

ORDINANCE NO. 2019 - 01 _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, REPEALING ORDINANCE NO. 2011-07, AS AMENDED, IN ORDER TO ADOPT, TO THE EXTENT APPLICABLE, THE REGULATIONS AND POLICIES SET FORTH IN THE STATE OF FLORIDA MODEL FLOODPLAIN MANAGEMENT ORDINANCE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Collier County Board of County Commissioners (Board) seeks to protect the health, safety and welfare of the citizens of Collier County; and

WHEREAS, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents by enacting and enforcing regulations necessary for the protection of the public including Flood damage prevention ordinances; and

WHEREAS, the Board had previously adopted a Flood Damage Prevention Ordinance through Ordinance No. 2011-07, which was subsequently amended by Ordinance Nos. 2012-06 and 2012-24, based on the State of Florida Model Flood Damage Prevention Ordinance; and

WHEREAS, the Board desires to replace, to the extent applicable, Collier County's current Flood Damage Prevention Ordinance with the regulations and policies set forth in the new and revised State of Florida Model Floodplain Management Ordinance.

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

SECTION 1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.

A. **Statutory Authorization.** The Legislature of the State of Florida has authorized and delegated in Chapter 125, Florida Statutes, the responsibility of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of County Commissioners of Collier County does hereby adopt the following **Floodplain management regulations**.

B. **Findings of Fact.**

- (1) The **Flood** hazard areas of Collier County are subject to periodic inundation from intense rain storms and/or tropical cyclone storm surge, which could 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.

- (2) These **Flood** losses are caused by the cumulative effect of obstructions in **Floodplains** causing increases in **Flood** heights and velocities, and by the occupancy in **Flood** hazard areas by uses vulnerable to **Floods** or hazardous to other lands which are inadequately elevated, **Flood**-proofed or otherwise unprotected from **Flood** damages.

C. Statement of Purpose. It is the purpose of this Ordinance to save lives, promote the public life health, safety and general welfare and minimize public and private losses due to **Flood** conditions in specific areas by provisions designed to:

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

D. Objectives. The objectives of this Ordinance are to:

- (1) Protect human life, health and to eliminate or minimize property damage;
- (2) Minimize expenditure of public money for costly **Flood** control projects;
- (3) Minimize the need for rescue and relief efforts associated with **Flooding** and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and public utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in **Floodplains**;
- (6) Maintain a stable tax base by providing for the sound use and **Development** of **Flood** prone areas in such a manner as to minimize **Flood** blight areas; and

- (7) Ensure that potential homebuyers are notified that property is in a **Special flood hazard area**.

SECTION 2: DEFINITIONS AND ACRONYMS.

Unless otherwise expressly stated, the following words, terms, and acronyms shall, for the purposes of this ordinance, have the meanings shown in this section. Where terms are not defined in this ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code. Where terms are not defined in this ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

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

Appeal. A request for a review of the **Floodplain Administrator**'s interpretation of any provision of this ordinance.

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 202.] 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 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]

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

Coastal A Zone. Area within a **special flood hazard area**, landward of a Zone V or landward of an open coast without mapped **coastal high hazard areas**. The inland limit of the Coastal A Zone is the **Limit of Moderate Wave Action** where delineated on the **Flood Insurance Rate Map (FIRM)**.

Coastal high hazard area. A **special flood hazard area** extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. **Coastal high hazard areas** are also referred to as “high hazard areas subject to high velocity wave action” or “V Zones” and are designated on **Flood Insurance Rate Maps (FIRM)** as Zone V1-V30, VE, or V.

Declaration of Land Restriction (Non-conversion Agreement). A form provided by the Floodplain Administrator to be signed by the owner and recorded in the public records of Collier County, FL stating the owner agrees to not convert or modify the following in any manner that is inconsistent with the terms of the building permit and this ordinance: (1) an enclosure below an elevated building; (2) crawl/underfloor spaces that are more than 5 feet in height (measured from the lowest interior grade or floor to the bottom of the floor system above); (3) a detached structure that is not elevated and is larger than 120 square feet in area.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (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 202.]

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

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

Existing building and existing structure. Any buildings and structures for which the **start of construction** commenced before September 4, 1979. [Also defined in FBC, B, Section 202.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 4, 1979.



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

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

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

- (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 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (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 202.]

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 202.]

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

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 ordinance. For the purposes of this Ordinance, evidence of this approval

can be demonstrated by providing an approved local **development** order, such as site **development** plan, construction plans, or building permit, as applicable.

Floodway. The channel of a river or other riverine **watercourse** and the adjacent land areas that must be reserved in order to discharge the **base flood** without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 202.]

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, as amended by Collier County, 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. The term includes 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.

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

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 12 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.

Limit of Moderate Wave Action (LiMWA). Line shown on FIRMs to indicate the inland limit of the 1 ½-foot breaking wave height during the **base flood**.

Lowest floor. The lowest floor of the lowest **enclosed area** of a building or structure, including **basement**, but excluding any unfinished or flood-resistant enclosure, other than a **basement**, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or **ASCE 24**. [Also defined in FBC, B, Section 202.]

Mangrove stand. An assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above ground and which contain one or more of the following species: Black mangrove (*Avicennia germinans*); red mangrove

(*Rhizophora mangle*); white mangrove (*Laguncularia racemosa*); and buttonwood (*Conocarpus erecta*).

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

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

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, 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

National Geodetic Vertical Datum (NGVD) of 1929 means a vertical control used as a reference for establishing varying elevations within the Floodplain. Elevation information based upon NGVD and used for Floodplain management purposes prior to March 14, 2011, may continue to be used provided there is also converted elevation information based upon NAVD. After March 14, 2011, all elevation information submitted with a **development** permit shall utilize NAVD.

New construction. For the purposes of administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, structures for which the **start of construction** commenced on or after September 4, 1979 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A **manufactured home park or subdivision** for which the construction of facilities for servicing the lots on which the **manufactured homes** are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 4, 1979.

North American Vertical Datum (NAVD) of 1988 means a vertical control used as a reference for establishing varying elevations within the Floodplain. After March 14, 2011, all elevation information submitted with a development permit shall utilize NAVD.

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 320.01, F.S.]

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

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a **light-duty truck**; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on **FIRMs** as Zone A, AO, A1 A30, AE, A99, AH, V1 V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance for **new construction** and **substantial improvements** to **existing structures**, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, or 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 202.]

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 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, alteration, 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 202.]

- (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**. [See Instructions and Notes]

Temporary emergency housing. Typically provided by FEMA or the Florida Division of Emergency Management (FDEM) in accordance with guidance noted in the Stafford Act and/or the Post-Katrina Emergency Management Reform Act and similar laws. FEMA or the Florida Division of Emergency Management may provide housing resources via its contractor or other approved agency such as the U.S. Department of Housing and Urban Development and others to provide for temporary emergency housing including but not limited to: modular homes, mobile homes, component homes, cottages, camper trailers, or some other type of temporary living quarters intended to house displaced residents impacted by a natural or man-made disaster event.

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

Watercourse. The channel and banks of a lake, river, creek, stream, wash, channel or other topographic feature in, on, through, or over which water flows at least periodically. The **watercourse** does not include the adjoining floodplain areas.

Wet season water table elevation (WSWT). The elevation, in relation to the NAVD of 1988, of the groundwater during that period of time each year in which the upper surface of the groundwater, or that level below which the soil or underlying rock material is wholly saturated with water, can normally be expected to be at its highest level. Water table elevation is measured from the soil surface downward to the upper level of saturated soil or upward to the free water level. The WSWT may be determined using the South Florida Water Management District's Environmental Resource Permit Information Manual 2014 (amended through August 7, 2016), Part 111 – References and Design Aids, Section D (Determination of Seasonal High Water Table), as amended, or other methodology as approved by the Florida Department of Environmental Protection.

Zone X. The designation used on Flood Insurance Rate Maps to identify areas outside the **Special Flood Hazard Area**. No flood elevations or depths are shown in this zone, and mandatory Federal flood insurance purchase requirements do not apply. Flood insurance is optional and available. Zone X may be:

- Zone X-500 (also known as Zone X Shaded) which represents the area outside of the 1-percent annual chance Floodplain but within the 0.2-percent annual chance Floodplain, and
- Zone X (also known as Zone X Unshaded) which represents the area outside of the 0.2-percent annual chance Floodplain.

ACRONYMS.

ASCE	American Society of Civil Engineers
BFE	Base flood elevation
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
NAVD	North American Vertical Datum
NFIP	National Flood Insurance Program
NGVD	National Geodetic Vertical Datum
WSWT	Wet season water table

SECTION 3: ADMINISTRATION - GENERAL.

- A. **Title.** These regulations shall be known as the Floodplain Management Ordinance of Collier County, Florida.
- B. **Scope.** The provisions of this ordinance 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*; placement, installation, or replacement of **manufactured homes** and manufactured buildings; installation or replacement of tanks; placement of **recreational vehicles**; installation of swimming pools; and any other **development**. This ordinance shall also apply to establishing minimum floor elevations for buildings constructed within areas identified as **Zone X** and X-500 on the Flood Insurance Rate Maps adopted in Section 4, C of this ordinance.
- C. **Intent.** The purposes of this ordinance 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 Title 44 Code of Federal Regulations, Section 59.22.

D. Coordination with The Florida Building Code. This ordinance is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, **ASCE 24** refers to the edition of the standard that is referenced by the *Florida Building Code*.

E. Warning. The degree of flood protection required by this ordinance and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside of mapped **special flood hazard areas**, or that uses permitted within such **flood hazard areas**, will be free from flooding or flood damage. The **flood hazard areas** and **base flood elevations** contained in the **Flood Insurance Study** and shown on **Flood Insurance Rate Maps** and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

F. Disclaimer of Liability. This ordinance shall not create liability on the part of the Board of County Commissioners of Collier County, Florida or by any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 4: APPLICABILITY.

A. General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

- B. Areas to Which This Ordinance Applies.** This ordinance shall apply to all **flood hazard areas** within the unincorporated Collier County, as established in Section 4, C of this ordinance. Additionally, the requirements for establishing minimum floor elevations shall be applicable for all areas identified as **Zone X** and X 500.
- C. Basis for Establishing Flood Hazard Areas.** The Flood Insurance Study for Collier County, Florida and Incorporated Areas dated May 16, 2012, 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 ordinance 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 office of the Clerk to the Board of County Commissioners located at the County Government Center, 3299 Tamiami Trail East, Bldg. F, 4th Floor, Naples, FL 34112.
- D. Submission of Additional Data To Establish Flood Hazard Areas.** To establish **flood hazard areas** and **base flood elevations**, pursuant to Section 7 of this ordinance the **Floodplain Administrator** may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:
- (1) Are below the closest applicable **base flood elevation**, even in areas not delineated as a **special flood hazard area** on a **FIRM**, the area shall be considered as **flood hazard area** and subject to the requirements of this ordinance 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**.
- E. Other Laws.** The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.
- F. Abrogation and Greater Restrictions.** This ordinance supersedes any ordinance in effect for management of **development** in **flood hazard areas**. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.
- G. Interpretation.** In the interpretation and application of this ordinance, 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 5: DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.

- A. **Designation.** The County Manager or designee is designated as the **Floodplain Administrator**. The **Floodplain Administrator** may delegate performance of certain duties to other employees.
- B. **General.** The **Floodplain Administrator** is authorized and directed to administer and enforce the provisions of this ordinance. The **Floodplain Administrator** shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance 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 ordinance without the granting of a **variance** pursuant to Section 9 of this ordinance.
- C. **Duties of The Floodplain Administrator.** The **Floodplain Administrator**, in coordination with other pertinent offices of the community, 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 ordinance;
 - (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) 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);
 - (8) 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;

- (9) Issue **floodplain development permits or approvals** for **development** other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this ordinance is demonstrated, or disapprove the same in the event of noncompliance;
- (10) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in **flood hazard areas** comply with the applicable provisions of this ordinance;
- (11) Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* and this ordinance to determine that such certifications and documentations are complete;
- (12) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of **substantial improvement** and **substantial damage** made pursuant to Section 5, D of this ordinance;
- (13) Advise applicants for new buildings and structures, including **substantial improvements**, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on **Flood Insurance Rate Maps** as “Coastal Barrier Resource System Areas” and “Otherwise Protected Areas”; and
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of unincorporated Collier County, Florida are modified.

D. Substantial Improvement and Substantial Damage Determinations. For applications for building permits to improve buildings, structures, and manufactured homes, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, **substantial** improvements, repairs of **substantial damage**, and any other improvement of or work on such buildings and structures, the **Floodplain Administrator**, in coordination with the Building Official, shall:

- (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 construction requirements of the *Florida Building Code* and this ordinance is required.
- (5) Property owners of buildings, structures and facilities regulated by, or exempt from, the *Florida Building Code*, including manufactured homes, may **appeal** a **substantial damage** determination first through the process established in the Administrative Code for Land **Development**. Subsequent **appeals** shall be processed in accordance with Section 9 of this ordinance.

E. 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 9 of this ordinance.

F. Notices and Orders. The **Floodplain Administrator** shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

G. Inspections. The **Floodplain Administrator** shall make the required inspections as specified in Section 8 of this ordinance for **development** that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The **Floodplain Administrator** shall inspect **flood hazard areas** to determine if **development** is undertaken without issuance of a permit.

H. 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 ordinance and the flood resistant construction requirements of the *Florida Building Code*, including **Flood Insurance Rate Maps**; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes **substantial improvement** or repair of **substantial damage**; required design certifications and documentation of elevations specified by the *Florida Building Code* and this ordinance; 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 ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the Growth Management Division-Planning and Regulation, 2800 North Horseshoe Drive, Naples, FL 34104.

SECTION 6: PERMITS.

- A. **Permits Required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any **flood hazard area** shall first make application to the **Floodplain Administrator**, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.
- B. **Floodplain Development Permits or Approvals.** **Floodplain development permits or approvals** shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed **development** that includes a building or structure, the **Floodplain Administrator** may determine that a **floodplain development permit or approval** is required in addition to a building permit.
- C. **Buildings, Structures and Facilities Exempt from The *Florida Building Code*.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), **floodplain development permits or approvals** shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this ordinance:
- (1) Railroads and ancillary facilities associated with the railroad.
 - (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
 - (3) Temporary buildings or sheds used exclusively for construction purposes.
 - (4) Mobile or modular structures used as temporary offices.
 - (5) 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.
 - (6) 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.

- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in **flood hazard areas** established on **Flood Insurance Rate Maps**

D. 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 7 of this ordinance.
- (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**.
- (8) **A signed Declaration of Land Restriction (Non-conversion Agreement) shall be recorded in the public records of Collier County, FL prior to issuance of the certificate of occupancy or certificate of completion for the following:**
 - (a.) **An enclosure below an elevated building.**
 - (b.) **A crawl/underfloor space that are more than 5 feet in height (measured from the lowest interior grade or floor to the bottom of the floor system above).**
 - (c.) **A detached structure that is not elevated and is larger than 120 square feet in area.**

E. Validity of Permit or Approval. The issuance of a **floodplain development permit or approval** pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of

this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the **Floodplain Administrator** from requiring the correction of errors and omissions.

- F. **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.
- G. **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 ordinance or any other ordinance, regulation or requirement of this community.
- H. **Other Permits Required.** Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted **development**, including but not limited to the following:
 - (1) The South Florida Water Management District; section 373.036, F.S.
 - (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
 - (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the **coastal construction control line**; section 161.041, F.S.
 - (4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
 - (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
 - (6) Federal permits and approvals.

SECTION 7: SITE PLANS AND CONSTRUCTION DOCUMENTS.

- A. **Information for Development in Flood Hazard Areas.** The **Floodplain Administrator** is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed **development** is such that the review of such submissions is not necessary to ascertain compliance with this ordinance. The site plan or construction documents for any **development** subject to the

requirements of this ordinance 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), **base flood elevation(s)**, and ground elevations if necessary for review of the proposed **development**.
- (2) Where **base flood elevations**, or **floodway** data are not included on the **FIRM** or in the **Flood Insurance Study**, they shall be established in accordance with Section 7, B (2) or (3) of this ordinance.
- (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 7, B (1) of this ordinance.
- (4) Location of the proposed activity and proposed structures, and locations of **existing buildings and structures**; in **coastal high hazard areas**, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (7) Delineation of the **Coastal Construction Control Line** or notation that the site is seaward of the **coastal construction control line**, if applicable.
- (8) Extent of any proposed alteration of **sand dunes** or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
- (9) Existing and proposed alignment of any proposed **alteration of a watercourse**.

B. 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) Require the applicant to include **base flood elevation** data prepared in accordance with currently accepted engineering practices.
- (2) Obtain, review, and provide to applicants **base flood elevation** and **floodway** data available from a federal or state agency or other source or require the applicant to

obtain and use **base flood elevation** and **floodway** data available from a federal or state agency or other source.

- (3) Where **base flood elevation** and **floodway** data are not available from another source, where the available data are deemed by the **Floodplain Administrator** to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - (a) Require the applicant to include **base flood elevation** data prepared in accordance with currently accepted engineering practices; or
 - (b) Specify that the **base flood elevation** is four (4) feet above the **highest adjacent grade** or **Wet Season Water Table**, whichever is higher; OR if utilizing a pressurized septic design: engineering justifications, considering adjacent flood elevations and other applicable criteria, may be presented to the **Floodplain Administrator** for consideration of a lowered flood elevation. In no case can the **lowest floor** be less than three (3) feet above the **highest adjacent grade** or **Wet Season Water Table**, whichever is higher at the location of the **development**, provided there is no evidence indicating flood depths have been or may be greater than the proposed elevation.
- (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.

C. **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 signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For **development** activities proposed to be located in a regulatory **floodway**, a **floodway encroachment analysis** that demonstrates that the **encroachment** of the proposed **development** will not cause any increase in **base flood elevations**; where the applicant proposes to undertake **development** activities that do increase **base flood elevations**, the applicant shall submit such analysis to FEMA as specified in Section 7, D of this ordinance 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, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed **development**, when combined with all other existing and anticipated **flood hazard area**

encroachments, will not increase the **base flood elevation** more than one (1) foot at any point within the community. This requirement does not apply in isolated **flood hazard areas** not connected to a riverine **flood hazard area** or in **flood hazard areas** identified as Zone AO or Zone AH.

- (3) For **alteration of a watercourse**, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the **watercourse** will not be decreased, and certification that the altered **watercourse** 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 7, D of this ordinance.
- (4) For activities that propose to alter **sand dunes** or mangrove stands in **coastal high hazard areas** (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

D. 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 8: INSPECTIONS.

- A. General. Development** for which a **floodplain development permit or approval** is required shall be subject to inspection.
- B. Development Other Than Buildings and Structures.** The **Floodplain Administrator** shall inspect all **development** to determine compliance with the requirements of this ordinance and the conditions of issued **floodplain development permits or approvals**.
- C. Buildings, Structures and Facilities Exempt from The *Florida Building Code*.** The **Floodplain Administrator** shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this ordinance and the conditions of issued **floodplain development permits or approvals**.
- D. Buildings, Structures and Facilities Exempt from The *Florida Building Code*, Lowest Floor Inspection.** Upon placement of the **lowest floor**, including **basement**, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

- (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 7, B(3)(b) of this ordinance, the documentation of height of the **lowest floor** above **highest adjacent grade**, prepared by the owner or the owner's authorized agent.

E. Buildings, Structures and Facilities Exempt from The *Florida Building Code*, Final Inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the **Floodplain Administrator** a final certification of elevation of the **lowest floor** or final documentation of the height of the **lowest floor** above the **highest adjacent grade**; such certifications and documentations shall be prepared as specified in Section 8, D of this ordinance.

F. Manufactured Homes. The **Floodplain Administrator** shall inspect **manufactured homes** that are installed or replaced in **flood hazard areas** to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a **manufactured home**, certification of the elevation of the **lowest floor** shall be submitted to the **Floodplain Administrator**.

SECTION 9: VARIANCES AND APPEALS.

A. Variances and appeals; In General. Requests for **variances** and requests for **appeals** shall be processed in accordance with this section. Requests for **variances** and **appeals** shall be accompanied with the fee specified in the Growth Management Department, Development Services Fee Schedule.

- (1) The Office of the Hearing Examiner (or whomever is appointed by the Board of County Commissioners) shall hear requests for **variances** from the strict application of requirements of this ordinance and which are not requirements of the *Florida Building Code*, in accordance with Land **Development Code** section 10.09.00.
- (2) Pursuant to section 553.73(5), F.S., the Board of Building Adjustments and Appeals shall hear and decide on requests for **appeals** and requests for **variances** from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building*.

B. Limitations on Authority to Grant Variances. The Office of the Hearing Examiner (or whomever is appointed by the Board of County Commissioners) shall base its decisions on **variances** on technical justifications submitted by applicants, the considerations for issuance in Section 9, F of this ordinance, the conditions of issuance set forth in Section 9, G of this ordinance, and the comments and recommendations of the **Floodplain**

Administrator and the Building Official. The Office of the Hearing Examiner (or whomever is appointed by the Board of County Commissioners) has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

- C. **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 7, C of this ordinance.
- D. **Historic Buildings.** A **variance** is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the **variance** is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a **variance** shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.
- E. **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 ordinance, provided the **variance** meets the requirements of Section 9, C of this ordinance, 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**.
- F. **Considerations for Issuance of Variances.** In making a determination under Section 9, G of this ordinance, the Office of the Hearing Examiner (or whomever is appointed by the Board of County Commissioners) shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, 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.

G. 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 limit compliance with any provision of this ordinance or the required elevation standards;
- (2) Determination by the Office of the Hearing Examiner (or whomever is appointed by the Board of County Commissioners) 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;
- (1) 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
- (2) If the request is for a **variance** to allow construction of the **lowest floor** of a new building, or **substantial improvement** of a building, below the required elevation,

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

- H. **Requests for Appeals.** The Office of the Hearing Examiner (or whomever is appointed by the Board of County Commissioners) shall hear and decide on requests for **appeals** when it is alleged there is an error in any requirement, decision, or determination made by the **Floodplain Administrator** in the administration and enforcement of this ordinance.
- I. **Process for Decisions and Appeal of Decisions of the Office of the Hearing Examiner.** All decisions of the Hearing Examiner arising from Section 9 of this ordinance will be delivered or mailed by the Hearing Examiner to all parties of record, the County Attorney, and the County Manager. Any party, including the County, may appeal the decision to the Board of Zoning Appeals within the time frame and in the manner provided by the Rules of Procedure, as described in Ordinance No. 2013-25, Section 4. Failing a timely appeal, the decision of the Hearing Examiner will be considered final in all respects. Appeals shall be heard de novo by the Board of Zoning Appeals in the manner proscribed in the LDC. In reaching its decision, the Board of Zoning Appeals may adopt or deny, in whole or in part, the decision of the Hearing Examiner.

SECTION 10: VIOLATIONS.

- A. **Violations.** Any **development** that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. 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 ordinance or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.
- B. **Authority.** For **development** that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance 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.
- C. **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 in the Collier County Consolidated Code Enforcement Ordinance as it may be amended or replaced.

SECTION 11: TEMPORARY EMERGENCY HOUSING.

- A. **Establishing the Need for Temporary Emergency Housing.** To establish the need for **temporary emergency housing**, the Board of County Commissioners must determine and declare by simple majority vote that an emergency condition exists due to a natural or man-made disaster. Based upon that disaster declaration the County Manager, in consultation with the Emergency Management Director and the **Floodplain Administrator**, is authorized to allow for **temporary emergency housing** in the **special flood hazard area**.
- B. **Placement of Temporary Emergency Housing within the Flood Hazard Area.** The Board of County Commissioners or the County Manager or designee, in coordination with the Floodplain Administrator, may allow for post-disaster emergency temporary manufactured homes, recreational vehicles or similar resources provided by federal, state, and local agencies within the flood hazard areas for a period of six months. This period may be extended by the Board taking the extent and severity of the disaster into account.
- C. **Temporary Emergency Housing Prohibitions.** **Temporary emergency housing** shall not be located in the VE or the Coastal A flood zones.
- D. **Installation Standards.** **Manufactured homes** shall be placed in a manner consistent with Section 15 of this ordinance. Recreational vehicles or similar road ready vehicles shall comply with the requirements of Section 16 of this ordinance.
- E. **Emergency Notification and Evacuation Plan.** An emergency notification and evacuation plan shall be prepared to ensure the safety of the occupants of the **temporary emergency housing**. The emergency notification and evacuation plan shall be submitted, within thirty (30) days of occupancy of the **temporary emergency housing** units, for review and approval to the Collier County Division of Emergency Management.
- F. **Permit for the Temporary Placement of Emergency Housing.** Prior to the placement of all **temporary emergency housing** in the **special flood hazard area**, the applicant shall be required to submit a temporary permit application to the **Floodplain Administrator** affirming that the structure is in compliance with this Section and 44 CFR 60.3 (e).
- G. **Consistent with Post-Disaster Recovery Ordinance.** The efforts specified in this section shall be consistent with Ordinance No. 2006-35, Section 7.

SECTION 12: BUILDINGS AND STRUCTURES.

- A. **Design and construction of buildings, structures and facilities exempt from the Florida Building Code.** Pursuant to Section 6, C of this ordinance, 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 18 of this ordinance.

B. Enclosures below the lowest floor. Enclosed areas below elevated buildings and structures shall comply with the requirements of the Florida Building Code, shall be limited to parking of vehicles, storage, and building access, and shall comply with the following:

- (1) Access to the **enclosed area** shall be the minimum necessary to allow for:
 - (a.) Parking of vehicles (garage doors);
 - (b.) Limited storage of maintenance equipment used in connection with the premises (standard exterior door not to exceed 3.0 ft. by 8.0 ft.);
 - (c.) Main entrance to the structure (one double door set).
- (2) The interior portion of such **enclosed area** shall not be temperature-controlled by a permanently mounted air-conditioner or connected to central air;
- (3) All areas that are partitioned within the **enclosed area** shall be vented in accordance with **ASCE 24 Flood Resistant Design and Construction**;
- (4) All construction below the **lowest floor** shall be built with flood damage-resistant materials consistent with **ASCE 24 Flood Resistant Design and Construction**, for example: pressure treated wood and water-durable and mold resistant cement backerboard; and
- (5) **Section 6, D (8) of this ordinance, regarding a Declaration of Land Restriction (Non-conversion agreement).**

C. Detached accessory structures. Detached accessory structures that are not elevated (garages, tool sheds, storage buildings, steel ISO 10'-20'-40' storage containers, etc.) may be positioned on the ground or a slab, properly vented, and adequately anchored to withstand wind and buoyancy forces, or secured to piers. A property owner must provide a signed **Declaration of Land Restriction (Non-conversion agreement)** prior to the issuance of the certificate of completion for detached accessory structures that are not elevated and are greater than 120 square feet.

D. Design and construction of nonresidential farm buildings on farms. Pursuant to Section 6, C of this ordinance, nonresidential farm buildings on farms that are exempt from the *Florida Building Code*, including **substantial improvement** or repair of **substantial damage** of such buildings, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of **ASCE 24**. If required to be elevated in accordance with **ASCE 24**, nonresidential farm buildings on farms shall be elevated to

or above the **base flood elevation**. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 18 of this ordinance.

- E. **Permanently-mounted air-conditioners, generators, and other exterior mechanical equipment.** When installed with new construction or replaced as part of **substantial** improvement or repair of **substantial** damage, permanently-mounted air-conditioners, generators, and other exterior mechanical equipment shall be elevated to or above the elevation required by the *Florida Building Code* - Residential Sec. R322.1.6 or *Florida Building Code* – Building, Sec. 1612 (**ASCE 24**), as applicable. When not part of **substantial** improvement or repair of **substantial** damage, new or replacement of permanently-mounted air-conditioners and exterior mechanical equipment shall be elevated to or above the BFE or the **lowest floor elevation** of the building served, whichever is lower. When not part of substantial improvement or repair of substantial damage, new or replacement generators shall be elevated to or above the elevation required by the *Florida Building Code* - Residential Sec. R322.1.6 or *Florida Building Code* – Building, Sec. 1612 (**ASCE 24**), as applicable.
- F. **Pool Equipment.** When installed with new construction, pool equipment shall be elevated to or above the elevation required by the *Florida Building Code*, Residential R322.1.6 or *Florida Building Code*, Building, Sec. 1612 (**ASCE 24**), as applicable. Where new pool equipment is installed on an existing pool, the pool equipment shall be elevated to or above the **lowest floor** elevation of the building served. Where pool equipment is installed to replace existing pool equipment, the new pool equipment shall be elevated to or above the elevation of the existing pool equipment. In cases where the elevation of pool equipment will hinder access for repair and maintenance, a letter may be submitted by the pool contractor to the building official demonstrating that the equipment can be installed to resist flood forces and is GFI protected per the National Electric Code (NEC) 2014, 680.21 (C), as may be amended from time to time.
- G. **Buildings and structures seaward of the coastal construction control line.** If extending, in whole or in part, seaward of the **coastal construction control line** and also located, in whole or in part, in a **flood hazard area**:
- (1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the *Florida Building Code*, Building Section 3109 and Section 1612 or *Florida Building Code*, Residential Section R322.
 - (2) Minor structures and non-habitable major structures as defined in section 161.54, F.S., shall be designed and constructed to comply with the intent and applicable provisions of this ordinance and **ASCE 24**.
- H. **Lowest floor** elevation requirements for residential buildings. The area below the **lowest floor** shall be limited to storage, access, and parking.

- (1) Residential buildings subject to South Florida Water Management District Permit requirements or were previously approved to a 100 year, three-day, zero-discharge stormwater plan standard, shall have the **lowest floor** elevated at or above the elevation required by the District Permit, *Florida Building Code*, or Section 12, I of this ordinance, as applicable.
- (2) All residential buildings not subject to Section 12, H (1) of this ordinance and located in a **flood hazard area**, Zone X-500, or **Zone X** shall have the **lowest floor** elevated at or above the elevation required by the *Florida Building Code* or as follows, whichever is higher:
 - (a.) Buildings located on a paved road must be elevated 18 inches above the crown of the nearest street or interior finished roadway system. In the event that the nearest street or interior finished roadway system is located on an evacuation route, the residential building may be elevated a minimum of 18 inches above the crown of the nearest side street just beyond the beginning of the vertical transition for the elevation connection to the evacuation route.
 - (b.) Residential buildings located on a graded or otherwise unfinished road must be elevated a minimum of 24 inches above the crown of the nearest street.
 - (c.) Garages for residential buildings shall have the lowest slab at or above the crown of the nearest street and shall meet one of the following: (1) be elevated at or above the **base flood elevation**, or (2) if using flood openings, the flood openings shall be installed so that the entire opening is below the base flood elevation and shall be no higher than one foot above grade. See FEMA Technical Bulletin 1, as amended, for additional information.
 - (d.) Lanais for residential buildings shall have the lowest slab at or above the crown of the nearest street. See Section 12, C of this ordinance for detached structures.
 - (e.) On parcels where unusual topographic conditions exist and the standard conditions established in Section 12, H (2)(a),(b),(c),(d) of this ordinance cannot be reasonably applied, the Building Official shall consider requests to decrease the **lowest floor** elevation. All requests shall require an analysis, by a professional engineer, of the 100-year, 3-day storm event using zero discharge, for the entire discharge, for the drainage basin in which the proposed structure is located. Reductions may be allowed on the basis of the analysis, but in no case, shall the **lowest floor** be less than the elevation required by the *Florida Building Code*.

- I. **Buildings and structures removed from the special flood hazard area.** Buildings and structures removed from the special flood hazard area shall be elevated so that the lowest slab, such as a garage, lanai, enclosure, etc. is above the lowest lot elevation (GROUND) as identified on the Letter of Map Change provided by FEMA. Further, the lowest adjacent

grade of a building or structure must be at or above the base flood elevation as established on the Digital Flood Insurance Rate Map.

SECTION 13: SUBDIVISIONS.

- A. **Minimum Requirements.** Subdivision proposals, including proposals for **manufactured home parks and subdivisions**, 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) Where the subdivision has more than 50 lots or is larger than 5 acres and **base flood elevations** are not included on the **FIRM**, the **base flood elevations** are determined in accordance with Section 7, B of this ordinance; and
 - (3) 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
 - (4) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures; and
 - (5) The site improvement and utilities requirements of Section 14 of this ordinance are satisfied.

SECTION 14: SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS.

- A. **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
 - (1) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- B. **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.

- C. **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.
- D. **Limitations on Sites in Regulatory Floodways.** No **development**, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory **floodway** unless the **floodway encroachment analysis** required in Section 7, C (1) of this ordinance demonstrates that the proposed **development** or land disturbing activity will not result in any increase in the **base flood elevation**.
- E. **Limitations on Placement of Fill.** Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.
- F. **Limitations on Sites in Coastal High Hazard Areas (Zone V).** In **coastal high hazard areas**, alteration of **sand dunes** and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 7, C (4) of this ordinance demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 18, H (3) of this ordinance.

SECTION 15: MANUFACTURED HOMES.

- A. **General.** All **manufactured homes** installed in **flood hazard areas** shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance. If located seaward of the **coastal construction control line**, all **manufactured homes** shall comply with the more restrictive of the applicable requirements.
- B. **Foundations.** All new **manufactured homes** and replacement **manufactured homes** installed in **flood hazard areas** shall be installed on permanent foundations that:
 - (1) In **flood hazard areas** (Zone A) other than **coastal high hazard areas**, are designed in accordance with the foundation requirements of the *Florida Building Code*, Residential Section R322.2 and this ordinance. Foundations for manufactured homes subject to Section 15, F of this ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

- (2) In **coastal high hazard areas** (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code*, Residential Section R322.3 and this ordinance.
- C. **Anchoring.** All new **manufactured homes** and replacement **manufactured homes** shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- D. **Elevation. Manufactured homes** that are placed, replaced, or **substantially improved** shall comply with Section 15, E or 15, F of this ordinance, as applicable.
- E. **General Elevation Requirement.** Unless subject to the requirements of Section 15, F of this ordinance, all **manufactured homes** that are placed, replaced, or **substantially improved** on sites located: (a) outside of a **manufactured home park or subdivision**; (b) in a **new manufactured home park or subdivision**; (c) in an **expansion to an existing manufactured home park or subdivision**; or (d) in an **existing manufactured home park or subdivision** upon which a **manufactured home** has incurred **substantial damage** as the result of a flood, shall be elevated such that the **lowest floor** is at or above the elevation required, as applicable to the **flood hazard area**, in the *Florida Building Code*, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).
- F. **Elevation Requirement for Certain Existing Manufactured Home Parks and Subdivisions. Manufactured homes** that are not subject to Section 15, E of this ordinance, including **manufactured homes** that are placed, replaced, or **substantially improved** on sites located in an **existing manufactured home park or subdivision**, unless on a site where **substantial damage** as result of flooding has occurred, shall be elevated such that either the:
- (1) **Lowest Floor** of the **manufactured home** is at or above the elevation required, as applicable to the **flood hazard area**, in the *Florida Building Code*, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.
- G. **Enclosures. Enclosed areas** below elevated **manufactured homes** shall comply with the requirements of the *Florida Building Code*, Residential Section R322 for such **enclosed areas**, as applicable to the **flood hazard area**.
- H. **Utility Equipment.** Utility equipment that serves **manufactured homes**, including electric, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities, shall comply with the requirements of the *Florida Building Code*, Residential Section R322, as applicable to the **flood hazard area**. Replacement of permanently-

mounted air conditioning equipment, generators, and exterior mechanical equipment shall comply with Section 12, E of this ordinance.

I. Permits Required for Additions, Attachments, Improvements and Repair of Manufactured Homes. Building permits are required for additions, attachments, improvements and repair of damage by any cause to manufactured homes. Any addition or attachment that is structurally connected to the manufactured home or is freestanding shall be constructed to meet the *Florida Building Code*, as may be amended from time to time. The design of an addition or attachment shall use the current wind criteria for the zone.

- (1) An addition or attachment shall only be allowed where a manufactured home was constructed with a host beam by the manufacturer in order to provide the necessary structural support for the connection between the two structures. For manufactured homes that were not constructed by the manufacturer to support additions or attachments connected to them, the addition or attachment shall be freestanding, other than flashing required for weather-tightness.
- (2) Applications for repair of structural components of a manufactured home shall include letters from a registered design professional or a mobile home inspector that states the structure is in compliance with the applicable Manufactured Home Construction and Safety Standards, developed by HUD, in place at the time of assembly.

SECTION 16: RECREATIONAL VEHICLES AND PARK TRAILERS.

A. 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.

B. Permanent Placement. Recreational vehicles and park trailers that do not meet the limitations in Section 16, A of this ordinance for temporary placement shall meet the requirements of Section 15 of this ordinance for **manufactured homes**.

SECTION 17: TANKS.

A. 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.

B. Above-Ground Tanks, Not Elevated. Above-ground tanks that do not meet the elevation requirements of Section 17, C of this ordinance shall:

(1) Be permitted in **flood hazard areas** (Zone A) other than **coastal high hazard areas**, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the **design flood**, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

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

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

D. 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 18: OTHER DEVELOPMENT.

A. 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 ordinance or the *Florida Building Code*, shall:

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

(2) Meet the limitations of Section 14, D of this ordinance 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 **base flood elevation**, except that minimum electric service required to address life safety and electric code requirements is permitted below the **base flood elevation** provided it conforms to the provisions of the electrical part of building code for wet locations.
- B. 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 14, D of this ordinance.
- C. 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 14, D of this ordinance.
- D. 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 14, D of this ordinance. **Alteration of a watercourse** that is part of a road or watercourse crossing shall meet the requirements of Section 7, C (3) of this ordinance.
- E. Concrete Slabs Used as Parking Pads, Enclosure Floors, Landings, Decks, Walkways, Patios and Similar Nonstructural Uses in Coastal High Hazard Areas (Zone V).** In **coastal high hazard areas**, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:
- (1) Structurally independent of the foundation system of the building or structure;
 - (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
 - (3) Have a maximum slab thickness of not more than four (4) inches.
- F. Decks and Patios in Coastal High Hazard Areas (Zone V).** In addition to the requirements of the *Florida Building Code*, in **coastal high hazard areas** decks and patios shall be located, designed, and constructed in compliance with the following:
- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the **design flood elevation** and any supporting members that extend below the **design flood elevation** shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
 - (2) A deck or patio that is located below the **design flood elevation** shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during **design flood**

conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

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

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the **design flood** or otherwise function to avoid obstruction of floodwaters; and
- (1) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

H. Nonstructural Fill in Coastal High Hazard Areas (Zone V). In coastal high hazard areas:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

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

SECTION 19: APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in all unincorporated areas of Collier County. This ordinance shall apply to all applications for **development**, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 20: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provisions of this Ordinance shall be made a part of the Code of Laws and Ordinances of Collier County, Florida. The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION 21: CONFLICT AND SEVERABILITY.

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 22: REPEAL OF ORDINANCE NO. 2011-07, AS AMENDED.

This Ordinance hereby repeals all portions of Ordinance No. 2011-07 and all amendments thereto.

SECTION 23: EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 8th day of January, 2019.

ATTEST:
CRYSTAL K. KINZEL, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: [Signature]
Attest as to Chairman's, Deputy Clerk
signature only.

By: [Signature]
W. L. McDaniel, Jr.,
Chairman

Approved as to form and legality:

[Signature] 11/29/18
Scott A. Stone
Assistant County Attorney

This ordinance filed with the
Secretary of State's Office the
10th day of January 2019
and acknowledgement of that
filing received this 10th day
of January 2019.

By: [Signature]
Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

MICHAEL ERTEL
Secretary of State

January 10, 2019

Ms. Crystal K. Kinzel, Clerk
Collier County
Post Office Box 413044
Naples, Florida 34101-3044

Attention: Martha Vergara

Dear Ms. Kinzel:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 2019-01, which was filed in this office on January 10, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb