

TOWN OF GOLDEN BEACH, FLORIDA

ORDINANCE NO. 589.19

AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN OF GOLDEN BEACH CODE OF ORDINANCES TO REPEAL LAND DEVELOPMENT REGULATIONS CHAPTER 62 FLOODS; TO ADOPT A NEW CHAPTER 62 FLOODS; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; SEVERABILITY; AND AN EFFECTIVE DATE.

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

4 **WHEREAS**, the Federal Emergency Management Agency has identified special
5 flood hazard areas within the boundaries of the Town of Golden Beach and such areas may
6 be subject to periodic inundation which may result in loss of life and property, health and
7 safety hazards, disruption of commerce and governmental services, extraordinary public
8 expenditures for flood protection and relief, and impairment of the tax base, all of which
9 adversely affect the public health, safety and general welfare, and

10 **WHEREAS**, the Town of Golden Beach was accepted for participation in the
11 National Flood Insurance Program on September 29, 1972 and the Town Council desires
12 to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59
13 and 60, necessary for such participation; and

14 **WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature
15 to provide a mechanism for the uniform adoption, updating, amendment, interpretation and
16 enforcement of a state building code, called the *Florida Building Code*; and

17 **WHEREAS**, the Town Council previously adopted requirements to: (1) limit
18 partitioning of enclosed areas below elevated buildings and to limit access to enclosed

19 areas; (2) require buildings that sustain repetitive damage over a 10-year period to be
20 included in the definition of "substantial damage"; and (3) to specify required certifications,
21 prior to July 1, 2010; and, pursuant to Chapter 8 Article III of the Miami-Dade County Code
22 and section 553.73(5), F. S., is formatting that requirement to coordinate with the Florida
23 Building Code;

24 **WHEREAS**, the Town Council has determined that it is in the public interest to adopt
25 the proposed floodplain management regulations that are coordinated with the *Florida*
26 *Building Code*.

27 **NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Golden
28 Beach that the following floodplain management regulations are hereby adopted.

29 **Section 1. Recitals Adopted.**

30 The foregoing whereas clauses are incorporated herein by reference and made a part
31 hereof.

32 **Section 2. Code Amended. This ordinance specifically repeals and replaces the**
33 **following ordinance(s) and regulation(s): Chapter 62 Floods.**

34 **ARTICLE I ADMINISTRATION**

35 **SECTION 62-1 GENERAL**

36 **(a) Title.** These regulations shall be known as the *Floodplain Management Ordinance* of
37 the Town of Golden Beach, hereinafter referred to as "this ordinance."

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

45 **(c) Intent.** The purposes of this ordinance and the flood load and flood resistant
46 construction requirements of the *Florida Building Code* are to establish minimum
47 requirements to safeguard the public health, safety, and general welfare and to minimize
48 public and private losses due to flooding through regulation of development in flood hazard
49 areas to:

50 (1) Minimize unnecessary disruption of commerce, access and public service during
51 times of flooding;

52 (2) Require the use of appropriate construction practices in order to prevent or minimize
53 future flood damage;

54 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations,
55 storage of equipment or materials, and other development which may increase flood
56 damage or erosion potential;

57 (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to
58 minimize the impact of development on the natural and beneficial functions of the
59 floodplain;

60 (5) Minimize damage to public and private facilities and utilities;

61 (6) Help maintain a stable tax base by providing for the sound use and development of
62 flood hazard areas;

63 (7) Minimize the need for future expenditure of public funds for flood control projects
64 and response to and recovery from flood events; and

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

67 **(d) Coordination with the *Florida Building Code*.** This ordinance is intended to be
68 administered and enforced in conjunction with the *Florida Building Code*. Where cited,

69 ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building*
70 *Code*.

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

83 **(f) Disclaimer of Liability.** This ordinance shall not create liability on the part of the Town
84 Council of the Town of Golden Beach or by any officer or employee thereof for any flood
85 damage that results from reliance on this ordinance or any administrative decision lawfully
86 made thereunder.

87 **SECTION 62-2 APPLICABILITY**

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

90 **(b) Areas to which this ordinance applies.** This ordinance shall apply to all flood hazard
91 areas within the Town of Golden Beach, as established in Section 62-2(c) of this ordinance.

92 **(c) Basis for establishing flood hazard areas.** The Flood Insurance Study for Miami-
93 Dade County, Florida and Incorporated Areas dated September 11, 2009, and all
94 subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps

95 (FIRM), and all subsequent amendments and revisions to such maps, are adopted by
96 reference as a part of this ordinance and shall serve as the minimum basis for establishing
97 flood hazard areas. Studies and maps that establish flood hazard areas are on file at the
98 Town Hall, 1 Golden Beach Drive.

99 **(d) Submission of additional data to establish flood hazard areas.** To establish flood
100 hazard areas and base flood elevations, pursuant to Section 62-5 of this ordinance the
101 Floodplain Administrator may require submission of additional data. Where field surveyed
102 topography prepared by a Florida licensed professional surveyor or digital topography
103 accepted by the community indicates that ground elevations:

104 (1) Are below the closest applicable base flood elevation, even in areas not delineated
105 as a special flood hazard area on a FIRM, the area shall be considered as flood
106 hazard area and subject to the requirements of this ordinance and, as applicable,
107 the requirements of the *Florida Building Code*.

108 (2) Are above the closest applicable base flood elevation, the area shall be regulated
109 as special flood hazard area unless the applicant obtains a Letter of Map Change
110 that removes the area from the special flood hazard area.

111 **(e) Other laws.** The provisions of this ordinance shall not be deemed to nullify any
112 provisions of local, state or federal law.

113 **(f) Abrogation and greater restrictions.** This ordinance supersedes any ordinance in
114 effect for management of development in flood hazard areas. However, it is not intended to
115 repeal or abrogate any existing ordinances including but not limited to land development
116 regulations, zoning ordinances, stormwater management regulations, or the *Florida*
117 *Building Code*. In the event of a conflict between this ordinance and any other ordinance,
118 the more restrictive shall govern. This ordinance shall not impair any deed restriction,
119 covenant or easement, but any land that is subject to such interests shall also be governed
120 by this ordinance.

121 **(g) Interpretation.** In the interpretation and application of this ordinance, all provisions shall
122 be:

123 (1) Considered as minimum requirements;

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

125 (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

126 **SECTION 62-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

127 **(a) Designation.** The Town Manager is designated as the Floodplain Administrator. The
128 Floodplain Administrator may delegate performance of certain duties to other employees.

129 **(b) General.** The Floodplain Administrator is authorized and directed to administer and
130 enforce the provisions of this ordinance. The Floodplain Administrator shall have the
131 authority to render interpretations of this ordinance consistent with the intent and purpose
132 of this ordinance and may establish policies and procedures in order to clarify the
133 application of its provisions. Such interpretations, policies, and procedures shall not have
134 the effect of waiving requirements specifically provided in this ordinance without the granting
135 of a variance pursuant to Section 62-7 of this ordinance.

136 **(c) Applications and permits.** The Floodplain Administrator, in coordination with other
137 pertinent offices of the community, shall:

138 (1) Review applications and plans to determine whether proposed new development
139 will be located in flood hazard areas;

140 (2) Review applications for modification of any existing development in flood hazard
141 areas for compliance with the requirements of this ordinance;

142 (3) Interpret flood hazard area boundaries where such interpretation is necessary to
143 determine the exact location of boundaries; a person contesting the determination
144 shall have the opportunity to appeal the interpretation;

- 145 (4) Provide available flood elevation and flood hazard information;
- 146 (5) Determine whether additional flood hazard data shall be obtained from other
147 sources or shall be developed by an applicant;
- 148 (6) Review applications to determine whether proposed development will be reasonably
149 safe from flooding;
- 150 (7) Issue floodplain development permits or approvals for development other than
151 buildings and structures that are subject to the *Florida Building Code*, including
152 buildings, structures and facilities exempt from the *Florida Building Code*, when
153 compliance with this ordinance is demonstrated, or disapprove the same in the event
154 of noncompliance; and
- 155 (8) Coordinate with and provide comments to the Building Official to assure that
156 applications, plan reviews, and inspections for buildings and structures in flood
157 hazard areas comply with the applicable provisions of this ordinance.
- 158 **(d) Substantial improvement and substantial damage determinations.** For applications
159 for building permits to improve buildings and structures, including alterations, movement,
160 enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
161 renovations, substantial improvements, repairs of substantial damage, and any other
162 improvement of or work on such buildings and structures, the Floodplain Administrator, in
163 coordination with the Building Official, shall:
- 164 (1) Estimate the market value, or require the applicant to obtain an appraisal of the
165 market value prepared by a qualified independent appraiser, of the building or
166 structure before the start of construction of the proposed work; in the case of repair,
167 the market value of the building or structure shall be the market value before the
168 damage occurred and before any repairs are made;

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

172 (3) Determine and document whether the proposed work constitutes substantial
173 improvement or repair of substantial damage; for proposed work to repair damage
174 caused by flooding, the determination requires evaluation of previous permits issued
175 to repair flood-related damage as specified in the definition of "substantial damage";
176 and

177 (4) Notify the applicant if it is determined that the work constitutes substantial
178 improvement or repair of substantial damage and that compliance with the flood
179 resistant construction requirements of the *Florida Building Code* and this ordinance
180 is required.

181 **(e) Modifications of the strict application of the requirements of the *Florida Building***
182 ***Code*.** The Floodplain Administrator shall review requests submitted to the Building Official
183 that seek approval to modify the strict application of the flood load and flood resistant
184 construction requirements of the *Florida Building Code* to determine whether such requests
185 require the granting of a variance pursuant to Section 62-7 of this ordinance.

186 **(f) Notices and orders.** The Floodplain Administrator shall coordinate with appropriate
187 local agencies for the issuance of all necessary notices or orders to ensure compliance with
188 this ordinance.

189 **(g) Inspections.** The Floodplain Administrator shall make the required inspections as
190 specified in Section 62-6 of this ordinance for development that is not subject to the *Florida*
191 *Building Code*, including buildings, structures and facilities exempt from the *Florida Building*
192 *Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if
193 development is undertaken without issuance of a permit.

194 **(h) Other duties of the Floodplain Administrator.** The Floodplain Administrator shall
195 have other duties, including but not limited to:

196 (1) Establish, in coordination with the Building Official, procedures for administering and
197 documenting determinations of substantial improvement and substantial damage
198 made pursuant to Section 62-3(d) of this ordinance;

199 (2) Require applicants who submit hydrologic and hydraulic engineering analyses to
200 support permit applications to submit to FEMA the data and information necessary
201 to maintain the Flood Insurance Rate Maps if the analyses propose to change base
202 flood elevations, or flood hazard area boundaries; such submissions shall be made
203 within 6 months of such data becoming available;

204 (3) Review required design certifications and documentation of elevations specified by
205 this ordinance and the *Florida Building Code* to determine that such certifications
206 and documentations are complete;

207 (4) Notify the Federal Emergency Management Agency when the corporate
208 boundaries of Town of Golden Beach are modified; and

209 (5) Advise applicants for new buildings and structures, including substantial
210 improvements, that are located in any unit of the Coastal Barrier Resources System
211 established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal
212 Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is
213 not available on such construction; areas subject to this limitation are identified on
214 Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and
215 "Otherwise Protected Areas."

216 **(i) Floodplain management records.** Regardless of any limitation on the period required
217 for retention of public records, the Floodplain Administrator shall maintain and permanently

218 keep and make available for public inspection all records that are necessary for the
219 administration of this ordinance and the flood resistant construction requirements of the
220 *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change;
221 records of issuance of permits and denial of permits; determinations of whether proposed
222 work constitutes substantial improvement or repair of substantial damage; required design
223 certifications and documentation of elevations specified by the *Florida Building Code* and
224 this ordinance; documentation related to appeals and variances, including justification for
225 issuance or denial; and records of enforcement actions taken pursuant to this ordinance
226 and the flood resistant construction requirements of the *Florida Building Code*. These
227 records shall be available for public inspection at Town Hall, 1 Golden Beach Drive.

228 **SECTION 62-4 PERMITS**

229 **(a) Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who
230 intends to undertake any development activity within the scope of this ordinance, including
231 buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly
232 within or partially within any flood hazard area shall first make application to the Floodplain
233 Administrator, and the Building Official if applicable, and shall obtain the required permit(s)
234 and approval(s). No such permit or approval shall be issued until compliance with the
235 requirements of this ordinance and all other applicable codes and regulations has been
236 satisfied.

237 **(b) Floodplain development permits or approvals.** Floodplain development permits or
238 approvals shall be issued pursuant to this ordinance for any development activities not subject
239 to the requirements of the *Florida Building Code*, including buildings, structures and facilities
240 exempt from the *Florida Building Code*. Depending on the nature and extent of proposed
241 development that includes a building or structure, the Floodplain Administrator may determine
242 that a floodplain development permit or approval is required in addition to a building permit.

243 **(c) Buildings, structures and facilities exempt from the *Florida Building Code*.**

244 Pursuant to the requirements of federal regulation for participation in the National Flood
245 Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or
246 approvals shall be required for the following buildings, structures and facilities that are
247 exempt from the *Florida Building Code* and any further exemptions provided by law, which
248 are subject to the requirements of this ordinance:

- 249 (1) Railroads and ancillary facilities associated with the railroad.
- 250 (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- 251 (3) Temporary buildings or sheds used exclusively for construction purposes.
- 252 (4) Mobile or modular structures used as temporary offices.
- 253 (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S.,
254 which are directly involved in the generation, transmission, or distribution of
255 electricity.
- 256 (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole
257 Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided
258 wooden hut that has a thatched roof of palm or palmetto or other traditional
259 materials, and that does not incorporate any electrical, plumbing, or other non-wood
260 features.
- 261 (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated
262 and assembled on site or preassembled and delivered on site and have walls, roofs,
263 and a floor constructed of granite, marble, or reinforced concrete.
- 264 (8) Temporary housing provided by the Department of Corrections to any prisoner in
265 the state correctional system.

266 (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida*
267 *Building Code* if such structures are located in flood hazard areas established on
268 Flood Insurance Rate Maps

269 **(d) Application for a permit or approval.** To obtain a floodplain development permit or
270 approval the applicant shall first file an application in writing on a form furnished by the
271 community. The information provided shall:

272 (1) Identify and describe the development to be covered by the permit or approval.

273 (2) Describe the land on which the proposed development is to be conducted by legal
274 description, street address or similar description that will readily identify and
275 definitively locate the site.

276 (3) Indicate the use and occupancy for which the proposed development is intended.

277 (4) Be accompanied by a site plan or construction documents as specified in Section
278 62-5 of this ordinance.

279 (5) State the valuation of the proposed work.

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

281 (7) Give such other data and information as required by the Floodplain Administrator.

282 **(e) Validity of permit or approval.** The issuance of a floodplain development permit or
283 approval pursuant to this ordinance shall not be construed to be a permit for, or approval
284 of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of this
285 community. The issuance of permits based on submitted applications, construction
286 documents, and information shall not prevent the Floodplain Administrator from requiring
287 the correction of errors and omissions.

288 **(f) Expiration.** A floodplain development permit or approval shall become invalid unless the
289 work authorized by such permit is commenced within 180 days after its issuance, or if the

290 work authorized is suspended or abandoned for a period of 180 days after the work
291 commences. Extensions for periods of not more than 180 days each shall be requested in
292 writing and justifiable cause shall be demonstrated.

293 **(g) Suspension or revocation.** The Floodplain Administrator is authorized to suspend or
294 revoke a floodplain development permit or approval if the permit was issued in error, on the
295 basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or
296 any other ordinance, regulation or requirement of this community.

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

- 300 (1) The South Florida Water Management District; section 373.036, F.S.
- 301 (2) Florida Department of Health for onsite sewage treatment and disposal systems;
302 section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- 303 (3) Florida Department of Environmental Protection for construction, reconstruction,
304 changes, or physical activities for shore protection or other activities seaward of the
305 coastal construction control line; section 161.041, F.S.
- 306 (4) Florida Department of Environmental Protection for activities subject to the Joint
307 Coastal Permit; section 161.055, F.S.
- 308 (5) Florida Department of Environmental Protection for activities that affect wetlands
309 and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers;
310 Section 404 of the Clean Water Act.
- 311 (6) Federal permits and approvals.

312

313 **SECTION 62-5 SITE PLANS AND CONSTRUCTION DOCUMENTS**

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

317 (1) Delineation of flood hazard areas, flood zone(s), base flood elevation(s), and
318 ground elevations if necessary for review of the proposed development.

319 (2) Location of the proposed activity and proposed structures, and locations of
320 existing buildings and structures; in coastal high hazard areas, new buildings shall
321 be located landward of the reach of mean high tide.

322 (3) Location, extent, amount, and proposed final grades of any filling, grading, or
323 excavation.

324 (4) Where the placement of fill is proposed, the amount, type, and source of fill
325 material; compaction specifications; a description of the intended purpose of the
326 fill areas; and evidence that the proposed fill areas are the minimum necessary to
327 achieve the intended purpose.

328 (5) Delineation of the Coastal Construction Control Line or notation that the site is
329 seaward of the coastal construction control line, if applicable.

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

333 The Floodplain Administrator is authorized to waive the submission of site plans,
334 construction documents, and other data that are required by this ordinance but that are not
335 required to be prepared by a registered design professional if it is found that the nature of
336 the proposed development is such that the review of such submissions is not necessary to

337 ascertain compliance with this ordinance.

338 **(b) Additional analyses and certifications.** As applicable to the location and nature of
339 the proposed development activity, and in addition to the requirements of this section, the
340 applicant shall have the following analyses signed and sealed by a Florida licensed
341 engineer for submission with the site plan and construction documents:

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

345 **(c) Submission of additional data.** When additional hydrologic, hydraulic or other
346 engineering data, studies, and additional analyses are submitted to support an application,
347 the applicant has the right to seek a Letter of Map Change from FEMA to change the base
348 flood elevations, or change boundaries of flood hazard areas shown on FIRMs, and to
349 submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida
350 licensed engineer in a format required by FEMA. Submittal requirements and processing
351 fees shall be the responsibility of the applicant.

352 **SECTION 62-6 INSPECTIONS**

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

355 **(b) Development other than buildings and structures.** The Floodplain Administrator
356 shall inspect all development to determine compliance with the requirements of this
357 ordinance and the conditions of issued floodplain development permits or approvals.

358 **(c) Buildings, structures and facilities exempt from the *Florida Building Code*.** The
359 Floodplain Administrator shall inspect buildings, structures and facilities exempt from the
360 *Florida Building Code* to determine compliance with the requirements of this ordinance and
361 the conditions of issued floodplain development permits or approvals.

362 **(d) Buildings, structures and facilities exempt from the *Florida Building Code*, lowest**
363 **floor inspection.** Upon placement of the lowest floor, including basement, and prior to
364 further vertical construction, the owner of a building, structure or facility exempt from the
365 *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain
366 Administrator:

367 (1) If a design flood elevation was used to determine the required elevation of the lowest
368 floor, the certification of elevation of the lowest floor prepared and sealed by a
369 Florida licensed professional surveyor.

370 **(e) Buildings, structures and facilities exempt from the *Florida Building Code*, final**
371 **inspection.** As part of the final inspection, the owner or owner's authorized agent shall
372 submit to the Floodplain Administrator a final certification of elevation of the lowest floor or
373 final documentation of the height of the lowest floor above the highest adjacent grade; such
374 certifications and documentations shall be prepared as specified in Section 62-6(d) of this
375 ordinance.

376 **SECTION 62-7 VARIANCES AND APPEALS**

377 **(a) General.** The Town Council shall hear and decide on requests for appeals and requests
378 for variances from the strict application of this ordinance. Pursuant to section 553.73(5),
379 F.S., the Town Council shall hear and decide on requests for appeals and requests for
380 variances from the strict application of the flood resistant construction requirements of the
381 *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building*
382 *Code, Building*.

383 **(b) Appeals.** The Town Council shall hear and decide appeals when it is alleged there is
384 an error in any requirement, decision, or determination made by the Floodplain
385 Administrator in the administration and enforcement of this ordinance. Any person

386 aggrieved by the decision may appeal such decision to the Circuit Court, as provided by
387 Florida Statutes.

388 **(c) Limitations on authority to grant variances.** The Town Council shall base its
389 decisions on variances on technical justifications submitted by applicants, the
390 considerations for issuance in Section 62-7(f) of this ordinance, the conditions of issuance
391 set forth in Section 62-7(g) of this ordinance, and the comments and recommendations of
392 the Floodplain Administrator and the Building Official. The Town Council has the right to
393 attach such conditions as it deems necessary to further the purposes and objectives of this
394 ordinance.

395 **(d) Historic buildings.** A variance is authorized to be issued for the repair, improvement,
396 or rehabilitation of a historic building that is determined eligible for the exception to the flood
397 resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter
398 12 Historic Buildings, upon a determination that the proposed repair, improvement, or
399 rehabilitation will not preclude the building's continued designation as a historic building and
400 the variance is the minimum necessary to preserve the historic character and design of the
401 building. If the proposed work precludes the building's continued designation as a historic
402 building, a variance shall not be granted and the building and any repair, improvement, and
403 rehabilitation shall be subject to the requirements of the *Florida Building Code*.

404 **(e) Functionally dependent uses.** A variance is authorized to be issued for the
405 construction or substantial improvement necessary for the conduct of a functionally
406 dependent use, as defined in this ordinance, is the minimum necessary considering the
407 flood hazard, and all due consideration has been given to use of methods and materials
408 that minimize flood damage during occurrence of the base flood.

409 **(f) Considerations for issuance of variances.** In reviewing requests for variances, the
410 Town Council shall consider all technical evaluations, all relevant factors, all other
411 applicable provisions of the *Florida Building Code*, this ordinance, and the following:

- 412 (1) The danger that materials and debris may be swept onto other lands resulting in
413 further injury or damage;
- 414 (2) The danger to life and property due to flooding or erosion damage;
- 415 (3) The susceptibility of the proposed development, including contents, to flood damage
416 and the effect of such damage on current and future owners;
- 417 (4) The importance of the services provided by the proposed development to the
418 community;
- 419 (5) The availability of alternate locations for the proposed development that are subject
420 to lower risk of flooding or erosion;
- 421 (6) The compatibility of the proposed development with existing and anticipated
422 development;
- 423 (7) The relationship of the proposed development to the comprehensive plan and
424 floodplain management program for the area;
- 425 (8) The safety of access to the property in times of flooding for ordinary and emergency
426 vehicles;
- 427 (9) The expected heights, velocity, duration, rate of rise and debris and sediment
428 transport of the floodwaters and the effects of wave action, if applicable, expected
429 at the site; and
- 430 (10) The costs of providing governmental services during and after flood
431 conditions including maintenance and repair of public utilities and facilities such as
432 sewer, gas, electrical and water systems, streets and bridges.

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

- 434 (1) Submission by the applicant, of a showing of good and sufficient cause that the

435 unique characteristics of the size, configuration, or topography of the site limit
436 compliance with any provision of this ordinance or the required elevation standards;

437 (2) Determination by the Town Council that:

438 (a) Failure to grant the variance would result in exceptional hardship due to the
439 physical characteristics of the land that render the lot undevelopable;
440 increased costs to satisfy the requirements or inconvenience do not
441 constitute hardship;

442 (b) The granting of a variance will not result in increased flood heights,
443 additional threats to public safety, extraordinary public expense, nor create
444 nuisances, cause fraud on or victimization of the public or conflict with
445 existing local laws and ordinances; and

446 (c) The variance is the minimum necessary, considering the flood hazard, to
447 afford relief;

448 (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be
449 recorded in the Office of the Clerk of the Court in such a manner that it appears in
450 the chain of title of the affected parcel of land; and

451 (4) If the request is for a variance to allow construction of the lowest floor of a new
452 building, or substantial improvement of a building, below the required elevation, a
453 copy in the record of a written notice from the Floodplain Administrator to the
454 applicant for the variance, specifying the difference between the base flood elevation
455 and the proposed elevation of the lowest floor, stating that the cost of federal flood
456 insurance will be commensurate with the increased risk resulting from the reduced
457 floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and
458 stating that construction below the base flood elevation increases risks to life and

459 property.

460 **SECTION 62-8 VIOLATIONS**

461 **(a) Violations.** Any development that is not within the scope of the *Florida Building Code*
462 but that is regulated by this ordinance that is performed without an issued permit, that is in
463 conflict with an issued permit, or that does not fully comply with this ordinance, shall be
464 deemed a violation of this ordinance. A building or structure without the documentation of
465 elevation of the lowest floor, other required design certifications, or other evidence of
466 compliance required by this ordinance or the *Florida Building Code* is presumed to be a
467 violation until such time as that documentation is provided.

468 **(b) Authority.** For development that is not within the scope of the *Florida Building Code*
469 but that is regulated by this ordinance and that is determined to be a violation, the Floodplain
470 Administrator is authorized to serve notices of violation or stop work orders to owners of the
471 property involved, to the owner's agent, or to the person or persons performing the work.

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

476 **ARTICLE II DEFINITIONS**

477 **SECTION 62-9 GENERAL**

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

480 **(b) Terms defined in the *Florida Building Code*.** Where terms are not defined in this
481 ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings
482 ascribed to them in that code.

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

485 **SECTION 62-10 DEFINITIONS**

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

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

491 **Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given
492 year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the
493 "100-year flood" or the "1-percent-annual chance flood."

494 **Base flood elevation.** The elevation of the base flood, including wave height, relative to
495 the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or
496 other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B,
497 Section 202.]

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

500 **Coastal construction control line.** The line established by the State of Florida pursuant
501 to section 161.053, F.S., and recorded in the official records of the community, which
502 defines that portion of the beach-dune system subject to severe fluctuations based on a
503 100-year storm surge, storm waves or other predictable weather conditions.

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

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

511 (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any
512 year; or

513 (2) Area designated as a flood hazard area on the community's flood hazard map, or
514 otherwise legally designated.

515 **Design flood elevation.** The elevation of the "design flood," including wave height, relative
516 to the datum specified on the community's legally designated flood hazard map. In areas
517 designated as Zone AO, the design flood elevation shall be the elevation of the highest
518 existing grade of the building's perimeter plus the depth number (in feet) specified on the
519 flood hazard map. In areas designated as Zone AO where the depth number is not specified
520 on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC,
521 B, Section 202.]

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

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

529 **Existing building and existing structure.** Any buildings and structures for which the "start
530 of construction" commenced before September 29, 1972. [Also defined in FBC, B, Section
531 202.]

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

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

536 (1) The overflow of inland or tidal waters.

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

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

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

543 (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in
544 any year.

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

547 **Flood Insurance Rate Map (FIRM).** The official map of the community on which the
548 Federal Emergency Management Agency has delineated both special flood hazard areas
549 and the risk premium zones applicable to the community. [Also defined in FBC, B, Section
550 202.]

551 **Flood Insurance Study (FIS).** The official report provided by the Federal Emergency
552 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and
553 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting
554 technical data. [Also defined in FBC, B, Section 202.]

555 **Floodplain Administrator.** The office or position designated and charged with the
556 administration and enforcement of this ordinance (may be referred to as the Floodplain
557 Manager).

558 **Floodplain development permit or approval.** An official document or certificate issued
559 by the community, or other evidence of approval or concurrence, which authorizes
560 performance of specific development activities that are located in flood hazard areas and

561 that are determined to be compliant with this ordinance.

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

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

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

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

576 **Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or
577 revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map
578 Change include:

579 Letter of Map Amendment (LOMA): An amendment based on technical data
580 showing that a property was incorrectly included in a designated special flood
581 hazard area. A LOMA amends the current effective Flood Insurance Rate Map and
582 establishes that a specific property, portion of a property, or structure is not located
583 in a special flood hazard area.

584 Letter of Map Revision (LOMR): A revision based on technical data that may show
585 changes to flood zones, flood elevations, special flood hazard area boundaries and
586 floodway delineations, and other planimetric features.

587 Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or
588 parcel of land has been elevated by fill above the base flood elevation and is,
589 therefore, no longer located within the special flood hazard area. In order to qualify
590 for this determination, the fill must have been permitted and placed in accordance
591 with the community's floodplain management regulations.

592 Conditional Letter of Map Revision (CLOMR): A formal review and comment as to
593 whether a proposed flood protection project or other project complies with the
594 minimum NFIP requirements for such projects with respect to delineation of special
595 flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate
596 Map or Flood Insurance Study; upon submission and approval of certified as-built
597 documentation, a Letter of Map Revision may be issued by FEMA to revise the
598 effective FIRM.

599 **Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500
600 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000
601 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which
602 is:

- 603 (1) Designed primarily for purposes of transportation of property or is a derivation of
604 such a vehicle, or
605 (2) Designed primarily for transportation of persons and has a capacity of more than 12
606 persons; or
607 (3) Available with special features enabling off-street or off-highway operation and use.

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

613 202.]

614 **Market value.** The price at which a property will change hands between a willing buyer and
615 a willing seller, neither party being under compulsion to buy or sell and both having
616 reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the
617 market value of buildings and structures, excluding the land and other improvements on the
618 parcel. Market value may be established by a qualified independent appraiser, Actual Cash
619 Value (replacement cost depreciated for age and quality of construction), or tax assessment
620 value adjusted to approximate market value by a factor provided by the Property Appraiser.

621 **New construction.** For the purposes of administration of this ordinance and the flood
622 resistant construction requirements of the *Florida Building Code*, structures for which the
623 "start of construction" commenced on or after September 29, 1972 and includes any
624 subsequent improvements to such structures.

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

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

630 **Start of construction.** The date of issuance of permits for new construction and substantial
631 improvements, provided the actual start of construction, repair, reconstruction,
632 rehabilitation, addition, placement, or other improvement is within 180 days of the date of
633 the issuance. The actual start of construction means either the first placement of permanent
634 construction of a building on a site, such as the pouring of slab or footings, the installation
635 of piles, or the construction of columns.

636 Permanent construction does not include land preparation (such as clearing,
637 grading, or filling), the installation of streets or walkways, excavation for a basement,
638 footings, piers, or foundations, the erection of temporary forms or the installation of

639 accessory buildings such as garages or sheds not occupied as dwelling units or not part of
640 the main buildings. For a substantial improvement, the actual "start of construction" means
641 the first alteration of any wall, ceiling, floor or other structural part of a building, whether or
642 not that alteration affects the external dimensions of the building. [Also defined in FBC, B
643 Section 202.]

644 **Substantial damage.** Damage of any origin sustained by a building or structure whereby
645 the cost of restoring the building or structure to its before-damaged condition would equal
646 or exceed 50 percent of the market value of the building or structure before the damage
647 occurred. [Also defined in FBC, B Section 202.] The term also includes flood-related
648 damage sustained by a structure on two separate occasions during a 10-year period for
649 which the cost of repairs at the time of each such flood event, on average, equals or exceeds
650 25 percent of the market value of the structure before the damage occurred.

651 **Substantial improvement.** Any repair, reconstruction, rehabilitation, alteration, addition, or
652 other improvement of a building or structure, the cost of which equals or exceeds 50 percent
653 of the market value of the building or structure before the improvement or repair is started.
654 If the structure has incurred "substantial damage," any repairs are considered substantial
655 improvement regardless of the actual repair work performed. The term does not, however,
656 include either: [Also defined in FBC, B, Section 202.]

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

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

662 **Variance.** A grant of relief from the requirements of this ordinance, or the flood resistant
663 construction requirements of the *Florida Building Code*, which permits construction in a

664 manner that would not otherwise be permitted by this ordinance or the *Florida Building*
665 *Code*.

666

667 **ARTICLE III FLOOD RESISTANT DEVELOPMENT**

668 **SECTION 62-11 BUILDINGS AND STRUCTURES**

669 **(a) Design and construction of buildings, structures and facilities exempt from the**
670 ***Florida Building Code***. Pursuant to Section 62-4(c) of this ordinance, buildings, structures,
671 and facilities that are exempt from the *Florida Building Code*, including substantial improvement
672 or repair of substantial damage of such buildings, structures and facilities, shall be designed
673 and constructed in accordance with the flood load and flood resistant construction requirements
674 of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed
675 buildings shall comply with the requirements of Section 62-15 of this ordinance.

676 **(b) Buildings and structures seaward of the coastal construction control line.** If
677 extending, in whole or in part, seaward of the coastal construction control line and also
678 located, in whole or in part, in a flood hazard area:

679 (1) Buildings and structures shall be designed and constructed to comply with the more
680 restrictive applicable requirements of the *Florida Building Code, Building Section*
681 *3109* and *Section 1612* or *Florida Building Code, Residential Section R322*.

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

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

688 (1) Limitations on Enclosures Under Elevated Buildings and Dwellings. Enclosed

689 areas shall: a) have the minimum necessary access to allow for parking of vehicles (garage
690 door), limited storage of maintenance equipment used in connection with the premises
691 (standard exterior door), or entry to the elevated building (stairway or elevator); b) not have
692 the interior portion partitioned or finished into separate rooms except for stairwells, ramps
693 and elevators, unless a partition is required by the fire code; and c) in coastal high hazard
694 areas, be enclosed by insect screening or open lattice.

695 (2) Substantial Damage. In the Florida Building Code, Building and Florida Building
696 Code, Existing Building, definitions for the term "Substantial Damage" shall be as follows:

697 **SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost
698 of restoring the structure to its before-damaged condition would equal or exceed 50 percent
699 of the market value of the structure before the damage occurred. The term also includes
700 flood-related damage sustained by a structure on two separate occasions during a 10-year
701 period for which the cost of repairs at the time of each such flood event, on average, equals
702 or exceeds 25 percent of the market value of the structure before the damage occurred.

703 (3) Required Certifications. In the Florida Building Code, Building:

704 (a) Section 107.3.5 Minimum plan review criteria for buildings, add FEMA
705 Floodproofing Certificate (FEMA Form 086-0-34) to plan review criteria when
706 nonresidential buildings are proposed to be dry floodproofed.

707 SECTION 62-12 SUBDIVISIONS

708 (a) Minimum requirements. Subdivision proposals shall be reviewed to determine that:

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

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

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

717 **(b) Subdivision plats.** Where any portion of proposed subdivisions lies within a flood
718 hazard area, the following shall be required:

719 (1) Delineation of flood hazard areas, flood zones, and design flood elevations, as
720 appropriate, shall be shown on preliminary plats; and

721 (2) Compliance with the site improvement and utilities requirements of Section 62-13 of
722 this ordinance.

723 **SECTION 62-13 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS**

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

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

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

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

734 **(b) Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private
735 sewage treatment plants (including all pumping stations and collector systems), and on-site
736 waste disposal systems shall be designed in accordance with the standards for onsite
737 sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7

738 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the
739 facilities into flood waters, and impairment of the facilities and systems.

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

744 **(d) Limitations on placement of fill.**

745 (1) Subject to the limitations of this ordinance, fill shall be designed to be stable
746 under conditions of flooding including rapid rise and rapid drawdown of
747 floodwaters, prolonged inundation, and protection against flood-related erosion
748 and scour. In addition to these requirements, if intended to support buildings and
749 structures (Zone A only), fill shall comply with the requirements of the *Florida*
750 *Building Code*.

751 (2) When fill is proposed, in accordance with the permit issued by the Florida
752 Department of Health, in coastal high hazard areas (Zone V), the development
753 permit shall be issued only upon demonstration by appropriate engineering
754 analyses that the proposed fill will not increase the water surface elevation of
755 the base flood nor cause any adverse impacts to the structure on site or other
756 properties by wave ramping or deflection.

757 **(e) Limitations on sites in coastal high hazard areas (Zone V).** In coastal high hazard
758 areas, alteration of sand dunes and mangrove stands shall be permitted only if such
759 alteration is approved by the Florida Department of Environmental Protection and only if the
760 engineering analysis required by Section 62-5(b)(1) of this ordinance demonstrates that the
761 proposed alteration will not increase the potential for flood damage. Construction or
762 restoration of dunes under or around elevated buildings and structures shall comply with
763 Section 62-15(e)(3) of this ordinance.

764 **SECTION 62-14 TANKS**

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

769 **(b) Above-ground tanks, not elevated.** Above-ground tanks that do not meet the
770 elevation requirements of Section 62-14(c) of this ordinance shall:

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

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

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

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

783 (1) At or above the design flood elevation or fitted with covers designed to prevent the
784 inflow of floodwater or outflow of the contents of the tanks during conditions of the
785 design flood; and

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

788 **SECTION 62-15 OTHER DEVELOPMENT**

789 **(a) General requirements for other development.** All development, including man-made
790 changes to improved or unimproved real estate for which specific provisions are not
791 specified in this ordinance or the *Florida Building Code*, shall:

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

793 (2) Be anchored to prevent flotation, collapse or lateral movement resulting from
794 hydrostatic loads, including the effects of buoyancy, during conditions of the design
795 flood;

796 (3) Be constructed of flood damage-resistant materials; and

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

802 **(b) Concrete slabs used as parking pads, enclosure floors, landings, decks,**
803 **walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone**
804 **V).** In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors,
805 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or
806 adjacent to buildings and structures provided the concrete slabs are designed and
807 constructed to be:

808 (1) Structurally independent of the foundation system of the building or structure;

809 (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable
810 of causing significant damage to any structure; and

811 (3) Have a maximum slab thickness of not more than four (4) inches.

812 **(c) Decks and patios in coastal high hazard areas (Zone V).** In addition to the
813 requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios
814 shall be located, designed, and constructed in compliance with the following:

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

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

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

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

837 and wave reflection.

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

845 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control
846 structures;

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

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

852 **(e) Nonstructural fill in coastal high hazard areas (Zone V).** In coastal high hazard
853 areas:

854 (1) Minor grading and the placement of minor quantities of nonstructural fill shall be
855 permitted for landscaping and for drainage purposes under and around buildings.

856 (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five
857 units horizontal shall be permitted only if an analysis prepared by a qualified
858 registered design professional demonstrates no harmful diversion of floodwaters or
859 wave runup and wave reflection that would increase damage to adjacent buildings
860 and structures.

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

868 **Section 3. Fiscal Impact Statement.**

869 In terms of design, plan application review, construction and inspection of buildings and
870 structures, the cost impact as an overall average is negligible in regard to the local technical
871 amendments because all development has been subject to the requirements of the local
872 floodplain management ordinance adopted for participation in the National Flood Insurance
873 Program. In terms of lower potential for flood damage, there will be continued savings and
874 benefits to consumers.

875 **Section 4. Applicability.**

876 For the purposes of jurisdictional applicability, this ordinance shall apply in the Town of
877 Golden Beach. This ordinance shall apply to all applications for development, including
878 building permit applications and subdivision proposals, submitted on or after the effective
879 date of this ordinance.

880 **Section 5. Inclusion Into The Code Of Ordinances.**

881 It is the intent of the Town Council that the provisions of this ordinance shall become and
882 be made a part of the Town of Golden Beach Code of Ordinances, and that the sections of
883 this ordinance may be renumbered or relettered and the word "ordinance" may be changed
884 to "section," "article," "regulation," or such other appropriate word or phrase in order to
885 accomplish such intentions.

886 **Section 6. Severability.**

887 If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason,
888 declared by the courts to be unconstitutional or invalid, such decision shall not affect the
889 validity of the ordinance as a whole, or any part thereof, other than the part so declared.

890 **Section 7. Effective Date.**

891 That this Ordinance shall be in full force and take effect upon its passage and adoption.

892 The Motion to adopt the foregoing Ordinance was offered by

893 Councilmember Luskin, seconded by Councilmember Mendal, and on roll call the

894	Mayor Glenn Singer	<u>Aye</u>
895	Vice-Mayor Kenneth Bernstein	<u>Absent</u>
896	Councilmember Judy Luskin	<u>Aye</u>
897	Councilmember Jaime Mendal	<u>Aye</u>
898	Councilmember Bernard Einstein	<u>Aye</u>
899		
900		

901 **PASSED AND ADOPTED** on first reading this 20th day of August, 2019.

902 The Motion to adopt the foregoing Ordinance was offered by

903 Councilmember Bernstein, seconded by Councilmember Luskin, and on roll call

904 the following vote ensued:

905	Mayor Glenn Singer	<u>Aye</u>
906	Vice-Mayor Kenneth Bernstein	<u>Aye</u>
907	Councilmember Judy Luskin	<u>Aye</u>
908	Councilmember Jaime Mendal	<u>Aye</u>
909	Councilmember Bernard Einstein	<u>Aye</u>
910		

911 **PASSED AND ADOPTED** on second reading this 17th day of September,

912 2019.

913 ATTEST:

914

915

916

917

918

919

920

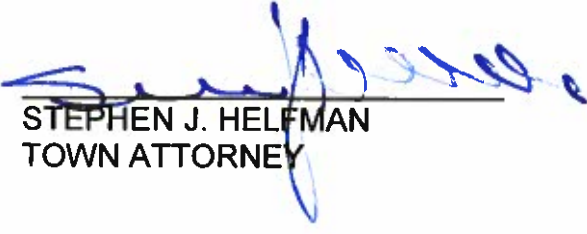

LISSETTE PEREZ

TOWN CLERK


MAYOR GLENN SINGER

921
922
923
924
925
926
927
928

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY