



TOWN OF HIGHLAND BEACH
PROPOSED ORDINANCE

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5
6 **AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF**
7 **HIGHLAND BEACH, FLORIDA, AMENDING ARTICLE VI,**
8 **“FLOODPLAIN MANAGEMENT,” OF CHAPTER 20, “PLANNING AND**
9 **DEVELOPMENT OF THE TOWN CODE OF ORDINANCES TO UPDATE**
10 **THE DATE OF THE FLOOD INSURANCE STUDY AND FLOOD**
11 **INSURANCE MAPS, ADOPT A REQUIREMENT FOR THE**
12 **ACCUMULATION OF THE COST OF IMPROVEMENTS OVER A**
13 **THREE-YEAR PERIOD, AND PROVIDE FOR GENERAL UPDATES FOR**
14 **THE TOWN’S CONTINUED PARTICIPATION IN THE NATIONAL**
15 **FLOOD INSURANCE PROGRAM; PROVIDING FOR A FISCAL IMPACT**
16 **STATEMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR**
17 **SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR**
18 **CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

19
20 **WHEREAS,** the Florida Legislature has, in Chapter 166, Florida Statutes,
21 “Municipalities,” conferred upon local governments the authority to adopt regulations designed to
22 promote the public health, safety, and general welfare of its citizenry; and
23

24 **WHEREAS,** the Town of Highland Beach participates in the National Flood Insurance
25 Program, and the Town Commission desires to continue to meet the requirements of Title 44 Code
26 of Federal Regulations, Sections 59 and 60, necessary for such participation; and
27

28 **WHEREAS,** the Federal Emergency Management Agency has revised and reissued the
29 Flood Insurance Study for Palm Beach County, Florida and Incorporated Areas, with an effective
30 date of December 20, 2024; and
31

32 **WHEREAS,** the Town Commission has determined that it is in the public interest to
33 amend Article VI, “Floodplain Regulations,” of Chapter 20 of the Town Code of Ordinances to
34 identify the effective date of the revised Flood Insurance Study and Flood Insurance Rate Maps;
35 and
36

37 **WHEREAS,** Chapter 553, Florida Statutes, allows for local administrative and technical
38 amendments to the Florida Building Code that provide for more stringent requirements than those
39 specified in the Code and allows adoption of local administrative and local technical amendments
40 to the Florida Building Code to implement the National Flood Insurance Program and incentives;
41 and
42

43 **WHEREAS,** the Town Commission is adopting a requirement to require accumulation of
44 costs of improvements and repairs of buildings in flood hazard areas, based on issued building
45 permits, over a three-year period, for the purpose of participating in the National Flood Insurance

1 Program’s Community Rating System and, pursuant to section 553.73(5), Florida Statutes, is
2 formatting that requirement to coordinate with the Florida Building Code; and
3

4 **WHEREAS**, the Town Commission has determined that it is in the public interest to adopt
5 the proposed local technical amendments to the Florida Building Code, and the proposed
6 amendments are not more stringent than necessary to address the need identified, do not
7 discriminate against materials, products, or construction techniques of demonstrated capabilities,
8 are in compliance with Section 553.73(4), Florida Statutes.
9

10 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
11 **TOWN OF HIGHLAND BEACH, FLORIDA AS FOLLOWS:**
12

13 **Section 1.** The foregoing facts and recitations contained in the preamble to this
14 Ordinance are hereby adopted and incorporated as if fully set forth herein.
15

16 **Section 2.** The Town Commission hereby amends Article VI, “Floodplain
17 Management,” of Chapter 20, “Planning and Development,” to read as follows (additional
18 language underlined and deleted language ~~stricken through~~):
19

20 **ARTICLE VI. FLOODPLAIN MANAGEMENT**

21 **DIVISION 1. ADMINISTRATION**

22
23 **Sec. 20-340. General.**

- 24
25
26 (a) *Title.* These regulations shall be known as the Floodplain Management Ordinance of the
27 Town of Highland Beach, hereinafter referred to as "this article."
28
29 (b) *Scope.* The provisions of this chapter shall apply to all development that is wholly within or
30 partially within any flood hazard area, including but not limited to the subdivision of land;
31 filling, grading, and other site improvements and utility installations; construction, alteration,
32 remodeling, enlargement, improvement, replacement, repair, relocation or demolition of
33 buildings, structures, and facilities that are exempt from the Florida Building Code;
34 placement, installation, or replacement of manufactured homes and manufactured buildings;
35 installation or replacement of tanks; ~~placement of recreational vehicles~~; installation of
36 swimming pools; and any other development.
37
38 (c) *Intent.* The purposes of this article and the flood load and flood resistant construction
39 requirements of the Florida Building Code are to establish minimum requirements to
40 safeguard the public health, safety, and general welfare and to minimize public and private
41 losses due to flooding through regulation of development in flood hazard areas to:
42
43 (1) Minimize unnecessary disruption of commerce, access and public service during times
44 of flooding;
45
46 (2) Require the use of appropriate construction practices in order to prevent or minimize
47 future flood damage;

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- 1
- 2 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations,
- 3 storage of equipment or materials, and other development which may increase flood
- 4 damage or erosion potential;
- 5
- 6 (4) Manage the alteration of flood hazard areas, ~~watereourses,~~ and shorelines to minimize
- 7 the impact of development on the natural and beneficial functions of the floodplain;
- 8
- 9 (5) Minimize damage to public and private facilities and utilities;
- 10
- 11 (6) Help maintain a stable tax base by providing for the sound use and development of flood
- 12 hazard areas;
- 13
- 14 (7) Minimize the need for future expenditure of public funds for flood control projects and
- 15 response to and recovery from flood events; and
- 16
- 17 (8) Meet the requirements of the National Flood Insurance Program for community
- 18 participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.
- 19
- 20 (d) *Coordination with the Florida Building Code.* This article is intended to be administered and
- 21 enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the
- 22 edition of the standard that is referenced by the Florida Building Code.
- 23
- 24 (e) *Warning.* The degree of flood protection required by this article and the Florida Building
- 25 Code, as amended by this community, is considered the minimum reasonable for regulatory
- 26 purposes and is based on scientific and engineering considerations. Larger floods can and will
- 27 occur. Flood heights may be increased by man-made or natural causes. This article does not
- 28 imply that land outside of mapped special flood hazard areas, or that uses permitted within
- 29 such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas
- 30 and base flood elevations contained in the flood insurance study and shown on flood insurance
- 31 rate maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60
- 32 may be revised by the Federal Emergency Management Agency, requiring this community to
- 33 revise these regulations to remain eligible for participation in the National Flood Insurance
- 34 Program. No guaranty of vested use, existing use, or future use is implied or expressed by
- 35 compliance with this article.
- 36
- 37 (f) *Disclaimer of liability.* This article shall not create liability on the part of the town commission
- 38 of the Town of Highland Beach or by any officer or employee thereof for any flood damage
- 39 that results from reliance on this article or any administrative decision lawfully made
- 40 thereunder.

41
42 **Sec. 20-341. Applicability.**

- 43
- 44 (a) *General.* Where there is a conflict between a general requirement and a specific requirement,
- 45 the specific requirement shall be applicable.
- 46

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1 (b) *Areas to which this article applies.* This article shall apply to all flood hazard areas within the
2 Town of Highland Beach, as established in subsection 20-341(c) of this article.
3

4 (c) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Palm Beach County,
5 Florida and Incorporated Areas dated ~~October 5, 2017~~ December 20, 2024, and all subsequent
6 amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all
7 subsequent amendments and revisions to such maps, are adopted by reference as a part of this
8 section and shall serve as the minimum basis for establishing flood hazard areas. Studies and
9 maps that establish flood hazard areas are on file at the Town Hall, 3614 South Ocean
10 Boulevard, Highland Beach, Florida 33487.
11

12 (1) *Submission of additional data to establish flood hazard areas.* To establish flood hazard
13 areas and base flood elevations, pursuant to section 20-344 of this article the floodplain
14 administrator may require submission of additional data. Where field surveyed
15 topography prepared by a Florida licensed professional surveyor or digital topography
16 accepted by the community indicates that ground elevations:
17

18 a. Are below the closest applicable base flood elevation, even in areas not delineated
19 as a special flood hazard area on a FIRM, the area shall be considered as flood
20 hazard area and subject to the requirements of this article and, as applicable, the
21 requirements of the Florida Building Code.
22

23 b. Are above the closest applicable base flood elevation, the area shall be regulated as
24 special flood hazard area unless the applicant obtains a letter of map change that
25 removes the area from the special flood hazard area.
26

27 (d) *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of
28 local, state or federal law.
29

30 (e) *Abrogation and greater restrictions.* This article supersedes any ordinance in effect for
31 management of development in flood hazard areas. However, it is not intended to repeal or
32 abrogate any existing ordinances including but not limited to land development regulations,
33 zoning ordinances, stormwater management regulations, or the Florida Building Code. In the
34 event of a conflict between this article and any other ordinance, the more restrictive shall
35 govern. This article shall not impair any deed restriction, covenant or easement, but any land
36 that is subject to such interests shall also be governed by this article.
37

38 (f) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
39

40 (1) Considered as minimum requirements;

41 (2) Liberally construed in favor of the governing body; and

42 (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
43
44
45
46

1 **Sec. 20-342. Duties and powers of the floodplain administrator.**
2

- 3 (a) *Designation.* The building official is designated as the floodplain administrator. The
4 floodplain administrator may delegate performance of certain duties to other employees.
5
- 6 (b) *General.* The floodplain administrator is authorized and directed to administer and enforce
7 the provisions of this article. The floodplain administrator shall have the authority to render
8 interpretations of this article consistent with the intent and purpose of this article and may
9 establish policies and procedures in order to clarify the application of its provisions. Such
10 interpretations, policies, and procedures shall not have the effect of waiving requirements
11 specifically provided in this article without the granting of a variance pursuant to section 20-
12 346 of this article.
13
- 14 (c) *Applications and permits.* The floodplain administrator, in coordination with other pertinent
15 offices of the community, shall:
16
- 17 (1) Review applications and plans to determine whether proposed new development will be
18 located in flood hazard areas;
 - 19
 - 20 (2) Review applications for modification of any existing development in flood hazard areas
21 for compliance with the requirements of this article;
22
 - 23 (3) Interpret flood hazard area boundaries where such interpretation is necessary to
24 determine the exact location of boundaries; a person contesting the determination shall
25 have the opportunity to appeal the interpretation;
26
 - 27 (4) Provide available flood elevation and flood hazard information;
28
 - 29 (5) Determine whether additional flood hazard data shall be obtained from other sources or
30 shall be developed by an applicant;
 - 31
 - 32 (6) Review applications to determine whether proposed development will be reasonably safe
33 from flooding;
34
 - 35 (7) Issue floodplain development permits or approvals for development other than buildings
36 and structures that are subject to the Florida Building Code, including buildings,
37 structures and facilities exempt from the Florida Building Code, when compliance with
38 this article is demonstrated, or disapprove the same in the event of noncompliance; and
39
 - 40 (8) Coordinate with and provide comments to the building official to assure that
41 applications, plan reviews, and inspections for buildings and structures in flood hazard
42 areas comply with the applicable provisions of this article.
43
- 44 (d) *Substantial improvement and substantial damage determinations.* For applications for
45 building permits to improve buildings and structures, including alterations, movement,
46 enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
47 renovations, substantial improvements, repairs of substantial damage, and any other

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1 improvement of or work on such buildings and structures, the floodplain administrator, in
2 coordination with the building official, shall:

3
4 (1) Estimate the market value, or require the applicant to obtain an appraisal of the market
5 value prepared by a qualified independent appraiser, of the building or structure before
6 the start of construction of the proposed work; in the case of repair, the market value of
7 the building or structure shall be the market value before the damage occurred and before
8 any repairs are made;

9
10 (2) Compare the cost to perform the improvement, the cost to repair a damaged building to
11 its pre-damaged condition, or the combined costs of improvements and repairs, if
12 applicable, to the market value of the building or structure;

13
14 (3) Determine and document whether the proposed work constitutes substantial
15 improvement or repair of substantial damage; the determination requires evaluation of
16 previous permits issued for improvements and repairs as specified in the definition of
17 “substantial improvement;” and

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

22
23 (e) *Modifications of the strict application of the requirements of the Florida Building Code.* The
24 floodplain administrator shall review requests submitted to the building official that seek
25 approval to modify the strict application of the flood load and flood resistant construction
26 requirements of the Florida Building Code to determine whether such requests require the
27 granting of a variance pursuant to section 20-346 of this article.

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

32
33 (g) *Inspections.* The floodplain administrator shall make the required inspections as specified in
34 section 20-345 of this article for development that is not subject to the Florida Building Code,
35 including buildings, structures and facilities exempt from the Florida Building Code. The
36 floodplain administrator shall inspect flood hazard areas to determine if development is
37 undertaken without issuance of a permit.

38
39 (h) *Other duties of the floodplain administrator.* The floodplain administrator shall have other
40 duties, including but not limited to:

41
42 (1) Establish, in coordination with the building official, procedures for administering and
43 documenting determinations of substantial improvement and substantial damage made
44 pursuant to subsection 20-342(d) of this article;

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1 ~~(2) Require that applicants proposing alteration of a watercourse notify adjacent~~
2 ~~communities and the Florida Division of Emergency Management, state floodplain~~
3 ~~management office, and submit copies of such notifications to the Federal Emergency~~
4 ~~Management Agency (FEMA);~~

5
6 (23) Require applicants who submit hydrologic and hydraulic engineering analyses to support
7 permit applications to submit to FEMA the data and information necessary to maintain
8 the flood insurance rate maps if the analyses propose to change base flood elevations, or
9 flood hazard area boundaries, ~~or floodway designations~~; such submissions shall be made
10 within six (6) months of such data becoming available;

11
12 (34) Review required design certifications and documentation of elevations specified by this
13 article and the Florida Building Code to determine that such certifications and
14 documentations are complete;

15
16 (45) Notify the Federal Emergency Management Agency when the corporate boundaries of
17 the Town of Highland Beach are modified; and

18
19 (56) Advise applicants for new buildings and structures, including substantial improvements,
20 that are located in any unit of the coastal barrier resources system established by the
21 Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement
22 Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such
23 construction; areas subject to this limitation are identified on flood insurance rate maps
24 as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

25
26 (i) *Floodplain management records.* Regardless of any limitation on the period required for
27 retention of public records, the floodplain administrator shall maintain and permanently keep
28 and make available for public inspection all records that are necessary for the administration
29 of this article and the flood resistant construction requirements of the Florida Building Code,
30 including flood insurance rate maps; letters of map change; records of issuance of permits
31 and denial of permits; determinations of whether proposed work constitutes substantial
32 improvement or repair of substantial damage; required design certifications and
33 documentation of elevations specified by the Florida Building Code and this article;
34 ~~notifications to adjacent communities, FEMA, and the state related to alterations of~~
35 ~~watercourses; assurances that the flood carrying capacity of altered watercourses will be~~
36 ~~maintained~~; documentation related to appeals and variances, including justification for
37 issuance or denial; and records of enforcement actions taken pursuant to this article and the
38 flood resistant construction requirements of the Florida Building Code. These records shall
39 be available for public inspection at the Town of Highland Beach, Town Hall, 3614 S. Ocean
40 Blvd., Highland Beach, FL 33487.

41
42 **Sec. 20-343. Permits.**

43
44 (a) *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who
45 intends to undertake any development activity within the scope of this article, including
46 buildings, structures and facilities exempt from the Florida Building Code, which is wholly
47 within or partially within any flood hazard area shall first make application to the floodplain

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1 administrator, and the building official if applicable, and shall obtain the required permit(s)
2 and approval(s). No such permit or approval shall be issued until compliance with the
3 requirements of this article and all other applicable codes and regulations has been satisfied.
4

5 (b) *Floodplain development permits or approvals.* Floodplain development permits or approvals
6 shall be issued pursuant to this article for any development activities not subject to the
7 requirements of the Florida Building Code, including buildings, structures and facilities
8 exempt from the Florida Building Code. Depending on the nature and extent of proposed
9 development that includes a building or structure, the floodplain administrator may determine
10 that a floodplain development permit or approval is required in addition to a building permit.
11

12 (1) Buildings, structures and facilities exempt from the Florida Building Code. Pursuant to
13 the requirements of federal regulation for participation in the National Flood Insurance
14 Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals
15 shall be required for the following buildings, structures and facilities that are exempt
16 from the Florida Building Code and any further exemptions provided by law, which are
17 subject to the requirements of this article:
18

- 19 a. Railroads and ancillary facilities associated with the railroad.
- 20
- 21 b. Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- 22
- 23 c. Temporary buildings or sheds used exclusively for construction purposes.
- 24
- 25 d. Mobile or modular structures used as temporary offices.
- 26
- 27 e. Those structures or facilities of electric utilities, as defined in section 366.02, F.S.,
28 which are directly involved in the generation, transmission, or distribution of
29 electricity.
- 30
- 31 f. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the
32 Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an
33 open-sided wooden hut that has a thatched roof of palm or palmetto or other
34 traditional materials, and that does not incorporate any electrical, plumbing, or other
35 non-wood features.
- 36
- 37 g. Family mausoleums not exceeding two hundred fifty (250) square feet in area
38 which are prefabricated and assembled on site or preassembled and delivered on
39 site and have walls, roofs, and a floor constructed of granite, marble, or reinforced
40 concrete.
- 41
- 42 h. Temporary housing provided by the department of corrections to any prisoner in
43 the state correctional system.
44

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- 1 i. Structures identified in section 553.73(10)(k), F.S., are not exempt from the Florida
2 Building Code if such structures are located in flood hazard areas established on
3 flood insurance rate maps.
4
- 5 (c) *Application for a permit or approval.* To obtain a floodplain development permit or approval
6 the applicant shall first file an application in writing on a form furnished by the community.
7 The information provided shall:
8
- 9 (1) Identify and describe the development to be covered by the permit or approval.
10
- 11 (2) Describe the land on which the proposed development is to be conducted by legal
12 description, street address or similar description that will readily identify and definitively
13 locate the site.
14
- 15 (3) Indicate the use and occupancy for which the proposed development is intended.
16
- 17 (4) Be accompanied by a site plan or construction documents as specified in section 20-344
18 of this article.
19
- 20 (5) State the valuation of the proposed work.
21
- 22 (6) Be signed by the applicant or the applicant's authorized agent.
23
- 24 (7) Give such other data and information as required by the Floodplain Administrator.
25
- 26 (d) *Validity of permit or approval.* The issuance of a floodplain development permit or approval
27 pursuant to this article shall not be construed to be a permit for, or approval of, any violation
28 of this article, the Florida Building Codes, or any other ordinance of this community. The
29 issuance of permits based on submitted applications, construction documents, and
30 information shall not prevent the floodplain administrator from requiring the correction of
31 errors and omissions.
32
- 33 (e) *Expiration.* A floodplain development permit or approval shall become invalid unless the
34 work authorized by such permit is commenced within one hundred eighty (180) days after its
35 issuance, or if the work authorized is suspended or abandoned for a period of one hundred
36 eighty (180) days after the work commences. Extensions for periods of not more than one
37 hundred eighty (180) days each shall be requested in writing and justifiable cause shall be
38 demonstrated.
39
- 40 (f) *Suspension or revocation.* The floodplain administrator is authorized to suspend or revoke a
41 floodplain development permit or approval if the permit was issued in error, on the basis of
42 incorrect, inaccurate or incomplete information, or in violation of this article or any other
43 ordinance, regulation or requirement of this community.
44

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1 (g) *Other permits required.* Floodplain development permits and building permits shall include
2 a condition that all other applicable state or federal permits be obtained before
3 commencement of the permitted development, including but not limited to the following:

- 4
- 5 (1) The South Florida Water Management District; section 373.036, F.S.
 - 6
 - 7 (2) Florida Department of Health for onsite sewage treatment and disposal systems; section
8 381.0065, F.S. and Chapter 64E-6, F.A.C.
 - 9
 - 10 (3) Florida Department of Environmental Protection for construction, reconstruction,
11 changes, or physical activities for shore protection or other activities seaward of the
12 coastal construction control line; section 161.141, F.S.
 - 13
 - 14 (4) Florida Department of Environmental Protection for activities subject to the Joint
15 Coastal Permit; section 161.055, F.S.
 - 16
 - 17 (5) Florida Department of Environmental Protection for activities that affect wetlands and
18 alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section
19 404 of the Clean Water Act.
 - 20
 - 21 (6) Federal permits and approvals.
 - 22

23 **Sec. 20-344. Site plans and construction documents.**

24

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

- 28
- 29 (1) Delineation of flood hazard areas, ~~floodway boundaries~~ and flood zone(s), base flood
30 elevation(s), and ground elevations if necessary for review of the proposed development.
 - 31
 - 32 (2) Location of the proposed activity and proposed structures, and locations of existing
33 buildings and structures; in coastal high hazard areas, new buildings shall be located
34 landward of the reach of mean high tide.
 - 35
 - 36 (3) Location, extent, amount, and proposed final grades of any filling, grading, or
37 excavation.
 - 38
 - 39 (4) Where the placement of fill is proposed, the amount, type, and source of fill material;
40 compaction specifications; a description of the intended purpose of the fill areas; and
41 evidence that the proposed fill areas are the minimum necessary to achieve the intended
42 purpose.
 - 43
 - 44 (5) Delineation of the coastal construction control line or notation that the site is seaward of
45 the coastal construction control line, if applicable.
 - 46

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

3
4 ~~(7) Existing and proposed alignment of any proposed alteration of a watercourse.~~

5
6 The floodplain administrator is authorized to waive the submission of site plans, construction
7 documents, and other data that are required by this article but that are not required to be
8 prepared by a registered design professional if it is found that the nature of the proposed
9 development is such that the review of such submissions is not necessary to ascertain
10 compliance with this article.

11
12 (b) *Additional analyses and certifications.* For activities that propose to alter sand dunes or
13 mangrove stands in coastal high hazard areas (zone V), the applicant shall submit with the
14 site plan and construction documents an engineering analysis prepared, signed, and sealed by
15 a Florida licensed engineer that demonstrates that the proposed alteration will not increase
16 the potential for flood damage. As applicable to the location and nature of the proposed
17 development activity, and in addition to the requirements of this section, the applicant shall
18 have the following analyses signed and sealed by a Florida licensed engineer for submission
19 with the site plan and construction documents:

20
21 ~~(1) For development activities proposed to be located in a regulatory floodway, a floodway~~
22 ~~encroachment analysis that demonstrates that the encroachment of the proposed~~
23 ~~development will not cause any increase in base flood elevations; where the applicant~~
24 ~~proposes to undertake development activities that do increase base flood elevations, the~~
25 ~~applicant shall submit such analysis to FEMA as specified in section 20-344(c) of this~~
26 ~~article and shall submit the conditional letter of map revision, if issued by FEMA, with~~
27 ~~the site plan and construction documents.~~

28
29 ~~(2) For development activities proposed to be located in a riverine flood hazard area for~~
30 ~~which base flood elevations are included in the flood insurance study or on the FIRM~~
31 ~~and floodways have not been designated, hydrologic and hydraulic analyses that~~
32 ~~demonstrate that the cumulative effect of the proposed development, when combined~~
33 ~~with all other existing and anticipated flood hazard area encroachments, will not increase~~
34 ~~the base flood elevation more than one (1) foot at any point within the community. This~~
35 ~~requirement does not apply in isolated flood hazard areas not connected to a riverine~~
36 ~~flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.~~

37
38 ~~(3) For alteration of a watercourse, an engineering analysis prepared in accordance with~~
39 ~~standard engineering practices which demonstrates that the flood carrying capacity of~~
40 ~~the altered or relocated portion of the watercourse will not be decreased, and certification~~
41 ~~that the altered watercourse shall be maintained in a manner which preserves the~~
42 ~~channel's flood carrying capacity; the applicant shall submit the analysis to FEMA as~~
43 ~~specified in subsection 20-344(c) of this article.~~

1 ~~(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard~~
2 ~~areas (Zone V), an engineering analysis that demonstrates that the proposed alteration~~
3 ~~will not increase the potential for flood damage.~~
4

5 (c) *Submission of additional data.* When additional hydrologic, hydraulic or other engineering
6 data, studies, and additional analyses are submitted to support an application, the applicant
7 has the right to seek a letter of map change from FEMA to change the base flood elevations,
8 ~~change floodway boundaries,~~ or change boundaries of flood hazard areas shown on FIRMs,
9 and to submit such data to FEMA for such purposes. The analyses shall be prepared by a
10 Florida licensed engineer in a format required by FEMA. Submittal requirements and
11 processing fees shall be the responsibility of the applicant.
12

13 **Sec. 20-345. Inspections.**
14

15 (a) *General.* Development for which a floodplain development permit or approval is required
16 shall be subject to inspection.
17

18 (1) *Development other than buildings and structures.* The floodplain administrator shall
19 inspect all development to determine compliance with the requirements of this article
20 and the conditions of issued floodplain development permits or approvals.
21

22 (2) *Buildings, structures and facilities exempt from the Florida Building Code.* The
23 floodplain administrator shall inspect buildings, structures and facilities exempt from the
24 Florida Building Code to determine compliance with the requirements of this article and
25 the conditions of issued floodplain development permits or approvals.
26

27 a. Buildings, structures and facilities exempt from the Florida Building Code, lowest
28 floor inspection. Upon placement of the lowest floor, including basement, and prior
29 to further vertical construction, the owner of a building, structure or facility exempt
30 from the Florida Building Code, or the owner's authorized agent, shall submit to the
31 floodplain administrator the certification of elevation of the lowest floor prepared
32 and sealed by a Florida licensed professional surveyor.
33

34 b. Buildings, structures and facilities exempt from the Florida Building Code, final
35 inspection. As part of the final inspection, the owner or owner's authorized agent
36 shall submit to the floodplain administrator a final certification of elevation of the
37 lowest floor or final documentation of the height of the lowest floor above the
38 highest adjacent grade; such certifications and documentations shall be prepared as
39 specified in subsection 20-345(a)(2)a. of this article.
40

41 (3) *Manufactured homes.* The floodplain administrator shall inspect manufactured homes
42 that are installed or replaced in flood hazard areas to determine compliance with the
43 requirements of this article and the conditions of the issued permit. Upon placement of
44 a manufactured home, certification of the elevation of the lowest floor shall be submitted
45 to the floodplain administrator.
46

1 **Sec. 20-346. Variances and appeals.**
2

3 (a) *General.* The Highland Beach Board of Adjustment and Appeals ("board of adjustment and
4 appeals") shall hear and decide on requests for appeals and shall hear and/or make
5 recommendations on requests for variances from the strict application of this article. Pursuant
6 to F.S. § 553.73(5), either the town commission or the board of adjustment and appeals shall
7 hear and decide requests for variances, as appropriate, and the board of adjustment and
8 appeals shall hear and decide requests for appeals from the strict application of the flood
9 resistant construction requirements of the Florida Building Code. This section does not apply
10 to Section 3109 of the Florida Building Code, Building.

11
12 (b) *Appeals.* The board of adjustment and appeals shall hear and decide appeals when it is alleged
13 there is an error in any requirement, decision, or determination made by the floodplain
14 administrator in the administration and enforcement of this article. Any person aggrieved by
15 the decision may appeal such decision to the circuit court, as provided by Florida Statutes.
16

17 (c) *Limitations on authority to grant variances.* As applicable, the board of adjustment and
18 appeals and the town commission shall base their recommendations and decisions on
19 variances on technical justifications submitted by applicants, the considerations for issuance
20 in subsection 20-346(e) of this article, the conditions of issuance set forth in section 20-346(f)
21 of this article, and the comments and recommendations of the floodplain administrator and
22 the building official. The board of adjustment and appeals and town commission have the
23 right to attach such conditions as they deem necessary to further the purposes and objectives
24 of this article.
25

26 ~~(1) *Restrictions in floodways.* A variance shall not be issued for any proposed development
27 in a floodway if any increase in base flood elevations would result, as evidenced by the
28 applicable analyses and certifications required in subsection 20-344(b) of this article.~~

29
30 (d) *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or
31 rehabilitation of a historic building that is determined eligible for the exception to the flood
32 resistant construction requirements of the Florida Building Code, Existing Building, Chapter
33 12 Historic Buildings, upon a determination that the proposed repair, improvement, or
34 rehabilitation will not preclude the building's continued designation as a historic building and
35 the variance is the minimum necessary to preserve the historic character and design of the
36 building. If the proposed work precludes the building's continued designation as a historic
37 building, a variance shall not be granted and the building and any repair, improvement, and
38 rehabilitation shall be subject to the requirements of the Florida Building Code.
39

40 (e) *Considerations for issuance of variances.* In reviewing requests for variances, the board of
41 adjustment and appeals, and the town commission shall consider all technical evaluations, all
42 relevant factors, all other applicable provisions of the Florida Building Code, this article, and
43 the following:
44

45 (1) The danger that materials and debris may be swept onto other lands resulting in further
46 injury or damage;
47

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- 1 (2) The danger to life and property due to flooding or erosion damage;
- 2
- 3 (3) The susceptibility of the proposed development, including contents, to flood damage and
- 4 the effect of such damage on current and future owners;
- 5
- 6 (4) The importance of the services provided by the proposed development to the community;
- 7
- 8 (5) The availability of alternate locations for the proposed development that are subject to
- 9 lower risk of flooding or erosion;
- 10
- 11 (6) The compatibility of the proposed development with existing and anticipated
- 12 development;
- 13
- 14 (7) The relationship of the proposed development to the comprehensive plan and floodplain
- 15 management program for the area;
- 16
- 17 (8) The safety of access to the property in times of flooding for ordinary and emergency
- 18 vehicles;
- 19
- 20 (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport
- 21 of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- 22
- 23 (10) The costs of providing governmental services during and after flood conditions including
- 24 maintenance and repair of public utilities and facilities such as sewer, gas, electrical and
- 25 water systems, streets and bridges.
- 26
- 27 (f) *Conditions for issuance of variances.* Variances shall be issued only upon:
- 28
- 29 (1) Submission by the applicant, of a showing of good and sufficient cause that the unique
- 30 characteristics of the size, configuration, or topography of the site limit compliance with
- 31 any provision of this article or the required elevation standards;
- 32
- 33 (2) Determination by the board of adjustment and appeals, and the town commission that:
- 34
- 35 a. Failure to grant the variance would result in exceptional hardship due to the physical
- 36 characteristics of the land that render the lot undevelopable; increased costs to
- 37 satisfy the requirements or inconvenience do not constitute hardship;
- 38
- 39 b. The granting of a variance will not result in increased flood heights, additional
- 40 threats to public safety, extraordinary public expense, nor create nuisances, cause
- 41 fraud on or victimization of the public or conflict with existing local laws and
- 42 ordinances; and
- 43
- 44 c. The variance is the minimum necessary, considering the flood hazard, to afford
- 45 relief;
- 46

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- 1 (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be
2 recorded in the office of the clerk of the court in such a manner that it appears in the
3 chain of title of the affected parcel of land; and
4
- 5 (4) If the request is for a variance to allow construction of the lowest floor of a new building,
6 or substantial improvement of a building, below the required elevation, a copy in the
7 record of a written notice from the floodplain administrator to the applicant for the
8 variance, specifying the difference between the base flood elevation and the proposed
9 elevation of the lowest floor, stating that the cost of federal flood insurance will be
10 commensurate with the increased risk resulting from the reduced floor elevation (up to
11 amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of
12 insurance coverage), and stating that construction below the base flood elevation
13 increases risks to life and property.
14

15 **Sec. 20-347. Violations.**
16

- 17 (a) *Violations.* Any development that is not within the scope of the Florida Building Code but
18 that is regulated by this article that is performed without an issued permit, that is in conflict
19 with an issued permit, or that does not fully comply with this article, shall be deemed a
20 violation of this article. A building or structure without the documentation of elevation of the
21 lowest floor, other required design certifications, or other evidence of compliance required
22 by this article or the Florida Building Code is presumed to be a violation until such time as
23 that documentation is provided.
24
- 25 (b) *Authority.* For development that is not within the scope of the Florida Building Code but that
26 is regulated by this article and that is determined to be a violation, the floodplain administrator
27 is authorized to serve notices of violation or stop work orders to owners of the property
28 involved, to the owner's agent, or to the person or persons performing the work.
29
- 30 (c) *Unlawful continuance.* Any person who shall continue any work after having been served
31 with a notice of violation or a stop work order, except such work as that person is directed to
32 perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as
33 prescribed by law.
34

35 **DIVISION 2. DEFINITIONS**
36

37 **Sec. 20-348. General.**
38

- 39 (a) *Scope.* Unless otherwise expressly stated, the following words and terms shall, for the
40 purposes of this article, have the meanings shown in this section.
41
- 42 (b) *Terms defined in the Florida Building Code.* Where terms are not defined in this article and
43 are defined in the Florida Building Code, such terms shall have the meanings ascribed to them
44 in that code.
45
- 46 (c) *Terms not defined.* Where terms are not defined in this article or the Florida Building Code,
47 such terms shall have ordinarily accepted meanings such as the context implies.

1 **Sec. 20-349. Definitions.**
2

3 ~~*Alteration of a watercourse.* A dam, impoundment, channel relocation, change in channel
4 alignment, channelization, or change in cross-sectional area of the channel or the channel capacity,
5 or any other form of modification which may alter, impede, retard or change the direction and/or
6 velocity of the riverine flow of water during conditions of the base flood.~~
7

8 *Appeal.* A request for a review of the floodplain administrator's interpretation of any provision
9 of this [article].
10

11 *ASCE 24A standard* titled Flood Resistant Design and Construction that is referenced by the
12 Florida Building Code. ASCE 24 is developed and published by the American Society of Civil
13 Engineers, Reston, VA.
14

15 *Base flood.* A flood having a one-percent chance of being equaled or exceeded in any given
16 year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-
17 year flood" or the "one-percent-annual chance flood."
18

19 *Base flood elevation.* The elevation of the base flood, including wave height, relative to the
20 National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other
21 datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 202.]
22

23 *Basement.* The portion of a building having its floor subgrade (below ground level) on all
24 sides. [Also defined in FBC, B, Section 202; see "Basement (for flood loads)".]
25

26 *Coastal construction control line.* The line established by the State of Florida pursuant to
27 section 161.053, F.S., and recorded in the official records of the community, which defines that
28 portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge,
29 storm waves or other predictable weather conditions.
30

31 *Coastal high hazard area.* A special flood hazard area extending from offshore to the inland
32 limit of a primary frontal dune along an open coast and any other area subject to high velocity
33 wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high
34 hazard areas subject to high velocity wave action" or "V Zones" and are designated on flood
35 insurance rate maps (FIRM) as Zone V1-V30, VE, or V.
36

37 *Design flood.* The flood associated with the greater of the following two (2) areas: [Also
38 defined in FBC, B, Section 202.1
39

- 40 (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year;
41 or
42
43 (2) Area designated as a flood hazard area on the community's flood hazard map, or
44 otherwise legally designated.
45

46 *Design flood elevation.* The elevation of the "design flood," including wave height, relative
47 to the datum specified on the community's legally designated flood hazard map. In areas designated

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1 as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the
2 building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas
3 designated as Zone AO where the depth number is not specified on the map, the depth number
4 shall be taken as being equal to two (2) feet. [Also defined in FBC, B, Section 202.]

5
6 *Development.* Any man-made change to improved or unimproved real estate, including but
7 not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent
8 storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling
9 operations or any other land disturbing activities.

10
11 *Encroachment.* The placement of fill, excavation, buildings, permanent structures or other
12 development into a flood hazard area which may impede or alter the flow capacity of riverine flood
13 hazard areas.

14
15 *Existing building and existing structure.* Any buildings and structures for which the "start of
16 construction" commenced before October 16, 1970. [Also defined in FBC, B, Section 202.1

17
18 ~~*Existing manufactured home park or subdivision.* A manufactured home park or subdivision
19 for which the construction of facilities for servicing the lots on which the manufactured homes are
20 to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and
21 either final site grading or the pouring of concrete pads) is completed before October 16, 1970.~~

22
23 ~~*Expansion to an existing manufactured home park or subdivision.* The preparation of
24 additional sites by the construction of facilities for servicing the lots on which the manufactured
25 homes are to be affixed (including the installation of utilities, the construction of streets, and either
26 final site grading or the pouring of concrete pads).~~

27
28 *Federal Emergency Management Agency (FEMA).* The federal agency that, in addition to
29 carrying out other functions, administers the National Flood Insurance Program.

30
31 *Flood or flooding.* A general and temporary condition of partial or complete inundation of
32 normally dry land from: [Also defined in FBC, B, Section 202.1

- 33
34 (1) The overflow of inland or tidal waters.
35
36 (2) The unusual and rapid accumulation or runoff of surface waters from any source.

37
38 *Flood damage-resistant materials.* Any construction material capable of withstanding direct
39 and prolonged contact with floodwaters without sustaining any damage that requires more than
40 cosmetic repair. [Also defined in FBC, B, Section 202.]

41
42 *Flood hazard area.* The greater of the following two (2) areas: [Also defined in FBC, B,
43 Section 202.]

- 44
45 (1) The area within a floodplain subject to a one-percent or greater chance of flooding in
46 any year.

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- 1
2 (2) The area designated as a flood hazard area on the community's flood hazard map, or
3 otherwise legally designated.
4

5 *Flood insurance rate map (FIRM).* The official map of the community on which the Federal
6 Emergency Management Agency has delineated both special flood hazard areas and the risk
7 premium zones applicable to the community. [Also defined in FBC, B, Section 202.]
8

9 *Flood insurance study (FIS).* The official report provided by the Federal Emergency
10 Management Agency that contains the flood insurance rate map, the flood boundary and floodway
11 map (if applicable), the water surface elevations of the base flood, and supporting technical data.
12 [Also defined in FBC, B, Section 202.]
13

14 *Floodplain administrator.* The office or position designated and charged with the
15 administration and enforcement of this article (may be referred to as the floodplain manager).
16

17 *Floodplain development permit or approval.* An official document or certificate issued by the
18 community, or other evidence of approval or concurrence, which authorizes performance of
19 specific development activities that are located in flood hazard areas and that are determined to be
20 compliant with this article.
21

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

25
26 ~~*Floodway encroachment analysis.* An engineering analysis of the impact that a proposed
27 encroachment into a floodway is expected to have on the floodway boundaries and base flood
28 elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard
29 engineering methods and models.~~

30
31 *Florida Building Code.* The family of codes adopted by the Florida Building Commission,
32 including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building
33 Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing;
34 Florida Building Code, Fuel Gas.
35

36 *Highest adjacent grade.* The highest natural elevation of the ground surface prior to
37 construction next to the proposed walls or foundation of a structure.
38

39 *Historic structure.* Any structure that is determined eligible for the exception to the flood
40 hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic
41 Buildings.
42

43 *Letter of map change (LOMC).* An official determination issued by FEMA that amends or
44 revises an effective flood insurance rate map or flood insurance study. Letters of map change
45 include:
46

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

5
6 (2) *Letter of map revision (LOMR)*: A revision based on technical data that may show
7 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway
8 delineations, and other planimetric features.

9
10 (3) *Letter of map revision based on fill (LOMR-F)*: A determination that a structure or parcel
11 of land has been elevated by fill above the base flood elevation and is, therefore, no longer
12 located within the special flood hazard area. In order to qualify for this determination, the fill
13 must have been permitted and placed in accordance with the community's floodplain
14 management regulations.

15
16 (4) *Conditional letter of map revision (CLOMR)*: A formal review and comment as to
17 whether a proposed flood protection project or other project complies with the minimum
18 NFIP requirements for such projects with respect to delineation of special flood hazard areas.
19 A CLOMR does not revise the effective flood insurance rate map or flood insurance study;
20 upon submission and approval of certified as-built documentation, a letter of map revision
21 may be issued by FEMA to revise the effective FIRM.

22
23 *Light-duty truck*. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at eight thousand
24 five hundred (8,500) pounds gross vehicular weight rating or less which has a vehicular curb
25 weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-
26 five (45) square feet or less, which is:

- 27
28 (1) Designed primarily for purposes of transportation of property or is a derivation of such
29 a vehicle, or
30
31 (2) Designed primarily for transportation of persons and has a capacity of more than twelve
32 (12) persons; or
33
34 (3) Available with special features enabling off-street or off-highway operation and use.

35
36 *Lowest floor*. The lowest floor of the lowest enclosed area of a building or structure, including
37 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable
38 solely for vehicle parking, building access or limited storage provided that such enclosure is not
39 built so as to render the structure in violation of the non-elevation requirements of the Florida
40 Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

41
42 *Manufactured home*. A structure, transportable in one or more sections, which is eight (8) feet
43 or more in width and greater than four hundred (400) square feet, and which is built on a
44 permanent, integral chassis and is designed for use with or without a permanent foundation when
45 attached to the required utilities. The term "manufactured home" does not include a "recreational
46 vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

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1 ~~Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into~~
2 ~~two (2) or more manufactured home lots for rent or sale.~~

3
4 ~~Market value. The price at which a property will change hands between a willing buyer and~~
5 ~~a willing seller, neither party being under compulsion to buy or sell and both having reasonable~~
6 ~~knowledge of relevant facts. As used in this article, the term refers to the market value of buildings~~
7 ~~and structures, excluding the land and other improvements on the parcel. Market value may be~~
8 ~~established by a qualified independent appraiser, is the actual cash value (in-kind replacement cost~~
9 ~~depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified~~
10 ~~independent appraiser, or tax assessment value adjusted to approximate market value by a factor~~
11 ~~provided by the county property appraiser.~~

12
13 ~~New construction. For the purposes of administration of this article and the flood resistant~~
14 ~~construction requirements of the Florida Building Code, structures for which the "start of~~
15 ~~construction" commenced on or after October 16, 1970 and includes any subsequent improvements~~
16 ~~to such structures.~~

17
18 ~~New manufactured home park or subdivision. A manufactured home park or subdivision for~~
19 ~~which the construction of facilities for servicing the lots on which the manufactured homes are to~~
20 ~~be affixed (including at a minimum, the installation of utilities, the construction of streets, and~~
21 ~~either final site grading or the pouring of concrete pads) is completed on or after October 16, 1970.~~

22
23 ~~Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the~~
24 ~~beach.~~

25
26 ~~Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance~~
27 ~~of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO,~~
28 ~~A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]~~

29
30 ~~Start of construction. The date of issuance of permits for new construction and substantial~~
31 ~~improvements, provided the actual start of construction, repair, reconstruction, rehabilitation,~~
32 ~~addition, placement, or other improvement is within one hundred eighty (180) days of the date of~~
33 ~~the issuance. The actual start of construction means either the first placement of permanent~~
34 ~~construction of a building (including a manufactured home) on a site, such as the pouring of slab~~
35 ~~or footings, the installation of piles, the construction of columns. Permanent construction does not~~
36 ~~include land preparation (such as clearing, grading, or filling), the installation of streets or~~
37 ~~walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary~~
38 ~~forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling~~
39 ~~units or not part of the main buildings. For a substantial improvement, the actual "start of~~
40 ~~construction" means the first alteration of any wall, ceiling, floor or other structural part of a~~
41 ~~building, whether or not that alteration affects the external dimensions of the building. [Also~~
42 ~~defined in FBC, B Section 202.]~~

43
44 ~~Substantial damage. Damage of any origin sustained by a building or structure whereby the~~
45 ~~cost of restoring the building or structure to its before-damaged condition would equal or exceed~~

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1 ~~fifty (50)~~ forty-nine (49) percent of the market value of the building or structure before the damage
2 occurred. [Also defined in FBC, B Section 202.]
3

4 *Substantial improvement.* Any repair, reconstruction, rehabilitation, alteration, addition, or
5 other improvement of a building or structure taking place during a three (3) year period, the cost
6 of which equals or exceeds ~~fifty (50)~~ forty-nine (49) percent of the market value of the building or
7 structure before the improvement or repair is started. The period of accumulation begins when the
8 first improvement or repair of each building is permitted subsequent to [INSERT EFFECTIVE
9 DATE OF THIS ORDINANCE ON SECOND READING]. If the structure has incurred
10 “substantial damage,” any repairs are considered substantial improvement regardless of the actual
11 repair work performed. The term does not, however, include either: [Also defined in FBC, B,
12 Section 202.]
13

- 14 (1) Any project for improvement of a building required to correct existing health, sanitary,
15 or safety code violations identified by the building official and that are the minimum
16 necessary to assure safe living conditions; or
17
18 (2) Any alteration of a historic structure provided the alteration will not preclude the
19 structure's continued designation as a historic structure.
20

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

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

28 DIVISION 3. FLOOD RESISTANT DEVELOPMENT
29

30 **Sec. 20-350. Buildings and structures.**
31

- 32 (a) Design and construction of buildings, structures and facilities exempt from the Florida
33 Building Code. Pursuant to subsection 20-343(b)(1) of this article, buildings, structures, and
34 facilities that are exempt from the Florida Building Code, including substantial improvement
35 or repair of substantial damage of such buildings, structures and facilities, shall be designed
36 and constructed in accordance with the flood load and flood resistant construction
37 requirements of ASCE 24. Structures exempt from the Florida Building Code that are not
38 walled and roofed buildings shall comply with the requirements of section 20-355 of this
39 article.
40
41 (b) Buildings and structures seaward of the coastal construction control line. If extending, in
42 whole or in part, seaward of the coastal construction control line and also located, in whole
43 or in part, in a flood hazard area:
44

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- 1 (1) Buildings and structures shall be designed and constructed to comply with the more
2 restrictive applicable requirements of the Florida Building Code, Building Section 3109
3 and Section 1612 or Florida Building Code, Residential Section R322.
4
- 5 (2) Minor structures and non-habitable major structures as defined in section 161.54, F.S.,
6 shall be designed and constructed to comply with the intent and applicable provisions of
7 this article and ASCE 24.
8

9 **(c) Florida Building Code technical amendment; cumulative substantial improvement. In**
10 **the Florida Building Code, Building, and Florida Building Code, Existing Building,**
11 **definitions for the term "Substantial Improvement" shall be as defined in Section 20-239 of**
12 **this article.**
13

14 **Sec. 20-351. Subdivisions.**
15

- 16 (a) *Minimum requirements.* Subdivision proposals, ~~including proposals for manufactured home~~
17 ~~parks and subdivisions,~~ shall be reviewed to determine that:
18
- 19 (1) Such proposals are consistent with the need to minimize flood damage and will be
20 reasonably safe from flooding;
21
- 22 (2) All public utilities and facilities such as sewer, gas, electric, communications, and water
23 systems are located and constructed to minimize or eliminate flood damage; and
24
- 25 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and
26 AO, adequate drainage paths shall be provided to guide floodwaters around and away
27 from proposed structures.
28
- 29 (b) *Subdivision plats.* Where any portion of proposed subdivisions, ~~including manufactured home~~
30 ~~parks and subdivisions,~~ lies within a flood hazard area, the following shall be required:
31
- 32 (1) Delineation of flood hazard areas, ~~floodway boundaries and~~ flood zones, and design
33 flood elevations, as appropriate, shall be shown on preliminary plats; and
34
- 35 (2) Compliance with the site improvement and utilities requirements of section 20-352 of
36 this article.
37

38 **Sec. 20-352. Site improvement, utilities and limitations.**
39

- 40 (a) *Minimum requirements.* All proposed new development shall be reviewed to determine that:
41
- 42 (1) Such proposals are consistent with the need to minimize flood damage and will be
43 reasonably safe from flooding;
44
- 45 (2) All public utilities and facilities such as sewer, gas, electric, communications, and water
46 systems are located and constructed to minimize or eliminate flood damage; and

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1 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and
2 AO, adequate drainage paths shall be provided to guide floodwaters around and away
3 from proposed structures.
4

5 (b) *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage
6 treatment plants (including all pumping stations and collector systems), and on-site waste
7 disposal systems shall be designed in accordance with the standards for onsite sewage
8 treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24Chapter 7 to minimize
9 or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into
10 flood waters, and impairment of the facilities and systems.
11

12 (c) *Water supply facilities.* All new and replacement water supply facilities shall be designed in
13 accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and
14 ASCE 24Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
15

16 ~~(d) *Limitations on sites in regulatory floodways.* No development, including but not limited to~~
17 ~~site improvements, and land disturbing activity involving fill or regrading, shall be authorized~~
18 ~~in the regulatory floodway unless the floodway encroachment analysis required in subsection~~
19 ~~20-344(b)(1) of this article demonstrates that the proposed development or land disturbing~~
20 ~~activity will not result in any increase in the base flood elevation.~~
21

22 ~~(de) *Limitations on placement of fill.* Subject to the limitations of this article, fill shall be designed~~
23 ~~to be stable under conditions of flooding including rapid rise and rapid drawdown of~~
24 ~~floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In~~
25 ~~addition to these requirements, if intended to support buildings and structures (Zone A only),~~
26 ~~fill shall comply with the requirements of the Florida Building Code.~~
27

28 ~~(ef) *Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas,~~
29 ~~alteration of sand dunes and mangrove stands shall be permitted only if such alteration is~~
30 ~~approved by the Florida Department of Environmental Protection and only if the engineering~~
31 ~~analysis required by subsection 20-344(b) ~~20-344(b)(4)~~ of this article demonstrates that the~~
32 ~~proposed alteration will not increase the potential for flood damage. Construction or~~
33 ~~restoration of dunes under or around elevated buildings and structures shall comply with~~
34 ~~subsection 20-355(e)(3) ~~20-355(h)(3)~~ of this article.~~
35

36 **Sec. 20-353. Manufactured homes.**
37

38 Manufactured homes are not permitted in flood hazard areas.
39

40 ~~(a) *General.* All manufactured homes installed in flood hazard areas shall be installed by an~~
41 ~~installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the~~
42 ~~requirements of Chapter 15C-1, F.A.C. and the requirements of this article. If located seaward~~
43 ~~of the coastal construction control line, all manufactured homes shall comply with the more~~
44 ~~restrictive of the applicable requirements.~~
45

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

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1
2 ~~(1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in~~
3 ~~accordance with the foundation requirements of the Florida Building Code, Residential~~
4 ~~Section R322.2 and this article. Foundations for manufactured homes subject to~~
5 ~~subsection 20 353(d)(2) are permitted to be reinforced piers or other foundation~~
6 ~~elements of at least equivalent strength.~~

7
8 ~~(2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation~~
9 ~~requirements of the Florida Building Code, Residential Section R322.3 and this article.~~

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

17
18 ~~(d) Elevation. Manufactured homes that are placed, replaced, or substantially improved shall~~
19 ~~comply with subsection 20 353(d)(1) or 20 353(d)(2) of this article, as applicable.~~

20
21 ~~(1) General elevation requirement. Unless subject to the requirements of subsection 20-~~
22 ~~353(d)(2) of this article, all manufactured homes that are placed, replaced, or~~
23 ~~substantially improved on sites located: (a) outside of a manufactured home park or~~
24 ~~subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to~~
25 ~~an existing manufactured home park or subdivision; or (d) in an existing manufactured~~
26 ~~home park or subdivision upon which a manufactured home has incurred "substantial~~
27 ~~damage" as the result of a flood, shall be elevated such that the bottom of the frame is at~~
28 ~~or above the elevation required, as applicable to the flood hazard area, in the Florida~~
29 ~~Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).~~

30
31 ~~(2) Elevation requirement for certain existing manufactured home parks and subdivisions.~~
32 ~~Manufactured homes that are not subject to subsection 20 353(d)(1) of this article,~~
33 ~~including manufactured homes that are placed, replaced, or substantially improved on~~
34 ~~sites located in an existing manufactured home park or subdivision, unless on a site~~
35 ~~where substantial damage as result of flooding has occurred, shall be elevated such that~~
36 ~~either the:~~

37
38 ~~a. Bottom of the frame of the manufactured home is at or above the elevation required,~~
39 ~~as applicable to the flood hazard area, in the Florida Building Code, Residential~~
40 ~~Section R322.2 (Zone A) or Section R322.3 (Zone V); or~~

41
42 ~~b. Bottom of the frame is supported by reinforced piers or other foundation elements~~
43 ~~of at least equivalent strength that are not less than thirty-six (36) inches in height~~
44 ~~above grade.~~

Proposed Ordinance

1 ~~(e) *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the~~
2 ~~requirements of the Florida Building Code, Residential Section R322.2 or R322.3 for such~~
3 ~~enclosed areas, as applicable to the flood hazard area.~~

4
5 ~~(f) *Utility equipment.* Utility equipment that serves manufactured homes, including electric,~~
6 ~~heating, ventilation, plumbing, and air conditioning equipment and other service facilities,~~
7 ~~shall comply with the requirements of the Florida Building Code, Residential Section R322,~~
8 ~~as applicable to the flood hazard area.~~

9
10 **Sec. 20-354. Tanks.**

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

16
17 (b) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation
18 requirements of subsection 20-354(c) of this article shall:

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

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

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

32
33 (d) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:

34
35 (1) At or above the design flood elevation or fitted with covers designed to prevent the
36 inflow of floodwater or outflow of the contents of the tanks during conditions of the
37 design flood; and

38
39 (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic
40 loads, including the effects of buoyancy, during conditions of the design flood.

41
42 **Sec. 20-355. Other development.**

43
44 (a) *General requirements for other development.* All development, including manmade changes
45 to improved or unimproved real estate for which specific provisions are not specified in this
46 article or the Florida Building Code, shall:

Proposed Ordinance

- 1 (1) Be located and constructed to minimize flood damage;
- 2
- 3 ~~(2) Meet the limitations of subsection 20-352(d) of this article if located in a regulated~~
- 4 ~~floodway;~~
- 5
- 6 ~~(23)~~ Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic
- 7 loads, including the effects of buoyancy, during conditions of the design flood;
- 8
- 9 ~~(34)~~ Be constructed of flood damage-resistant materials; and
- 10
- 11 ~~(45)~~ Have mechanical, plumbing, and electrical systems above the design flood elevation or
- 12 meet the requirements of ASCE 24, except that minimum electric service required to
- 13 address life safety and electric code requirements is permitted below the design flood
- 14 elevation provided it conforms to the provisions of the electrical part of building code
- 15 for wet locations.
- 16
- 17 ~~(b) Fences in regulated floodways. Fences in regulated floodways that have the potential to block~~
- 18 ~~the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the~~
- 19 ~~limitations of subsection 20-352(d) of this article.~~
- 20
- 21 ~~(c) Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and~~
- 22 ~~sidewalks and driveways that involve the placement of fill in regulated floodways shall meet~~
- 23 ~~the limitations of subsection 20-352(d) of this article.~~
- 24
- 25 ~~(d) Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings,~~
- 26 ~~including roads, bridges, culverts, low water crossings and similar means for vehicles or~~
- 27 ~~pedestrians to travel from one side of a watercourse to the other side, that encroach into~~
- 28 ~~regulated floodways shall meet the limitations of subsection 20-352(d) of this article.~~
- 29 ~~Alteration of a watercourse that is part of a road or watercourse crossing shall meet the~~
- 30 ~~requirements of subsection 20-344(b)(3) of this article.~~
- 31
- 32 ~~(be)~~ *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and*
- 33 *similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas,
- 34 concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and
- 35 similar nonstructural uses are permitted beneath or adjacent to buildings and structures
- 36 provided the concrete slabs are designed and constructed to be:
- 37
- 38 (1) Structurally independent of the foundation system of the building or structure;
- 39
- 40 (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of
- 41 causing significant damage to any structure; and
- 42
- 43 (3) Have a maximum slab thickness of not more than four (4) inches.
- 44

Proposed Ordinance

1 (cf) *Decks and patios in coastal high hazard areas (Zone V)*. In addition to the requirements of
2 the Florida Building Code, in coastal high hazard areas decks and patios shall be located,
3 designed, and constructed in compliance with the following:
4

5 (1) A deck that is structurally attached to a building or structure shall have the bottom of the
6 lowest horizontal structural member at or above the design flood elevation and any
7 supporting members that extend below the design flood elevation shall comply with the
8 foundation requirements that apply to the building or structure, which shall be designed
9 to accommodate any increased loads resulting from the attached deck.
10

11 (2) A deck or patio that is located below the design flood elevation shall be structurally
12 independent from buildings or structures and their foundation systems, and shall be
13 designed and constructed either to remain intact and in place during design flood
14 conditions or to break apart into small pieces to minimize debris during flooding that is
15 capable of causing structural damage to the building or structure or to adjacent buildings
16 and structures.
17

18 (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is
19 constructed with more than the minimum amount of fill necessary for site drainage shall
20 not be approved unless an analysis prepared by a qualified registered design professional
21 demonstrates no harmful diversion of floodwaters or wave runup and wave reflection
22 that would increase damage to the building or structure or to adjacent buildings and
23 structures.
24

25 (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at
26 natural grade or on nonstructural fill material that is similar to and compatible with local
27 soils and is the minimum amount necessary for site drainage may be approved without
28 requiring analysis of the impact on diversion of floodwaters or wave runup and wave
29 reflection.
30

31 (dg) *Other development in coastal high hazard areas (Zone V)*. In coastal high hazard areas,
32 development activities other than buildings and structures shall be permitted only if also
33 authorized by the appropriate federal, state or local authority; if located outside the footprint
34 of, and not structurally attached to, buildings and structures; and if analyses prepared by
35 qualified registered design professionals demonstrate no harmful diversion of floodwaters or
36 wave runup and wave reflection that would increase damage to adjacent buildings and
37 structures. Such other development activities include but are not limited to:
38

39 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
40

41 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and
42 constructed to fail under flood conditions less than the design flood or otherwise function
43 to avoid obstruction of floodwaters; and
44

45 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled
46 systems or mound systems.

1 (~~e~~h) *Nonstructural fill in coastal high hazard areas (Zone V)*. In coastal high hazard areas:

- 2
- 3 (1) Minor grading and the placement of minor quantities of nonstructural fill shall be
- 4 permitted for landscaping and for drainage purposes under and around buildings.
- 5
- 6 (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five (5)
- 7 units horizontal shall be permitted only if an analysis prepared by a qualified registered
- 8 design professional demonstrates no harmful diversion of floodwaters or wave runup
- 9 and wave reflection that would increase damage to adjacent buildings and structures.
- 10
- 11 (3) Where authorized by the Florida Department of Environmental Protection or applicable
- 12 local approval, sand dune construction and restoration of sand dunes under or around
- 13 elevated buildings are permitted without additional engineering analysis or certification
- 14 of the diversion of floodwater or wave runup and wave reflection if the scale and location
- 15 of the dune work is consistent with local beach-dune morphology and the vertical
- 16 clearance is maintained between the top of the sand dune and the lowest horizontal
- 17 structural member of the building.
- 18

19 **Section 3. Fiscal Impact Statement.** In terms of design, plan application review,

20 construction and inspection of buildings and structures, the cost impact as an overall average is

21 negligible in regard to the local technical amendments because all development has been subject

22 to the requirements of the local floodplain management ordinance adopted for participation in the

23 National Flood Insurance Program. Therefore, in terms of lower potential for flood damage, there

24 will be continued savings and benefits to consumers.

25

26 **Section 4. Applicability.** This Ordinance shall apply to all applications for development

27 within the municipal limits of the Town, including building permit applications and subdivisions

28 proposals, submitted on or after the effective date of this Ordinance.

29

30 **Section 5. Severability.** The provisions of this Ordinance are declared to be severable and

31 if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid

32 or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences,

33 clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent

34 that this Ordinance shall stand notwithstanding the invalidity of any part.

35

36 **Section 6. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict

37 with this Ordinance are hereby repealed to the extent of such conflict.

38

39 **Section 7. Codification.** Section 2 this Ordinance shall be made a part of the Town Code

40 of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word

41 “ordinance” may be changed to “section,” “division,” or any other appropriate word.

42

43 **Section 8. Effective Date.** This Ordinance shall be effective immediately upon adoption.

44

45

Proposed Ordinance

1 The foregoing Ordinance was moved by _____, seconded by
2 _____ and upon being put to the vote, the vote was as follows:

3
4 **VOTES:** YES NO

- 5 Mayor Natasha Moore
- 6 Vice Mayor David Stern
- 7 Commissioner Evalyn David
- 8 Commissioner Donald Peters
- 9 Commissioner Judith M. Goldberg

10
11 PASSED on first reading at the Regular Commission meeting held on this ____ day of
12 _____, 2024.

13
14 The foregoing Ordinance was moved by _____, seconded by
15 _____ and upon being put to the vote, the vote was as follows:

16
17 **VOTES:** YES NO

- 18 Mayor Natasha Moore
- 19 Vice Mayor David Stern
- 20 Commissioner Evalyn David
- 21 Commissioner Donald Peters
- 22 Commissioner Judith M. Goldberg

23
24 PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held
25 on this ____ day of _____, 2024.

26
27 ATTEST: TOWN OF HIGHLAND BEACH, FLORIDA

28
29
30 By: _____
31 Lanelda Gaskins, MMC Natasha Moore, Mayor
32 Town Clerk

33
34 APPROVED AS TO FORM AND LEGALITY:

35
36 By: _____
37 Leonard G. Rubin, Town Attorney