VILLAGE OF PALMETTO BAY

Mayor Karyn Cunningham
Vice Mayor Leanne Tellam
Council Member Patrick Fiore (Seat 1)
Council Member Steve Cody (Seat 2)
Council Member Marsha Matson (Seat 3)

Village Manager Nick Marano
Village Attorney John C. Dellagloria
Village Clerk Missy Arocha

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter, or hearing impaired to participate in this proceeding should contact the Village Clerk at (305) 259-1234 for assistance no later than four days prior to the meeting.

AGENDA
ZONING HEARING
MONDAY, MAY 15, 2023 – 7:00 PM

VILLAGE HALL MUNICIPAL CENTER
9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157
(305) 259-1234

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1. **CALL TO ORDER, ROLL CALL, INVOCATION, PLEDGE OF ALLEGIANCE, AND DECORUM STATEMENT, IN THAT ORDER:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

   A. Notice of Zoning Hearing (May 15, 2023)

2. **REQUEST, PETITIONS, AND PUBLIC COMMENTS**

3. **APPROVAL OF MINUTES**

   A. Zoning Hearing (April 17, 2023)

4. **MAJOR PROJECTS UPDATE**

5. PUBLIC HEARING ITEMS

A. **Applicant:** VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO COMMUNITY PLANNING AND DEVELOPMENT, TO ADOPT HIGHER REGULATORY STANDARDS; AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO ADOPT HIGHER REGULATORY STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. ***(Sponsored by Administration) (Second Reading)*** *(Passed on First Reading–March 20, 2023)*

B. Applicant: VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.3 STYLED "R-1, SINGLE FAMILY RESIDENTIAL DISTRICT" BY AMENDING SUB-SECTION 30-50.3(C)(3) REGARDING PROHIBITED USES; AMENDING THE CODE OF ORDINANCES TO ALLOW SPECIFIED ZONING DISTRICTS TO KEEP AND MAINTAIN CHICKENS, AND PROVIDING AN EFFECTIVE DATE. ***(Sponsored by Vice Mayor Leanne Tellam) (Second Reading)*** *(Passed on First Reading–March 20, 2023)*

6. DISCUSSION ITEMS

A. Update on Comprehensive Plan

7. ADJOURNMENT

WE, THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, HEREBY COMMIT OURSELVES TO MAINTAINING CIVILITY IN OUR PUBLIC AND POLITICAL DISCOURSE AND PLEDGE TO THE FOLLOWING PRINCIPLES:

- We will respect the right of all citizens in our community to hold different opinions;
- We will avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;
- We will strive to understand differing perspectives;
- We will choose our words carefully;
- We will speak truthfully without accusation and we will avoid distortion;
- We will speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.

NOTICE OF APPEAL RIGHTS

Pursuant to Florida Statutes 286.0105, the Village hereby advises the public that if a person decides to appeal any decision made by the Council with response to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, the affected person may need to ensure that verbatim record of the proceedings is made, which record includes testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed.

AMERICAN DISABBILITIES ACT OF 1990

This meeting is open to the public. In accordance with the American Disabilities Act of 1990, persons needing special accommodation or a sign language interpreter to participate in this proceeding should contact the Village Clerk at (305) 259-1234 no later than four (4) days prior to the meeting. Hearing Assistance Devices are available with the Village Clerk.

VILLAGE OF PALMETTO BAY
NOTICE OF ZONING HEARING

NOTICE IS HEREBY GIVEN that the Village of Palmetto Bay shall conduct a Zoning Hearing on **Monday, May 15, 2023, at 7:00 p.m.** The Zoning Hearing shall be held at Village Hall, 9705 East Hibiscus Street, Council Chambers, Palmetto Bay, Florida 33157.

The following items are being heard and considered during the Zoning Hearing pursuant to the Village's Land Development Code:

Item 1: The following Ordinance is being considered pursuant to the Village's Land Development Code on ***Second Reading***:

Applicant: VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO COMMUNITY PLANNING AND DEVELOPMENT, TO ADOPT HIGHER REGULATORY STANDARDS; AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO ADOPT HIGHER REGULATORY STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. ***(Sponsored by Administration)*** *(This Ordinance passed on First Reading – March 20, 2023)*

Item 2: The following Ordinance is being considered pursuant to the Village's Land Development Code on ***Second Reading***:

Applicant: VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.3 STYLED "R-1, SINGLE FAMILY RESIDENTIAL DISTRICT" BY AMENDING SUB-SECTION 30-50.3(C)(3) REGARDING PROHIBITED USES; AMENDING THE CODE OF ORDINANCES TO ALLOW SPECIFIED ZONING DISTRICTS TO KEEP AND MAINTAIN CHICKENS, AND PROVIDING AN EFFECTIVE DATE. ***(Sponsored by Vice Mayor Leanne Tellam)*** *(This Ordinance passed on First Reading – March 20, 2023)*

All persons are invited to appear and be heard. The documents pertaining to this Hearing may be inspected at the Department of Planning & Zoning at Village Hall, 9705 East Hibiscus Street, Palmetto Bay, Florida, during regular working hours. Any meeting may be opened and continued, and, under such circumstances, additional legal notice would not be provided. Any person may contact Village Hall for more information.

This meeting will be conducted using a teleconferencing platform and broadcast live. **Members of the public may attend the meeting at the physical meeting location and/or watch the virtual meeting via the Village's official Facebook page and/or our Granicus web stream on www.palmettobay-fl.gov.**

For persons wishing to participate virtually and provide public comment, please refer to the options described below:

Public comments forum (Option 1): Prior to the meeting, the public can submit a web form available at this address: **https://www.palmettobay-fl.gov/formcenter/public-comments-form-10/public-comments-form-52. Form submissions received prior to the meeting will be read before the item is heard. Form submissions received after 5:00 p.m. will remain part of the record.**

Public comments forum (Option 2): Public attendees wishing to provide real-time, audible public comments during the meeting may do so using GoToWebinar's desktop, laptop, tablet, or smartphone app. Once registered, attendees will receive GTW session information and call-in telephone numbers for those wishing to use a telephone. Telephone attendees may not participate in public comment as the system has no way to mute or unmute. Attendees wishing to speak during public comment time must use the GoToWebinar application on their desktop, laptop, or smart device. Attendees may not use a webcam whatsoever. In lieu if no availability to participate through the webinar, please submit your public comment using the web form as described above.

Please register to attend the session as follows:

https://attendee.gotowebinar.com/register/1203170713451861333

After registering, you will receive a confirmation email containing information about joining the webinar.

Pursuant to Section 286.0105, F.S., if any person decides to appeal any decision by the Village Council with regard to this or any matter, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation (or hearing impaired) to participate in this proceeding or to review any documents relative thereto should contact the Village for assistance at (305) 259-1234 no later than seven (7) days prior to the proceedings.

www.palmettobay-fl.gov

AGENDA ITEM NO. 3.A

Item Cover Page

ZONING HEARING AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Missy Arocha, Village Clerk's Office

ITEM TYPE: Minutes

AGENDA SECTION: **APPROVAL OF MINUTES**

SUBJECT: Zoning Hearing (April 17, 2023)

SUGGESTED ACTION:

ATTACHMENTS:
Minutes-Zoning Hearing (April 17, 2023)
Exhibit A-Public Comment Forms

MINUTES
ZONING HEARING
MONDAY, APRIL 17, 2023 – 7:00 PM
VILLAGE HALL COUNCIL CHAMBERS
9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157

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1. CALL TO ORDER, ROLL CALL, INVOCATION,PLEDGE OF ALLEGIANCE, AND DECORUM STATEMENT, IN THAT ORDER: Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

The Zoning Hearing was called to order at 7:00 PM.

The following members of the Village Council were present during roll call:
Mayor Karyn Cunningham
Vice Mayor Leanne Tellam
Councilmember Patrick Fiore
Councilmember Steve Cody
Councilmember Marsha Matson

The following Charter Officials were in attendance:
Village Attorney John C. Dellagloria
Village Manager Nick Marano
Village Clerk Missy Arocha

A moment of silence was held for the victims affected by school shootings across the U.S.A.

Councilmember Patrick Fiore led the pledge of allegiance.

2. REQUESTS, PETITIONS, AND PUBLIC COMMENTS

Clerk Missy Arocha read the public comments by form. ***All public comments submitted by form, are attached as "Exhibit A".***

3. APPROVAL OF MINUTES

A. Zoning Hearing (March 20, 2023)

Clerk Arocha reported that the scrip nous error on page 10, line 47, the word "explication" will be corrected to read "explanation".

Vice Mayor Leanne Tellam **motioned** to approve the minutes. Councilmember Councilmember Patrick Fiore **seconded** the motion. **All voted in favor (5-0).** The minutes passed unanimously.

4. MAJOR PROJECTS UPDATE

Community and Economic Development Director Heidi Siegel announced the details of the Recycling Drive-Thru Event scheduled for April 29, 2023, and provided an update on the Village's Comprehensive Plan.

Director Siegel illustrated a Powerpoint Presentation on the Village's major projects status report dated March 2023. The presentation showed data on the applications received in February 2022, pending applications, applications under review that require a public hearing, submitted and incomplete applications, projects under construction, recently approved building permits, approved projects pending building permits and construction, and approved projects pending building permit applications.

Following Director Siegel's presentation, she answered questions raised by the members of the Village Council regarding the presentation.

5. PUBLIC HEARING ITEMS:

Item 5A: The following Resolution requiring a public hearing is being considered pursuant to the Village's Land Development Code:

Applicant: JUAN CARLOS SAINZ / FAIRCHILD BAY SUBDIVISION, LLC
Location: 9000 SW 174 STREET, PALMETTO BAY, FL 33157
Property Folio: 33-5033-000-0220
Application: RZ-23-004
Request: REQUESTING CHANGE OF ZONING FROM AG TO EM
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY FLORIDA; AMENDING THE ZONING MAP, REFERRED TO IN SECTION 30-10.5 TO CHANGE THE ZONING DESIGNATION FROM "AGRICULTURAL" ("AG"), TO "ESTATE MODIFIED SINGLE-FAMILY" ("EM")WHICH ALLOWS ONE DWELLING UNIT PER EACH 15,000 NET SQUARE FEET OF LAND, FOR A PROPERTY LOCATED AT 9000 SW 174 STREET, WITH A PROPERTY FOLIO OF 33-5033-000-0220; PROVIDING FOR CONFLICT AND PROVIDING FOR AN EFFECTIVE DATE. ***(First Reading)***

Item 5A was moved by Councilmember Steve Cody. Seconded by Vice Mayor Leanne Tellam.

Attorney Dellagloria provided an explanation on quasi-judicial proceedings.

Clerk Arocha swore the witnesses that wished to testify for all the public hearing items on the agenda.

The Village Council individually reported on their ex-parte communications.

Clerk Arocha read the Ordinance by title/caption.

Clerk Arocha read the public comments submitted by form.

The following in-person public comments were held opposed to the public hearing item:

- Nora Hentschel (17505 SW 91st Avenue)
- Carol Vega (8845 SW 178th Terrace)
- Haydee Sanchez (8825 SW 178th Terrace)
- Alvaro Tanaka (17435 SW 91st Avenue)
- Rachel Stanton (8441 SW 180th Street)
- Camila Ortega (9100 SW 174th Street)

STAFF'S PRESENTATION:
Planning Division Manager, Alexander Adams demonstrated a PowerPoint Presentation on the rezoning change from AG-Agriculture to EM-Estate Modified Zoning District. The presentation illustrated the applicant's request, rezoning evaluation factors, and staffs recommendation. The Village staff recommended that the Village Council approve the application.

Following the presentation, Mr. Adams answered questions raised by the members of the Council regarding the rezoning evaluation factors, including requirements for trees on the site.

APPLICANT'S PRESENTATION:
Mr. Angel Lopez introduced himself as the applicant's planner and surveyor and reported that the property owner agreed with the staff's recommendations. He also explained that the site plan sketch illustrated during the staff's presentation was incorrect. He introduced the corrected sketch of the site plan, explained the corrections, and reported that the applicant would not ask for variances. Following his presentation, he answered questions raised by the members of the Council regarding the site plan sketch.

Mrs. Sira Sainz introduced herself as one of the site's property owners. She provided a property history and explained the applicant's intent, need, and justification for the proposed change from "AG" to "EM".

REBUTTAL

Mr. Juan Sanzhez introduced himself as one of the site's property owners. He reported that the agricultural zoning of the property is a legacy zoning of the property that is legally non-conforming in terms of lot size, depth, and density and the that rezoning permits land use and building occupants that are no longer compatible with the character of the mature and stable estate-density single-family neighborhood that surrounds the subject property.

Director Siegel answered questions raised by the members of the Council regarding the land parcel.

COUNCIL DISCUSSION

The members of the Village Council spoke opposed to the approval of the application. Attorney Dellagloria questioned that if the Council were to deny the applicant's request, would that vote be with or without prejudice. He explained that if the vote were to be with prejudice, the applicant would not be able to re-file an application until one year later.

Without prejudice was the consensus of the Village Council.

The question was called in favor of the Ordinance on First Reading via a roll call vote:

- Councilmember Marsha Matson - NO
- Councilmember Steve Cody - NO
- Councilmember Patrick Fiore - NO
- Mayor Karyn Cunningham - NO
- Vice Mayor Leanne Tellam - NO

All voted in favor of denying the application (0-5) without prejudice.

Item 5B: The following Ordinance is being considered pursuant to the Village's Land Development Code on ***Second Reading***:

Applicant: VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE LAND DEVELOPMENT CODE, STLYED "ZONING," AT ARTICLE II, "VILLAGE OF PALMETTO BAY, FLORIDA-LAND DEVELOPMENT CODE," AMENDING DIVISION 30-160 "ART IN PUBLIC PLACES"; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. ***(Second Reading)***

Item 5B was moved by Councilmember Patrick Fiore. Seconded by Councilmember Steve Cody.

Clerk Arocha read the Ordinance by title/caption.

Clerk Arocha announced that no public comments were submitted by form.

No one wished to speak in support or opposed to the public hearing item during public comments.

STAFF'S PRESENTATION:
Resiliency Coordinator, Andrea Candelaria reported that no changes were made to the presentation that was presented during First Reading of the Ordinance.

The consensus of the Council was not to have a staff presentation on the public hearing item on second reading.

There were no Council questions.

There was no Counicl discussion.

The question was called in favor of the Ordinance on Second Reading via a roll call vote:

- Mayor Karyn Cunningham - YES
- Vice Mayor Leanne Tellam - YES
- Councilmember Patrick Fiore - YES
- Councilmember Steve Cody - YES
- Councilmember Marsha Matson - YES

All voted in favor of the Ordinance on Second Reading (5-0). The Ordinance passed unanimously.

Item 5C: The following Ordinance is being considered pursuant to the Village's Land Development Code on ***Second Reading***:

Applicant: VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE LAND DEVELOPMENT CODE, STLYED "ZONING," AT ARTICLE II, "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," AMENDING DIVISION 30-70 "PARKING AND LOADING STANDARDS"; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. ***(Second Reading)***

Item 5C was moved by Councilmember Patrick Fiore. Seconded by Vice Mayor Leanne Tellam.

Clerk Arocha read the Ordinance by title/caption.

Clerk Arocha read the public comment submitted by form.

No one wished to speak in support or opposed to the public hearing item during public comments.

STAFF'S PRESENTATION:
Director Siegel provided a synopsis, an overview of the proposed parking and loading standards, and summary amendments. She reported that staff recommended that the Council approve the adopt the Ordinance on Second Reading. She answered questions raised by the Council regarding parking.

COUNCIL DISCUSSION
Councilmember Marsha Matson spoke in favor of reserving one parking space for vehicle deliveries close to the delivery door of each building.

Councilmember Marsha Matson **motioned** that one delivery parking space be reserved for deliveries close to delivery door. Councilmember Patrick Fiore **seconded** the motion. The **motion passed (3-2)**; Vice Mayor Leanne Tellam and Councilmember Steve Cody voting opposed.

Director Siegel reported that the intent exists in the code; however, it's the enforcement of human behavior that is the issue. She explained that one of the changes made to the code, were that residential units did not have the requirement for front loading spaces; however, adding the requirement for residential units was made to the code.

Attorney Dellagloria reported that if it is the intent of the Council to reconsider the amendment, a motion to reconsider the amendment must be made.

No members of the Council wished to reconsider the amendment.

Director Siegel announced that she would look at the code to see where it would fit appropriatly.

Councilmember Steve Cody urged the Council to reconsider the amendment as no one proffered where to place the amendment on the proposed Ordinance.

The question was called in favor of the amended Ordinance on Second Reading via a roll call vote:

- Vice Mayor Leanne Tellam - NO
- Councilmember Patrick Fiore - YES
- Mayor Karyn Cunningham - YES
- Councilmember Marsha Matson - YES
- Councilmember Steve Cody - NO

All voted in favor of the amended Ordinance on Second Reading (5-0). The Ordinance passed unanimously.

6. ADJOURNMENT

Manager Marano illustrated copies of invoices and complaints dated between 2015 to 2018 related to complaints and actions at Coral Reef Park involving bird behavior such as ducks and geese. He explained that the Village had done everything the same from actions from the past-that; all actions have been consistent, including the efforts of previous Managers and Council.

Councilmember Steve Cody questioned the timeline of the actions and if the prior Mayor knew of the happenings during that time frame.

Manager Marano responded that he did not have records for the years prior to 2008, only for the years between 2015 and 2018, that include the prior Mayor.

Councilmember Marsha Matson reported that preceding Councilmember David Singer and she were the sponsors to the Ordinance relating to Bird Refuge in the Village that prohibited aggressive interaction with bird species which required trappers to file a registration with the Village Clerk. She explained her opposition to the recent administrative decision made regarding the removal of ducks at Coral Reef Park.

Attorney Dellagloria reported that when he wrote Ordinance 2020-10, he drafted it as humanely as possible; however, permits are not required by the state to transport or euthanize birds.

Mayor Karyn Cunningham urged the Council to move forward with creating a new model towards the future.

Councilmember Steve Cody reported that he had placed a discussion item on the May Committee of the Whole Workshop relating to exotic and invasive species-birds. He also explained that the Village cannot override federal and state laws.

Councilmember Patrick Fiore spoke in support of the 2020 bird sanctuary Ordinance that was approved by the Council and spoke opposed to the recent administrative decision made to euthanize ducks at Coral Reef Park. He explained that he was aware that people feed the wildlife at Coral Reef Park and that it is difficult to control each person.

Vice Mayor Leanne Tellam reported that she submitted a proposal for May 1, 2023, Regular Council Meeting Agenda relating to a wildlife management plan and recommended that the Village get expert opinion on how to treat different species and how to treat the feeding of wildlife on public land. She urged the support of the Council on the initiative.

Mayor Karyn Cunningham explained that she and the Village Manager have a meeting with the Animal Rights Foundation to consider some options.

Councilmember Patrick Fiore **motioned** to adjourn the Zoning Hearing at 9:14 PM. Vice Mayor Leanne Tellam **seconded** the motion. **All voted in favor (5-0). The motion passed unanimously.**

The meeting minutes were approved this 15th day of May 2023.

Attest:

_____	_____
Mayor Karyn Cunningham	Village Clerk Missy Arocha

Missy Arocha

From: noreply@civicplus.com
Sent: Monday, April 17, 2023 6:01 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	4/17/2023
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	Check here if you affirm that the information provided herein is true and accurate
Name	Henry Clifford
Email Address	harryhenry@gmail.com
Address	8875 SW 171 Street
City	Palmetto Bay
State	FL
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	Please make a statement committing to denying any trapper permission to trap in any publicly controlled space without written authorization and permission of the Council
	(Section Break)
Agenda Item No.	*Field not completed.*

Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

Email not displaying correctly? View it in your browser.

Missy Arocha

From: noreply@civicplus.com
Sent: Monday, April 17, 2023 5:02 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	4/17/2023
Meeting Type	*Field not completed.*
The box below must be checked for Zoning Hearings ONLY	*Field not completed.*
Name	Katherine Stanton
Email Address	stantonkatherinem@gmail.com
Address	8441 sw 180 street
City	palmetto bay
State	fl
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	I am opposed to the removal of muscovy ducks, peacocks, egyptian geese, community cats, and other wildlife in Palmetto Bay and Miami dade county. I am opposed to unhired bounty hunter poachers roaming Palmetto Bay trapping and killing muscovy ducks, peacocks, egyptian geese, etc so they can sell their bodies dead and alive as their main stream of income. I am opposed to the removal of muscovy ducks at Coral Reef Park and I request Palmetto Bay council to please suspend the muscovy duck removal from Coral Reef Park by hired trappers.

	I previously enjoyed birdwatching at Coral reef Park but now it is very upsetting to see dead ducks at Coral reef Park.
	(Section Break)
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

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Missy Arocha

From: noreply@civicplus.com
Sent: Monday, April 17, 2023 5:01 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	4/17/2023
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	*Field not completed.*
Name	Rachel Stanton
Email Address	rachelnotaryfl@gmail.com
Address	8441 sw 180 street
City	palmetto bay
State	fl
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	I am opposed to the removal of muscovy ducks, peacocks, egyptian geese, community cats, and other wildlife in Palmetto Bay and Miami dade county. I am opposed to unhired bounty hunter poachers roaming Palmetto Bay trapping and killing muscovy ducks, peacocks, egyptian geese, etc so they can sell their bodies dead and alive as their main stream of income. I am opposed to the removal of muscovy ducks at Coral Reef Park and I request Palmetto Bay council to please suspend the muscovy duck removal from Coral Reef Park by hired trappers.

	I, previously enjoyed birdwatching at Coral reef Park but now it is very upsetting to see dead ducks at Coral reef Park. Some new residents to Palmetto Bay feel entitled to change Palmetto Bay and kill the wildlife that has been here for decades.
	(Section Break)
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

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Missy Arocha

From: noreply@civicplus.com
Sent: Monday, April 17, 2023 4:47 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	April 17, 2023
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	Check here if you affirm that the information provided herein is true and accurate
Name	Eric Tullberg
Email Address	e341@bellsouth.net
Address	7884 SW 179 Tr.
City	Palmetto Bay
State	FL
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	We need to adopt the Bicycle Pedestrian Master Plan to ensure that whenever a developer builds on streets where sidewalks will be needed eventually, they will be required to put them in, accelerating making the Village more walkable and saving VPB money.
	(Section Break)
Agenda Item No.	5-C

Comments (type your comments in the box below)	It is good that the requirements for bicycle parking include the provision that they should be covered when feasible. I am you would not want to come outside and find your seat wet from the rain or hot from the sun.
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
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Agenda Item No.	*Field not completed.*
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Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

Email not displaying correctly? View it in your browser.

Missy Arocha

From: noreply@civicplus.com
Sent: Monday, April 17, 2023 4:47 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	04/17/23
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	Check here if you affirm that the information provided herein is true and accurate
Name	Jennifer Santino-Finger
Email Address	jds3377777@aol.com
Address	14621 SW 78 Ave
City	Palmetto Bay
State	Fl
Zip Code	32158
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	Please vote no to any zoning change requested by a developer to increase density. The property owner knew the density and land usage of the property when it was purchased. To request a change thereafter places an increased burden on the Village's environment, sewer system, water system, flood control system, and roads. Increasing density through zoning changes also furthers burdens wildlife trying to survive with already limited natural habitat.
	(Section Break)

Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
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Agenda Item No.	*Field not completed.*
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Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

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Missy Arocha

From: noreply@civicplus.com
Sent: Sunday, April 16, 2023 7:30 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	4/17/2023
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	Check here if you affirm that the information provided herein is true and accurate
Name	Henry Clifford
Email Address	harryhenry@gmail.com
Address	8875 SW 171 Street
City	Palmetto Bay
State	FL
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	*Field not completed.*
	(Section Break)
Agenda Item No.	5a

Comments (type your comments in the box below)	I am in support of the re-zoning of the property at 9000 SW 174 Street, from Ag to EM. As drawn in the proposed plat, 4 lots come in at over 15,000 square feet each. and will fit the neighborhood well. I do not quite understand the tie-in of the proposed street with the cul-de-sac adjoining to the South. Perhaps Planning will explain.
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
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Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

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Missy Arocha

From: noreply@civicplus.com
Sent: Sunday, April 16, 2023 1:29 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	04/17/2023
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	Check here if you affirm that the information provided herein is true and accurate
Name	Deborah A. Eagan
Email Address	arascape@hotmail.com
Address	8980 SW 181 St.
City	Palmetto Bay
State	FL
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	Regarding 9000 SW 174 St. property - I am concerned that the Mango grove of trees will be taken down. There are 5 rows of trees, I estimate total of 65-75 trees on this property. It is a crime to see those bulldozed. What is the plan, will you be replacing same number of trees.? Years ago, this whole area was Mango groves. Can't we save a small piece.? thank you
	(Section Break)
Agenda Item No.	*Field not completed.*

Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
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Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*

Email not displaying correctly? View it in your browser.

Missy Arocha

From: noreply@civicplus.com
Sent: Friday, April 14, 2023 9:24 PM
To: Melissa Dodge; Missy Arocha
Subject: [EXT] Online Form Submittal: Public Comments Form

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Public Comments Form

Online Public Comments Form	Meeting Agenda
Meeting Date	4/17/23
Meeting Type	Zoning Hearing
The box below must be checked for Zoning Hearings ONLY	*Field not completed.*
Name	James H Woodard
Email Address	spamreject@aol.com
Address	17001 SW 90 Ave
City	Palmetto Bay
State	FL
Zip Code	33157
Meeting Agenda Link	Agenda Center
	(Section Break)
General Public Comments - "Requests, Petitions & Public Comments Submitted"	Animal abuse is despicable. Animal abuse bought and paid for by Palmetto Bay is inexcusable. How many more residents are going to have to be subjected to verbal abuse while witnessing their birds killed and tossed in a pile before someone gets hurt? I suspect the injured party will not be the trapper with a prior arrest for kidnapping or the one that bills himself as a firearms instructor.

Palmetto Bay has engaged in a campaign of killing, avoidance, and deception. Have you no shame?

You have given carte blanche to thugs to cruise our streets and run into our yards in search of free money.

I could go on, but my 60 seconds is probably up. That is another subject.

Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
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Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*
Comments (type your comments in the box below)	*Field not completed.*
Agenda Item No.	*Field not completed.*

Comments (type your comments in the box below)	*Field not completed.*

Email not displaying correctly? View it in your browser.

AGENDA ITEM NO. 5.A

Item Cover Page

ZONING HEARING AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Andrea Candelaria, Community and Economic Development

ITEM TYPE: Ordinance

AGENDA SECTION: **PUBLIC HEARING ITEMS**

SUBJECT:

Applicant: VILLAGE OF PALMETTO BAY

Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO COMMUNITY PLANNING AND DEVELOPMENT, TO ADOPT HIGHER REGULATORY STANDARDS; AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO ADOPT HIGHER REGULATORY STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. ***(Sponsored by Administration) (Second Reading)*** *(Passed on First Reading–March 20, 2023)*

SUGGESTED ACTION:

ATTACHMENTS:

Staff Memo RZ-23-003 CRS 430 Higher Reg Standards
Ordinance 2023 CRS 430 Higher Regulatory Standards
Attachment A- Annotated Changes CRS 430 Higher Regulatory Standards

To: Honorable Mayor and Village Council
From: Andrea Candelaria, M.P.A., Resilience Coordinator

Date: May 15th, 2023
Re: RZ-23-003 / Section 30-100.6 Floodplain Management Regulations

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO COMMUNITY PLANNING AND DEVELOPMENT, TO ADOPT HIGHER REGULATORY STANDARDS; AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO ADOPT HIGHER REGULATORY STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. *(Second Reading)*

BACKGROUND

Village Staff continuously seeks opportunities to update the Village's Land Development Code. The proposed changes to Section 30-100.6 Floodplain Management Regulations support the Village's commitment to resiliency and are necessary to assist in the ongoing efforts to lower the Village's rank within the FEMA National Flood Insurance Program (NFIP) Community Rating System (CRS).

In 2021 the Village updated Section 30-100.6 due to mandatory changes from the State of Florida that established certain minimum prerequisites for communities to qualify for, or maintain, class ratings of Class Eight or better and to satisfy the prerequisite for Palmetto Bay to maintain the current CRS rating. This change also mandated that all manufactured homes installed or replaced in special flood hazard areas must be elevated such that the lowest floors are at or above at least the base flood elevation plus one (1) foot, which necessitates modification of the existing requirements.

The proposed changes include the addition of definitions, changes to the threshold for determining requirements related to substantial damage and improvements, changes the required lowest floor elevation, creates a new higher standard that is designed to protect damage to future critical facilities from flood events, specifies the provisions of the non-conversion agreement for enclosures under elevated buildings, limits the size of enclosures under certain elevated buildings , adds one inspection per year on new construction of elevated building enclosures, and changes the cumulative substantial improvement.

These proposed changes were approved by Village Council on First Reading at the March 20th, 2023, Zoning Hearing.

SUMMARY OF AMENDMENTS

The below chart summarizes the proposed amendments to Section 30-100.6. Additionally, an attachment has been provided with all strikethrough/underline in red font for ease of reference.

Code Section	Intent of Proposed Change
Sec. 30-100.6 (3). – General Provisions	• Adds language to meet the requirements of the NFIP.
Sec. 30-160.6 (v). – Definitions-Generally.	• Adds definition of "Critical Facility" to be consistent with the design requirements of Class 3 and Class 4 buildings under ASCE 24 of the Florida Building Code and to protect critical facilities from flooding as is proposed for a higher standard in this section. • Changes definition threshold of the term substantial damage of 50%, which is the FEMA requirement to a slightly lower threshold of 49%. Alternatively, the time period by which the Village would be tracking damages to buildings was reduced from 5-years to 1-year which will help with damage caused by multiple hurricanes and storms over a 5-year period and impact fewer buildings. • Changes definition threshold of the term substantial improvement of 50% which is the FEMA requirement to a slightly lower threshold of 49%. Increasing the value of property in a Special Flood Hazard Area (SFHA) without bringing it up to current code assumes that building is now worth more and if is damaged requires the National Flood Insurance Fund to pay out more than it otherwise would have to if the property were brought up to current code.
Sec. 30-160.6 (w). – Flood resistance development.	• Changes the provision from the current four-inch requirement in the current ordinance to the more common standard of one (1) foot for lowest floor elevation. Increasing lowest floor elevation by eight (8) inches ensures that future development (residential and commercial) outside of the FEMA mapped floodplain are better protected from low level flooding. • Adds minimum lowest floor elevation requirements for critical facilities. By elevating to 1 foot above the 0.2% annual chance flood (500-year) it also means it is protected in the 1% or the 100-year flood. • Adds a more specific non-conversion agreement that will meet the CRS program requirements. A non-conversion agreement is required when a property owner creates an enclosure below

Sec. 30-160.6 (w). – Flood resistance development.	and elevated building. The agreement will specify that the owner will agree not to convert or modify the enclosure. The proposed change includes language that the agreement would run with the land so that future owners would be advised that the lower level of elevated buildings could not be converted to livable space. • Adds language limiting the size of enclosures to 299 square feet below an elevated floor in a VE-Zone (Velocity Zone). This change reduces the potential for damage when wave action from hurricanes damages underneath a building. Enclosures below the elevated floor should only be used for parking, storage, and access to the building. • Adds one inspection per year on new construction of elevated building enclosures. This is to ensure that the enclosures below elevated building is not converted to livable space, the building department will inspect from outside the enclosure to ensure it has not been converted. It is unlikely that this would be a burden for inspections in the future as there will be limited development in the VE Zone. • Changes the threshold of the term substantial improvement of 50% which is the FEMA requirement to a slightly lower threshold of 49% to create consistency throughout the Code.

RECOMMENDATION

Village Staff recommends that the Village Council approve the attached ordinance on second reading.

ATTACHMENTS

Attachment A: Annotated Section 30-100.6 Floodplain Management Regulations Code.

ORDINANCE 2023-X

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO COMMUNITY PLANNING AND DEVELOPMENT, TO ADOPT HIGHER REGULATORY STANDARDS; AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO ADOPT HIGHER REGULATORY STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. *(Second Reading)*

WHEREAS, the Village of Palmetto Bay is a participant in FEMA's National Flood Insurance Program's (NFIP) Community Rating System (CRS) program; and

WHEREAS, the Village of Palmetto Bay is currently rated in the CRS program as a Classification 7 which provides for a Fifteen (15%) percent reduction in insurance premiums annually for all flood insurance policies; and

WHEREAS, the Village of Palmetto Bay seeks to protect homes and businesses throughout the village from flood damage and reduce risk from future flood events; and

WHEREAS, the higher regulatory standards were prepared under the guidance of the Village staff in accordance with the CRS program, and

WHEREAS, adoption of the higher regulatory standards help to protect the health, safety, and welfare of the Village and provide increased discounts on flood insurance premiums; and

WHEREAS, the Village Council previously adopted requirements to increase the minimum elevation requirement, to require accumulation of costs improvements and repairs of buildings based on issued building permits over a five (5) year period, and to require buildings that sustain repetitive flood damage over a ten (10)-year period to be included in the definition of "substantial damage" for buildings and structures in flood hazard areas.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are incorporated as if set forth in full.

Section 2. The Code of Ordinances, Chapter 30 “Zoning”, Article II “Village of Palmetto Bay, Florida – Land Development Code, Division 30-100.6 “Floodplain Management Regulations” shall be amended as follows:

Sec. 30-100.6. Floodplain management regulations.

(a) *General provisions.*

(1) *Title*. These regulations shall be known as the *Floodplain Management Ordinance* of the Village of Palmetto Bay, hereinafter referred to as "this Section."

(2) *Scope*. The provisions of this Section shall apply to all development that is wholly within or partially within any flood hazard area except as otherwise specified in Section (w)(2) below, and 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, 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.

(3) *Intent.* The purposes of this Section 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:

i. Minimize unnecessary disruption of commerce, access and public service during times of flooding;

ii. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

iii. 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;

iv. 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;

v. Minimize damage to public and private facilities and utilities;

vi. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

vii. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

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

* * *

(v) *Definitions-Generally*.

* * *

(4) *Definitions*.

* * *

Critical facility. A facility for which the impact of even a slight chance of flooding might be too great, including, but not limited to, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste. The term includes buildings and structures assigned to Flood Design Class 3 and Flood Design Class 4 in accordance with ASCE 24.

***

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 Forty-Nine (49) ~~50~~ percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on ~~two separate~~ one occasion~~s~~ during a one ~~ten-~~year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds Twenty-Five (25) percent of the market value of the structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds Forty-Nine (49) ~~50~~ percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to March 7, 2016. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

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

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

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

(w) *Flood resistance development*.

***

(4) Specific methods of construction and requirements. Pursuant to Chapter 8, Article III of the Miami-Dade County Code, the following specific methods of construction and requirements apply:

i. Additional elevation of buildings - Freeboard.

(A) For buildings located in the special flood hazard area, the minimum elevation requirements in the *Florida Building Code* shall be to or above the base flood elevation plus one (1) foot, or the back of the sidewalk elevation plus one (1) foot, or if there is no sidewalk, the elevation of the crown of the road or street abutting such building site plus one (1) foot whichever is higher.

(B) For residential buildings not located in the special flood hazard area, the minimum lowest floor elevation requirements shall be a minimum of <u>one (1) foot</u> ~~eight (8) inches~~ above the back of sidewalk elevation, or if there is no sidewalk, a minimum of ~~eight (8)~~ <u>one (1) foot</u> ~~inches~~ above the elevation of the crown of road or street abutting such building site whichever is higher.

(C) For non-residential buildings not located in the special flood hazard area, the minimum lowest floor elevation shall be a minimum of <u>one (1) foot</u> ~~four (4) inches~~ above the back of sidewalk, or if there is no sidewalk, a minimum of <u>one (1) foot</u> ~~four (4) inches~~ above the elevation of the crown of road or street abutting such building site, whichever is higher.

(D) <u>For critical facilities, the minimum lowest floor elevation requirements shall be the elevation of the two (0.2) percent five hundred (500)-year flood plus one (1) foot.</u>

ii. *Limitations on Enclosures Under Elevated Buildings*. For buildings applications for enclosed areas under elevated buildings shall be accompanied by a Non-conversion Agreement <u>which is required to be recorded with the property (deed) so that the restriction runs with the land</u>

and future owners must also comply with the requirement. Enclosures shall:

(A) Have the minimum necessary access to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry/access to the elevated building (stairway or elevator).

(B) Not have the interior portion partitioned or finished into separate rooms.

(C) Not to be constructed with breakaway walls.

(D) All enclosures below an elevated floor shall be limited to 299 square feet.

(E) Have an inspection one (1) time per year to make sure the area below an elevated floor is not converted into livable space.

iii. *Cumulative Substantial Improvement*. The definition of "substantial improvement" shall be as follows:

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds forty-nine (49) ~~50~~ percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to March 7, 2016. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

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

iv. *Include repetitive loss in the definition for substantial damage*. The definition of "substantial damage" shall be as follows:

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 forty-nine (49) ~~50~~ percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on ~~two separate~~ one occasion~~s~~ during a one (1) ~~10-~~year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

***

Section 2. Severability. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses, or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Codification. It is the intent of the Village Council and is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be numbered or re-lettered to accomplish such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 4. Conflicting Provisions. The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately upon enactment.

Section 6. Effective Date. This Ordinance shall take effect immediately upon enactment.

PASSED ON FIRST Reading this 20th day of March 2023.
PASSED ON SECOND Reading this 15th day of May 2023.

Attest: _____ _____
Missy Arocha Karyn Cunningham
Village Clerk Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
John C. Dellagloria
Village Attorney

VOTE ON FIRST READING:

Mayor Karyn Cunningham YES

Council Member Steven Cody YES

Council Member Marsha Matson YES

Vice-Mayor Leanne Tellam YES

Council Member Patrick Fiore YES

FINAL VOTE AT ADOPTION ON SECOND READING:

Mayor Karyn Cunningham ___

Council Member Steven Cody ___

Council Member Marsha Matson ___

Vice-Mayor Leanne Tellam ___

Council Member Patrick Fiore ___

Sec. 30-100.6. Floodplain management regulations.

(a) *General provisions.*

(1) *Title*. These regulations shall be known as the *Floodplain Management Ordinance* of the Village of Palmetto Bay, hereinafter referred to as "this Section."

(2) *Scope*. The provisions of this Section shall apply to all development that is wholly within or partially within any flood hazard area except as otherwise specified in Section (w)(2) below, and 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, 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.

(3) *Intent.* The purposes of this Section 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:

i. Minimize unnecessary disruption of commerce, access and public service during times of flooding;

ii. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

iii. 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;

iv. 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;

v. Minimize damage to public and private facilities and utilities;

vi. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

vii. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

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

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

(5) *Warning.* The degree of flood protection required by this section 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 section 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 section.

(6) *Disclaimer of liability*. This section shall not create liability on the part of the Village Council of the Village of Palmetto Bay or by any officer or employee thereof for any flood damage that results from reliance on this section or any administrative decision lawfully made thereunder.

(b) *Applicability*

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

(2) *Areas to which this section applies*. This section shall apply to all flood hazard areas within the Village of Palmetto Bay, as established in subsection 30-100.6(b)(3) of this section.

(3) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas dated September 11, 2009 and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this section and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at Village Hall, 9705 East Hibiscus Street; Building Department, Palmetto Bay, Florida 33157.

(4) *Submission of additional data to establish flood hazard areas*. To establish flood hazard areas and base flood elevations, pursuant to section 30-100.6(r) of this section 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:

i. 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 section and, as applicable, the requirements of the *Florida Building Code.*

ii. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

(5) *Other laws.* The provisions of this section shall not be deemed to nullify any provisions of local, state or federal law.

(6) *Abrogation and greater restrictions*. This section 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 section and any other ordinance, the more restrictive shall govern. This section shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this section.

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

i. Considered as minimum requirements;

ii. Liberally construed in favor of the governing body; and

iii. Deemed neither to limit nor repeal any other powers granted under state statutes.

(c) *Duties and powers of the floodplain administrator.*

(1) *Designation.* The village manager or his/her designee is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(2) *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this section. The floodplain administrator shall have the authority to render interpretations of this section consistent with the intent and purpose of this section 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 section without the granting of a variance pursuant to subsection 30-100.6(t) of this section.

(3) *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, shall:

i. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

ii. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this section;

iii. 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;

iv. Provide available flood elevation and flood hazard information;

v. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

vi. Review applications to determine whether proposed development will be reasonably safe from flooding;

vii. 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 section is demonstrated, or disapprove the same in the event of noncompliance; and

viii. Coordinate with and provide comments to assure that applications, plan reviews, and inspections for building permits for buildings and

structures in flood hazard areas comply with the requirements of this section.

(d) *Substantial improvement and substantial damage determinations*. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the building division, 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; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage"; and

(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 section is required.

(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 subsection 30-100.6(t) of this section.

(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 section.

(g) *Inspections*. The floodplain administrator shall make the required inspections as specified in subsection 30-100.6(s) of this section 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) *Other duties of the floodplain administrator*. The floodplain administrator shall have other duties, including but not limited to:

(1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to subsection 30-100.6(d) of this section;

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

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

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

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the Village of Palmetto Bay are modified; and

(6) 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."

(i) *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 section 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 section; 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 section and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at Village Hall, 9705 East Hibiscus Street, Building Department, Palmetto Bay, Florida 33157.

(j) *Permits required*. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this section, 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 section and all other applicable codes and regulations has been satisfied.

(k) *Floodplain development permits or approvals*. Floodplain development permits or approvals shall be issued pursuant to this section 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.

(l) *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 section:

(1) Railroads and ancillary facilities associated with the railroad.

(2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

(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 F.S. § 366.02, 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 F.S. § 553.73(10)(k), are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on flood insurance rate maps.

(m) *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 subsection 30-100.6(r) of this section.

(5) State the valuation of the proposed work.

(6) For projects proposing to enclose areas under elevated buildings. a signed non-conversion agreement; the agreement shall be recorded on the property deed prior to issuance of the certificate of occupancy.

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

(8) Give such other data and information as required by the floodplain administrator.

(n) *Validity of permit or approval*. The issuance of a floodplain development permit or approval pursuant to this section shall not be construed to be a permit for, or approval of, any violation of this section, 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.

(o) *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.

(p) *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 section or any other ordinance, regulation or requirement of this community.

(q) *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; F.S. § 373.036.

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

(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; F.S. § 161.141.

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

(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.

(r) *Site plans and construction documents*. All site plans and construction documents shall comply with the following:

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

i. 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.

ii. 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 subsection 30-100.6(r)(2)(ii) or (iii) of this section.

iii. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five 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 subsection 30-100.6(r)(2)(i) of this section.

iv. 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.

v. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

vi. 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.

vii. Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.

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

ix. Existing and proposed alignment of any proposed alteration of a watercourse.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this section 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 section.

(2) *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:

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

ii. 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.

iii. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

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

(B) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is

no evidence indicating flood depths have been or may be greater than two (2) feet.

iv. 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.

(3) *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:

i. 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 subsection 30-100.6(r)(4) of this section and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.

ii. 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 analysis' that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one 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.

iii. 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 subsection 30-100.6(r)(4) of this section.

iv. 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.

(4) *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.

(s) *Inspections*.

(1) *General*. Development for which a floodplain development permit or approval is required shall be subject to inspection.

(2) *Development other than buildings and structures*. The floodplain administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

(3) *Buildings, structures, and facilities exempt from the Florida Building Code*. The floodplain administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of

this ordinance and the conditions of issued floodplain development permits or approvals.

(4) *Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor inspection*. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the floodplain administrator:

i. 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

ii. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with subsection 30-100.6(r)(2)(iii)(B) of this section, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(5) *Buildings, structures, and facilities exempt from the Florida Building Code, final inspection*. As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in subsection 30-100.6(s)(4) of this section.

(6) *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.

(t) *Variances and appeals*.

(1) *General*. The village council shall hear and decide on requests for appeals and requests for variances from the strict application of the requirements of this

section. Pursuant to F.S. § 553.73(5), the village council 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*.

(2) *Appeals*. The village council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this section. Any person aggrieved by the decision of the village council may appeal such decision to the circuit court, as provided by Florida Statutes.

(3) *Limitations on authority to grant variances*. The village council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection 30-100.6(t)(7) of this section, the conditions of issuance set forth in subsection 30-100.6(t)(8) of this section, and the comments and recommendation of the floodplain administrator and the building official. The village council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section.

(4) *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 subsection 30-100.6(r)(3) of this section.

(5) *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*.

(6) *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 subsection 30-100.6(t)(4), 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.

(7) *Considerations for issuance of variances*. In reviewing requests for variances, the village council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this section, and the following:

i. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

ii. The danger to life and property due to flooding or erosion damage;

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

iv. The importance of the services provided by the proposed development to the community;

v. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

vi. The compatibility of the proposed development with existing and anticipated development;

vii. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

viii. The safety of access to the property in times of flooding for ordinary and emergency vehicles;

ix. 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

x. 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.

(8) *Conditions for issuance of variances*. Variances shall be issued only upon:

i. 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 section or the elevation standards;

ii. Determination by the village council 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;

iii. 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

iv. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25.00 for $100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(u) *Violations.*

(1) *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 section, shall be deemed a violation of this section. 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 section or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

(2) *Authority*. For development that is not within the scope of the *Florida Building Code* but that is regulated by this section 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.

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

(v) *Definitions-Generally*.

(1) *Scope*. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this section, have the meanings shown in this section.

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

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

(4) *Definitions*.

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 section.

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

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 1612.2.]

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

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

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

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

Critical facility. A facility for which the impact of even a slight chance of flooding might be too great, including, but not limited to, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste. The term includes buildings and structures assigned to Flood Design Class 3 and Flood Design Class 4 in accordance with ASCE 24.

Crown of road. The elevation of the highest surface of street pavement within the right-of-way abutting the property relative to the National Geodetic Vertical Datum (NGVD) or North America Vertical Datum (NAVD). Depending on site conditions, if there is a variation in the crown elevations abutting the property, the highest and lowest elevations may be averaged to obtain the regulatory crown elevation provided the elevation is above the base flood elevation.

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

1. Area with a floodplain subject to a one-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 two feet. [Also defined in FBC, B, Section 1612.2.]

Development. Any manmade 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 29, 1972. [Also defined in FBC, B, Section 1612.2.]

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 29, 1972. The village does not contain any existing manufactured home parks or subdivisions.

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 1612.2.]

1. The overflow of inland or tidal waters.

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

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

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

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

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

Flood insurance rate map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this section (may be referred to as the floodplain manager).

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

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 1612.2.]

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

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

Freeboard. The additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo

or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

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

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

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 1612.2.]

Manufactured home. A structure, transportable in one or more sections, which is eight feet or more in width and greater than 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 section,

the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

New construction. For the purposes of administration of this section and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after September 29, 1972 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 29, 1972.

Nonconversion agreement. A form provided by the floodplain administrator to be signed by the owner and recorded on the property deed in official records of the clerk of courts, for the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, enclosures below elevated buildings.

Park trailer. A transportable unit which has a body width not exceeding 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 F.S. § 320.01]

Recreational vehicle. A vehicle, including a park trailer, which is: [Defined in F.S. § 320.01)

1. Built on a single chassis;

2. 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 one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1—A30, AE, A99, AH, V1—V30, VE or V. The term also includes areas shown on other flood hazard maps, if such maps are adopted by the Village of Palmetto Bay or otherwise legally designated. [Also defined in FBC, B Section 1612.2.]

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

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed Forty-Nine (49) ~~50~~ percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on ~~two separate~~ one occasion~~s~~-

during a one ~~ten~~ year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds Twenty-Five (25) percent of the market value of the structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds Forty-Nine (49) ~~50~~ percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to March 7, 2016. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

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

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

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

(w) *Flood resistance development*.

(1) *Buildings and structure*.

i. *Design and construction of buildings, structures, and facilities exempt from the Florida Building Code*. Pursuant to subsection 30-100.6(l) of this

section, 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 subsection 30-100.6(cc) of this section.

ii. *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:

(A) 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.

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

(2) *Subdivisions*.

i. *Minimum requirements*. Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

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

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

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

(3) *Subdivision plats*. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

i. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

ii. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the information required in subsection 30-100.6(r)(2)(i) of this section; and

iii. Compliance with the site improvement and utilities requirements of subsection (x) of this section.

(4) *Specific methods of construction and requirements*. Pursuant to Chapter 8, Article III of the Miami-Dade County Code, the following specific methods of construction and requirements apply:

i. Additional elevation of buildings - Freeboard.

(A) For buildings located in the special flood hazard area, the minimum elevation requirements in the *Florida Building Code* shall be to or above the base flood elevation plus one (1) foot, or the back of the sidewalk elevation plus one (1) foot, or if there is no sidewalk, the elevation of the crown of the road or street abutting such building site plus one (1) foot whichever is higher.

(B) For residential buildings not located in the special flood hazard area, the minimum lowest floor elevation requirements shall be a minimum of one (1) foot ~~eight (8) inches~~ above the back of sidewalk elevation, or if there is no sidewalk, a minimum of ~~eight (8)~~ one (1) foot ~~inches~~ above the elevation of the crown of road or street abutting such building site whichever is higher.

(C) For non-residential buildings not located in the special flood hazard area, the minimum lowest floor elevation shall be a minimum of one

(1) foot ~~four (4) inches~~ above the back of sidewalk, or if there is no sidewalk, a minimum of one (1) foot ~~four (4) inches~~ above the elevation of the crown of road or street abutting such building site, whichever is higher.

(D) For critical facilities, the minimum lowest floor elevation requirements shall be the elevation of the two (0.2) percent five hundred (500) year flood plus one (1) foot.

ii. *Limitations on Enclosures Under Elevated Buildings*. For buildings applications for enclosed areas under elevated buildings shall be accompanied by a Non-conversion Agreement which is required to be recorded with the property (deed) so that the restriction runs with the land and future owners must also comply with the requirement. Enclosures shall:

(A) Have the minimum necessary access to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry/access to the elevated building (stairway or elevator).

(B) Not have the interior portion partitioned or finished into separate rooms.

(C) Not to be constructed with breakaway walls.

(D) All enclosures below an elevated floor shall be limited to 299 square feet.

(E) Have an inspection one (1) time per year to make sure the area below an elevated floor is not converted into livable space.

iii. *Cumulative Substantial Improvement*. The definition of "substantial improvement" shall be as follows:

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure

taking place during a five (5) year period, the cumulative cost of which equals or exceeds forty-nine (49) ~~50~~ percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to March 7, 2016. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

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

iv. *Include repetitive loss in the definition for substantial damage*. The definition of "substantial damage" shall be as follows:

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 forty-nine (49) ~~50~~ percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on ~~two separate~~ one occasion~~s~~ during a one (1) ~~10-~~year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

(x) *Site improvements, utilities and limitations*.

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

i. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

ii. 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

iii. Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

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

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

(4) *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 30-100.6(r)(3)(i) of this section demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(5) *Limitations on placement of fill*. Subject to the limitations of this section, 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.

(6) *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 subsection 30-100.6(r)(3)iv. of this section 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 30-100.6(bb)(8)(iii) of this section.

(y) *Manufactured homes*.

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

(2) *Limitations on installation in floodways and coastal high hazard areas (Zone V)*. New installations of manufactured homes shall not be permitted in floodways and coastal high hazard areas (Zone V).

(3) *Foundations*. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

i. 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 section. Foundations for manufactured homes subject to Section 30-100.6(y)(7) of this section are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

ii. 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.

(4) *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 and 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.

(5) *Elevation*. Manufactured homes that are placed, replaced, or substantially improved shall comply with subsection 30-100.6(y)(6) or 30-100.6(y)(7) of this section, as applicable.

(6) *General elevation requirement*. Unless subject to the requirements of subsection 30-100.6(y)(7) of this section, 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 bottom of the frame 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).

(7) *Elevation requirement for certain existing manufactured home parks and subdivisions*. Manufactured homes that are not subject to subsection 30-100.6(y)(6) of this section, 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:

i. Bottom of the frame 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

ii. 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.

(8) *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.

(9) *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.

(z) *Recreational vehicles and park trailers*.

(1) *Temporary placement, only*. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

i. Be on the site for fewer than 180 consecutive days; or

ii. 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.

(2) *Permanent placement*. Recreational vehicles and park trailers that do not meet the limitations in subsection 30-100.6(z)(1) of this section for temporary placement shall meet the requirements of Section 30-100.6(y)(6) or (7) of this section for manufactured homes.

(aa) *Tanks*.

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

(2) *Above-ground tanks, not elevated*. Above-ground tanks that do not meet the elevation requirements of subsection 30-100.6(aa)(3) of this section shall:

i. 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 and 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.

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

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

(4) *Tank inlets and vents*. Tank inlets, fill openings, outlets and vents shall be:

i. 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

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

(bb) *Other development*.

(1) *General requirements for other development*. All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this section or the *Florida Building Code*, shall:

i. Be located and constructed to minimize flood damage;

ii. Meet the limitations of subsection 30-100.6(aa)(4) of this section if located in a regulated floodway;

iii. Be anchored to prevent flotation, collapse and lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

iv. Be constructed of flood damage-resistant materials; and

v. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(2) *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 subsection 30-100.6(aa)(4) of this section.

(3) *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 subsection 30-100.6(aa)(4) of this section.

(4) *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 subsection 30-100.6(aa)(4) of this section. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of subsection 30-100.6(r)(3)(iii) of this section.

(5) *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:

i. Structurally independent of the foundation system of the building or structure;

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

iii. Have a maximum slab thickness of not more than four inches.

(6) *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:

i. 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.

ii. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings and 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.

iii. A deck or patio that has a vertical thickness of more than 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.

iv. A deck or patio that has a vertical thickness of 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.

(7) *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:

i. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

ii. 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

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

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

i. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

ii. 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.

iii. 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.

AGENDA ITEM NO. 5.B

Item Cover Page

ZONING HEARING AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Alexander Adams, Community and Economic Development

ITEM TYPE: Ordinance

AGENDA SECTION: **PUBLIC HEARING ITEMS**

SUBJECT: Applicant: VILLAGE OF PALMETTO BAY
Ordinance: AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.3 STYLED "R-1, SINGLE FAMILY RESIDENTIAL DISTRICT" BY AMENDING SUB-SECTION 30-50.3(C)(3) REGARDING PROHIBITED USES; AMENDING THE CODE OF ORDINANCES TO ALLOW SPECIFIED ZONING DISTRICTS TO KEEP AND MAINTAIN CHICKENS, AND PROVIDING AN EFFECTIVE DATE. ***(Sponsored by Vice Mayor Leanne Tellam) (Second Reading)*** *(Passed on First Reading–March 20, 2023)*

SUGGESTED ACTION:

ATTACHMENTS:
Staff Memo RZ-23-005 Section 30-50.3c
Ordinance RZ 23-005 Amending 30-50.3

To: Honorable Mayor and Village Council
From: Heidi Siegel, AICP, CED Director

Date: May 15, 2023
Re: RZ-23-005 / Section 30-50.3(c)
Allow the Keeping of Chickens

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.3 STYLED "R-1, SINGLE FAMILY RESIDENTIAL DISTRICT" BY AMENDING SUB-SECTION 30-50.3(C)(3) REGARDING PROHIBITED USES; AMENDING THE CODE OF ORDINANCES TO ALLOW SPECIFIED ZONING DISTRICTS TO KEEP AND MAINTAIN CHICKENS, AND PROVIDING AN EFFECTIVE DATE. (SECOND READING) (Sponsored by Vice Mayor Leanne Tellam)

BACKGROUND

Village Council and Staff continuously seeks opportunities to update and correct inconsistencies the Village's Land Development Code. At the January 18, 2023 Committee of the Whole (COW) meeting, Vice Mayor Leanne Tellam initiated a discussion regarding allowing chickens in certain residential zoning districts. Upon receiving feedback, Village staff was directed to return to the March Zoning Hearing with an ordinance.

At the March 20 Village Council Zoning Meeting, the council voted to approve on First Reading the proposed Land Development Code language in order to allow the keeping of chickens without roosters as referenced within.

Currently the Land Development Code references the R-1 Single family Residential District for certain prohibited uses. The regulations for the following zoning districts refer back to the R-1 Zoning districts for prohibited uses: R-1M Modified Single Family, E-M Estate Modified Single Family, E-S Estate Suburban Single Family, E-1 One Acre Estate Single Family, R-2 Two-Family Residential, R-TH Townhouse, and R-3 Four Unit Apartment.

Section 30-50.3(C)(3) (Prohibited Uses) includes a prohibition of "the keeping, breeding, or maintaining of horses, cattle, swine, poultry, fowl, goats, or any other farm animals". Section 30-40.1 (Definitions) defines poultry as "domestic fowl, chickens, ducks, geese and similar fowl". When put together, these sections of Code can cause terms such as fowl and poultry to be inconsistently applied. Furthermore, these terms can be construed to include roosters, which can, and do disturb, cause audible disturbances.

In recent years, possibly because of the pandemic, increased interest in creating personal food systems, a rise in food prices, and/or food insecurity there has been in an interest throughout the United States in raising backyard chickens. According to Jacqueline Jacob, Project Extension Manager at the University of Kentucky and coauthor of the book "Developing Regulations for Keeping Urban Chickens", there were an estimated 215 million backyard chickens used to

produce eggs. Since the pandemic, it is estimated that the number of backyard chickens has increased by 50 percent or up to 320 million nationwide. [1]

SUMMARY OF AMENDMENTS

The proposed amendments achieve the following:

- Introduces roosters as a prohibited animal in the residential areas.
- Exempts chickens as prohibited animals.
- Limits the keeping of chickens in single-family residential zoning districts.
- Limits the keeping of chickens to six chickens.
- Requires chicken to be enclosed in an area no closer than required setback from any property line for "accessory structures" within the applicable district.
- Chickens shall only be allowed behind the front building line of the single-family structure.
- Limits chicken enclosures to an area less than 100 square feet.
- States that the keeping of chickens shall be for personal use only and not for commercial purposes.

For clarification purposes, the below chart provides the required setback for an accessory structure for each single family-zoning district that will allow chickens.

Applicable Single-Family Zoning District	Required Rear Setback	Required Interior Side Setback	Required Street Side Setback
R-1 Single family Residential District	5 feet	7.5 feet	20 feet
R-1M Modified Single family District	5	5	15
E-M Estate Modified Single Family District	7.5 feet	20 feet	30 feet
E-S Estate Suburban Single Family District	7.5 feet	20 feet	30 feet
E-1 One Acre Estate Single Family District	7.5 feet	20 feet	30 feet

RECOMMENDATION

The Village staff recommends that the Village Council approve the attached ordinance on second reading.

[1] https://www.naco.org/articles/urban-poultry-can-be-polarizing-issue

ORDINANCE NO. 2023-___

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.3 STYLED "R-1, SINGLE FAMILY RESIDENTIAL DISTRICT" BY AMENDING SUB-SECTION 30-50.3(C)(3) REGARDING PROHIBITED USES; AMENDING THE CODE OF ORDINANCES TO ALLOW SPECIFIED ZONING DISTRICTS TO KEEP AND MAINTAIN CHICKENS, AND PROVIDING AN EFFECTIVE DATE. *(SECOND READING) (Sponsored by Vice Mayor Leanne Tellam)*

WHEREAS, the Village Council met March 20, 2023 at the Village Council Zoning Meeting, the council voted to approve on First Reading the proposed Land Development Code language in order to allow the keeping of chickens without roosters as referenced within; and

WHEREAS, the Mayor and Village Council of Palmetto Bay pursuant to the Village's adopted Comprehensive Plan have pledged to develop a Land Development Code tailored to the needs of the Village's residents and properties; and

WHEREAS, the Village Council regularly reviews the Land Development Code to improve the quality of life of its residents; and

WHEREAS, the Village desires to specifically amend Chapter 30 "Zoning" Article II "Village of Palmetto Bay, Florida – Land Development Code" Division 30-50.3(c) "Prohibited Uses"; and

WHEREAS, the Village of Palmetto Bay Code of Ordinances has multiple provisions regarding allowing or prohibiting poultry in the various zoning districts of the Village; and

WHEREAS, the terms used in the Ordinances such as chickens, fowl, and poultry can be inconsistently applied; and

WHEREAS, these terms can be construed to include roosters, which can and do disturb the peaceful quality of life in the Village;

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

and

WHEREAS, the Land Development Code Amendment would be consistent with the Village of Palmetto Bay's adopted Comprehensive Plan; and

WHEREAS, the Mayor and Village Council of Palmetto Bay find that the provisions of this Ordinance are intended to advance the public health, safety and welfare of the citizens of the Village.

NOW, THEREFORE, THE FOLLOWING ORDINANCE IS HEREBY ENACTED BY THE VILLAGE OF PALMETTO BAY, FLORIDA:

Section 1. The above recitals are incorporated as if set forth in full.

Section 2. Sub-Section 30-50.3(c) of the Code of Ordinances styled "Prohibited uses" in the R-1 Single Family Residential District is amended as follows:

(c) **********

(3) The keeping, breeding, or maintaining of horses, cattle, swine, ~~poultry~~, roosters, fowl (except chickens), goats, ~~or~~ any other farm animals or any other animals other than customary pets. The following conditions shall be applied to keeping and maintaining chickens in all single-family residential zoning districts:

(i) The keeping of no more than six (6) chickens shall be allowed.

(ii) Chickens shall be enclosed in an area no closer than required setback from any property line for "accessory structures" within the applicable district;

(iii) Chickens shall only be allowed behind the front building line of the single-family structure;

(iv) Chickens must be contained to an area less than 100 square feet;

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

(v) The enclosed area shall be no greater than six (6) feet in total height;

(vi) The keeping of chickens shall be for personal use only and not for commercial purposes.

Section 3. This ordinance shall become effective on Second Reading.

PASSED on FIRST READING this 20th day of March, 2023.

PASSED AND ADOPTED ON SECOND READING this 15th day of May, 2023.

Attest: _____

_____

Missy Arocha
Village Clerk

Karyn Cunningham
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

John C. Dellagloria
Village Attorney

FINAL VOTE AT FIRST READING:

Council Member Patrick Fiore ____

Council Member Steve Cody ____

Council Member Marsha Matson ____

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

Vice-Mayor Leanne Tellam ____

Mayor Karyn Cunningham ____

FINAL VOTE AT ADOPTION ON SECOND READING:

Council Member Patrick Fiore ____

Council Member Steve Cody ____

Council Member Marsha Matson ____

Vice-Mayor Leanne Tellam ____

Mayor Karyn Cunningham ____

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.