



VILLAGE OF PALMETTO BAY

Mayor Karyn Cunningham
Vice Mayor Mark Merwitzer
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 Quick
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

LOCAL PLANNING AGENCY MEETING

MONDAY, SEPTEMBER 28, 2026 – 7:00 PM

VILLAGE HALL MUNICIPAL CENTER
9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157
(PRIOR TO THE ZONING HEARING)
(305) 259-1234

- 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.
- 2. REQUESTS, PETITIONS, AND PUBLIC COMMENTS** Individuals wishing to speak on matters on the agenda and on items pertinent to the Village may do so by speaking during this section of the agenda. The Mayor will recognize those persons who wish to speak. Each speaker must sign-in prior to speaking on the designated public commentary sign-in sheet. Items for public hearing provided for within the agenda shall not be a topic of discussion during this section of the agenda. Please limit your comments to three (3) minutes or less. Public comments made by members of the public are important to the

Village Council. Speakers will address the Village Council with respect.

3. PUBLIC HEARING ITEMS

A. **Applicant:** Village of Palmetto Bay

Location: Village-wide

Request: A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE COUNCIL OF AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO REVISE THE EFFECTIVE DATE OF THE FLOOD INSURANCE STUDY; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Administration and prepared by Sustainability & Resiliency Planner, Andrea Candelaria)

B. **Applicant:** Village of Palmetto Bay

Location: Village-wide

Request: A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE COUNCIL OF A TEXT AMENDMENT TO SECTION 30-40 OF THE VILLAGE CODE OF ORDINANCES ENTITLED "DEFINITIONS AND RULES OF CONSTRUCTION;" RECOMMENDING THE CREATION OF SECTION 30-60.32 TO EXPRESSLY PROHIBIT DATA CENTERS IN ALL ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Vice Mayor Mark Merwitzer)

4. COUNCIL COMMENTS

5. NEXT MEETING AND 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 DISABILITIES 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.



AGENDA ITEM NO. 3.A

Item Cover Page

LOCAL PLANNING AGENCY MEETING AGENDA ITEM REPORT

DATE: September 28, 2026

SUBMITTED BY: Andrea Candelaria, Village Manager's Office

ITEM TYPE: Resolution

AGENDA SECTION: **PUBLIC HEARING ITEMS**

SUBJECT: **Applicant:** Village of Palmetto Bay
Location: Village-wide
Request: A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE COUNCIL OF AMENDING CHAPTER 30 "ZONING," ARTICLE II "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT REGULATIONS" TO REVISE THE EFFECTIVE DATE OF THE FLOOD INSURANCE STUDY; AND PROVIDING FOR AN EFFECTIVE DATE. (*Sponsored by Administration and prepared by Sustainability & Resiliency Planner, Andrea Candelaria*)

SUGGESTED ACTION:

ATTACHMENTS:

[LFD-430Changes Memo-LPA](#)

[LFP LPA Reso](#)

[Attachment A-Official FEMA LFD Notice](#)

[Attachment B-Ordinance](#)



To: Honorable Mayor and Village Council (*Local Planning Agency*)

Date: September 28th, 2026

From: Andrea Candelaria, MPA, Sustainability & Resiliency Planner

Re: Section 30-100.6 Floodplain Management Regulations | Letter of Final Determination

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE COUNCIL OF AMENDING CHAPTER 30 “ZONING,” ARTICLE II “VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT CODE,” DIVISION 30-100.6 “FLOODPLAIN MANAGEMENT REGULATIONS” TO REVISE THE EFFECTIVE DATE OF THE FLOOD INSURANCE STUDY; AND PROVIDING FOR AN EFFECTIVE DATE. (*Sponsored by Administration and Prepared by Sustainability & Resiliency Planner Andrea Candelaria*)

BACKGROUND AND ANALYSIS:

Village Staff continuously seek opportunities to update the Village’s Land Development Code. The proposed changes to Section 30-100.6 Floodplain Management Regulations support the mandatory changes issued from the State of Florida with Senate Bill CS/CS/SB 180: Emergencies passed by the Florida State Legislature on June 26th, 2025, and made effective on July 1st, 2025.

In 2023, the Village updated its floodplain management code in order to create higher regulatory standards for the Village that considered the community’s safety and resiliency. These changes also surrounded around the subjects of substantial damage and improvements, changes to the required lowest floor elevation, among others. With these results, the Village was able to attain a substantial number of points within the FEMA National Flood Insurance Program (NFIP) Community Rating System (CRS) and improve the Village’s ranking to a Rank Five (5), providing a twenty-five percent (25%) discount on flood insurance premiums for Village residents.

Additionally, the Village will be adopting new flood maps from FEMA that were initially under review from Miami-Dade County. These new flood maps have been distributed and have an effective date of February 19th, 2027. The changes to the flood maps can be found in Attachment A of this package.

Due to the ramifications of Senate Bill CS/CS/SB 180, the Village is required to amend changes to the floodplain management code including changes regarding the following:

- Letter of Final Determination (LFD) new effective date
- Grammatical changes to areas of the Code
- Removes definition of coastal construction control line
- Adds numbering system for the Letter of map change (LOMC)
- Changes the definition of market value to a traditional market appraisal.
- Changes the definition of substantial damage back to the Village’s earlier definition of two separate occasions during a ten-year period
- Changes the specific methods of construction and requirements for new residential and non-residential buildings
- Modifies language based on nonconversion agreements based on the State of Florida’s requirements
- Removes the additional requirements of cumulative substantial improvement
- Removes the additional requirements of substantial damage

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 (b)(3). – General Provisions – Applicability	Adds new effective date of Letter of Final Determination (LFD) the Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas on August 19th, 2026.
Sec. 30-100.6 (d)(3). – Substantial improvement and substantial damage determinations	Phrase removed due to pertaining to cumulative substantial improvement.
Sec. 30-100.6 (s) (2). – Inspections.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (s) (3). – Inspections.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (s) (6). – Inspections.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (t) (6). – Variances and appeals.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (u) (1). – Violations.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (v) (4). – Definitions.	Removes definition of Coastal construction control line due to mentioned line existing within the Village.
Sec. 30-100.6 (v) (4). – Definitions.	Adds a numbering system for the Letter of map change (LOMC). This numbering system includes Letter of map amendment (LOMA), Letter of map revision (LOMR), Letter of map revision based on fill (LOMR-F), and Conditional letter of map revision (CLOMR).
Sec. 30-100.6 (v) (4). – Definitions.	Changes the definition of market value to a traditional market appraisal. FDEM approved this to rely on ACV as primary method. It's recommended because there's less judgement and less opportunity for bias. The starting "like-kind replacement cost" is what it would cost to build exactly as shown (not to current code).
Sec. 30-100.6 (v) (4). – Definitions.	Changes the definition of substantial damage back to the Village's earlier definition of two separate occasions during a ten-year period. This provision is no longer enforceable by a local municipality due to Senate Bill CS/CS/SB 180.
Sec. 30-100.6 (v) (4). – Definitions.	Changes the definition of substantial improvement to include a full repeal of cumulative provisions. This provision is no longer enforceable by a local municipality due to Senate Bill CS/CS/SB 180.
Sec. 30-100.6 (v) (4). – Definitions.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (v) (4). – Definitions.	Grammatically changes the verbiage from ordinance to section.

Sec. 30-100.6 (v) (4). – Definitions.	Grammatically changes the verbiage from ordinance to section.
Sec. 30-100.6 (w) (4) (A). – Flood resistant development.	Changes to reflect highest standard available, which will be the <i>Florida Building Code</i>.
Sec. 30-100.6 (w) (4) (B). – Flood resistant development.	Changes the specific methods of construction and requirements to only enforcing any new residential building not located in the special flood hazard area to be a minimum of one foot above the back of sidewalk elevation, instead of enforcing all residential buildings.
Sec. 30-100.6 (w) (4) (C). – Flood resistant development.	Changes the specific methods of construction and requirements to only enforcing any new non-residential building not located in the special flood hazard area to be a minimum of one foot above the back of sidewalk elevation, instead of enforcing all residential buildings.
Sec. 30-100.6 (w) (4) (ii). – Flood resistant development.	Modified language based on nonconversion agreements based on the State of Florida's requirements.
Sec. 30-100.6 (w) (4) (iii). – Flood resistant development.	Removes the additional requirements of cumulative substantial improvement based on the State of Florida's requirements and refers back to the modified definition in Sec. 30-100.6 (v) (4). – Definitions.
Sec. 30-100.6 (w) (4) (iv). – Flood resistant development.	Removes the additional requirements of substantial damage based on the State of Florida's requirements and refers back to the modified definition in Sec. 30-100.6 (v) (4). – Definitions.
Sec. 30-100.6 (y) (3) (ii). – Flood resistant development.	Grammatically changes the verbiage from ordinance to section.

ANALYSIS

In evaluating this proposed text amendment, staff has considered the criteria outlined in Section 30-30.7(b) of the Village's Land Development Code:

1. Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the village's concurrency management program.

- **Response:** While higher standards are generally available elsewhere, the proposed amendments are consistent with the highest standards available through the State of Florida mandate. Accordingly, the proposed amended language reflects the highest standards available to Village at this time and, as a result, would be consistent with the Village's Comprehensive Plan. The Village of Palmetto Bay's Comprehensive Plan considers the safety measures of the community, providing the highest standards available to keep its community and environment a priority.

2. Whether the proposal is in conformance with all applicable requirements of Chapter 30.

- **Response:** The proposal is in conformance with Chapter 30. It establishes certain requirements of the Village from the State of Florida that require modifications to the Village Code regarding floodplain management standards, including removing substantial damage enforcement.

3. **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.**
 - **Response:** The amendment modifies floodplain management standards, not land use. Although contained in Chapter 30, it will not result in land development conditions or changes.
4. **Whether the proposal would result in any incompatible land uses.**
 - **Response:** The amendment modifies floodplain management standards, not land use. It will not result in any incompatible land uses or adverse impacts on neighboring properties.
5. **Whether the proposal would result in demands on transportation systems or public facilities.**
 - **Response:** The proposed changes only are a result of a mandate from the State of Florida and do not increase density or intensity of use and have no impact on transportation systems.
6. **Whether the proposal would result in adverse impacts on the natural environment.**
 - **Response:** The proposed changes only are a result of a mandate from the State of Florida and do not have a direct impact on the natural environment.
7. **Whether the proposal would adversely affect property values or the general welfare.**
 - **Response:** According to the State of Florida, the proposed changes could have a positive effect on the general welfare of the Village due to eliminating the local government enforcement of cumulative substantial improvement and substantial damage. These changes reduce the responsibility of the homeowner by not requiring them to repair what was enforced and could save the homeowners time and money.
8. **Whether the proposal would result in an orderly and compatible land use pattern.**
 - **Response:** The proposed changes only are a result of a mandate from the State of Florida and do not have a direct impact on the land use patterns.
9. **Whether the proposal would be in conflict with the public interest.**
 - **Response:** According to the State of Florida, the proposed changes do not conflict with the public interest due to eliminating the local government enforcement of cumulative substantial improvement and substantial damage. These changes reduce the responsibility of the homeowner by not requiring them to repair what was enforced and could save the homeowners time and money.

RECOMMENDATION:

The Administration recommends that the Mayor and Village Council approve the proposed resolution and appropriate changes to the flood maps.

FISCAL IMPACT:

None.

ATTACHMENTS:

- A. Official LFD Letter from FEMA to the Village of Palmetto Bay
- B. Ordinance with red strikethrough

1 RESOLUTION NO. 2026 -____
2

3 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE
4 VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL
5 PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE
6 COUNCIL OF AMENDING CHAPTER 30 "ZONING," ARTICLE II
7 "VILLAGE OF PALMETTO BAY, FLORIDA - LAND DEVELOPMENT
8 CODE," DIVISION 30-100.6 "FLOODPLAIN MANAGEMENT
9 REGULATIONS" TO REVISE THE EFFECTIVE DATE OF THE FLOOD
10 INSURANCE STUDY; AND PROVIDING FOR AN EFFECTIVE DATE.

11 *(Sponsored by Administration and Prepared by Sustainability & Resiliency*
12 *Planner Andrea Candelaria)*
13

14 **WHEREAS**, the Legislature of the State of Florida has, in Chapter 166
15 – Municipalities, Florida Statutes, conferred upon local governments the
16 authority to adopt regulations designed to promote the public health, safety,
17 and general welfare of its citizenry; and
18

19 **WHEREAS**, the Village of Palmetto Bay participates in the National
20 Flood Insurance Program and the Mayor and Council desire to continue to
21 meet the requirements of Title 44 Code of Federal Regulations, Parts 59 and
22 60, necessary for such participation; and
23

24 **WHEREAS**, the Federal Emergency Management Agency has revised
25 and reissued the Flood Insurance Study for Miami-Dade County, Florida and
26 Incorporated Areas, with an effective date of February 19, 2027; and
27

28 **WHEREAS**, the Mayor and Council have determined that it is in the
29 public interest to amend Section 30-100.6 Floodplain Management
30 Regulations to identify the effective date of the revised Flood Insurance
31 Study and Flood Insurance Rate Maps; and
32

33 **WHEREAS**, the Mayor and Council are amending a previously
34 adopted local amendment to include repetitive flood damage in the definition
35 of substantial damage for buildings and structures in flood hazard areas for
36 the purpose of participating in the National Flood Insurance Program's
37 Community Rating System and, pursuant to section 553.73(5), F.S., is
38 formatting that requirement to coordinate with the Florida Building Code; and
39

1 **WHEREAS**, the Mayor and Council have determined that previously
2 adopted amendments to the Florida Building Code located in the Code of
3 Ordinances, Appendix B, are unnecessary, out-of-date, or already included
4 in the Land Development Code, Section 30-100.6 Floodplain Management
5 Regulations, and have determined it is in the public interest to repeal
6 Appendix B; and
7

8 **WHEREAS**, the LPA has evaluated the proposal against the criteria in
9 Section 30-30.7(b) and finds it consistent with the Village's Comprehensive
10 Plan and in the best interest of the health, safety, and general welfare of the
11 Village and its residents.
12

13 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND**
14 **VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA,**
15 **AS FOLLOWS:**
16

17 **Section 1. Findings.** The above recitals are hereby adopted and
18 incorporated as findings of fact and conclusions of the Local Planning
19 Agency.
20

21 **Section 2. Recommendation.** The Village Council, sitting as the
22 Local Planning Agency, recommends approval of the proposed Text
23 Amendment to Section 30-30.2(d)(4) of the Village Land Development Code,
24 as set forth in the accompanying Ordinance (and attached hereto as Exhibit
"A"), to the Village Council for final legislative adoption.
25

26 **Section 3. Effective Date.** This Resolution shall take effect
immediately upon approval.
27

28 **PASSED AND RESOLVED** this 28th day of September 2026.
29
30

31 Attest: _____

32 **Missy Arocha**
33 **Village Clerk**
34
35
36
37

32 **Karyn Cunningham**
33 **Mayor**

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE SOLE USE AND BENEFIT OF THE VILLAGE:**

John J. Quick
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore	_____
Council Member Steve Cody	_____
Council Member Marsha Matson	_____
Vice-Mayor Mark Merwitzer	_____
Mayor Karyn Cunningham	_____



FEMA

August 19, 2026

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

Nick Marano
Village Manager, Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, FL 33157

Community Name: Village of Palmetto Bay,
Miami-Dade County,
Florida
Community No.: 120687
Map Panels Affected: See FIRM Index

Dear Village Manager Marano:

This is to notify you of the final flood hazard determination for Miami-Dade County, Florida and Incorporated Areas, in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed. FEMA did not receive any appeals of the proposed flood hazard determinations or submittals regarding the Preliminary Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) during that time.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the *Federal Register* as soon as possible. The FIS report and FIRM for your community will become effective on February 19, 2027. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3(e) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3(e);
2. Adopting all the standards of 44 CFR Part 60.3(e) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3(e).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3(e) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA's resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at <https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood>.

Please note, any enclosed correspondence from Jillian Kraynak, NFIP State Coordinator for Florida, is provided to assist States and communities in coordinating to meet State requirements. Its inclusion with this determination should not be construed as FEMA's specific endorsement of its contents.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be affected when the revised FIRM panels referenced above become effective. If no LOMCs were issued previously for your community, you are receiving a SOMA for informational purposes only.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at <https://www.msc.fema.gov>. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Jillian Kraynak, NFIP State Coordinator for Florida by telephone at (850) 815-4560. If you should require any additional information, we suggest that you contact the Director, Mitigation Division of FEMA, Region 4 at (202) 304-5185 for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at <https://www.fema.gov/flood-maps>.

Sincerely,



David N. Bascom, Acting Director
Engineering and Modeling Division
Federal Insurance Directorate, Resilience

Enclosures:

Final SOMA

Adoption of NFIP- Compliant Flood Ordinances Coordinated with the FBC

cc: Community Map Repository

Dean Klements, Building Official, Village of Palmetto Bay

The Honorable Karyn Cunningham, Mayor, Village of Palmetto Bay

FINAL SUMMARY OF MAP ACTIONS

Community: PALMETTO BAY, VILLAGE OF

Community No: 120687

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the effects of the enclosed revised FIRM panels(s) on previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs), Letter of Map Revision based on Fill (LOMR-Fs), and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on February 19, 2027.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels or will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

FINAL SUMMARY OF MAP ACTIONS

Community: PALMETTO BAY, VILLAGE OF

Community No: 120687

2A. LOMCs on Revised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	10-04-6340A	06/28/2010	Lot 2, Howard Drive Estates Subdivision - 13625 SW 83rd Avenue	12086C0464L	12086C0464M
LOMA	10-04-8322A	09/14/2010	Lot 12, Block 3, Old Cutler Shores Subdivision - 18014 SW 185 Street	12086C0602L	12086C0602M
LOMA	12-04-4371A	06/12/2012	OLD CUTLER VILLAS, BLOCK 1, LOT 12 -- 7901 SW 171ST STREET	12086C0602L	12086C0602M
LOMA	13-04-1908A	12/26/2012	SUBURBAN ESTATES, BLOCK 1, LOT 1 -- 7395 SW 148TH STREET	12086C0464L	12086C0464M
LOMA	13-04-6092A	06/20/2013	Lot 2, Block 2, Herman Estates Subdivision - 13625 SW 78th Place	12086C0464L	12086C0464M
LOMA	14-04-7698A	08/07/2014	LOT 6, BLOCK 1, CUTLER OAKS - 7267 SW 146TH STREET CIRCLE	12086C0468L	12086C0468M
LOMA	15-04-0870A	02/19/2015	ALAN GROVE ESTATES, FIRST ADDITION, BLOCK 4, LOT 4 --- 15320 SOUTHWEST 74TH PLACE	12086C0464L	12086C0464M
LOMA	15-04-2654A	04/08/2015	VICTORIA BAY ESTATES, BLOCK 1, LOT 13 -- 17085 SW 93RD AVENUE	12086C0602L	12086C0602M
LOMA	15-04-7240A	07/10/2015	DEL - MAR ESTATES, BLOCK 2, LOT 4 -- 17205 SW 77TH AVENUE	12086C0602L	12086C0602M
LOMA	15-04-A297A	09/22/2015	Lot 1, Block 3, Herman Estates Subdivision - 7850 SW 139th Terrace	12086C0464L	12086C0464M
LOMA	15-04-A616A	11/04/2015	TANGLEWOOD LAKE, BLOCK 1, LOT 5 -- 13805 SW 70TH AVENUE	12086C0468L	12086C0468M
LOMA	16-04-2778A	02/05/2016	Lot 6, Block 1, Pine Gleen Estates Subdivision - 16190 Southwest 84th Place	12086C0602L	12086C0602M
LOMA	17-04-6442A	08/09/2017	BEL-AIRE, SECTION 21, BLOCK 79, LOT 5 -- 18020 SW 88TH COURT	12086C0602L	12086C0602M
LOMA	18-04-5390A	07/10/2018	BEL AIRE, SECTION SIXTEEN, BLOCK 60, LOT 21 -- 18315 SW 94TH AVENUE	12086C0601L	12086C0601M
LOMA	18-04-6217A	07/27/2018	Lot 6, Chris Homesites Subdivision - 7780 SW 141st Street	12086C0464L	12086C0464M
LOMA	19-04-0007A	10/03/2018	Lot 3, Block 73, Coral Reef Homesites Subdivision - 9020 SW 157th Street	12086C0602L	12086C0602M

FINAL SUMMARY OF MAP ACTIONS

Community: PALMETTO BAY, VILLAGE OF

Community No: 120687

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	19-04-0070A	10/19/2018	8900 SW 158th Street	12086C0602L	12086C0602M
LOMA	19-04-5448A	07/05/2019	Casa Granada Condominium Subdivision - 8701 SW 141st Street	12086C0464L	12086C0464M
LOMA	19-04-5927A	09/10/2019	PINEWOOD ESTATES, THIRD ADDITION, BLOCK 12, LOT 23 -- 18121 SW 84TH AVENUE	12086C0602L	12086C0602M
LOMA	20-04-0042A	11/13/2019	PINEWOOD ESTATES, 3RD ADDITION, BLOCK 12, LOT 22 -- 18141 SW 84TH AVENUE	12086C0602L	12086C0602M
LOMA	22-04-1305A	01/18/2022	SUN CORAL ESTATES THIRD ADDITION, BLOCK 6, LOT 10 -- 14401 SW 85 AVENUE	12086C0464L	12086C0464M
LOMA	22-04-5196A	09/20/2022	MITCHELL EAST, LOT 6 -- 8481 SW 144TH STREET	12086C0464L	12086C0464M
LOMA	23-04-3143A	04/19/2023	STONEHAVEN SOUTH, LOT 11 -- 15540 SW 78TH PLACE	12086C0464L	12086C0464M
LOMA	24-04-0250A	10/13/2023	Lot 7, Block 5, Green Briar Acres Subdivision - 8100 SW 139th Terrace	12086C0464L	12086C0464M
LOMA	24-04-1179A	01/11/2024	CENTURY AT PALMETTO BAY, BLOCK 1, LOT 4 -- 15870 SW 89TH COURT	12086C0602L	12086C0602M
LOMA	24-04-2536A	03/01/2024	Lot 9, Block 4, Green Briar Acres Subdivision - 8061 SW 139th Terrace	12086C0464L	12086C0464M
LOMA	24-04-2323A	03/11/2024	MALBROOK, BLOCK 7, LOT 7 -- 17525 SW 87TH AVENUE	12086C0602L	12086C0602M
LOMA	25-04-5706A	08/18/2025	OLD CUTLER SHORES, BLOCK 1, LOT 5 -- 17745 SW 83RD COURT	12086C0602L	12086C0602M
LOMA	25-04-5897A	08/28/2025	BUNING SUBDIVISION, BLOCK 1, LOT 1 -- 15657 SOUTH DIXIE HIGHWAY	12086C0464L 12086C0602L	12086C0464M 12086C0602M
LOMA	26-04-4261A	06/23/2026	Banyan Gardens Condominium - 16240-16246 (even) SW	12086C0602L	12086C0602M
LOMA	26-04-3805A	06/29/2026	BEL-AIRE SECTION 21, BLOCK 81, LOT 3 -- 17920 SW 87TH COURT	12086C0602L	12086C0602M

FINAL SUMMARY OF MAP ACTIONS

Community: PALMETTO BAY, VILLAGE OF

Community No: 120687

2B. LOMCs on Unrevised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new or revised flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.
6. Superseded by another LOMC.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures is no longer valid, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and if appropriate issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

ORDINANCE 2027-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 REVISE THE EFFECTIVE DATE OF THE FLOOD INSURANCE STUDY; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (First Reading) (Sponsored by Administration and Prepared by Sustainability & Resiliency Planner Andrea Candelaria)

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

WHEREAS, the Village of Palmetto Bay participates in the National Flood Insurance Program and the Mayor and Council desire to continue to meet the requirements of Title 44 Code of Federal Regulations, Parts 59 and 60, necessary for such participation; and

WHEREAS, the Federal Emergency Management Agency has revised and reissued the Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas, with an effective date of **August 19, 2026**; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to amend Section 30-100.6 Floodplain Management Regulations to identify the effective date of the revised Flood Insurance Study and Flood Insurance Rate Maps; and

WHEREAS, the Mayor and Council have determined that previously adopted amendments to the Florida Building Code located in the Code of Ordinances, Appendix B, are unnecessary, out-of-date, or already included

1 in the Land Development Code, Section 30-100.6 Floodplain Management
2 Regulations, and have determined it is in the public interest to repeal
3 Appendix B.

4
5 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF**
6 **PALMETTO BAY, FLORIDA, AS FOLLOWS:**

7
8 **Section 1.** The Code of Ordinances, Chapter 30 “Zoning”, Article II
9 “Village of Palmetto Bay, Florida – Land Development Code, Division 30-
10 100.6 “Floodplain Management Regulations” shall be amended as follows:

11 **Sec. 30-100.6. Floodplain management regulations.**

12 (a) *General provisions.*

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

16 (2)*Scope.* The provisions of this section shall apply to all development
17 that is wholly within or partially within any flood hazard area except as
18 otherwise specified in Section (w)(2) below, and including but not
19 limited to the subdivision of land; filling, grading, and other site
20 improvements and utility installations; construction, alteration,
21 remodeling, enlargement, improvement, replacement, repair,
22 relocation or demolition of buildings, structures, and facilities that are
23 exempt from the *Florida Building Code*; placement, installation, or
24 replacement of manufactured homes and manufactured buildings;
25 installation or replacement of tanks; placement of recreational
26 vehicles; installation of swimming pools; and any other development.

27 (3)*Intent.* The purposes of this section and the flood load and flood
28 resistant construction requirements of the *Florida Building Code* are
29 to establish minimum requirements to safeguard the public health,
30 safety, and general welfare and to minimize public and private losses
31 due to flooding through regulation of development in flood hazard
32 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

1 based on scientific and engineering considerations. Larger floods can
2 and will occur. Flood heights may be increased by manmade or
3 natural causes. This section does not imply that land outside of
4 mapped special flood hazard areas, or that uses permitted within such
5 flood hazard areas, will be free from flooding or flood damage. The
6 flood hazard areas and base flood elevations contained in the flood
7 insurance study and shown on flood insurance rate maps and the
8 requirements of Title 44 Code of Federal Regulations, Sections 59
9 and 60 may be revised by the Federal Emergency Management
10 Agency, requiring this community to revise these regulations to
11 remain eligible for participation in the National Flood Insurance
12 Program. No guaranty of vested use, existing use, or future use is
13 implied or expressed by compliance with this section.

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

19 (b) Applicability

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

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

25 (3)*Basis for establishing flood hazard areas.* The Flood Insurance Study
26 for Miami-Dade County, Florida and Incorporated Areas dated
27 September 11, 2009 August 19, 2026 and all subsequent
28 amendments and revisions, and the accompanying flood insurance
29 rate maps (FIRM), and all subsequent amendments and revisions to
30 such maps, are adopted by reference as a part of this section and
31 shall serve as the minimum basis for establishing flood hazard areas.

1 Studies and maps that establish flood hazard areas are on file at
2 Village Hall, 9705 East Hibiscus Street; Building Department,
3 Palmetto Bay, Florida 33157.

4 (4)Submission of additional data to establish flood hazard areas. To
5 establish flood hazard areas and base flood elevations, pursuant to
6 section 30-100.6(r) of this section the floodplain administrator may
7 require submission of additional data. Where field surveyed
8 topography prepared by a Florida licensed professional surveyor or
9 digital topography accepted by the community indicates that ground
10 elevations:

11 i. Are below the closest applicable base flood elevation,
12 even in areas not delineated as a special flood hazard
13 area on a FIRM, the area shall be considered as flood
14 hazard area and subject to the requirements of this
15 section and, as applicable, the requirements of the *Florida*
16 *Building Code*.

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

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

23 (6)*Abrogation and greater restrictions*. This section supersedes any
24 ordinance in effect for management of development in flood hazard
25 areas. However, it is not intended to repeal or abrogate any existing
26 ordinances including but not limited to land development regulations,
27 zoning ordinances, stormwater management regulations, or the
28 *Florida Building Code*. In the event of a conflict between this section
29 and any other ordinance, the more restrictive shall govern. This
30 section shall not impair any deed restriction, covenant or easement,

1 but any land that is subject to such interests shall also be governed
2 by this section.

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

- 5 i. Considered as minimum requirements;
- 6 ii. Liberally construed in favor of the governing body; and
- 7 iii. Deemed neither to limit nor repeal any other powers
8 granted under state statutes.

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

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

13 (2)*General.* The floodplain administrator is authorized and directed to
14 administer and enforce the provisions of this section. The floodplain
15 administrator shall have the authority to render interpretations of this
16 section consistent with the intent and purpose of this section and may
17 establish policies and procedures in order to clarify the application of
18 its provisions. Such interpretations, policies, and procedures shall not
19 have the effect of waiving requirements specifically provided in this
20 section without the granting of a variance pursuant to subsection 30-
21 100.6(t) of this section.

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

- 24 i. Review applications and plans to determine whether
25 proposed new development will be located in flood hazard
26 areas;
- 27 ii. Review applications for modification of any existing
28 development in flood hazard areas for compliance with the
29 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

1 of the proposed work; in the case of repair, the market value of the
2 building or structure shall be the market value before the damage
3 occurred and before any repairs are made;

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

8 (3) Determine and document whether the proposed work constitutes
9 substantial improvement or repair of substantial damage; ~~the~~
10 ~~determination requires evaluation of previous permits issued for~~
11 ~~improvements and repairs as specified in the definition of "substantial~~
12 ~~improvement";~~ for proposed work to repair damage caused by
13 flooding, the determination requires evaluation of previous permits
14 issued to repair flood-related damage as specified in the definition of
15 "substantial damage"; and

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

20 (e) *Modifications of the strict application of the requirements of the Florida*
21 *Building Code*. The floodplain administrator shall review requests submitted
22 to the building official that seek approval to modify the strict application of
23 the flood load and flood resistant construction requirements of the *Florida*
24 *Building Code* to determine whether such requests require the granting of
25 a variance pursuant to subsection 30-100.6(t) of this section.

26 (f) *Notices and orders*. The floodplain administrator shall coordinate with
27 appropriate local agencies for the issuance of all necessary notices or
28 orders to ensure compliance with this section.

29 (g) *Inspections*. The floodplain administrator shall make the required
30 inspections as specified in subsection 30-100.6(s) of this section for
31 development that is not subject to the *Florida Building Code*, including

1 buildings, structures, and facilities exempt from the *Florida Building Code*.
2 The floodplain administrator shall inspect flood hazard areas to determine
3 if development is undertaken without issuance of a permit.

4 (h) *Other duties of the floodplain administrator*. The floodplain administrator
5 shall have other duties, including but not limited to:

6 (1) Establish, in coordination with the building official, procedures for
7 administering and documenting determinations of substantial
8 improvement and substantial damage made pursuant to subsection
9 30-100.6(d) of this section;

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

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

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

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

27 (6) Advise applicants for new buildings and structures, including
28 substantial improvements that are located in any unit of the Coastal
29 Barrier Resources System established by the Coastal Barrier
30 Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement

1 Act of 1990 (Pub. L. 101-591) that federal flood insurance is not
2 available on such construction; areas subject to this limitation are
3 identified on flood insurance rate maps as "Coastal Barrier Resource
4 System Areas" and "Otherwise Protected Areas."

5 (i) *Floodplain management records.* Regardless of any limitation on the
6 period required for retention of public records, the floodplain administrator
7 shall maintain and permanently keep and make available for public
8 inspection all records that are necessary for the administration of this
9 section and the flood resistant construction requirements of the *Florida*
10 *Building Code*, including flood insurance rate maps; letters of map change;
11 records of issuance of permits and denial of permits; determinations of
12 whether proposed work constitutes substantial improvement or repair of
13 substantial damage; required design certifications and documentation of
14 elevations specified by the *Florida Building Code* and this section;
15 notifications to adjacent communities, FEMA, and the state related to
16 alterations of watercourses; assurances that the flood carrying capacity of
17 altered watercourses will be maintained; documentation related to appeals
18 and variances, including justification for issuance or denial; and records of
19 enforcement actions taken pursuant to this section and the flood resistant
20 construction requirements of the *Florida Building Code*. These records shall
21 be available for public inspection at Village Hall, 9705 East Hibiscus Street,
22 Building Department, Palmetto Bay, Florida 33157.

23 (j) *Permits required.* Any owner or owner's authorized agent (hereinafter
24 "applicant") who intends to undertake any development activity within the
25 scope of this section, including buildings, structures, and facilities exempt
26 from the *Florida Building Code*, which is wholly within or partially within any
27 flood hazard area shall first make application to the floodplain administrator,
28 and the building official if applicable, and shall obtain the required permit(s)
29 and approval(s). No such permit or approval shall be issued until compliance
30 with the requirements of this section and all other applicable codes and
31 regulations has been satisfied.

1 (k) *Floodplain development permits or approvals*. Floodplain development
2 permits or approvals shall be issued pursuant to this section for any
3 development activities not subject to the requirements of the *Florida Building*
4 *Code*, including buildings, structures, and facilities exempt from the *Florida*
5 *Building Code*. Depending on the nature and extent of proposed
6 development that includes a building or structure, the floodplain
7 administrator may determine that a floodplain development permit or
8 approval is required in addition to a building permit.

9 (l) *Buildings, structures and facilities exempt from the Florida Building Code*.
10 Pursuant to the requirements of federal regulation for participation in the
11 National Flood Insurance Program (44 C.F.R. Sections 59 and 60),
12 floodplain development permits or approvals shall be required for the
13 following buildings, structures and facilities that are exempt from the *Florida*
14 *Building Code* and any further exemptions provided by law, which are subject
15 to the requirements of this section:

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

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

18 (3) Temporary buildings or sheds used exclusively for construction
19 purposes.

20 (4) Mobile or modular structures used as temporary offices.

21 (5) Those structures or facilities of electric utilities, as defined in F.S. §
22 366.02, which are directly involved in the generation, transmission, or
23 distribution of electricity.

24 (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or
25 the Seminole Tribe of Florida. As used in this paragraph, the term
26 "chickee" means an open-sided wooden hut that has a thatched roof
27 of palm or palmetto or other traditional materials, and that does not
28 incorporate any electrical, plumbing, or other non-wood features.

29 (7) Family mausoleums not exceeding 250 square feet in area which are
30 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 nonconversion 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

1 permit for, or approval of, any violation of this section, the Florida Building
2 Codes, or any other ordinance of this community. The issuance of permits
3 based on submitted applications, construction documents, and information
4 shall not prevent the floodplain administrator from requiring the correction of
5 errors and omissions.

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

12 (p) *Suspension or revocation.* The floodplain administrator is authorized to
13 suspend or revoke a floodplain development permit or approval if the permit
14 was issued in error, on the basis of incorrect, inaccurate or incomplete
15 information, or in violation of this section or any other ordinance, regulation
16 or requirement of this community.

17 (q) *Other permits required.* Floodplain development permits and building
18 permits shall include a condition that all other applicable state or federal
19 permits be obtained before commencement of the permitted development,
20 including but not limited to the following;

21 (1) The South Florida Water Management District; F.S. § 373.036.

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

25 (3) Florida Department of Environmental Protection for construction,
26 reconstruction, changes, or physical activities for shore protection or
27 other activities seaward of the coastal construction control line; F.S. §
28 161.141.

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

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

4 (6) Federal permits and approvals.

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

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

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

14 ii. Where base flood elevations, or floodway data are not included
15 on the FIRM or in the flood insurance study, they shall be
16 established in accordance with subsection 30-100.6(r)(2)(ii) or
17 (iii) of this section.

18 iii. Where the parcel on which the proposed development will take
19 place will have more than 50 lots or is larger than five acres
20 and the base flood elevations are not included on the FIRM or
21 in the flood insurance study, such elevations shall be
22 established in accordance with subsection 30-100.6(r)(2)(i) of
23 this section.

24 iv. Location of the proposed activity and proposed structures, and
25 locations of existing buildings and structures; in coastal high
26 hazard areas, new buildings shall be located landward of the
27 reach of mean high tide.

28 v. Location, extent, amount, and proposed final grades of any
29 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

1 flood elevation and floodway data available from a federal or
2 state agency or other source.

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

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

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

16 iv. Where the base flood elevation data are to be used to support
17 a letter of map change from FEMA, advise the applicant that
18 the analyses shall be prepared by a Florida licensed engineer
19 in a format required by FEMA, and that it shall be the
20 responsibility of the applicant to satisfy the submittal
21 requirements and pay the processing fees.

22 (3) *Additional analyses and certifications.* As applicable to the location and
23 nature of the proposed development activity, and in addition to the
24 requirements of this section, the applicant shall have the following
25 analyses signed and sealed by a Florida licensed engineer for
26 submission with the site plan and construction documents:

27 i. For development activities proposed to be located in a
28 regulatory floodway, a floodway encroachment analysis that
29 demonstrates that the encroachment of the proposed
30 development will not cause any increase in base flood
31 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~~ **section** 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~~ **section** 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

- 1 ii. If the elevation used to determine the required elevation of the
2 lowest floor was determined in accordance with subsection 30-
3 100.6(r)(2)(iii)(B) of this section, the documentation of height
4 of the lowest floor above highest adjacent grade, prepared by
5 the owner or the owner's authorized agent.

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

13 (6)*Manufactured homes.* The floodplain administrator shall inspect
14 manufactured homes that are installed or replaced in flood hazard
15 areas to determine compliance with the requirements of this ~~ordinance~~
16 **section** and the conditions of the issued permit. Upon placement of a
17 manufactured home, certification of the elevation of the lowest floor
18 shall be submitted to the floodplain administrator.

19 (t) *Variances and appeals.*

20 (1)*General.* The village council shall hear and decide on requests for
21 appeals and requests for variances from the strict application of the
22 requirements of this section. Pursuant to F.S. § 553.73(5), the village
23 council shall hear and decide on requests for appeals and requests for
24 variances from the strict application of the flood resistant construction
25 requirements of the Florida Building Code. This section does not apply
26 to Section 3109, of the *Florida Building Code, Building*.

27 (2)*Appeals.* The village council shall hear and decide appeals when it is
28 alleged there is an error in any requirement, decision, or determination
29 made by the floodplain administrator in the administration and
30 enforcement of this section. Any person aggrieved by the decision of

1 the village council may appeal such decision to the circuit court, as
2 provided by Florida Statutes.

3 (3)*Limitations on authority to grant variances.* The village council shall
4 base its decisions on variances on technical justifications submitted by
5 applicants, the considerations for issuance in subsection 30-
6 100.6(t)(7) of this section, the conditions of issuance set forth in
7 subsection 30-100.6(t)(8) of this section, and the comments and
8 recommendation of the floodplain administrator and the building
9 official. The village council has the right to attach such conditions as it
10 deems necessary to further the purposes and objectives of this section.

11 (4)*Restrictions in floodways.* A variance shall not be issued for any
12 proposed development in a floodway if any increase in base flood
13 elevations would result, as evidenced by the applicable analyses and
14 certifications required in subsection 30-100.6(r)(3) of this section.

15 (5)*Historic buildings.* A variance is authorized to be issued for the repair,
16 improvement, or rehabilitation of a historic building that is determined
17 eligible for the exception to the flood resistant construction
18 requirements of the *Florida Building Code, Existing Building, Chapter*
19 *12 Historic Buildings*, upon a determination that the proposed repair,
20 improvement, or rehabilitation will not preclude the building's continued
21 designation as a historic building and the variance is the minimum
22 necessary to preserve the historic character and design of the building.
23 If the proposed work precludes the building's continued designation as
24 a historic building, a variance shall not be granted and the building and
25 any repair, improvement, and rehabilitation shall be subject to the
26 requirements of the *Florida Building Code*.

27 (6)*Functionally dependent uses.* A variance is authorized to be issued for
28 the construction or substantial improvement necessary for the conduct
29 of a functionally dependent use, as defined in this ~~ordinance~~ **section**,
30 provided the variance meets the requirements of subsection 30-
31 100.6(t)(4), is the minimum necessary considering the flood hazard,
32 and all due consideration has been given to use of methods and

1 materials that minimize flood damage during occurrence of the base
2 flood.

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

- 7 i. The danger that materials and debris may be swept onto other
8 lands resulting in further injury or damage;
- 9 ii. The danger to life and property due to flooding or erosion
10 damage;
- 11 iii. The susceptibility of the proposed development, including
12 contents, to flood damage and the effect of such damage on
13 current and future owners;
- 14 iv. The importance of the services provided by the proposed
15 development to the community;
- 16 v. The availability of alternate locations for the proposed
17 development that are subject to lower risk of flooding or
18 erosion;
- 19 vi. The compatibility of the proposed development with existing
20 and anticipated development;
- 21 vii. The relationship of the proposed development to the
22 comprehensive plan and floodplain management program for
23 the area;
- 24 viii. The safety of access to the property in times of flooding for
25 ordinary and emergency vehicles;
- 26 ix. The expected heights, velocity, duration, rate of rise and debris
27 and sediment transport of the floodwaters and the effects of
28 wave action, if applicable, expected at the site; and

- 1 x. The costs of providing governmental services during and after
2 flood conditions including maintenance and repair of public
3 utilities and facilities such as sewer, gas, electrical and water
4 systems, streets and bridges.

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

- 7 i. Submission by the applicant, of a showing of good and
8 sufficient cause that the unique characteristics of the size,
9 configuration, or topography of the site limit compliance with
10 any provision of this section or the elevation standards;

- 11 ii. Determination by the village council that:

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

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

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

- 24 iii. Receipt of a signed statement by the applicant that the
25 variance, if granted, shall be recorded in the office of the clerk
26 of the court in such a manner that it appears in the chain of title
27 of the affected parcel of land; and

- 28 iv. If the request is for a variance to allow construction of the
29 lowest floor of a new building, or substantial improvement of a
30 building, below the required elevation a copy in the record of a

1 written notice from the floodplain administrator to the applicant
2 for the variance, specifying the difference between the base
3 flood elevation and the proposed elevation of the lowest floor,
4 stating that the cost of federal flood insurance will be
5 commensurate with the increased risk resulting from the
6 reduced floor elevation (up to amounts as high as \$25.00 for
7 \$100.00 of insurance coverage), and stating that construction
8 below the base flood elevation increases risks to life and
9 property.

10 (u) *Violations.*

11 (1)*Violations.* Any development that is not within the scope of the Florida
12 Building Code but that is regulated by this ~~ordinance~~ **section** that is
13 performed without an issued permit, that is in conflict with an issued
14 permit, or that does not fully comply with this section, shall be deemed
15 a violation of this section. A building or structure without the
16 documentation of elevation of the lowest floor, other required design
17 certifications, or other evidence of compliance required by this section
18 or the *Florida Building Code* is presumed to be a violation until such
19 time as that documentation is provided.

20 (2)*Authority.* For development that is not within the scope of the *Florida*
21 *Building Code* but that is regulated by this section and that is
22 determined to be a violation, the floodplain administrator is authorized
23 to serve notices of violation or stop work orders to owners of the
24 property involved, to the owner's agent, or to the person or persons
25 performing the work.

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

31 (v) *Definitions-Generally.*

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

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

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

10 (4)*Definitions*.

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

17 *Appeal*. A request for a review of the floodplain administrator's
18 interpretation of any provision of this section.

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

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

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

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

3 *Building official.* The officer or other designated authority charged with
4 the administration and enforcement of the *Florida Building Code*, or a
5 duly authorized representative. [Also defined in FBC, B, Section
6 1612.2.]

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

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

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

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

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

3 1. Area with a floodplain subject to a one-percent or greater chance of
4 flooding in any year; or

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

7 *Design flood elevation.* The elevation of the "design flood," including
8 wave height, relative to the datum specified on the community's legally
9 designated flood hazard map. In areas designated as Zone AO, the
10 design flood elevation shall be the elevation of the highest existing
11 grade of the building's perimeter plus the depth number (in feet)
12 specified on the flood hazard map. In areas designated as Zone AO
13 where the depth number is not specified on the map, the depth number
14 shall be taken as being equal to two feet. [Also defined in FBC, B,
15 Section 1612.2.]

16 *Development.* Any manmade change to improved or unimproved real
17 estate, including but not limited to, buildings or other structures, tanks,
18 temporary structures, temporary or permanent storage of equipment
19 or materials, mining, dredging, filling, grading, paving, excavations,
20 drilling operations or any other land disturbing activities.

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

24 *Existing building and existing structure.* Any buildings and structures
25 for which the "start of construction" commenced before September 29,
26 1972. [Also defined in FBC, B, Section 1612.2.]

27 *Existing manufactured home park or subdivision.* A manufactured
28 home park or subdivision for which the construction of facilities for
29 servicing the lots on which the manufactured homes are to be affixed
30 (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

1 both special flood hazard areas and the risk premium zones applicable
2 to the community. [Also defined in FBC, B, Section 1612.2.]

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

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

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

16 *Floodway*. The channel of a river or other riverine watercourse and the
17 adjacent land areas that must be reserved in order to discharge the
18 base flood without cumulatively increasing the water surface elevation
19 more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

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

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

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

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

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

17 *Historic structure.* Any structure that is determined eligible for the
18 exception to the flood hazard area requirements of the *Florida*
19 *Building Code, Existing Building, Chapter 12, Historic Buildings.*

20 *Letter of map change (LOMC).* An official determination issued by
21 FEMA that amends or revises an effective flood insurance rate map
22 or flood insurance study. Letters of map change include:

23 (1) *Letter of map amendment (LOMA):* An amendment based on
24 technical data showing that a property was incorrectly included
25 in a designated special flood hazard area. A LOMA amends the
26 current effective flood insurance rate map and establishes that
27 a specific property, portion of a property, or structure is not
28 located in a special flood hazard area.

29 (2) *Letter of map revision (LOMR):* A revision based on technical
30 data that may show changes to flood zones, flood elevations,

special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) *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.

(4) *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

1 vehicle parking, building access or limited storage provided that such
2 enclosure is not built so as to render the structure in violation of the
3 non-elevation requirements of the *Florida Building Code* or ASCE 24.
4 [Also defined in FBC, B, Section 1612.2.]

5 *Manufactured home.* A structure, transportable in one or more
6 sections, which is eight feet or more in width and greater than 400
7 square feet, and which is built on a permanent, integral chassis and
8 is designed for use with or without a permanent foundation when
9 attached to the required utilities. The term "manufactured home" does
10 not include a "recreational vehicle" or "park trailer." [Also defined in
11 15C-1.0101, F.A.C.]

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

15 *Market value.* ~~The price at which a property will change hands~~
16 ~~between a willing buyer and a willing seller, neither party being under~~
17 ~~compulsion to buy or sell and both having reasonable knowledge of~~
18 ~~relevant facts. As used in this section, the term refers to the market.~~

19 The value of buildings and structures, excluding the land and other
20 improvements on the parcel. Market value ~~may be established by a~~
21 ~~qualified independent appraiser~~, is the actual cash value (in-kind
22 replacement cost depreciated for age, wear and tear, neglect, and
23 quality of construction) determined by a qualified independent
24 appraiser, or tax assessment value adjusted to approximate market
25 value by a factor provided by the county property appraiser.

26 *New construction.* For the purposes of administration of this section
27 and the flood resistant construction requirements of the Florida
28 Building Code, structures for which the "start of construction"
29 commenced on or after September 29, 1972 and includes any
30 subsequent improvements to such structures.

1 *New manufactured home park or subdivision.* A manufactured home
2 park or subdivision for which the construction of facilities for servicing
3 the lots on which the manufactured homes are to be affixed (including
4 at a minimum, the installation of utilities, the construction of streets,
5 and either final site grading or the pouring of concrete pads) is
6 completed on or after September 29, 1972.

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

13 *Park trailer.* A transportable unit which has a body width not
14 exceeding 14 feet and which is built on a single chassis and is
15 designed to provide seasonal or temporary living quarters when
16 connected to utilities necessary for operation of installed fixtures and
17 appliances. [Defined in F.S. § 320.01]

18 *Recreational vehicle.* A vehicle, including a park trailer, which is:
19 [Defined in F.S. § 320.01]

20 1. Built on a single chassis;

21 2. 400 square feet or less when measured at the largest horizontal
22 projection;

23 3. Designed to be self-propelled or permanently towable by a light-
24 duty truck; and

25 4. Designed primarily not for use as a permanent dwelling but as
26 temporary living quarters for recreational, camping, travel, or
27 seasonal use.

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

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

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

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

26 *Substantial damage.* Damage of any origin sustained by a building or
27 structure whereby the cost of restoring the building or structure to its
28 before-damaged condition would equal or exceed 49 percent of the
29 market value of the building or structure before the damage occurred.
30 The term also includes flood-related damage sustained by a structure
31 on ~~one~~ two separate occasions during a ~~one-year~~ ten-year period for
32 which the cost of repairs at the time of each such flood event, on

1 average, equals or exceeds 25 percent of the market value of the
2 structure before the damage occurred. [Also defined in FBC, B
3 Section 1612.2.]

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

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

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

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

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

29 (w) *Flood resistance development.*

30 (1) *Buildings and structure.*

1 i. *Design and construction of buildings, structures, and facilities*
2 *exempt from the Florida Building Code.* Pursuant to subsection
3 30-100.6(l) of this section, buildings, structures, and facilities
4 that are exempt from the *Florida Building Code*, including
5 substantial improvement or repair of substantial damage of such
6 buildings, structures and facilities, shall be designed and
7 constructed in accordance with the flood load and flood resistant
8 construction requirements of ASCE 24. Structures exempt from
9 the *Florida Building Code* that are not walled and roofed
10 buildings shall comply with the requirements of subsection 30-
11 100.6(cc) of this section.

12 ii. *Buildings and structures seaward of the coastal construction*
13 *control line.* If extending, in whole or in part, seaward of the
14 coastal construction control line and also located, in whole or in
15 part, in a flood hazard area:

16 (A) Buildings and structures shall be designed and constructed
17 to comply with the more restrictive applicable requirements
18 of the *Florida Building Code*, Building Section 3109 and
19 Section 1612 or *Florida Building Code*, Residential Section
20 R322.

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

25 (2) *Subdivisions.*

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

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

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

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

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

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

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

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

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

23 i. *Additional elevation of buildings - Freeboard.*

24 (A) For buildings located [HA1.1]in the special flood hazard
25 area, the minimum elevation of the top of the lowest floor
26 or lowest horizontal structural member as applicable to the
27 designated flood zone ~~requirements in the Florida Building~~
28 ~~Code~~ shall be to located at or above the base flood
29 elevation plus one (1) foot required elevation in the Florida
30 Building Code, 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 **new** residential buildings not located in the special flood hazard area, the minimum lowest floor elevation requirements shall be a minimum of one (1) foot above the back of sidewalk elevation, or if there is no sidewalk, a minimum of one (1) foot above the elevation of the crown of road or street abutting such building site whichever is higher.

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

(D) For critical facilities, the minimum elevation requirements shall be the elevation of the 0.2 percent (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 Nonconversion Agreement which is required to be recorded with the property (deed) so that the restriction runs with the title of the property and future owners must also comply with the requirement. Enclosures shall:~~ **Enclosed areas below the required elevation for buildings in flood hazard areas shall be limited as follows:**

(A) Applications for buildings with enclosures below the required elevation shall include signed declarations of land restrictions (nonconversion agreements), as defined in subsection 30-100.6(v). The agreements shall be recorded on

1 the property deed prior to issuance of the Certificate of
2 Occupancy.

3 (B) In coastal high hazard areas and Coastal A Zones,
4 enclosed areas below the lowest floor are not permitted, unless
5 enclosed by lattice or screening. Breakaway walls are not
6 permitted.

7 ~~(A) (C) Have a maximum size of 299 square feet~~ Access to
8 enclosed areas shall be the minimum necessary to allow for
9 parking of vehicles (garage door), limited storage of
10 maintenance equipment used in connection with the premises
11 (standard exterior door), or entry/access to the elevated
12 building (stairway or elevator).

13 ~~(B) (D) Not have the interior portion partitioned~~ The interior
14 portion of such enclosed areas shall not be partitioned or
15 finished into separate rooms, unless required by fire code.

16 ~~(C) (E) Not to be constructed with breakaway walls.~~ Where
17 perimeter walls are permitted, the limitation on partitions does
18 not apply to loadbearing walls interior to perimeter wall
19 (crawl space) foundations.

20 ~~(D) (F) All enclosures below an elevated floor shall be limited to~~
21 299 square feet.

22 ~~(E) (G) Have an inspection one (1) time per year to make sure~~
23 the area below an elevated floor is not converted into livable
24 space to uses other than parking, storage, and building access.

25 iii. Cumulative Substantial Improvement. The definition of
26 "substantial improvement" shall be as defined in subsection 30-
27 100.6(v), follows:

28 Substantial improvement. Any combination of repair,
29 reconstruction, rehabilitation, addition, or other improvement
30 of a building or structure taking place during a five (5) year

1 period, the cumulative cost of which equals or exceeds 49
2 percent of the market value of the building or structure before
3 the improvement or repair is started. For each building or
4 structure, the five (5) year period begins on the date of the
5 first improvement or repair of that building or structure
6 subsequent to March 7, 2016. If the structure has incurred
7 "substantial damage," any repairs are considered substantial
8 improvement regardless of the actual repair work performed.
9 The term does not, however, include either:

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

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

17 iii. ~~iv. Include repetitive loss in the definition for substantial~~
18 ~~damage.~~ The definition of "substantial damage" shall be **as**
19 **defined in subsection 30-100.6(v).** ~~as follows:~~

20 *Substantial damage.* ~~Damage of any origin sustained by a building or~~
21 ~~structure whereby the cost of restoring the building or structure to its~~
22 ~~before-damaged condition would equal or exceed 49 percent of the~~
23 ~~market value of the building or structure before the damage occurred.~~
24 ~~The term also includes flood-related damage sustained by a structure~~
25 ~~on one occasion during a 1 year period for which the cost of repairs~~
26 ~~at the time of each such flood event, on average, equals or exceeds~~
27 ~~25 percent of the market value of the structure before the damage~~
28 ~~occurred.~~

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

30 (1) *Minimum requirements.* All proposed new development shall be
31 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

1 including rapid rise and rapid drawdown of floodwaters, prolonged
2 inundation, and protection against flood-related erosion and scour. In
3 addition to these requirements, if intended to support buildings and
4 structures (Zone A only), fill shall comply with the requirements of the
5 Florida Building Code.

6 (6)*Limitations on sites in coastal high hazard areas (Zone V).* In coastal
7 high hazard areas, alteration of sand dunes and mangrove stands
8 shall be permitted only if such alteration is approved by the Florida
9 Department of Environmental Protection and only if the engineering
10 analysis required by subsection 30-100.6(r)(3)iv. of this section
11 demonstrates that the proposed alteration will not increase the
12 potential for flood damage. Construction or restoration of dunes under
13 or around elevated buildings and structures shall comply with section
14 30-100.6(bb)(8)(iii) of this section.

15 (y) *Manufactured homes.*

16 (1)*General.* All manufactured homes installed in flood hazard areas
17 shall be installed by an installer that is licensed pursuant to F.S. §
18 320.8249, and shall comply with the requirements of Chapter 15C-1,
19 F.A.C. and the requirements of this section. If located seaward of the
20 coastal construction control line, all manufactured homes shall
21 comply with the more restrictive of the applicable requirements.

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

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

- 28 i. In flood hazard areas (Zone A) other than coastal high hazard
29 areas, are designed in accordance with the foundation
30 requirements of the *Florida Building Code*, Residential Section
31 R322.2 and this section. Foundations for manufactured homes

1 subject to Section 30-100.6(y)(7) of this section are permitted to
2 be reinforced piers or other foundation elements of at least
3 equivalent strength.

- 4 ii. In coastal high hazard areas (Zone V), are designed in
5 accordance with the foundation requirements of the *Florida*
6 *Building Code*, Residential Section R322.3 and this **section**
7 **ordinance**.

8 (4)*Anchoring*. All new manufactured homes and replacement
9 manufactured homes shall be installed using methods and practices
10 which minimize flood damage and shall be securely anchored to an
11 adequately anchored foundation system to resist flotation, collapse
12 and lateral movement. Methods of anchoring include, but are not
13 limited to, use of over-the-top or frame ties to ground anchors. This
14 anchoring requirement is in addition to applicable state and local
15 anchoring requirements for wind resistance.

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

19 (6)*General elevation requirement*. Unless subject to the requirements
20 of subsection 30-100.6(y)(7) of this section, all manufactured homes
21 that are placed, replaced, or substantially improved on sites located:
22 (a) outside of a manufactured home park or subdivision; (b) in a new
23 manufactured home park or subdivision; (c) in an expansion to an
24 existing manufactured home park or subdivision; or (d) in an existing
25 manufactured home park or subdivision upon which a manufactured
26 home has incurred "substantial damage" as the result of a flood, shall
27 be elevated such that the bottom of the frame is at or above the
28 elevation required, as applicable to the flood hazard area, in the
29 Florida Building Code, Residential Section R322.2 (Zone A) or
30 Section R322.3 (Zone V).

1 (7)*Elevation requirement for certain existing manufactured home parks*
2 *and subdivisions.* Manufactured homes that are not subject to
3 subsection 30-100.6(y)(6) of this section, including manufactured
4 homes that are placed, replaced, or substantially improved on sites
5 located in an existing manufactured home park or subdivision, unless
6 on a site where substantial damage as result of flooding has
7 occurred, shall be elevated such that either the:

8 i. Bottom of the frame of the manufactured home is at or above
9 the elevation required, as applicable to the flood hazard area, in
10 the *Florida Building Code*, Residential Section R322.2 (Zone A)
11 or Section R322.3 (Zone V); or

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

15 (8)*Enclosures.* Enclosed areas below elevated manufactured homes
16 shall comply with the requirements of the *Florida Building Code*,
17 Residential Section R322 for such enclosed areas, as applicable to
18 the flood hazard area.

19 (9)*Utility equipment.* Utility equipment that serves manufactured homes,
20 including electric, heating, ventilation, plumbing, and air conditioning
21 equipment and other service facilities, shall comply with the
22 requirements of the *Florida Building Code*, Residential Section R322,
23 as applicable to the flood hazard area.

24 (z) *Recreational vehicles and park trailers.*

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

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

28 ii. Be fully licensed and ready for highway use, which means the
29 recreational vehicle or park model is on wheels or jacking
30 system, is attached to the site only by quick-disconnect type

1 utilities and security devices, and has no permanent
2 attachments such as additions, rooms, stairs, decks and
3 porches.

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

8 (aa) *Tanks.*

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

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

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

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

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

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

3 i. At or above the design flood elevation or fitted with covers
4 designed to prevent the inflow of floodwater or outflow of the
5 contents of the tanks during conditions of the design flood; and

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

9 (bb) *Other development.*

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

14 i. Be located and constructed to minimize flood damage;

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

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

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

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

27 (2)*Fences in regulated floodways.* Fences in regulated floodways that
28 have the potential to block the passage of floodwaters, such as

1 stockade fences and wire mesh fences, shall meet the limitations of
2 subsection 30-100.6(aa)(4) of this section.

3 (3)*Retaining walls, sidewalks and driveways in regulated floodways.*
4 Retaining walls and sidewalks and driveways that involve the
5 placement of fill in regulated floodways shall meet the limitations of
6 subsection 30-100.6(aa)(4) of this section.

7 (4)*Roads and watercourse crossings in regulated floodways.* Roads and
8 watercourse crossings, including roads, bridges, culverts, low-water
9 crossings and similar means for vehicles or pedestrians to travel from
10 one side of a watercourse to the other side, that encroach into
11 regulated floodways shall meet the limitations of subsection 30-
12 100.6(aa)(4) of this section. Alteration of a watercourse that is part of
13 a road or watercourse crossing shall meet the requirements of
14 subsection 30-100.6(r)(3)(iii) of this section.

15 (5)*Concrete slabs used as parking pads, enclosure floors, landings,*
16 *decks, walkways, patios and similar nonstructural uses in coastal high*
17 *hazard areas (Zone V).* In coastal high hazard areas, concrete slabs
18 used as parking pads, enclosure floors, landings, decks, walkways,
19 patios and similar nonstructural uses are permitted beneath or
20 adjacent to buildings and structures provided the concrete slabs are
21 designed and constructed to be:

- 22 i. Structurally independent of the foundation system of the
23 building or structure;
- 24 ii. Frangible and not reinforced, so as to minimize debris during
25 flooding that is capable of causing significant damage to any
26 structure; and
- 27 iii. Have a maximum slab thickness of not more than four inches.

28 (6)*Decks and patios in coastal high hazard areas (Zone V).* In addition
29 to the requirements of the *Florida Building Code*, in coastal high

1 hazard areas decks and patios shall be located, designed, and
2 constructed in compliance with the following:

- 3 i. A deck that is structurally attached to a building or structure shall
4 have the bottom of the lowest horizontal structural member at
5 or above the design flood elevation and any supporting
6 members that extend below the design flood elevation shall
7 comply with the foundation requirements that apply to the
8 building or structure, which shall be designed to accommodate
9 any increased loads resulting from the attached deck.
- 10 ii. A deck or patio that is located below the design flood elevation
11 shall be structurally independent from buildings and structures
12 and their foundation systems, and shall be designed and
13 constructed either to remain intact and in place during design
14 flood conditions or to break apart into small pieces to minimize
15 debris during flooding that is capable of causing structural
16 damage to the building or structure or to adjacent buildings and
17 structures.
- 18 iii. A deck or patio that has a vertical thickness of more than 12
19 inches or that is constructed with more than the minimum
20 amount of fill necessary for site drainage shall not be approved
21 unless an analysis prepared by a qualified registered design
22 professional demonstrates no harmful diversion of floodwaters
23 or wave runup and wave reflection that would increase damage
24 to the building or structure or to adjacent buildings and
25 structures.
- 26 iv. A deck or patio that has a vertical thickness of 12 inches or less
27 and that is at natural grade or on nonstructural fill material that
28 is similar to and compatible with local soils and is the minimum
29 amount necessary for site drainage may be approved without
30 requiring analysis of the impact on diversion of floodwaters or
31 wave runup and wave reflection.

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

- 10 i. Bulkheads, seawalls, retaining walls, revetments, and similar
11 erosion control structures;
- 12 ii. Solid fences and privacy walls, and fences prone to trapping
13 debris, unless designed and constructed to fail under flood
14 conditions less than the design flood or otherwise function to
15 avoid obstruction of floodwaters; and
- 16 iii. On-site sewage treatment and disposal systems defined in 64E-
17 6.002, F.A.C., as filled systems or mound systems.

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

- 20 i. Minor grading and the placement of minor quantities of
21 nonstructural fill shall be permitted for landscaping and for
22 drainage purposes under and around buildings.
- 23 ii. Nonstructural fill with finished slopes that are steeper than one
24 unit vertical to five units horizontal shall be permitted only if an
25 analysis prepared by a qualified registered design professional
26 demonstrates no harmful diversion of floodwaters or wave
27 runup and wave reflection that would increase damage to
28 adjacent buildings and structures.
- 29 iii. Where authorized by the Florida Department of Environmental
30 Protection or applicable local approval, sand dune construction

1 and restoration of sand dunes under or around elevated
2 buildings are permitted without additional engineering analysis
3 or certification of the diversion of floodwater or wave runup and
4 wave reflection if the scale and location of the dune work is
5 consistent with local beach-dune morphology and the vertical
6 clearance is maintained between the top of the sand dune and
7 the lowest horizontal structural member of the building.

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

15
16 **Section 3. Codification.** It is the intent of the Village Council and is
17 hereby ordained that the provisions of this Ordinance shall become and be
18 made part of the Code of Ordinances of the Village of Palmetto Bay, Florida,
19 that sections of this Ordinance may be numbered or re-lettered to accomplish
20 such intentions, and that the word "Ordinance" shall be changed to "Section"
21 or other appropriate word.

22
23 **Section 4. Conflicting Provisions.** The provisions of the Code of
24 Ordinances of the Village of Palmetto Bay, Florida and all Ordinances or
25 parts of Ordinances in conflict with the provisions of this Ordinance are
26 hereby repealed.

27
28 **Section 5. Effective Date.** This Ordinance shall take effect
29 immediately upon enactment.

30
31 **PASSED and ENACTED this day of 14th September 2026.**

32
33
34 **FIRST READING:** _____

35
36
37 **SECOND READING:** _____

Attest:

Missy Arocha
Village Clerk

Karyn Cunningham
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE SOLE
USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA
ONLY:

John Quick
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore

Council Member Steve Cody

Council Member Marsha Matson

Vice-Mayor Mark Merwitzer

Mayor Karyn Cunningham



AGENDA ITEM NO. 3.B

Item Cover Page

LOCAL PLANNING AGENCY MEETING AGENDA ITEM REPORT

DATE: September 28, 2026

SUBMITTED BY: Javier Gonzalez, Community and Economic Development

ITEM TYPE: Resolution

AGENDA SECTION: **PUBLIC HEARING ITEMS**

SUBJECT: **Applicant:** Village of Palmetto Bay
Location: Village-wide
Request: A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE COUNCIL OF A TEXT AMENDMENT TO SECTION 30-40 OF THE VILLAGE CODE OF ORDINANCES ENTITLED "DEFINITIONS AND RULES OF CONSTRUCTION;" RECOMMENDING THE CREATION OF SECTION 30-60.32 TO EXPRESSLY PROHIBIT DATA CENTERS IN ALL ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE. (*Sponsored by Vice Mayor Mark Merwitzer*)

SUGGESTED ACTION:

ATTACHMENTS:

[LPA Resolution _ Data Centers.docx](#)

[Exhibit A - Data Center Ordinance.docx](#)

1 RESOLUTION NO. 2026 -____
2

3 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE
4 VILLAGE OF PALMETTO BAY, FLORIDA, SITTING AS THE LOCAL
5 PLANNING AGENCY; RECOMMENDING APPROVAL TO THE VILLAGE
6 COUNCIL OF A TEXT AMENDMENT TO SECTION 30-40 OF THE
7 VILLAGE CODE OF ORDINANCES ENTITLED "DEFINITIONS AND
8 RULES OF CONSTRUCTION;" RECOMMENDING THE CREATION OF
9 SECTION 30-60.32 TO EXPRESSLY PROHIBIT DATA CENTERS IN ALL
10 ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

11 *(Sponsored by Vice Mayor Mark Merwitzer)*
12

13 **WHEREAS**, the Village of Palmetto Bay (the "Village") seeks to
14 memorialize its policy prohibiting data centers; and
15

16 **WHEREAS**, the Village Council, acting as the Local Planning Agency
17 ("LPA") pursuant to Section 30-20.1 of the Village Code, has reviewed the
18 proposed text amendment to Section 30-40, and the creation of Section 30-
19 60.32, of the Village Code of Ordinances ("Code"); and
20

21 **WHEREAS**, the LPA recognizes that the Village Code does not
22 expressly identify or authorize data centers as a permitted use in any zoning
23 district; and
24

25 **WHEREAS**, the Village recommends clarifying and codifying the
26 regulatory treatment of data centers within the Village by expressly
27 prohibiting data center uses throughout the Village, while preserving
28 permitted telecommunications services and information technology
29 equipment; and
30

31 **WHEREAS**, the LPA has evaluated the proposal against the criteria in
32 Section 30-30.7(b) and finds it consistent with the Village's Comprehensive
33 Plan and in the best interest of the health, safety, and general welfare of the
34 Village and its residents.
35

36 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND**
37 **VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA,**
38 **AS FOLLOWS:**
39

1 **Section 1. Findings.** The above recitals are hereby adopted and
2 incorporated as findings of fact and conclusions of the Local Planning
3 Agency.

4
5 **Section 2. Recommendation.** The Village Council, sitting as the Local
6 Planning Agency, recommends approval of the proposed text amendment to
7 Section 30-40 of the Village Code, and the creation of Section 30-60.32 of
8 the Village Code as set forth in the accompanying Ordinance, to the Village
9 Council for final legislative adoption.

10
11 **Section 3. Effective Date.** This Resolution shall take effect
12 immediately upon approval.

13
14 **PASSED AND RESOLVED** this _____ day of September, 2026.

15
16
17 Attest: _____
18 **Missy Arocha** **Karyn Cunningham**
19 **Village Clerk** **Mayor**

20
21
22
23 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE SOLE**
24 **USE AND BENEFIT OF THE VILLAGE:**

25
26
27 _____
28 **John J. Quick**
29 **Village Attorney**

1 **FINAL VOTE AT ADOPTION:**

2 Council Member Patrick Fiore _____

3 Council Member Steve Cody _____

4 Council Member Marsha Matson _____

5 Vice-Mayor Mark Merwitzer _____

6 Mayor Karyn Cunningham _____

ORDINANCE 2026-____

AN ORDINANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING CHAPTER 30, DIVISION 30-40, "DEFINITIONS AND RULES OF CONSTRUCTION"; DEFINING DATA CENTERS AND ACCESSORY SERVER ROOMS; CREATING SECTION 30-60.32 TO EXPRESSLY PROHIBIT DATA CENTERS IN ALL ZONING DISTRICTS; CLARIFYING THE TREATMENT OF TELECOMMUNICATIONS FACILITIES AND ACCESSORY SERVER ROOMS; PROVIDING FOR LAWFUL EXISTING USES AND VESTED RIGHTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.
(Sponsored by Vice Mayor Mark Merwitzer)

WHEREAS, the Village of Palmetto Bay ("Village") is authorized to adopt land development regulations pursuant to Chapter 163, Part II, and Chapter 166, Florida Statutes; and

WHEREAS, data centers vary in scale and configuration and are not limited to large, purpose-built campuses commonly described as hyperscale facilities, but may occupy a portion of an existing building or be established through the adaptive reuse of buildings previously used for self-storage, telecommunications, warehousing, or other purposes; and

WHEREAS, Section 30-60.30 regulates telecommunications towers, antennas, and associated facilities and contains terminology concerning the transmission of digital information, and the Village Council desires to clarify that such terminology does not independently authorize a data center use merely because it transmits data or shares a building or site with permitted telecommunications equipment; and

WHEREAS, clear distinctions among data center uses, permitted telecommunications facilities, and accessory information technology equipment provide advance notice to residents, property owners, businesses, and applicants, promote consistent administration of the Code, and reduce uncertainty and disputes concerning proposed uses; and

WHEREAS, data center uses can involve continuous operations, sustained electrical demand, dedicated cooling systems, and backup power infrastructure, and the scale and effects of these operations depend on the facility design and intensity of use; the Village Council finds that protecting the Village's residential and neighborhood character requires clear treatment of data centers as a distinct land use; and

WHEREAS, substantial and concentrated electrical loads can require additional utility infrastructure and create infrastructure capacity and cost-allocation concerns, and the Village Council finds that protecting reliable utility service and considering infrastructure capacity are appropriate land use planning objectives; and

WHEREAS, cooling, ventilation, and other mechanical equipment associated with data centers can operate continuously and generate persistent noise, and the Village Council finds that the proximity of such equipment to homes and other sensitive uses presents land use compatibility concerns; and

WHEREAS, diesel and gas generators used to support data centers can produce noise and air emissions during testing, maintenance, and emergency operation, and the Village Council finds that the location, scale, and operation of such equipment warrant consideration in protecting the Village's residential and neighborhood character; and

WHEREAS, the Village is situated immediately adjacent to Biscayne Bay, and the protection of the Bay's water quality, habitats, and ecological resources is a matter of substantial local public interest; and

WHEREAS, the Village Council finds that land use decisions should support the protection of Biscayne Bay and the regional water resources upon which the Village and its residents depend; and

WHEREAS, some data center cooling systems rely on evaporative cooling and substantial water withdrawals, while other cooling designs use less water, and the Village Council finds that potential water demand and the availability of water resources are relevant to land use compatibility and infrastructure capacity; and

WHEREAS, the characteristics and potential effects of cooling water discharge depend on the facility's cooling technology, water treatment, and method of disposal, and the Village Council finds that protecting water quality and avoiding incompatible uses within the Bay's watershed further the public interest; and

WHEREAS, the Village Code does not expressly identify or authorize data centers as a permitted use in any zoning district; and

WHEREAS, the Village Council desires to clarify and codify the Village's regulatory treatment of data centers by expressly prohibiting such uses throughout the Village, while preserving permitted telecommunications services and information technology equipment that remains incidental and subordinate to a lawful principal use; and

WHEREAS, the Village Council finds that the prohibition established by this Ordinance, together with its provisions for accessory server rooms and telecommunications equipment, is consistent with the Village Comprehensive Plan and is supported by considerations of land use compatibility, environmental protection, public safety, and infrastructure capacity; and

WHEREAS, the Village Council finds this Ordinance is in the best interest of the Village and its residents.

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

Section 1. Incorporation of Recitals. The above recitals are incorporated as if set forth in full herein.

Section 2. Amendments to the Code.

Section 30-40.1 of the Village of Palmetto Bay Land Development Code is hereby amended, to read as follows:

DIVISION 30-40. - DEFINITIONS AND RULES OF CONSTRUCTION

Sec. 30-40.1. - Definitions.

* * *

Accessory server room shall mean a room or enclosed space used to house computer servers, networking equipment, and related information technology equipment that satisfies all of the following requirements:

- (1) It is located within a building in which a lawful principal use permitted in the applicable zoning district is actually conducted.
- (2) It is incidental and subordinate, in function and scale, to that principal use and does not itself constitute the principal use of the building or premises.
- (3) It supports the operations of the occupant conducting that principal use. It may also support the occupant's other locations and affiliated operations under common control, provided that it remains incidental and subordinate to the principal use conducted on the premises. Common ownership or internal company use alone does not establish accessory status.
- (4) It is not operated as a separate enterprise providing colocation, server-space leasing, or computing or hosting capacity to third parties. Access by employees, contractors, or customers solely in connection with the occupant's principal business shall not, by itself, constitute such an enterprise.

* * *

Data center shall mean a facility, or a discrete portion of a facility, whose primary function is to house and operate electronic equipment used to process, store, or transmit digital information, together with associated power distribution, cooling, and other supporting equipment.

The term applies whether the facility occupies a new or converted building, a portion of a building, or multiple buildings, and whether it serves third parties or the internal operations of a single enterprise. The term does not include an accessory server room as defined herein. The term also excludes antennas and equipment used for the transmission, reception, switching, or routing of telecommunications signals, including equipment incidental and necessary to those functions, where such equipment is otherwise lawfully permitted. Such exclusion does not extend to a separate data center use merely because it is owned by a telecommunications provider or shares a site, building, or infrastructure with telecommunications equipment.

* * *

Section 3. Amendments to the Code. Division 30-60 of the Village of Palmetto Bay Land Development Code is hereby amended, to read as follows:

DIVISION 30-60. - GENERAL REGULATIONS

* * *

Sec. 30-60.32. - Data centers prohibited.

(a) Prohibition. Data centers, as defined in Section 30-40.1, are prohibited in all zoning districts within the Village of Palmetto Bay. Except as provided in subsection (e), no development order, building permit, certificate of use, site plan approval, conditional use approval, or other development approval shall be issued to establish, convert property to, or expand a data center use. No variance shall be granted to authorize a data center as a use, consistent with Section 30-30.6(c).

(b) Accessory server rooms permitted. An accessory server room, as defined in Section 30-40.1, is permitted as an accessory use in any zoning district where the principal use is permitted, subject to compliance with all other applicable requirements of this Code.

(c) Disaggregation prohibited. No person shall subdivide or phase a data center facility, divide its operations among affiliated entities, or structure an application so as to characterize a data center as one or

more accessory server rooms in order to evade this prohibition. The Village shall consider the aggregate operations and infrastructure of a facility, including functionally integrated spaces and phases, in making this determination.

(d) Telecommunications classification. A data center use is not authorized under Section 30-60.30 solely because it transmits digital information, is owned or operated by a telecommunications provider, or occupies a site or building containing a permitted telecommunications facility. Classification shall be based on the actual functions and operations of the proposed use, consistent with the exclusions in Section 30-40.1 and applicable state and federal law.

(e) Lawful existing uses and vested rights. Nothing in this section shall impair a vested right established under applicable law. A data center use lawfully existing on the effective date of this section shall be governed by the applicable nonconforming-use provisions of this Code. Permits for lawful maintenance, repair, or work required for safety may be issued to the extent otherwise authorized by this Code and applicable law. This subsection does not independently authorize an expansion or intensification of a nonconforming use or create a vested right.

Sec. 30-60.33. - Reserved.

Section 4. 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 5. Codification. It is the intention of the Village Council that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. All other provisions of this Ordinance shall become effective upon adoption. Nothing in this section authorizes adoption or enforcement contrary to applicable state or federal law.

PASSED ON FIRST READING this ____ day of _____, 2026.

PASSED AND ADOPTED ON SECOND READING this ____ day of _____, 2026.

Attest: _____

Missy Arocha
Village Clerk

Karyn Cunningham
Mayor

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
SOLE USE AND BENEFIT OF THE VILLAGE:**

John J. Quick
Village Attorney

VOTE ON FIRST READING:

Mayor Karyn Cunningham _____

Council Member Steven Cody _____

Council Member Marsha Matson _____

Vice-Mayor Mark Merwitzer _____

Council Member Patrick Fiore _____

FINAL VOTE AT ADOPTION ON SECOND READING:

Mayor Karyn Cunningham _____

Council Member Steven Cody _____

Council Member Marsha Matson _____

Vice-Mayor Mark Merwitzer _____

Council Member Patrick Fiore _____