



City of North Bay Village

Administrative Offices

1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

OFFICIAL AGENDA

REGULAR PLANNING & ZONING BOARD MEETING

**CITY COMMISSION CHAMBERS
1700 KENNEDY CAUSEWAY, #132
NORTH BAY VILLAGE, FL 33141**

FEBRUARY 28, 2012

7:30 P.M.

NOTICE IS HEREBY GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE PLANNING & ZONING BOARD. SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION OR A SIGN LANGUAGE INTERPRETER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT (305) 756-7171 NO LATER THAN FOUR DAYS PRIOR TO THE PROCEEDING. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS AT (800) 955-8771 (TDD) OR (800) 955-8700 (VOICE) FOR ASSISTANCE.

ITEM 1

CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

ITEM 2

OATH OF OFFICE

A. BUD FARREY

ITEM 3

PUBLIC HEARINGS (ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN.)

- A. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY REPEALING CHAPTER 6, "FLOOD DAMAGE PREVENTION"; AMENDING THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 154, "FLOOD DAMAGE PREVENTION"; TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

1.) Board Recommendation

- B. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING," TO UPDATE THE COST RECOVERY PROGRAM AND REQUIREMENTS; UPDATE THE FEE SCHEDULE RELATIVE TO DEVELOPMENT PRACTICES; PROVIDING FOR AMENDMENT OF THE FEES BY RESOLUTION; AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY DELETING APPENDIX F ENTITLED "FEE SCHEDULE" IN ITS ENTIRETY; AMENDING SECTION 2.7.2 "BASIC APPLICATION REQUIREMENTS" TO UPDATE REFERENCES RELATED TO FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

1.) Board Recommendation

**ITEM 3
ADJOURNMENT**

Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.

Memo

To: Mayor and City Commission

From: Kathryn Mehaffey
City Attorney's Office

Date: February 8, 2012

Re: Flood Damage Prevention Ordinance

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City, which areas are 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. FEMA operates the National Flood Insurance Program (NFIP). The NFIP is a federally-subsidized flood damage insurance program administered by FEMA. In order for residents and business owners to be eligible to purchase flood insurance, communities must exchange a commitment to manage development in their special flood hazard areas according to minimum federal regulations. These areas are delineated by FEMA on Flood Insurance Rate Maps. The City was accepted for participation in the NFIP on September 29, 1972 and over the years the City has worked to continue to meet the Federal requirements necessary for continued participation in the program.

Within Florida, Chapter 553, Florida Statutes, provides a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*. On March 15, 2012, the 2010 *Florida Building Code* will go into effect. This 2010 Code, unlike previous versions, incorporates floodplain management regulations. These regulations will supersede local regulations and local governments throughout Florida are being required to amend their codes to be consistent with the *Florida Building Code*. The Florida Division of Emergency Management (DEM) has been working to coordinate the FBC provisions and local code issues.

3A(1)

According to the DEM, the floodplain management regulations of the 2010 *Florida Building Code* were developed with participation by a regional representative from FEMA and they are consistent with the minimum requirements of the NFIP program. In addition, Section 553.73(5), Florida Statutes, allows adoption of local administrative and local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives.

The attached Ordinance was developed from the model requirements provided by DEM which are consistent with the *Florida Building Code* and includes local administrative and technical amendments to the *Florida Building Code* in order to allow the City to implement the regulations. Adoption of the Ordinance by March 15, 2012 will ensure continued consistency with the *Florida Building Code*. The attached Ordinance is currently being reviewed by both DEM and FEMA to ensure consistency with the *Florida Building Code* and compliance with FEMA requirements. Any recommended revisions from these agencies will be brought to the Commission at second reading.

3A(2)



City of North Bay Village

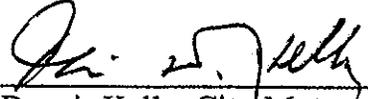
Administrative Offices

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MEMORANDUM City of North Bay Village

DATE: February 8, 2012

TO: Yvonne P. Hamilton, CMC
City Clerk

FROM: 
Dennis Kelly, City Manager

SUBJECT: Introduction of Ordinance

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY REPEALING CHAPTER 6, FLOOD DAMAGE PREVENTION; AMENDING THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 154, "FLOOD DAMAGE PREVENTION"; TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

Accordingly, please place the item on the next available agenda.

Mayor
Connie Leon-Kreps

Vice-Mayor
Eddie Lim

Commissioner
Dr. Richard Chervony

3A(3)

ORDINANCE NO. 2012-____

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY REPEALING CHAPTER 6, FLOOD DAMAGE PREVENTION; AMENDING THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 154, "FLOOD DAMAGE PREVENTION"; TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of North Bay Village (the "City") and such areas are 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 City was accepted for participation in the National Flood Insurance Program on September 29, 1972 and the City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, 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, Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* which provide for more stringent requirements than those specified in the Code; and

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

WHEREAS, the City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*; and

WHEREAS, the City Commission has determined that it is in the public interest to adopt the proposed local technical amendments and proposed local administrative amendments to the 2010 *Florida Building Code* and that the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4)(a), Florida Statutes, where applicable, and the proposed amendments are in compliance with section 553.73(5), Florida Statutes, where applicable.

WHEREAS, the City Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals is true and correct and incorporated herein by this reference.

Section 2. Repeal. Chapter 6, "Flood Damage Prevention", of the Consolidated Land Development Regulations of The City of North Bay Village is hereby repealed in its entirety.

Section 3. Repeal and Replacement. Chapter 154, "Flood Damage Prevention", of the City of North Bay Village Code of Ordinances is hereby repealed in its entirety and replaced as follows:

CHAPTER 154. FLOODPLAIN MANAGEMENT

ARTICLE I. ADMINISTRATION

SECTION 1-1. GENERAL

154.001 Title. These regulations shall be known as the *Floodplain Management Ordinance* of the City of North Bay Village (the "City"), hereinafter referred to as "this Chapter."

3A(5)

154.002 Scope. The provisions of this Chapter shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

154.003 Intent. The purposes of this Chapter 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.

154.004 Coordination with the *Florida Building Code*. Pursuant to the requirement established in state statute that local communities administer and enforce the *Florida Building Code*, the City Commission of the City does hereby acknowledge that the *Florida Building Code* contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, this Chapter is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where section numbers of the *Florida Building Code* are cited, the section numbers refer to the 2010 *Florida Building Code*. If cited section numbers are changed in subsequent editions of the code, then the section numbers shall refer to comparable sections. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

154.005 Warning. The degree of flood protection required by this Chapter and the *Florida Building Code*, as amended by this community, is considered 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 Chapter 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.

154.006 Disclaimer of Liability. This Chapter shall not create liability on the part of the City or by any officer or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision lawfully made thereunder.

SECTION 1-2 APPLICABILITY

154.010 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, requirements of this Chapter conflict with the requirements of the *Florida Building Code*, the most restrictive shall govern.

154.011 Areas to which this Chapter applies. This Chapter shall apply to all flood hazard areas within the City as established in Section 154.012 of this Chapter.

154.012 Basis for establishing flood hazard areas. The Flood Insurance Study for the City of North Bay Village dated September 11, 2009, 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 Chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Building Department.

(A) Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 1-5 of this Chapter 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 City 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 shall be considered as flood hazard area and subject to the requirements of this Chapter and, as applicable, the requirements of the *Florida Building Code*.
2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

154.013 Other laws. The provisions of this Chapter shall not be deemed to nullify any provisions of local, state or federal law.

154.014 Abrogation and greater restrictions. This Chapter supersedes any city Code or ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing city codes or ordinances including land development regulations, zoning ordinances, stormwater management regulations, and the *Florida Building Code*. In the event of a conflict between this Chapter and any other provision, the more restrictive shall govern. This Chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this Chapter.

154.015 Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 1-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

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

154.021 General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Chapter. The Floodplain Administrator shall have the authority to render interpretations of this Chapter consistent with the intent and purpose of this Chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Chapter without the granting of a variance pursuant to Section 1-7 of this Chapter.

154.022 Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the City, shall:

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 Chapter;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;

7. Review applications to determine whether all necessary permits and approvals have been obtained from any federal, state, or local agencies from which prior or concurrent approval is required, including but not limited to the following:
 - a. The South Florida Water Management District; section 373.036, F.S.
 - b. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
 - c. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
 - d. 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.
8. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, when compliance with this Chapter is demonstrated, or disapprove the same in the event of noncompliance; and
9. Coordinate with and provide comments to the Building Official to assure that applications for building permits for buildings and structures in flood hazard areas comply with the requirements of this Chapter.

154.023 Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

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 shall 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; 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 provisions of the *Florida Building Code* and this Chapter is required.

154.024 Modifications of the strict application of the requirements of the *Florida Building Code*. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 1-7 of this Chapter.

154.025 Coordination of Notices and orders. The Floodplain Administrator and the Building Official shall coordinate the issuance of all necessary notices or orders to ensure compliance with this Chapter and the flood resistant construction requirements of the *Florida Building Code*.

154.026 Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 1-6 of this Chapter for development that is not subject to the *Florida Building Code*. For buildings and structures subject to the *Florida Building Code*, the Floodplain Administrator shall make the required inspections of structures specified in Section 1-6 of this Chapter and *Florida Building Code, Building Section 110*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

154.027 Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 154.023 of this Chapter;
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 shall be made within 6 months of such data becoming available;
4. Review required design certifications and documentation of elevations specified by this Chapter and the *Florida Building Code* and this Chapter to determine that such certifications and documentations are complete;
5. Notify the Federal Emergency Management Agency when the corporate boundaries of the City are modified; and

154.028 Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Chapter 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 Chapter; 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 Chapter and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the City Building Department.

SECTION 1-4 PERMITS

154.030 Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Chapter which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this Chapter and all other applicable codes and regulations has been satisfied.

154.031 Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this Chapter for any development activities not subject to the requirements of 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.

(A) Buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to the requirements of federal regulation for the National Flood Insurance Program (44 C.F.R. Section 60.3), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code*, *Building Section 154.011* and any further exemptions provided by law, are subject to the requirements of this Chapter:

1. Temporary buildings or sheds used exclusively for construction purposes.
2. Mobile or modular structures used as temporary offices.
3. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
4. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
5. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

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

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 Section 1-5 of this Chapter.
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.

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

154.033 Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

154.034 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 Chapter or any other Chapter, regulation or requirement of this community.

SECTION 1-5 SITE PLANS AND CONSTRUCTION DOCUMENTS

154.040 Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of this Chapter shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), and base flood elevation(s).
2. Where flood hazard areas, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 154.041 of this Chapter.
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 shall be established in accordance with Section 154.041 of this Chapter.
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
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. 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 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 Chapter.

154.041 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 shall:

1. Obtain, review, and provide to applicants base flood elevation data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation data available from a federal or state agency or other source; or
2. Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices; or
3. Where base flood elevation data are not available from another source, assume the base flood elevation is not less than 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 shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

154.042 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 shall have the following analyses prepared 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 shall submit such analysis to FEMA as specified in Section 154.043 of this Chapter and shall 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, a floodway encroachment analysis which demonstrates 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 shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 5.4 of this Chapter.

154.043 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 shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

SECTION 1-6 INSPECTIONS

154.045 General. Development for which a permit or approval is required shall be subject to inspection.

(A) Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Chapter and the conditions of issued floodplain development permits or approvals.

(B) Buildings and structures. The Floodplain Administrator shall inspect buildings and structures subject to the *Florida Building Code* to determine compliance with the flood load and flood resistant construction requirements of issued building permits and the *Florida Building Code*. The Floodplain Administrator shall inspect buildings and structures exempt from the *Florida Building Code* to determine compliance with the requirements of this Chapter and the conditions of issued floodplain development permits or approvals.

(C) Buildings and structures 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 or structure exempt from the *Florida Building Code*, or the owner's authorized agent, shall 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 154.041 of this Chapter, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the

owner's authorized agent.

(D) Buildings and structures exempt from the *Florida Building Code*, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 154.045(c) of this Chapter.

SECTION 1-7 VARIANCES AND APPEALS

154.050 General. Pursuant to section 553.73(5), F.S., the City Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the requirements of this Chapter and the flood resistant construction requirements of the *Florida Building Code*.

154.051 Appeals. The City Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator or the Building Official in the administration and enforcement of this Chapter or the flood load and flood resistant construction requirements of the *Florida Building Code*. Any person aggrieved by the decision of City Commission may appeal such decision to the Circuit Court, as provided by Florida Statutes.

154.052 Limitations on authority to grant variances. The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 154.055 of this Chapter, the conditions of issuance set forth in Section 154.056 of this Chapter, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this Chapter. Pursuant to section 553.73(5), F.S., variances shall not be granted to the requirements of Section 3109 of the *Florida Building Code* applicable to structures seaward of the coastal construction control line.

(A) Restrictions in floodways. A variance shall 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 154.042 of this Chapter.

154.053 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 shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

154.054 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 Chapter, provided the variance meets the requirements of Section 154.052(A), 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.

154.055 Considerations for issuance of variances. In reviewing requests for variances, the City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this Chapter, 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.

154.056 Conditions for issuance of variances. Variances shall 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 render any provision of this Chapter or the elevation standards of the *Florida Building Code* inappropriate;
2. Determination by the City Commission 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

ordinances; and

- c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a building, or substantial improvement of a building, below the elevation required by the *Florida Building Code* or required by this Chapter, 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.

SECTION 1-8 VIOLATIONS

154.060 Violations. Any construction or development in a flood hazard area that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Chapter or the *Florida Building Code*, as applicable, shall be deemed a violation of this Chapter. 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 Chapter or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

154.061 Authority. For development that is not within the scope of the *Florida Building Code* but that is regulated by this Chapter 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.

154.062 Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

ARTICLE 2 DEFINITIONS

SECTION 2-1 GENERAL

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

154.071 Terms defined in the *Florida Building Code*. Where terms are not defined in this Chapter and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

154.072 Terms not defined. Where terms are not defined in this Chapter or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 2-2 DEFINITIONS

154.075 For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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 or Building Official's interpretation of any provision of this Chapter 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). [Also defined in FBC, B, Section 1612.2.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

Building Official. The officer or other designated authority charged with the administration and enforcement of the *Florida Building Code*, or a duly authorized representative. [Also defined in FBC, B, Section 1612.2.]

Building permit. An official document or certificate issued by the community which authorizes performance of specific activities that are determined to be compliant with the *Florida Building Code*.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

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 shall 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 shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

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 advancement or infringement 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 July 18, 1974. [Also defined in FBC, B, Section 1612.2.]

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: [Also defined in FBC, B, Section 1612.2.]

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. [Also defined in FBC, B, Section 1612.2.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

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. [Also defined in FBC, B, Section 1612.2.]

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. [Also defined in FBC, B, Section 1612.2.]

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this Chapter (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 Chapter.

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 a designated height. [Also defined in FBC, B, Section 1612.2.]

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 shall 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 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 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 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.

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.

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 floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, 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 *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

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 Chapter, 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 Chapter and the building code, structures for which the "start of construction" commenced on or after July 18, 1974 and includes any subsequent improvements to such structures.

Nonresidential. Any building or structure or portion thereof that is not classified residential in accordance with the *Florida Building Code, Building* (Residential Group R or Institutional Group I) and ASCE 24. [Also see definition in ASCE 24.]

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. [Defined in 15C-1.0101, F.A.C.]

Recreational vehicle. A vehicle, including a park trailer, which is: [Defined in section 320.01(b), 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.

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. The term also includes areas shown on other flood hazard maps, if such maps are adopted by the City or otherwise legally designated. [Also defined in FBC, B Section 1612.2.]

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 on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

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. [Also defined in FBC, B Section 1612.2.]

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. [Also defined in FBC, B Section 1612.2.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the

market value of the building or structure before the improvement or repair is started. 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: [Also defined in FBC, B, Section 1612.2.]

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 and the alteration is approved by variance issued pursuant to Section 1-7 of this Chapter.

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

ARTICLE 3 FLOOD RESISTANT DEVELOPMENT

SECTION 3-1 BUILDINGS AND STRUCTURES

154.080 Design and construction of buildings and structures exempt from the *Florida Building Code*. Pursuant to Section 154.031(A) of this Chapter, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 3-7 of this Chapter.

SECTION 3-2 SUBDIVISIONS

154.081 Minimum requirements. Subdivision proposals, shall 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.

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

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;
2. 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 information required in Section 154.041 of this Chapter; and
3. Compliance with the site improvement and utilities requirements of Section 3-3 of this Chapter.

SECTION 3-3 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

154.083 Minimum requirements. All proposed new development shall 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.

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

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

154.086 Limitations on sites in regulatory floodways. Development, site improvements, and land disturbing activity involving fill or regrading shall not be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 154.042(1) of this Chapter demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

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

SECTION 3-4. RESERVED

SECTION 3-5 RECREATIONAL VEHICLES AND PARK TRAILERS

154.090 Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

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.

154.091 Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in Section 154.090 of this Chapter for temporary placement shall not be permitted in flood hazard areas.

SECTION 3-6 TANKS

154.095 Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

154.096 Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 154.097 of this Chapter shall be permitted 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.

154.097 Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall 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 shall meet the foundation requirements of the applicable flood hazard area.

154.098 Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall 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.

SECTION 3-7 OTHER DEVELOPMENT

154.100 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 Chapter or the *Florida Building Code*, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the limitations of Section 154.086 of this Chapter 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.

154.101 Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 154.086 of this Chapter.

154.102 Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 154.086 of this Chapter.

154.103 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 shall meet the limitations of Section 154.086 of this Chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 154.042(3) of this Chapter.

Section 4. Amendments to the Florida Building Code, Building. The following local administrative amendments to the *Florida Building Code, Building* are hereby approved.

Sec. 101.5, Florida Building Code, Building

Add a new Sec. 101.5 as follows:

101.5 Warning, flood hazards. The degree of flood protection required by the *Florida Building Code*, as amended by the City of North Bay Village, is considered 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 code 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.

Sec. 102.1.2, Florida Building Code, Building

Add a new Sec. 102.1.2 as follows:

102.1.2 Flood hazard areas. Pursuant to the requirements of federal regulation for the National Flood Insurance Program (44 C.F.R. Section 60.3), buildings, structures and facilities identified in Section 102.2 as exempt from the *Florida Building Code* are subject to the requirements of the City of North Bay Village local floodplain management regulations and a floodplain development permit or approval shall be required pursuant to that regulation.

Sec 102.2.2, Florida Building Code, Building

Amend Sec. 102.2.2 to add the following new item:

7. The building or structure is installed on a foundation that complies with the flood resistant requirements for the new location if in a flood hazard area

Sec. 104.1.2, Florida Building Code, Building

Add a new Sec. 104.1.2 as follows:

104.1.2 Assignment of duties related to flood hazard areas. Pursuant to section 553.73(5), F.S., the building official is authorized to assign duties to enforce all or part of the flood-related code provisions to the Floodplain Administrator. The specific assigned duties shall be identified and coordinated with said office.

Sec. 104.7.1, Florida Building Code, Building

Add a new Sec. 104.7.1 as follows:

104.7.1 Department records for permits in flood hazard areas. The Building Official shall provide to the Floodplain Administrator the following records for building permits issued in flood hazard areas: 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 records of enforcement actions taken pursuant to the flood resistant construction requirements of the *Florida Building Code*.

Sec. 104.10.1, Florida Building Code, Building

Add a new Sec. 104.10.1 as follows:

104.10.1 Modifications of the strict application of the requirements of the Florida Building Code. The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 117 and the local floodplain management regulations.

Sec. 104.12, Florida Building Code, Building

Add a new Sec. 104.12 as follows:

104.12 Coordination with the Floodplain Administrator. The Building Official shall coordinate with the Floodplain Administrator for identification of flood hazard areas; flood elevation and flood hazard information; interpretation of flood hazard area boundaries; determinations for existing building and structures; consideration of variance requests; and other duties set forth in the local floodplain management regulations.

104.12.1 Determinations for existing buildings and structures in flood hazard areas. For applications for building permits for work on existing buildings and structures in flood hazard areas, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, reconstructions, and any other improvement of or work on such buildings and structures, the Building Official shall coordinate with the Floodplain Administrator to:

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 shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the proposed improvement, or 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; 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 provisions of the Florida Building Code is required.

Sec. 107.2.5, Florida Building Code, Building

Add a new Sec. 107.2.5.1 as follows:

107.2.5.1 Information for buildings and structures in flood hazard areas. The site plans for buildings and structures in flood hazard areas shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and the design flood elevation.
2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study (FIS), they shall be established in accordance with Section 1612.3 or such information that may be available from federal, state, or other sources may be used provided the Floodplain Administrator determines it is applicable pursuant to the local floodplain management regulations.
3. Where multiple flood zones are designated or where multiple base flood elevations affect the specific location of a building or structure, the more restrictive flood zone and the highest flood elevation at that location shall be identified and shall govern the design of the building or structure.
4. Surveyed elevation of the ground at the specific location of a building or structure, in relation to the datum specified on the community's legally designated flood hazard map, prepared and sealed by a Florida licensed professional surveyor.
5. Where the placement of fill is proposed: the amount, type, and source of fill material and compaction specifications; a description of the intended purpose of the fill areas; evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

107.2.5.2 Additional information for existing buildings and structures in flood hazard areas. In addition to the information necessary to demonstrate compliance with the flood resistant construction requirements of the *Florida Building Code*, the site plan or construction documents for proposed work on existing buildings and structures located in whole or in part in flood hazard areas shall include:

1. If the building or structure was constructed after July 18, 1974, evidence that the proposed work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.
2. If the proposed work is a horizontal addition, a description of the addition and whether it will be structurally connected or not structurally connected to the existing building or structure, and the nature and extent of all other work proposed for the building, if any.
3. If requested by the Building Official, documentation of the market value of the building or structure before the start of construction of the proposed improvement, or if the proposed work is repair of damage, before the damage occurred.
4. Documentation of the actual cost of all proposed work, including the cost of all work necessary to repair and restore damage to the before-damage condition, regardless of the amount of work that will be performed. The value of labor performed by the owner or volunteers shall be valued at market labor rates and the value of donated or

discounted materials shall be valued at market rates.

Sec. 107.6.1, Florida Building Code, Building

Add a new Sec. 107.6.1 as follows:

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation (44 C.F.R. Section 60.3) for the National Flood Insurance Program, 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 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the *Florida Building Code*.

Sec. 108.2.1, Florida Building Code, Building

Add a new Sec. 108.2.1 as follows:

108.2.1 Flood hazard areas. Temporary structures, temporary storage, and temporarily placed tanks shall conform to the requirements of Section 1612.4.1 of the *Florida Building Code, Building*.

Sec. 117, Florida Building Code, Building

Add a new Sec. 117 as follows:

117 VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management regulations shall apply to requests submitted to the Building Official for variances to the flood load and flood resistant provisions of the *Florida Building Code*.

Sec. 202, Florida Building Code, Building

Add new definitions to Sec. 202 as follows:

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of the local floodplain management regulations (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 the local floodplain management regulations.

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 the building code and the local floodplain management regulations, 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.

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

Sec. 1612.2, Florida Building Code, Building

Modify a definition as follows:

Local floodplain management regulations. The ~~An~~ Flood Damage Prevention Ordinance, Ordinance 2012-~~XX~~ or regulation adopted by the City of North Bay Village pursuant to the authority granted to local governments by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

Section 5. Technical Amendments to the Florida Building Code. The following local technical amendments to the *Florida Building Code, Building* are hereby approved.

Sec. 1612.3, Florida Building Code, Building

In Sec. 1612.3, insert required information as follows:

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the applicable governing authority shall, by local floodplain management regulations, adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for The City of North Bay Village," dated September 11, 2009 as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this Section.

Sec. 1612.4.1, Florida Building Code, Building

Add a new Sec. 1612.4.1 as follows:

1612.4.1 Temporary structures and temporary uses. Temporary structures and temporary uses, including temporary tanks, shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood. Temporary structures and temporary uses shall not be located in floodways unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management regulations.

Sec. 1612.4.2, Florida Building Code, Building

Add a new Sec. 1612.4.2 as follows:

1612.4.2 Utility and Miscellaneous Group U. Utility and Miscellaneous Group U structures, including substantial improvement of such structures, shall comply with the requirements of this section.

Exception: If not walled and roofed, shall

1. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
2. Have flood-damage resistant materials used below the design flood elevation; and
3. Have mechanical, plumbing, and electrical systems that meet the requirements of ASCE 24.

Sec. 1612.4.3, Florida Building Code, Building

Add a new Sec. 1612.4.3 as follows:

1612.4.3 Public and private swimming pools. Swimming pools shall be designed and constructed in accordance with ASCE 24. Above-ground pools, on-ground pools, and in-ground pools that involve placement of fill and that are located in designated floodways or in riverine flood hazard areas with base flood elevations but without floodways, shall not be permitted unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management regulations.

1612.4.3.1 Structures associated with swimming pools. Swimming pools shall be permitted to be surrounded with open latticework and screened enclosures. Swimming pools for which the surrounding decks are below the design flood elevation shall be permitted to be surrounded with walled and roofed structures provided such structures are dry floodproofed in accordance with ASCE 24. Structures associated with pools,

including structures to house equipment associated with the pools, shall comply with the requirements of Section 1612.4.

1612.4.3.2 Swimming pools under elevated buildings. Swimming pools shall be permitted under elevated buildings provided the pool deck is level with the existing grade and the area in which the pool is located is not fully enclosed by walls, including walls consisting of transparent materials such as glass. The area in which a pool is located under an elevated building shall be permitted to be surrounded by open latticework and screening.

Section 6. Technical Amendments to the Florida Building Code, Existing Building.

The following technical amendments to the *Florida Building Code, Existing Building* are hereby approved.

Sec. 202, Florida Building Code, Existing Building

Modify a definition as follows:

Local floodplain management ordinance. The An Flood Damage Prevention Ordinance, Ordinance 2012-~~XX~~ adopted by the City of North Bay Village pursuant to the authority granted to local governments by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

Section 7. Technical Amendments to the Florida Building Code, Residential. The following local technical amendments to the *Florida Building Code, Residential* are hereby approved.

Table R301.2(1) Climatic and Geographic Design Criteria, Florida Building Code, Residential

In Sec. Table R301.2(1), pursuant to footnote (g), insert required information in the "Flood Hazards" cell as follows:

- (a) July 18, 1974,
- (b) September 11, 2009; and
- (c) 12086CO306L, 12086CO307L, 12086CO309L.

Sec. R322.1.12, Florida Building Code, Residential

Add a new Sec. R322.1.12 as follows:

R322.1.12 Accessory structures, requirements. Accessory structures, including substantial improvement of such accessory structures, shall comply with the requirements of Section R322.2.

Exception: Accessory structures that are detached garages that comply with Section R309.3 and have flood openings in compliance with Section R322.2.2.

Section 8. 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 regulations 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 9. Applicability. For the purposes of jurisdictional applicability, this ordinance shall apply in the City of North Bay Village. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after March 13, 2012.

Section 10. Repeal. That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict. Further, that any rule, regulation, ordinance or resolution that purports to regulate firearms in a manner contrary to the preemption provided by Sec. 790.33 F.S., is hereby repealed to the extent preempted and shall be deemed to be stricken from any compilation of rules and regulations for municipal facilities or premises.

Section 11. Severability. That 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, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 12. Inclusion in the Code. That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 13. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by _____, seconded by _____.

THE VOTES WERE AS FOLLOW:

Mayor Connie Leon-Kreps _____
Vice Mayor Eddie Lim _____
Commissioner Richard Chervony _____
Commissioner Paul Vogel _____

Commissioner _____

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this _____ day of _____, 2012.

FINAL VOTE ON ADOPTION:

Mayor Connie Leon-Kreps	_____
Vice Mayor Eddie Lim	_____
Commissioner Richard Chervony	_____
Commissioner Paul Vogel	_____
Commissioner	_____

PASSED AND ENACTED by the City Commission of North Bay Village, Florida, this _____ of _____, 2012.

Connie Leon-Kreps,
Mayor

Yvonne Hamilton, CMC
City Clerk

**APPROVED AS TO FORM FOR THE USE OF
THE CITY OF NORTH BAY VILLAGE ONLY:**

City Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

3A(37)

Commissioner _____

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this _____ day of _____, 2012.

FINAL VOTE ON ADOPTION:

Mayor Connie Leon-Kreps	_____
Vice Mayor Eddie Lim	_____
Commissioner Richard Chervony	_____
Commissioner Paul Vogel	_____
Commissioner	_____

PASSED AND ENACTED by the City Commission of North Bay Village, Florida, this _____ of _____, 2012.

Connie Leon-Kreps,
Mayor

Yvonne Hamilton, CMC
City Clerk

**APPROVED AS TO FORM FOR THE USE OF
THE CITY OF NORTH BAY VILLAGE ONLY:**

City Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

City of North Bay Village Ordinance: Flood Damage Prevention

3A(38)

Memo

To: Planning and Zoning Board Members

cc: Dennis Kelly, City Manager
Alex David, City Planner

From: Kathy Mehaffey, City Attorney's Office

Date: February 24, 2012

Re: Ordinance Revising Code to Consolidate and Amend Development Application Filing Fees and Cost Recovery Deposits and Procedures

RECOMMENDATION: Recommend approval of the attached ordinance.

Currently development application fees are provided in Appendix A of Chapter 152 of the City Code. They are also duplicated in Appendix F of the Consolidated Land Development Regulations. In addition, Cost Recovery procedures and deposits are addressed in Sections 152.110 and 152.110.01 of the City Code.

The attached Ordinance consolidates the development application fees, cost recovery fees and the related procedures into one section of the code. Further, all fees and cost recovery deposits were consolidated into one table and incorporated into the Code, to provide clarification, consistency and simplify implementation. Related references in other sections of the code were revised to reflect the new location of the fees. More specifically, the following changes are implemented in the proposed ordinance:

Cost Recovery.

- The procedures were streamlined to assist in interpretation and implementation.
- The minimum balance at which replenishment was required was changed from 1/3 of the initial deposit amount to 1/2 of the initial deposit amount.
- Several of the cost recovery deposit amounts were decreased to be more consistent with the workloads anticipated with different application types.

Fees.

- Were consolidated to assist with interpretation and implementation.
- The \$500.00 multifamily residential development and commercial development Base Fee was added to the unit fees schedule for clarity and to assist in implementation.

3BU)

- The subcategory fee brackets for multifamily residential and new commercial development were consolidated from 31 categories to 8.
- A dock waiver permit was revised from \$100.00 to \$200.00.
- A sign variance (these are commercial) was revised from \$300.00 to \$600.00 consistent with other commercial variance fees.
- The Additional Fees, Subsequent Review and Resubmission Fees, Minimum Review Fee, and Refunds, are identified as new text due only to the movement of the text. Clarification and wording changes have been included, but no substantive changes are proposed.

Attachment: Ordinance



City of North Bay Village

Administrative Offices

1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

MEMORANDUM City of North Bay Village

DATE: February 23, 2012

TO: Yvonne P. Hamilton, CMC
City Clerk

FROM: 
Dennis Kelly, City Manager

SUBJECT: Introduction of Ordinance

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING," TO UPDATE THE COST RECOVERY PROGRAM AND REQUIREMENTS, UPDATE THE FEE SCHEDULE RELATIVE TO DEVELOPMENT PRACTICES; AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY DELETING APPENDIX F ENTITLED "FEE SCHEDULE" IN ITS ENTIRETY; BY AMENDING SECTION 2.7.2 "BASIC APPLICATION REQUIREMENTS" TO UPDATE REFERENCES RELATED TO FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Accordingly, please place the item on the next available agenda.

Mayor
Connie Leon-Kreps

Vice Mayor
Eddie Lim

Commissioner
Stuart Blumberg

Commissioner
Dr. Richard Chervony

Commissioner
Dr. Paul Vogel

3B(3)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING," TO UPDATE THE COST RECOVERY PROGRAM AND REQUIREMENTS, UPDATE THE FEE SCHEDULE RELATIVE TO DEVELOPMENT PRACTICES; AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY DELETING APPENDIX F ENTITLED "FEE SCHEDULE" IN ITS ENTIRETY; BY AMENDING SECTION 2.7.2 "BASIC APPLICATION REQUIREMENTS" TO UPDATE REFERENCES RELATED TO FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

WHEREAS, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the needs of the City and the requirements of Florida Law; and

WHEREAS, the City's Cost Recovery Program and related deposit schedule were adopted in 2009 prior to the significant downturn in the economy; and

WHEREAS, the changes in the economic climate have created development activity, scenarios and scales very different from those anticipated in 2009; and

WHEREAS, implementation over the past several years has identified areas of the Cost Recovery Program that need clarification; and

WHEREAS, the City Commission desires to amend the Cost Recovery Program to provide clarity and applicability to the current economic and development environment; and

WHEREAS, the Planning and Zoning Board has reviewed this Ordinance at a duly advertised public hearing and recommended [approval/denial] of the Ordinance; and

WHEREAS, the City Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals is true and correct and incorporated herein by this reference.

Section 2. City Code Amended. That Chapter 152 "Zoning", of the City of North Bay Village Code of Ordinances is hereby amended to read as follows:¹

Chapter 152 ZONING

* * *

§ 152.105 - Permits, plans, models and specifications fees.

* * *

(D) Filing fees.

(1) All persons, firms, or corporations petitioning the Planning and Zoning Board, the City Commission, and the City Administration to process special requests shall be required to pay in advance all fees and expenses necessitating the public notification a in the newspaper, and notices to property owners as provided in this Chapter. ~~The fees are set forth in Appendix A following this chapter.~~

(2) All persons, firms, or corporations applying for permits under the provisions of these regulations or amendments thereto, variances from these regulations, special use exceptions as required by these regulations in certain instances, or a change in the classification of a district or a portion thereof shall be required to pay in advance for all expenses relative thereto, in accordance with fee schedules adopted by the City Commission. Permits for signs and other fees shall be in accordance with fee schedules established by the City Manager.

(3) The payment of such money in advance to the City Clerk shall be a condition precedent to the consideration of such petition, permit, or amendment.

* * *

FEES AND COSTS

¹ Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~.

§ 152.110 – Filing Fees and Cost Recovery. Charges for consultant services established.

A. Consultants.

1. The city manager and/or his/her designee in as part of the review of any development building and zoning application presented to the city, may refer any such application to such engineering, planning, legal, technical, environmental, or other professional(s) consultants employed or retained by the city (“Consultant(s)”) as the manager shall deem reasonably necessary to enable him/her to review such application as required by law.
2. Charges made by such consultants shall be made in accordance with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the city and such the eConsultant.
3. Charges made by the city shall be in accord with the hourly rates charged by such consultants or hourly rates of employed professionals and shall be paid upon submission of a city voucher. The Consultant’s services shall be charged at the hourly rates specified in the particular Consultant’s agreement with the City. The City shall provide the applicant with a copy of the Consultant’s invoice for any services charged against the applicant’s Cost Recovery Escrow Account.

B. Cost Recovery Established.

1. The applicant shall reimburse the city for the actual cost of such Ceconsultant or employed professional review services within thirty (30) days of receipt of a voucher from the city upon submission by the consultant pursuant to the Cost Recovery Procedures and requirements of subsection C below.
2. Payment in full by the applicant to the City of the City’s actual expenditures for review of the application Such reimbursement shall be a written condition of the any development order. zoning resolution. These cost recovery deposits fees shall be in addition to any and all other fees required by law, rule, or regulation of the City Code.

~~§ 152.110.01 - Escrow account.~~

CA. Cost Recovery Procedures

1. At the time of submission of any application for development approval, or thereafter, the applicant shall pay the minimum Cost Recovery Deposit fee outlined in the recovery eCost Recovery Deposit Schedule for planning and zoning services set forth in this section herein, which funds shall be deposited into an a Cost Recovery Escrow Account established for this purpose. Withdrawals shall be made to reimburse the city for the cost of Consultant professional review services.
2. The applicant shall be provided with copies of any city voucher for such services as they are submitted to the city. The City shall provide the applicant with a copy of the Consultant's invoice for any services charged against the applicant's Cost Recovery Escrow Account.
3. When the balance in the City's Cost Recovery Escrow Account such escrow is reduced to one-half (1/2) one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such amount is not replenished within thirty (30) calendar days after the applicant is notified, in writing, of the requirement of such additional deposit, the city may shall suspend its review of the application. An and the application shall be deemed withdrawn incomplete if any amount shall be outstanding.
4. If an application is suspended due to nonpayment of the additional escrow deposit specified in Section 3, a Resubmission Fee shall be paid and the Cost Recovery Deposit shall be replenished to a minimum of one-half (1/2) of the original deposit amount before the application will be reviewed.
5. Prior to the scheduling or noticing of any Board or Commission hearing, the city manager's review of the application shall be complete and the Cost Recovery Escrow Account balance shall be replenished to equal at least one-half (1/2) of the initial deposit amount. A building permit or certificate of occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the city. Once all pertinent charges have been paid, the city shall refund to the applicant any funds remaining on deposit.

3B(7)

~~Recovery costs of administrative review and processing for each category of application.~~

~~Land Use Plan Amendment\$15,000.00~~

~~Rezoning10,000.00~~

~~Site Plan Review (conditional uses, variances10,000.00~~

~~Site Plan Modification (no Commission review)4,000.00~~

~~Unusual and New Uses10,000.00~~

~~Special Use Exception10,000.00~~

~~Request for encroachments, variances, etc. single family2,500.00~~

~~Plat10,000.00~~

~~Waiver of Plat3,000.00~~

~~Appeals of Administrative Decisions3,000.00~~

~~Temporary Uses (except garage sales) bond required2,500.00~~

~~The City shall be reimbursed for Planning and Zoning services not categorized herein under this schedule in accordance with Appendix A. of the City Code.~~

D. Review of Consultant's Charges

Upon a determination by the City Manager or his/her designee that there has been a miscalculation concerning a Consultant's fees, the city manager or his/her designee is authorized to review the charges and issue a credit or refund a portion of the Cost Recovery Deposit.

E. Schedule of fees and cost recovery deposits. No new development application shall be accepted and no building permit or certificate of occupancy shall be issued for any property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications on the property), have been paid in full. All fees and Cost Recovery Deposits shall be paid according to the *Development Approval Fee and Cost Recovery Deposit Schedule* below:

Development Approval Fee and Cost Recovery Deposit Schedule

<u>Type of Request</u>	<u>Filing Fee</u>	<u>Cost Recovery Deposit</u>
Land Use Plan Map/Comprehensive Plan Text Amendment	\$2,000.00	\$10,000.00
Rezoning or Code Text Amendment	\$2,000.00	\$10,000.00
Site Plan Review		
Residential - 1 unit, Existing Commercial	\$1,000.00	\$2,000.00
Residential over 1 unit, New Commercial (BASE + SIZE/UNIT FEES)	\$1,000.00 BASE	\$6,000.00
SIZE/UNIT FEES		
Size of Building (non-residential, square feet) Fee		
399 and under	\$700.00	
400 – 19,999	\$1,100.00	
20,000 – 99,999	\$2,500.00	
100,000 and over	\$3,500.00	
Number of Units (residential) Fee		
2 – 19	\$900.00	
20 – 100	\$1,500.00	
101 – 199	\$2,500.00	
200 and over	\$3,500.00	
Site Plan Modification (No Commission review)		
Residential - 1 unit, Existing Commercial	\$600.00	\$1,000.00
Residential over 1 unit, New Commercial	\$600.00	\$4,000.00
Site Plan Modification (Commission review)		
Residential - 1 unit, Existing	\$1,000.00	\$2,000.00

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Commercial		
Residential over 1 unit, New	\$1,000.00	\$6,000.00
Commercial		
Site Plan Renewal		\$1,000.00
Residential - 1 unit, Existing	50% of original filing fee	\$1,000.00
Commercial		
Residential over 1 unit, New	50% of original filing fee	\$2,000.00
Commercial		
Dock Waiver	\$200.00	
Alcohol Variance	\$600.00	
Variances	(per variance)	
Residential -- 1 unit Non-Use Variances	\$100.00	
Residential - 1 unit, Existing	\$200.00	\$1,000.00
Commercial		
Residential over 1 unit, New	\$600.00	\$2,000.00
Commercial		
Sign Variance	\$600.00	
Special Use Exception		
Residential - 1 unit, Existing	\$600.00	\$2,000.00
Commercial		
Residential over 1 unit, New	\$600.00	\$4,000.00
Commercial		
Conditional Use		
Residential - 1 unit, Existing	\$600.00	\$2,000.00
Commercial		
Residential over 1 unit, New	\$600.00	\$4,000.00
Commercial		
Unusual and New Uses	\$600.00	\$4,000.00
Plat	\$1,000.00	\$10,000.00
Waiver of Plat	\$1,000.00	\$4,000.00

3B(10)

Appeals of Administrative Decision	\$600.00	\$2,000.00
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Note: In addition to application fees and cost recovery deposits, advertising and mailing costs shall be paid by the applicant separately.

F. Additional review fees.

The following fees are required as part of the review process in addition to required filing fees and Cost Recovery Deposits:

- (1) advertising; and
- (2) mailing costs.

G. Subsequent review and Resubmission fees.

- (1) A Resubmission Fee shall be required to be submitted by the applicant as specified in this Section.
- (2) If an application is deemed incomplete, is withdrawn prior to the hearing by the Board or Commission, is deemed withdrawn for failure to respond to a request for information necessary for review, or suspended for nonpayment of required additional cost recovery fees within the required timeframe, any subsequent submission shall be accompanied by a Resubmission Fee of 50 percent of the original application filing fee.
- (3) Should the project be substantially changed or modified so that, in the opinion of the City Manager or his/her designee it represents a new project on the same property, the Resubmission Fee shall be equal to the original filing fee appropriate to the particular project.
- (4) If the applicant is required to resubmit plans or supplement the application after the City's initial review, in addition to any required additional Cost Recovery deposits, any resubmittal shall be accompanied by a minimum review fee of \$100.00.

H. Minimum review fee.

The minimum fee for application and plan review shall be no less than \$100.00.

I. Refund.

(1) Fees. All fees shall be deemed nonrefundable unless the refund request has been received prior to administrative review or public advertisement.

(2) Cost Recovery Escrow Account. Upon final approval or denial of an application, expiration of any applicable appeal period, and payment of all consultant charges, the city shall refund to the applicant any funds remaining in the Cost Recovery Escrow Account.

* * *

Section 3. City Code Amended. That APPENDIX A of Chapter 152 “Zoning”, of the City of North Bay Village Code of Ordinances is hereby deleted in its entirety.

Section 4. Consolidated Land Development Regulations Amended. That Appendix F of the Consolidated Land Development Regulations is hereby deleted in its entirety.

Section 5. Consolidated Land Development Regulations Amended. That Section 2.7.2 of the Consolidated Land Development Regulations is hereby amended to read as follows:²

§ 2.7.2 - Basic application requirements.

Fifteen copies of the following basic materials shall be submitted together with all required filing fees and deposits required by Section 152.110 of the City Code of Ordinances, before any application for a development order shall be considered complete.

(1) The city's standard application forms, completed, signed by all property owners or their designated agents, and notarized. In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.

² Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~.

(2) A survey at a scale of not less than one inch equals 40 feet, prepared by a registered land survey and not more than one year old and including the legal description of the property, all easements, and rights-of-way.

(3) Site plan, except for single-family residence, and to include physical features in or adjoining the site, proposed driveways, alleys, off street parking and loading areas, storm drainage, sanitary sewer facilities, and lighting systems.

(4) Preliminary floor plans and elevations of proposed buildings at not less than 1/16 inch scale.

(5) Location, height, and type of all proposed buildings, walls, signs, landscaping, and open space.

(6) Tabular project summary including total acreage, project density and FAR lot coverage, open space, and number of parking spaces. If variances are being requested, the extent of these variances from requirements shall be noted.

(7) Level of service assessment (see chapter 4).

~~(8) Filing fees. See Appendix F for copy of fee schedule.~~

Section 6. Repeal. That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 7. Severability. That 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, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 8. Inclusion in the Code. That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 9. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by _____, seconded by _____.

THE VOTES WERE AS FOLLOW:

Mayor Connie Leon-Kreps _____
Vice Mayor Eddie Lim _____
Commissioner Blumberg _____
Commissioner Richard Chervony _____
Commissioner Paul Vogel _____

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this ___ day of _____ 2012.

The motion to adopt the foregoing Ordinance on final reading was offered by _____, seconded by _____.

FINAL VOTE ON ADOPTION:

Mayor Connie Leon-Kreps _____
Vice Mayor Eddie Lim _____
Commissioner Blumberg _____
Commissioner Richard Chervony _____
Commissioner Paul Vogel _____

PASSED AND ENACTED BY THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, THIS _____ DAY OF _____, 2012.

Connie Leon-Kreps
Mayor

ATTEST:

Yvonne Hamilton, City Clerk

3B(14)

**APPROVED AS TO FORM FOR THE USE OF
THE CITY OF NORTH BAY VILLAGE ONLY:**

City Attorney

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

City of North Bay Village Ordinance – Cost Recovery Program