VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 11

AN EMERGENCY ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, REPEALING VILLAGE OF ESTERO ORDINANCE 2015-08, DECLARING AN EMERGENCY; AMENDING VILLAGE OF ESTERO LAND DEVELOPMENT CODE CHAPTERS 6 & 10 TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENERS ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

WHEREAS, the Village of Estero, Florida was incorporated on December 31, 2014 and commenced operations on March 17, 2015; and

WHEREAS, on June 17, 2015, the Village of Estero adopted Lee County's Ordinance 15-09 to comply with requirements for the Village's application to the National Flood Insurance Program (NFIP); and

WHEREAS, as an additional requirement to the NFIP application, the Federal Emergency Management Agency has requested that the Village adopt its own Floodplain Management Ordinance by September 30, 2015; and

WHEREAS, the Village Council has declared this an emergency due to the importance of having this ordinance adopted by FEMA's deadline in order for the Village's application to the NFIP to be complete; and

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 Council adopted Ordinance 2015-08 on June 17, 2015, confirming its intent to continue application of the floodplain management requirements of Lee County and to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for participation in the National Flood Insurance Program; 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, section 553.73(5), Florida Statutes, allows adoption of local technical amendments to the *Florida Building Code* (FBC); and

WHEREAS, the amendment of Chapters 6 & 10 of the Village of Estero Land Development Code (LDC) is necessary to achieve consistency 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 Village Council of the Village of Estero, Florida 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 Village Council of the Village of Estero, Florida:

SECTION ONE: ADOPTION OF AMENDMENTS TO FLORIDA BUILDING CODE

Village of Estero Land Development Code Chapter 6

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 202~~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.

Sec. ~~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 the Village of Estero, 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 the Village of Estero 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 the Village of Estero, 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 Village Hall.

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 Village Manager or his/her designee 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.

397 **Sec. 6-428. Other duties of the Floodplain Administrator.**
398
399 The Floodplain Administrator will have other duties, including but not limited to:
400
401 (1) Establish procedures for administering and documenting determinations of
402 substantial improvement and substantial damage made pursuant to Section 6-
403 424 of this article;
404
405 (2) Require that applicants proposing alteration of a watercourse notify adjacent
406 communities and the Florida Division of Emergency Management, State
407 Floodplain Management Office, and submit copies of such notifications to the
408 Federal Emergency Management Agency (FEMA);
409
410 (3) Require applicants who submit hydrologic and hydraulic engineering analyses
411 to support permit applications to submit to FEMA the data and information
412 necessary to maintain the Flood Insurance Rate Maps if the analyses propose to
413 change base flood elevations, flood hazard area boundaries, or floodway
414 designations; such submissions will be made within 6 months of such data
415 becoming available;
416
417 (4) Review required design certifications and documentation of elevations
418 specified by this article and the *Florida Building Code* to determine that such
419 certifications and documentations are complete;
420
421 (5) Notify the Federal Emergency Management Agency when the corporate
422 boundaries of the Village of Estero are modified; and
423
424 (6) Advise applicants for new buildings and structures, including substantial
425 improvements, which are located in any unit of the Coastal Barrier Resources
426 System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and
427 the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal
428 flood insurance is not available on such construction; areas subject to this
429 limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier
430 Resource System Areas" and "Otherwise Protected Areas."
431

432 **Sec. 6-429. Floodplain management records.**
433
434 Regardless of any limitation on the period required for retention of public records, the
435 Floodplain Administrator will maintain and permanently keep and make available for public
436 inspection all records that are necessary for the administration of this article and the flood
437 resistant construction requirements of the *Florida Building Code*, including Flood Insurance
438 Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits;
439 determinations of whether proposed work constitutes substantial improvement or repair of
440 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 Village Hall.

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 activities subject to the Joint Coastal Permit; section 161.055, F.S.

(4) 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.

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

(8) 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 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.

741 **Sec. 6-464. Restrictions in floodways.**
742
743 A variance will not be issued for any proposed development in a floodway if any
744 increase in base flood elevations would result, as evidenced by the applicable analyses and
745 certifications required in Section 6-446 of this article.
746
747 **Sec. 6-465. Historic buildings.**
748
749 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a
750 historic building that is determined eligible for the exception to the flood resistant construction
751 requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings,
752 upon a determination that the proposed repair, improvement, or rehabilitation will not preclude
753 the building's continued designation as a historic building and the variance is the minimum
754 necessary to preserve the historic character and design of the building. If the proposed work
755 precludes the building's continued designation as a historic building, a variance will not be
756 granted and the building and any repair, improvement, and rehabilitation will be subject to the
757 requirements of the *Florida Building Code*.
758
759 **Sec. 6-466. Functionally dependent uses.**
760
761 A variance is authorized to be issued for the construction or substantial improvement
762 necessary for the conduct of a functionally dependent use, as defined in this article, provided
763 the variance meets the requirements of Section 6-464 is the minimum necessary considering
764 the flood hazard, and all due consideration has been given to use of methods and materials that
765 minimize flood damage during occurrence of the base flood.
766
767 **Sec. 6-467. Considerations for issuance of variances.**
768
769 In reviewing requests for variances, the Board of Adjustment and Appeals will consider
770 all technical evaluations, all relevant factors, all other applicable provisions of the *Florida*
771 *Building Code*, this article, and the following:
772
773 (1) The danger that materials and debris may be swept onto other lands resulting in
774 further injury or damage;
775
776 (2) The danger to life and property due to flooding or erosion damage;
777
778 (3) The susceptibility of the proposed development, including contents, to flood
779 damage and the effect of such damage on current and future owners;
780
781 (4) The importance of the services provided by the proposed development to the
782 community;
783
784 (5) The availability of alternate locations for the proposed development that are
785 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.

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 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.

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.

1050 *Letter of Map Change (LOMC).* An official determination issued by FEMA that
1051 amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters
1052 of Map Change include:
1053
1054 *Letter of Map Revision (LOMR).* A revision based on technical data that may show
1055 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway
1056 delineations, and other planimetric features.
1057
1058 *Letter of Map Revision Based on Fill (LOMR-F).* A determination that a structure or
1059 parcel of land has been elevated by fill above the base flood elevation and is, therefore, no
1060 longer located within the special flood hazard area. In order to qualify for this determination,
1061 the fill must have been permitted and placed in accordance with the community's floodplain
1062 management regulations.
1063
1064 *Light-duty truck.* As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500
1065 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000
1066 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:
1067
1068 (1) Designed primarily for purposes of transportation of property or is a derivation
1069 of such a vehicle, or
1070
1071 (2) Designed primarily for transportation of persons and has a capacity of more
1072 than 12 persons; or
1073
1074 (3) Available with special features enabling off-street or off-highway operation and
1075 use.
1076
1077 *Lowest floor.* The lowest floor of the lowest enclosed area of a building or structure,
1078 including basement, but excluding any unfinished or flood-resistant enclosure, other than a
1079 basement, usable solely for vehicle parking, building access or limited storage provided that
1080 such enclosure is not built so as to render the structure in violation of the non-elevation
1081 requirements of the *Florida Building Code* or ASCE 24.
1082
1083 *Manufactured home.* A structure, transportable in one or more sections, which is eight
1084 (8) feet or more in width and greater than four hundred (400) square feet, and which is built on
1085 a permanent, integral chassis and is designed for use with or without a permanent foundation
1086 when attached to the required utilities. The term "manufactured home" does not include a
1087 "recreational vehicle" or "park trailer."
1088
1089 *Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land
1090 divided into two or more manufactured home lots for rent or sale.
1091
1092 *Market value.* The price at which a property will change hands between a willing buyer
1093 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.

1137 *Repetitive loss* means flood-related damage sustained by a structure on two separate
1138 occasions during a ten-year period for which the cost of repairs at the time of each flood event,
1139 on the average, equals or exceeds 25 percent of the market value of the structure before the
1140 damage occurred.
1141
1142 *Sand dunes.* Naturally occurring accumulations of sand in ridges or mounds landward
1143 of the beach.
1144
1145 *Special flood hazard area.* An area in the floodplain subject to a 1 percent or greater
1146 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone
1147 A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.
1148
1149 *Start of construction.* The date of issuance of permits for new construction and
1150 substantial improvements, provided the actual start of construction, repair, reconstruction,
1151 rehabilitation, addition, placement, or other improvement is within 180 days of the date of the
1152 issuance. The actual start of construction means either the first placement of permanent
1153 construction of a building (including a manufactured home) on a site, such as the pouring of
1154 slab or footings, the installation of piles, the construction of columns.
1155
1156 *Substantial damage.* Damage of any origin sustained by a building or structure whereby
1157 the cost of restoring the building or structure to its before-damaged condition would equal or
1158 exceed 50 percent of the market value of the building or structure before the damage occurred.
1159 The term also includes buildings and structures that have experienced repetitive loss.
1160
1161 *Substantial improvement.* Any combination of repair, reconstruction, rehabilitation,
1162 addition, or other improvement of a building or structure, taking place during a five-year
1163 period, the cumulative cost of which equals or exceeds 50 percent of the market value of the
1164 building or structure before the improvement or repair is started. For each building or structure,
1165 the five-year period begins on the date of the first improvement or repair of the building or
1166 structure subsequent to November 18, 1992. If the structure has incurred "substantial damage,"
1167 any repairs are considered substantial improvement regardless of the actual repair work
1168 performed. The term does not, however, include either:
1169
1170 (1) Any project for improvement of a building required to correct existing health,
1171 sanitary, or safety code violations identified by the building official and that are
1172 the minimum necessary to assure safe living conditions.
1173 (2) Any alteration of a historic structure provided the alteration will not preclude
1174 the structure's continued designation as a historic structure.
1175
1176 *Variance.* A grant of relief from the requirements of this article, or the flood resistant
1177 construction requirements of the *Florida Building Code*, which permits construction in a
1178 manner that would not otherwise be permitted by this article or the *Florida Building Code*.
1179
1180 *Watercourse.* A river, creek, stream, channel or other topographic feature in, on,
1181 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.

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.

(3)

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.

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. Foundations for manufactured homes subject to 304.4.2 are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

(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* Sections R322.2 or R322.3 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

The Village of Estero Land Development Code Chapter 10 is amended as follow with strike through identifying deleted text and underline identifying 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 10-254. – FISCAL IMPACT STATEMENT

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

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 intent of the Village Council of the Village of Estero 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 Village Council 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 Village Council intends that this ordinance will be made part of the Village of Estero 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 Village Administrator or his designee, without the need for a public hearing.

SECTION SEVEN: MODIFICATION

It is the intent of the Village Council 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 shall take effect immediately upon its adoption. 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.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 23rd day of September, 2015.

Attest:

By: Kathy Hall
Kathy Hall, MMC
Village Clerk

VILLAGE OF ESTERO, FLORIDA

By: Nicholas Batos
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	✓	____