECTION THREE. Notice to the Department of Revenue

The Village of Estero directs the Village Manager to provide notice of the local communications services tax rate to the Florida Department of Revenue by September 1, 2015. The Department of Revenue Form DR-700021 and a copy of this Ordinance shall be submitted with the notification.

SECTION FOUR. Severability

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

SECTION FIVE. Effective Date

This Ordinance shall take effect immediately upon its passage by the Village of Estero. The imposition and collection of the combined local communications services tax rate shall commence effective January 1, 2016.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this _____day of June, 2015.

Attest:

By:_____
Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: _____
Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq.
Village Attorney

Vote:	AYE	NAY
Mayor Batos	____	____
Vice Mayor Levitan	____	____
Councilmember Boesch	____	____
Councilmember Brown	____	____
Councilmember Errington	____	____
Councilmember Ribble	____	____
Councilmember Wilson	____	____

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 08

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING LEE COUNTY ORDINANCE NO. 15-09 AMENDING THE LEE COUNTY CODE OF ORDINANCES IN EFFECT IN THE VILLAGE OF ESTERO, PURSUANT TO SECTION 12(5)(a) OF THE VILLAGE OF ESTERO CHARTER AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTERS 6 AND 10 AND CERTAIN SECTIONS OF THE FLORIDA BUILDING CODE TO AUTHORIZE THE BOARD OF ADJUSTMENTS AND APPEALS TO HEAR CERTAIN VARIANCE REQUESTS FROM THE FLORIDA BUILDING CODE; LIMIT BUILDING PERMITS BASED ON AFFIDAVIT; AMEND THE DEFINITION OF SUBSTANTIAL IMPROVEMENT; REPEAL AND REPLACE LAND DEVELOPMENT CODE ARTICLE IV FLOOD HAZARD REDUCTION (SECS. 6-401 - 6-476) IN ITS ENTIRETY, TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Estero and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Village of Estero anticipates immediate acceptance in the National Flood Insurance Program and the Village Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, established by Lee County necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the Florida Building Code; and

WHEREAS, pursuant to Section 12 (5)(a) of the Village of Estero Charter, the Village of Estero adopted all Lee County codes and ordinances in place at the time of passage of the municipal referendum; and

WHEREAS, on May 19, 2015, the Lee County Board of County Commissioners adopted Ordinance No. 15-09, amending the Lee County Land Development Code which was necessary to remain consistent with the National Flood Insurance Program requirements and the Florida Building Code; and

WHEREAS, the Village Council has determined that it is in the public interest to adopt the Lee County Ordinance No. 15-09, to protect the public health, safety and general welfare of the residents of the Village of Estero.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero, Florida:

SECTION ONE. RECITALS

The foregoing clauses are incorporated herein by reference and made a part hereof.

SECTION TWO. ADOPTION OF LEE COUNTY ORDINANCE NO. 15-09

Lee County Ordinance No. 15-09 is hereby adopted and incorporated herein as Exhibit A.

SECTION THREE. SEVERABILITY

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

SECTION FOUR. EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this _____day of June, 2015.

Attest:

By:_____
Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: _____
Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq.
Village Attorney

Vote:	AYE	NAY
Mayor Batos	____	____
Vice Mayor Levitan	____	____
Councilmember Boesch	____	____
Councilmember Brown	____	____
Councilmember Errington	____	____
Councilmember Ribble	____	____
Councilmember Wilson	____	____

LEE COUNTY ORDINANCE NO. 15-09

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTERS 6 AND 10 AND CERTAIN SECTIONS OF THE FLORIDA BUILDING CODE TO AUTHORIZE THE BOARD OF ADJUSTMENTS AND APPEALS TO HEAR CERTAIN VARIANCE REQUESTS FROM THE FLORIDA BUILDING CODE; LIMIT BUILDING PERMITS BASED ON AFFIDAVIT; AMEND THE DEFINITION OF SUBSTANTIAL IMPROVEMENT; REPEAL AND REPLACE LAND DEVELOPMENT CODE ARTICLE IV FLOOD HAZARD REDUCTION (SECS. 6-401 – 6-476) IN ITS ENTIRETY, TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Lee County and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, Lee County was accepted for participation in the National Flood Insurance Program on September 19, 1984 and the Board of County Commissioners desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

EXHIBIT A

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local administrative amendments to the *Florida Building Code* (FBC) to implement the National Flood Insurance Program; and

WHEREAS, the amendments to Chapter 6 and Chapter 10 of the Lee County Land Development Code (LDC) are necessary to remain consistent with the National Flood Insurance Program requirements and the Florida Building Code and to protect the public health, safety and general welfare; and

WHEREAS, the Land Development Code Advisory Committee reviewed the proposed floodplain management amendments in conjunction with general LDC amendments on December 12, 2012, February 8, 2013, March 8, 2013, April 12, 2013, and recommended approval of the amendments; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed floodplain management amendments in conjunction with general LDC amendments on January 9, 2013, March 13, 2013, May 8, 2013 and recommended adoption of the amendments; and

WHEREAS, the Local Planning Agency reviewed the proposed floodplain management amendments in conjunction with general LDC amendments on March 25, 2013, and found them consistent with the Lee Plan; and

WHEREAS, the Lee County Board of County Commissioners has determined that it is in the public interest to adopt the proposed floodplain management amendments that are coordinated with the *Florida Building Code.*

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENTS TO LDC CHAPTER 6

Lee County Land Development Code Chapter 6 is amended as follows with strike through identifying deleted text and underline identifying new text where shown and deletion and replacement in its entirety where noted.

Chapter 6. BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. CODES AND STANDARDS

DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS

Sec. 6-81. Variations; modification of orders.

(a) through (b) remain unchanged.

(c) Pursuant to section 553.73(5), F.S., the variance procedures adopted in Article IV Flood Hazard Reduction will apply to requests submitted for variances to the provisions of section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of section R322 of the Florida Building Code, Residential. This section does not apply to section 3109 of the Florida Building Code, Building.

DIVISION 3. BUILDING CODE

Sec. 6-118. Building permits issued on the basis of an affidavit.

Amend the FBC, Building by adding Section 107.6.1, as follows:

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

Sec. 6-119. Substantial Improvement.

Amend FBC, Building Section 1612.2 and Existing Building Section 202, pertaining to the definition of substantial improvement, as follows:

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of the building or structure subsequent to the date specified in the Local Floodplain Management Ordinance. If the structure has incurred "substantial damage," any repairs are

considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes buildings and structures that have experienced repetitive loss.

Sec. 6-120. Critical facilities.

Amend FBC, Building Section 1612.4, pertaining to elevation of buildings, as follows:

1612.4.1 Elevation of Category III and IV buildings (critical facilities).

Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located outside the limits of the special flood hazard area where feasible. Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. If permitted, critical facilities shall be elevated or protected to or above the base flood elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is higher. Flood proofing 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 shall be designed to remain operable during such an event.

Secs. ~~6-118~~ 6-121 - 6-210. Reserved.

Delete ARTICLE IV. FLOOD HAZARD REDUCTION (SECS. 6-401 – 6-476) in its entirety and replace with:

ARTICLE IV. FLOOD HAZARD REDUCTION

DIVISION 1. ADMINISTRATION

Subdivision I. Generally

Sec. 6-401. Scope.

The provisions of this article 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*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

Sec. 6-402. Intent.

The purposes of this article and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

(1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;

(2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

(3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

(4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

(5) Minimize damage to public and private facilities and utilities;

(6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

(7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

(8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

Sec. 6-403. 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.*

Sec. 6-404. Warning.

The degree of flood protection required by this article and the *Florida Building Code*, as amended by Lee County, 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.

Sec. 6-405. Disclaimer of Liability.

This article will not create liability on the part of Lee County or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made there under.

Secs. 6-406 – 6-410. Reserved.

Subdivision II. Applicability

Sec. 6-411. General.

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

(2) This article applies to all flood hazard areas within Lee County, as established in Section 6-411(3).

(3) The Flood Insurance Study for Lee County, Florida and Incorporated Areas, effective August 28, 2008, 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 will serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Lee County Department of Community Development.

Sec. 6-412. Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations, pursuant to Division 1, Subdivision V 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:

(1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area will be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the *Florida Building Code*.

(2) Are above the closest applicable base flood elevation, the area will 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.

Sec. 6-413. Other laws.

The provisions of this article will not be deemed to nullify any provisions of local, state or federal law.

Sec. 6-414. Abrogation and greater restrictions.

This article supersedes any article in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing articles including but not limited to land development regulations, zoning resolutions, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this article and any other article, the more restrictive will govern. This article will not impair any deed restriction, covenant or easement, but any land that is subject to such interests will also be governed by this article.

Sec. 6-415. Interpretation.

In the interpretation and application of this article, all provisions will be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Secs. 6-416 – 6-420. Reserved.

Subdivision III. Duties and Powers of the Floodplain Administrator

Sec. 6-421. Designation.

The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

Sec. 6-422. General.

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator will 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 will not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Division 1, Subdivision VII of this article.

Sec. 6-423. Applications and permits.

The Floodplain Administrator, in coordination with other pertinent offices of the community, will:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination will have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data will be obtained from other sources or will be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

Sec. 6-424. 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 will:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure will be

the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" and previous permits issued for repair of flood-related damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this article is required.

Sec. 6-425. Modifications of the strict application of the requirements of the *Florida Building Code.*

The Floodplain Administrator will 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 Division 1, Subdivision VII of this article.

Sec. 6-426. Notices and orders.

The Floodplain Administrator will coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

Sec. 6-427. Inspections.

The Floodplain Administrator will make the required inspections as specified in Division 1, Subdivision VI 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 will inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

Sec. 6-428. Other duties of the Floodplain Administrator.

The Floodplain Administrator will have other duties, including but not limited to:

(1) Establish procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 6-424 of this article;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) 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, flood hazard area boundaries, or floodway designations; such submissions will be made within 6 months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this article and the *Florida Building Code* and this article to determine that such certifications and documentations are complete;

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of Lee County are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements, which 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."

Sec. 6-429. Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator will maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial

improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the *Florida Building Code.* These records are available for public inspection at the Lee County Department of Community Development.

Secs. 6-430 – 6-432. Reserved.

Subdivision IV. Permits

Sec. 6-433. 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 must first make application to the Floodplain Administrator and must obtain the required permit(s) and approval(s). No such permit or approval will be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.

Sec. 6-434. Floodplain development permits or approvals.

Floodplain development permits or approvals will be issued pursuant to this article for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Sec. 6-435. Buildings, structures and facilities exempt from the *Florida Building Code.*

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals will be required for 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.

Sec. 6-436. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant must first file an application in writing on a form furnished by the community. The information provided must:

(1) Identify and describe the development to be covered by the permit or approval.

(2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) Indicate the use and occupancy for which the proposed development is intended.

(4) Be accompanied by a site plan or construction documents as specified in Division 1, Subdivision V of this article.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant or the applicant's authorized agent.

(7) Give such other data and information as required by the Floodplain Administrator.

Sec. 6-437. Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this article must not be construed to be a permit for, or approval of, any violation of this article, the *Florida Building Codes*, or any other article of this community. The issuance of permits based on submitted applications, construction documents, and information will not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

Sec. 6-438. Suspension or revocation.

The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval 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 article, regulation or requirement of this community.

Sec. 6-439. Other permits required.

Floodplain development permits and building permits must include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

(1) The South Florida Water Management District; section 373.036, F.S.

(2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

(3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.

(4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

(5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

(6) Federal permits and approvals.

Secs. 6-440 – 6-443. Reserved.

Subdivision V. Site Plans and Construction Documents

Sec. 6-444. Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of this article must be drawn to scale and must include, as applicable to the proposed development:

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

(2) Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they must be established in accordance with Section 6-445(2) or (3).

(3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations must be established in accordance with Section 6-445(1).

(4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings must be located landward of the reach of mean high tide.

(5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

(6) 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.

(7) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.

(8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.

(9) Existing and proposed alignment of any proposed alteration of a watercourse.

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.

Sec. 6-445. Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator will:

(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

(a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

(b) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.

(4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses must be prepared by a Florida licensed engineer in a format required by FEMA, and that it must be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

Sec. 6-446. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant must have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant must submit such analysis to FEMA as specified in Section 6-447 of this article and must submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated,

hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse must be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant must submit the analysis to FEMA as specified in Section 6-447 of this article.

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

Sec. 6-447. Submission of additional data.

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

Secs. 6-448 – 6-450. Reserved.

Subdivision VI. Inspections

Sec. 6-451. General.

Development for which a floodplain development permit or approval is required will be subject to inspection.

Sec. 6-452. Development other than buildings and structures.

The Floodplain Administrator will inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

Sec. 6-453. Buildings, structures and facilities exempt from the *Florida Building Code*.

The Floodplain Administrator will inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

Sec. 6-454. 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, must submit to the Floodplain Administrator:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 6-445 of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

Sec. 6-455. 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 must 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 must be prepared as specified in Section 6-454 of this article.

Sec. 6-456. Manufactured homes.

The Building Official must inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor must be submitted to the Building Official.

Secs. 6-457 – 6-460. Reserved.

Subdivision VII. Variances and Appeals

Sec. 6-461. General.

The Board of Adjustment and Appeals must hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the Board of Adjustment and Appeals hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building.*

Sec. 6-462. Appeals.

The Board of Adjustment and Appeals will 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 of Board of Adjustment and Appeals may appeal such decision to the Circuit Court, as provided by Florida Statutes.

Sec. 6-463. Limitations on authority to grant variances.

The Board of Adjustment and Appeals will base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 6-467 of this article, the conditions of issuance set forth in Section 6-468 of this article, and the comments and recommendations of the Building Official. The Board of Adjustment and Appeals has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

Sec. 6-464. Restrictions in floodways.

A variance will not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 6-446 of this article.

Sec. 6-465. 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 11 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 will not be granted and the building and any repair, improvement, and rehabilitation will be subject to the requirements of the *Florida Building Code*.

Sec. 6-466. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section 6-464 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.

Sec. 6-467. Considerations for issuance of variances.

In reviewing requests for variances, the Board of Adjustment and Appeals will consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this article, and the following:

(1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(4) The importance of the services provided by the proposed development to the community;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

Sec. 6-468. Conditions for issuance of variances.

Variances may be issued only upon:

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

(2) Determination by the Board of Adjustment and Appeals that:

(a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and articles; and

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25 for $100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Secs. 6-469 – 6-470. Reserved.

Subdivision VIII. Violations

Sec. 6-471. 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, will be deemed a violation of this article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

Sec. 6-472. 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.

Sec. 6-473. Unlawful continuance.

Any person who continues 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, will be subject to penalties as prescribed by law.

Sec. 6-474 – 6-476. Reserved.

DIVISION 2. DEFINITIONS

Subdivision I. General

Sec. 6-477. Terms defined in the *Florida Building Code*.

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

Sec. 6-478. Terms not defined.

Where terms are not defined in this article or the *Florida Building Code*, such terms will have ordinarily accepted meanings such as the context implies.

Sec. 6-479. Definitions.

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

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

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

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

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

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

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

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V. [Note: The FBC,B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas."]

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

Critical facility means one or more of the following:

(1) Structures or facilities that commercially produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials that are defined as extremely hazardous substances by the Environmental Protection Agency under section 302 of the Emergency Planning and Community Right-to-Know Act, Title III of the Superfund amendments and Reauthorization Act of 1986, 42, USC.;

(2) Hospitals, nursing homes, assisted living facilities and health care facilities Groups I, II and IV;

(3) Structures used as law enforcement stations, fire stations, governmental vehicle and equipment storage facilities, and emergency operations centers that are needed for emergency response activities before, during and after a flood incident; and

(4) Public or private utility facilities that are vital to maintaining and restoring normal services to flooded areas before, during and after a flood incident.

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

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

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

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

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before September 19, 1984.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 19, 1984.

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

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

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

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

Flood hazard area. The greater of the following two areas:

(1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

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

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data.

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation must be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

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

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

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

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building,* Chapter 11 Historic Buildings.

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

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

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

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

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

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

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer."

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and

quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of this article and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after September 19, 1984 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 19, 1984.

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

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Recreational vehicle. A vehicle, including a park trailer, which is: [See section 320.01, F.S.)

(1) Built on a single chassis;

(2) Four hundred (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.

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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

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

Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes buildings and structures that have experienced repetitive loss.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of the building or structure subsequent to November 18, 1992. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

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

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

DIVISION 3. FLOOD RESISTANT DEVELOPMENT

Subdivision I. Buildings and Structures

Sec. 6-480. Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.

Pursuant to Section 6-435 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, must 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 must comply with the requirements of Division 3, Subdivision VII of this article.

Sec. 6-481. Buildings and structures seaward of the coastal construction control line.

If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

(1) Buildings and structures must be designed and constructed to comply with the more restrictive applicable requirements of the *Florida Building Code, Building* Section 3109 and Section 1612 or *Florida Building Code, Residential* Section R322.

(2) Minor structures and non-habitable major structures as defined in section 161.54, F.S., must be designed and constructed to comply with the intent and applicable provisions of this article and ASCE 24.

Subdivision II. Subdivisions

Sec. 6-482. Minimum requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, must be reviewed to determine that:

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

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

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

Sec. 6-483. Standards for subdivision and other development proposals.

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

(1) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 6-445(1) of this article; and

(2) Compliance with the site improvement and utilities requirements of Division 3, Subdivision III of this article.

Subdivision III. Site Improvements, Utilities and Limitations

Sec. 6-484. Minimum requirements.

All proposed new development will be reviewed to determine that:

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

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

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

Sec. 6-485. 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 must be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

Sec. 6-486. Water supply facilities.

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

Sec. 6-487. Limitations on sites in regulatory floodways.

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, may be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 6-446(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

Sec. 6-488. Limitations on placement of fill.

Subject to the limitations of this article, fill must 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 must comply with the requirements of the *Florida Building Code.*

Sec. 6-489. Limitations on sites in coastal high hazard areas (Zone V).

In coastal high hazard areas, alteration of sand dunes and mangrove stands will be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 6-446(4) 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 must comply with Section 6-512 of this article.

Subdivision IV. Manufactured Homes

Sec. 6-490. General.

All manufactured homes installed in flood hazard areas must be installed by an installer that is licensed pursuant to section 320.8249, F.S., and must comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article. If located seaward of the coastal construction control line, all manufactured homes must comply with the more restrictive of the applicable requirements.

The placement of manufactured homes or recreational vehicles is prohibited in coastal high hazard areas (Zone V), except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of Section 6-492 and the elevation standards of Sections 6-494 and 6-495, as applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan Policy 80.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.

Sec. 6-491. Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas must be installed on permanent, reinforced foundations that:

(1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.2 and this article.

(2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.3 and this article.

Sec. 6-492. Anchoring.

All new manufactured homes and replacement manufactured homes must be installed using methods and practices which minimize flood damage and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

Sec. 6-493. Elevation.

Manufactured homes that are placed, replaced, or substantially improved must comply with Section 6-494 or 6-495, as applicable.

Sec. 6-494. General elevation requirement.

Unless subject to the requirements of Section 6-495, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated such that the top or the lowest floor is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V).

Sec. 6-495. Elevation requirement for certain existing manufactured home parks and subdivisions.

Manufactured homes that are not subject to Section 6-494, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, must be elevated such that either the:

(1) Top or the lowest floor of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

Sec. 6-496. Enclosures.

Enclosed areas below elevated manufactured homes must comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas, as applicable to the flood hazard area.

Sec. 6-497. Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, must comply with the requirements of the *Florida Building Code, Residential* Section R322, as applicable to the flood hazard area.

Subdivision V. Recreational Vehicles and Park Trailers

Sec. 6-498. Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas must:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

Sec. 6-499. Permanent placement.

Recreational vehicles and park trailers that do not meet the limitations in Section 6-498 of this article for temporary placement must meet the requirements of Division 3, Subdivision IV of this article for manufactured homes.

Subdivision VI. Tanks

Sec. 6-500. Underground tanks.

Underground tanks in flood hazard areas must 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.

Sec. 6-501. Above-ground tanks, not elevated.

Above-ground tanks that do not meet the elevation requirements of Section 6-502 of this article must:

(1) 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.

(2) Not be permitted in coastal high hazard areas (Zone V).

Sec. 6-502. Above-ground tanks, elevated.

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

Sec. 6-503. Tank inlets and vents.

Tank inlets, fill openings, outlets and vents must be:

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

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

Subdivision VII. Other Development

Sec. 6-504. 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*, must:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of Section 6-487 of this article if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials; and

(5) Have mechanical, plumbing, and electrical systems above the design flood elevation, 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.

Sec. 6-505. Accessory structures.

Accessory structures are not required to meet the elevation requirements if they meet all of the following requirements, in addition to those set forth in Section 6-487:

a. The structure is securely anchored to resist flotation, collapse, and lateral movement;

b. The building is a minimal investment and the total size of the building does not exceed 1,000 square feet in floor area;

c. The structure is used exclusively for uninhabitable parking or storage purposes;

d. All electrical or heating equipment is elevated above the base flood elevation or otherwise protected from intrusion of floodwaters; and

e. For accessory structures located in coastal high-hazard areas (V zones), breakaway walls are used below the lowest floor.

Sec. 6-506. Fences in regulated floodways.

Fences in regulated floodways that have the potential to block the passage of floodwaters must meet the limitations of Section 6-487 of this article.

Sec. 6-507. Retaining walls, sidewalks and driveways in regulated floodways.

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways must meet the limitations of Section 6-487 of this article.

Sec. 6-508. Roads and watercourse crossings in regulated floodways.

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways must meet the limitations of Section 6-487 of this article. Alteration of a watercourse that is part of a road or watercourse crossing must meet the requirements of Section 6-446(3) of this article.

Sec. 6-509. 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:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four (4) inches.

Sec. 6-510. 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 must be located, designed, and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure must 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 must comply with the foundation requirements that apply to the building or structure, which must be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation must be structurally independent from buildings or structures and their foundation systems, and must be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage must not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

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

Sec. 6-511. Other development in coastal high hazard areas (Zone V).

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

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

Sec. 6-512. Nonstructural fill in coastal high hazard areas (Zone V).

In coastal high hazard areas:

(1) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal may be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

Sec. 6-513. Critical Facilities.

Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located outside the limits of the special flood hazard area where feasible. Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. If permitted, critical facilities shall be elevated or protected to or above the base flood elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is higher. Flood proofing 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 shall be designed to remain operable during such an event.

Sec. 6-514. Standards for areas in the B, C, and X Zones.

All new buildings not located in the areas of special flood hazard established in Section 6-411(3) must have the lowest floor elevation (including basement) constructed at least 12 inches above the crown of the nearest local street unless the building official determines there are extenuating circumstances that would preclude meeting that elevation.

Secs. 6-515 – 6-520. Reserved.

ARTICLE V. RESERVED

Secs. ~~6-501—~~6-521 - 6-550. Reserved.

SECTION THREE: AMENDMENTS TO LDC CHAPTER 10

Lee County Land Development Code Chapter 10 is amended as follow with strike through identifying deleted text and underline indentifying new text.

Chapter 10. DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

Sec. 10-1. - Definitions and rules of construction.

Base flood elevation means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

ARTICLE II. ADMINISTRATION

DIVISION 2. DEVELOPMENT ORDERS

Subdivision II. Procedures

Sec. 10-101. Applicability of requirements.

(a) *Development orders.* All developments, as defined in this chapter, including subdivisions, are required to obtain a development order prior to commencing any land development activities or receiving any development permit, including a building permit, with the exception of the following, which are not subject to review pursuant to this chapter except as noted herein:

(1) remains unchanged.

(2) Agriculture, as defined herein except as required for excavations permitted under section 10-329 and improvements to the land subject to provisions of Chapter 6, Article IV;

Remainder of Section is unchanged.

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 10-253. - Consideration of soil conditions and flood hazards.

No development plan will be approved unless the developer submits substantial and competent evidence that all lands intended for use as development sites can be safely developed without undue danger from flood or adverse soil or foundation conditions. The following standards must also be adhered to, as applicable:

(1) through (5) remain unchanged.

(6) Land affected by Chapter 6, Article IV, pertaining to flood hazard reduction, must show the base flood elevation expressed in NAVD 1988 datum on the site plan and the plat.

SECTION FOUR: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION FIVE: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION SIX: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code Land Development Code. Sections of this ordinance can be

renumbered or relettered and the word "ordinance" can be changed to "section", "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION SEVEN: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION EIGHT: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the development order application for such project is complete or the zoning request is found sufficient before the effective date.

Commissioner Cecil L Pendergrass made a motion to adopt the foregoing ordinance, seconded by Commissioner Frank Mann. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 19th day of May, 2015.

ATTEST:
LINDA DOGGETT, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Brian Hamman, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____
Neysa Borkert
Assistant County Attorney
Office of the County Attorney

VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2015-36

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, TO APPOINT THE VOTING DELEGATE FOR THE VILLAGE OF ESTERO FOR THE 2015 FLORIDA LEAGUE OF CITIES ANNUAL CONFERENCE AND BUSINESS MEETING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero, Florida (the "Village"), desires to designate one person to be the voting delegate at the Florida League of Cities Annual Conference; and

WHEREAS, the Florida League of Cities anticipates the discussion of policy development, election of League leadership and adoption of resolutions will be undertaken during the conference and business meeting; and

WHEREAS, the appointed delegate will represent the Village of Estero on issues that determine the direction of the Florida League of Cities.

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida:

SECTION ONE. The above recitals are true and correct and are incorporated herein by this reference.

SECTION TWO. The below named person is appointed as the voting delegate representing the Village of Estero at the 2015 Florida League of Cities Annual Conference and Business Meeting:

_____

SECTION THREE. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this _____ day of June, 2015.

Attest:

By:_____
Kathy Hall, MMC, Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: _____
Nicholas Batos, Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq., Village Attorney

301 South Bronough Street • Suite 300 • P.O. Box 1757 • Tallahassee, FL 32302-1757 • (850) 222-9684 • Fax (850) 222-3806 • www.floridaleagueofcities.com

TO: Municipal Key Official

FROM: Michael Sittig, Executive Director

DATE: May 20, 2015

SUBJECT: 89th Annual FLC Conference – *Florida Cities: A Public Conversation*
VOTING DELEGATE INFORMATION
August 13-15, 2015 – World Center Marriott, Orlando

As you know, the Florida League of Cities' Annual Conference will be held at the World Center Marriott, Orlando, Florida on August 13-15. This year the theme for this year's conference is *Florida Cities: A Public Conversation*, which will provide valuable educational opportunities to help Florida's municipal officials serve their citizenry more effectively.

It is important that each municipality designate one official to be the voting delegate. Election of League leadership and adoption of resolutions are undertaken during the business meeting. Voting delegates will also adopt the FLC 2016 Legislative Action Agenda because the 2016 Legislative Session will begin early next year. One official from each municipality will make decisions that determine the direction of the League.

In accordance with the League's by-laws, each municipality's vote is determined by population, and the League will use the Estimates of Population from the University of Florida for 2014.

Conference registration materials will be sent to each municipality in the month of June. Materials will also be posted on-line. Call us if you need additional copies.

If you have any questions on voting delegates, please call Gail Dennard at the League (850) 701-3619 or (800) 616-1513, extension 3619. **Voting delegate forms must be received by the League no later than August 7, 2015.**

Attachments: Form Designating Voting Delegate

President **Matthew D. Surrency,** Mayor, Hawthorne
First Vice President **Susan Haynie,** Mayor, Boca Raton • Second Vice President **Vacancy**
Executive Director **Michael Sittig** • General Counsel **Harry Morrison, Jr.**

MEMORANDUM

Important Information

Submitting Resolutions for consideration by the FLC Resolutions Committee

The League's Resolutions Committee will be meeting in conjunction with the FLC Annual Conference, August 13-15, 2015. Any municipality interested in submitting resolutions for consideration must submit them to the League no later than **Wednesday, July 8, 2015**, to guarantee that they will be included in the packet of proposed resolutions to the Resolutions Committee. Resolutions are limited to federal, constitutional or commemorative issues that are of statewide concern. Attached are the procedures your municipality should follow for proposing resolutions to the League membership.

If you have questions regarding resolutions, please contact Allison Payne at apayne@flcities.com or 850-701-3602 at the League office.

FLC Legislative Policy Committee Process

With the Florida Legislature convening the 2016 Legislative Session in January instead of March 2016, the policy committee meetings will commence this June instead of September. This accelerated timeline means the proposed priorities adopted by each policy committee will then be submitted to the Legislative Committee and then ultimately the FLC membership for consideration and adoption at the FLC Annual Conference in August instead of the FLC Legislative Conference in November. These priorities then become the League's Legislative Action Agenda.

If you have questions regarding the legislative policy process, please contact Holly McPhail at hmcphail@flcities.com or 850-701-3604 at the League office.

Procedures for Submitting Resolutions
Florida League of Cities' 89th Annual Conference
World Center Marriott, Orlando, Florida
August 13 – 15, 2015

In order to fairly systematize the method for presenting resolutions to the League membership, the following procedures have been instituted:

(1) Proposed resolutions must be submitted in writing, to be received in the League office by July 8, 2015, to guarantee that they will be included in the packet of proposed resolutions that will be submitted to the Resolutions Committee.

(2) Proposed resolutions will be rewritten for proper form, duplicated by the League office and distributed to members of the Resolutions Committee. (Whenever possible, multiple resolutions on a similar issue will be rewritten to encompass the essential subject matter in a single resolution with a listing of original proposers.)

(3) Proposed resolutions may be submitted directly to the Resolutions Committee at the conference; however, a favorable two-thirds vote of the committee will be necessary to consider such resolutions.

(4) Proposed resolutions may be submitted directly to the business session of the conference without prior committee approval by a vote of two-thirds of the members present. In addition, a favorable weighted vote of a majority of members present will be required for adoption.

(5) Proposed resolutions relating to <u>state legislation</u> will be referred to the appropriate standing policy committee. Such proposals will not be considered by the Resolutions Committee at the conference; however, all state legislative issues will be considered by the standing policy committees and the Legislative Committee, prior to the membership. At that time, a state Legislative Action Agenda will be adopted.

(6) Proposed resolutions must address either federal issues, state constitutional issues, matters directly relating to the conference, matters recognizing statewide or national events or service by League officers. All other proposed resolutions will be referred for adoption to either the Florida League of Cities Board of Directors or FLC President.

Municipalities unable to formally adopt a resolution before the deadline may submit a letter to the League office indicating their city is considering the adoption of a resolution, outlining the subject thereof in as much detail as possible, and this letter will be forwarded to the Resolutions Committee for consideration in anticipation of receipt of the formal resolution.

Important Dates

May 2015

Notice to Local and Regional League Presidents and Municipal Associations regarding the Resolutions and Legislative Committees

June 2015

Appointment of Resolutions Committee Members
June 25 – Legislative Post-Session Review (2015 Session)
June 26 – Policy Committee Meetings (2016 Session)

July 2015

July 8 – Deadline for Submitting Resolutions to the League office
July 17 – Policy Committee Meetings (2016 Session)

August 2015

August 13 – Policy Committee Meetings including the finalization of proposed committee statements (FLC Annual Conference)
August 14 – Resolutions Committee Meeting
August 14 – Legislative Committee Meeting (2016 Session)
August 15 – Pick Up Voting Delegate Credentials Followed by Annual Business Session

Centennial FDOT 1915 ★ 2015

Florida Department of Transportation

RICK SCOTT
GOVERNOR

801 North Broadway
Bartow, FL 33830

JIM BOXOLD
SECRETARY

June 2, 2015

Peter G. Lombardi, Village Manager
21500 Three Oaks Parkway
Estero, FL 33928

Re: **Modification to Proposed Limits for US 41 Lighting Project**
Financial Project ID: 432755-1-32-01

Dear Mr. Lombardi:

The Florida Department of Transportation (FDOT) is designing a safety lighting project on US 41 from South of Coconut Rd to San Carlos Blvd. Construction is funded in fiscal year 2016 using Federal Highway Safety Program (HSP) funds. These funds were originally programmed in 2012 and since this time, limits of the project were extended from Coconut Rd to the Estero/Bonita Springs boundary. Also, the light fixture type was changed to Light Emitting Diode (LED) in lieu of standard High Pressure Sodium (HPS). Both of these changes created minor increases to the cost of the project and additional funding was obtained in October of 2014. Since 2014, unit costs have increased significantly on many projects and in this case a 40% cost increase has occurred.

In order to move forward, construction for this project must be split into two phases. The southern phase with limits of construction from South of Pelican Colony Blvd to North of Corkscrew Rd, and the northern phase with limits of construction from Corkscrew Rd to San Carlos Blvd. The southern phase will be constructed first, beginning in summer of 2016. The northern phase will be programmed for construction once Federal Highway Safety Program funds become available.

Please do not hesitate to call me at (863) 519-2834 if you have any questions.

Respectfully,

Jeff Mednick
Project Manager

cc: Kevin Ingle, P.E.
Laura Lockwood