

ORDINANCE NO. 2009-18

AN ORDINANCE AMENDING CHAPTER X OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED SUBDIVISION AND FLOODPLAIN STANDARDS; UPDATING THE LANGUAGE TO BE CONSISTENT WITH THE FLORIDA MODEL FLOOD DAMAGE PREVENTION ORDINANCE AND TITLE 44, CODE OF FEDERAL REGULATIONS; DESIGNATING THE COMMUNITY DEVELOPMENT DIRECTOR OR DESIGNEE AS THE FLOODPLAIN ADMINISTRATOR; ESTABLISHING INTERDEPARTMENTAL ADMINISTRATIVE REQUIREMENTS, DEFINING TERMS; PROVIDING FOR ONE FOOT OF FREEBOARD IN REQUIRED FLOOR ELEVATIONS; UPDATING THE BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD TO THE CURRENT FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS; AND MAKING SUCH OTHER AMENDMENTS AS MAY IMPROVE THE CITY'S STANDING IN THE COMMUNITY RATING SYSTEM, AND ENSURE COMPLIANCE WITH FEDERAL REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach, Florida has been notified by the Federal Emergency Management Agency that new Flood Insurance Rate Maps must be adopted by September 1, 2009; and

WHEREAS, Article X, Subdivision and Floodplain Standards of the Code of Ordinances of the City of North Miami Beach, Florida automatically adopts amendments to the Flood Insurance Rate Maps; and

WHEREAS, the City of North Miami Beach, Florida will obtain a reduction in flood insurance rates for its citizens by participating in the National Flood Insurance Program Community Rating System; and

WHEREAS, the City Council of the City of North Miami Beach, Florida is desirous of maintaining and improving the flood insurance premium reductions for its citizens; and

WHEREAS, the City Council of the City of North Miami Beach, Florida finds that its Flood Damage Prevention Code has not been updated since 1992; and

WHEREAS, the City Council of the City of North Miami Beach, Florida finds that it is necessary to update the City Code to be consistent with current requirements and practices of the National Flood Insurance Program, and to improve the protections provided to the public in order to maintain and improve the City's standing in the Community Rating System, provide affordable flood insurance to its citizens, and protect the public health, safety, and welfare.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Article X of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

ARTICLE X SUBDIVISION AND FLOODPLAIN STANDARDS

Sec. 24-105 Subdivision Standards

(A) Article XV contains the procedures for subdivision or plat approval. The design standards to meet include:

- (1) Streets and sidewalks as contained in Chapter XVII, Articles II and III of the City Code.
- (2) Water and sewer as contained in the City department of utilities water and sewer specifications.
- (3) Drainage and other subdivision improvement standards as contained in Chapter 28 of the Miami-Dade County Code of Ordinances.

Sec. 24-106 Floodplain Standards

(A) *Applicability.* The provisions of this section apply to 100-year floodplain as shown on Map 1.3 of the North Miami Beach Comprehensive Plan and the latest published Flood Insurance Rate Map of the Federal Emergency Management Agency.

(B) *Administration.* The City ~~Public Works Director~~ Director of Community Development or designee is hereby appointed to administer and implement the provisions of this article, including, but not limited to:

(1) Review all development permits to assure that the permit requirements of this article have been satisfied.

(2) Record the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures.

(3) Record the actual elevation, in relation to mean sea level, to which the new or substantially improved structures have been flood proofed.

(4) When flood proofing is utilized for a particular structure, obtain certification from a registered professional engineer or architect.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(6) Maintain all records pertaining to the provisions of this section and keep them open for public inspection.

(7) Maintain a file of as-built drawings.

(C) *Interagency Coordination.* The City Building Official and Director of Public Services are hereby appointed to assist and cooperate with the Director of Community Development or designee in carrying out the requirements of the National Flood Insurance Program, and in the administration of this ordinance. The Director of Community Development shall develop interagency memoranda of understanding and procedures which shall describe the duties and responsibilities of each agency involved in the administration of this ordinance. The Director of Public Services, the Building Official, and the Chief Code Enforcement Officer of the City shall cooperate with the Director of Community Development in the creation of memoranda of understanding and interdepartmental procedures which shall be approved by the City Manager. Each agency shall properly execute its duties and responsibilities as set forth in this ordinance and in the memoranda of understanding and published procedures. In the absence of any interdepartmental guidance regarding any particular incident or program action, the Director of Community Development shall direct immediate or interim action to be taken when time is of the essence, which direction may be reviewed and amended by the City Manager.

(1) The primary duties of the Building Official shall be to intake and process permit applications and associated fees; ensure permits are routed for flood elevation review; conduct the review of building permit applications for compliance with structural and technical code requirements for flood proofing and resistance of combined dynamic, hydrostatic and wind loads; and provide backup certified personnel as needed to assist in the flood elevation review. These duties may be clarified, and other duties may be assigned in memoranda of

understanding or in interdepartmental procedures for the administration of the National Flood Insurance Program and this ordinance.

(2) The Director of Public Services shall be primarily responsible for ensuring that the design of public buildings and facilities performed by his or her agency meets all requirements for flood damage prevention in this ordinance and in related requirements, and for providing engineering expertise to the Director of Community Development and the Building Official in resolving issues related to flood plain management and flood damage prevention. When required, the Director of Public Services will review subdivision applications for compliance with flood proofing requirements, and will evaluate the displacement of flood waters to ensure adequate compensating storage has been made available. The Director of Public Services shall also ensure the maintenance and improvement of the storm water management infrastructure of the City of North Miami Beach so as to prevent additional flood hazards, and to reduce existing floor flood hazards. A report of the design, construction, replacement, repair, and maintenance of stormwater management facilities shall be submitted to the Director of Community Development in the format and with the frequency prescribed pursuant to an interdepartmental memorandum of understanding.

~~(C)~~ (D) Permit Procedures. Application for a development permit or development order shall be made to the ~~Public Works~~ Director of Community Development or designee on forms furnished or approved by him or her and may include, but not be limited to, the following plans drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill storage of materials, drainage facilities and the location of the foregoing. The Director of Community Development shall design the application process to be coordinated with other review processes, including but not limited to: building permit applications and plan review; site plan review applications and plan review; and subdivision applications and plan review. The directors of other departments involved in the administration of development order and development permit application and approval processes shall incorporate into those processes the forms and procedures promulgated by the Director of Community Development for the purposes of administration of this Article X of the Code of Ordinances of the City of North Miami Beach. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
- (2) Elevation in relation to mean sea level to which any nonresidential structure has been flood proofed;
- (3) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure meets the flood proofing criteria in this article;
- (4) Description of the extent to which any water course will be altered or relocated as a result of proposed development.

~~(D) Variances.~~ The Miami Dade County Department of Environmental Resource Management shall hear and decide appeals when it is alleged there is an error in any

~~requirement, decision or determination made by the City Public Works Director in the enforcement or administration of this article.~~

(E) *Provisions for Flood Hazard Reduction*

(1) *General standards:* In all areas of special flood hazard the following provisions are required:

(a) All new construction and substantial improvements including mobile homes shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(c) All new construction or substantial improvements including mobile homes shall be constructed by methods and practices that minimize flood damage.

(d) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(e) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(f) On-site waste water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(g) Any substantial alteration, repair, reconstruction or improvements to a structure for which the start of construction was begun after July 11, 1978 shall meet the requirements of "new construction" as contained in this article.

(h) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, and shall meet or exceed the minimum requirements of all other applicable laws, codes and ordinances.

(i) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchorage may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces.

(j) All applicable additional Federal, State of Florida, South Florida Water Management District, Miami-Dade County, and other local permits shall be obtained and originals, certified copies, or copies, as required, shall be submitted to the Director of Community Development or designee. Copies of such permits shall be maintained on file with the development permit.

(k) Subdivision proposals and other proposed development (including manufactured homes) shall: 1) be consistent with the need to minimize flood damage; 2) have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage; and 3) have adequate drainage provided to reduce exposure to flood hazards.

(2) *Specific standards:* In all areas of special flood hazard where base flood elevation data has been provided, the following provisions are required:

(a) *Residential and nonresidential construction:* New construction or substantial improvement of any permanent structure including mobile homes shall have the lowest floor elevated to an elevation above mean sea level, said elevation being the highest of the following criteria:

1. Eight (8) feet above mean sea level except several locations shown on the maps cited below where nine (9) feet is required.

2. The base flood elevation shown on the latest adopted Flood insurance rate map prepared by the Emergency Management Agency and the U.S. Geological Survey. Except that the construction of new residential buildings shall have the lowest finished floor elevated one foot above the base flood elevation, and construction of new nonresidential buildings shall either have the lowest floor elevated at least one foot above the base flood elevation, or be flood proofed up to at least one foot above the base flood elevation.

3. As indicated on the Miami-Dade County "100-Year Flood Elevation Map" recorded in Miscellaneous Plat Book of the Public Records of Miami-Dade County, Florida.

(b) For parcels covered by the South Florida Water Management District permit, the minimum building elevation (first floor) shall be as specified in the South Florida Water Management District's surface water management permit, provided that the elevations given on said permit are not lower than as provided in paragraph (a) above.

(c) Prior to the issuance of a certificate of occupancy on any new construction or substantial improvement of any residential structure, the elevation referenced to mean sea level of the habitable floor shall be certified by a land surveyor licensed within the State of Florida.

(d) New construction or substantial improvement of any permanent structure shall have all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities located and/or designed so as to prevent water from entering or accumulating within the components during conditions of flooding.

(e) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(F) *Miami-Dade County Standards.* In addition, applicants shall meet all Miami-Dade County (DERM) criteria as contained in Section C3 of the County Public Works Manual or Chapter 33-4 of the County Zoning Ordinance.

Sec. 24-107 Statutory Authorization, Findings of Fact, Purpose and Objectives

(A) *Statutory Authorization.* The Legislature of the State of Florida has in Chapter 166, Florida Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of North Miami Beach, Florida does ordain as follows:

(B) *Findings of Fact.*

(1) The flood hazard areas of the City of North Miami Beach are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

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

(C) *Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage ~~at the time of initial construction~~ throughout their intended lifespan;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(D) *Objectives.* The objectives of this ordinance are:

(1) To protect human life, ~~and health~~ and to eliminate or minimize property damage;

(2) To minimize expenditure of public money for costly flood control projects;

- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (7) To insure that potential home buyers are notified that property is in a flood area.

Sec. 24-108 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

~~*Addition to an existing building* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.~~

Appeal means a request for a review of the ~~City Manager's~~ Director of Community Development's or designee's interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year (also the "100-year flood").

Base Flood Elevation means the water-surface elevation associated with the base flood.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

~~Building means, any structure built for support, shelter, or enclosure for any occupancy or storage. See the definition of the term "Structure".~~

~~Coastal High Hazard Area means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI-30, VE or V.~~

~~Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.~~

~~Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of pilings, columns (posts and piers), shear walls, or breakaway walls.~~

~~Encroachment means the advance or infringement of land uses, plant growth, fill, excavations, buildings, permanent structures or development into a floodplain, which may impede or alter the flow or capacity of a floodplain.~~

~~Existing Construction Any structure for which the "start of construction" commenced before June 18, 1974.~~

~~Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 18, 1974.~~

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

~~Flood or flooding means~~

~~(a) a A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

- ~~(1) The overflow of inland or tidal waters;~~
- ~~(2) The unusual and rapid accumulation or runoff of surface waters from any source.~~

~~(a) (b) The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.~~

~~*Flood Hazard Boundary Map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where, the boundaries of the areas of special flood hazard have been defined as Zone A.~~

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study is the official hydrology and hydraulics report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

Floodplain means any land area susceptible to being inundated by water from any source (see also the definition of “flooding”).

Floodplain Management: means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Administrator means the Director of Community Development or designee, who is appointed to administer and enforce the floodplain management regulations of the City of North Miami Beach, Florida.

Floodplain Management Regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as any additional floodplain ordinances, grading ordinances, and erosion control ordinances), and other applications of the police power which control development in flood prone areas. This term describes Federal, State of Florida, regional special purpose agencies (Water Management District, Flood Control District, etc.), Miami-Dade County, or City of North Miami Beach regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Flood proofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents, or electrical facilities.

Floodway means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floor means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic structure means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior has ~~as~~ meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a ~~state~~ the Florida inventory of historic places ~~in states with historic preservation programs~~ which have has been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By ~~an~~ the approved ~~state~~ Florida program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior ~~in states without approved programs~~.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design standards of this ordinance.

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property. This type of manufactured home is inspected and certified by the US Department of Housing and Urban Development, and will bear their seal. Manufactured homes certified by the Florida Department of Community Affairs are not included in this category.

Market value means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market

value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum of 1988 (NAVD).

National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain. The Flood Insurance Rate Maps in the City of North Miami Beach use this as their vertical datum reference until such time as the September 11, 2009 Flood Insurance Rate Maps are amended to the North American Vertical Datum of 1988.

New construction means any structure for which the "start of construction" commenced on or after June 18, 1974. The term also includes any subsequent improvements to such structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

North American Vertical Datum (NAVD) as established in 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain. Elevations on the City of North Miami Beach Flood Insurance Rate Maps are referenced to National Geodetic Vertical Datum of 1929 (NGVD 29). Survey data prepared using the North American Vertical Datum of 1988 (NAVD 88) must be converted to NGVD 29 for the purpose of comparing the elevation of structures to the base flood elevations shown on the adopted Flood Insurance Rate Maps, until such time as revised maps are published that use NAVD 88 as the vertical datum reference.

Recreational vehicle means a vehicle which is:

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

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-348]), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a building (including a

manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures that is principally above ground.

Substantial damage means damage of any origin sustained by structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. For the purpose of determining substantial damage, the market value used by the City of North Miami Beach shall be the total appraised value according to the latest records of the Miami-Dade County Property Appraiser. The property owner may appeal that determination as provided in this Article X of the Zoning and Land Development Code of the City of North Miami Beach, Florida.

Substantial improvement means any combination of repairs, reconstruction, alteration, addition, or improvements to a building or structure, taking place during a ten-(10) five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building, or structure before the "start of construction" of the improvement. The market value of the building should be (1) the appraised value of the building prior to the start of the initial repair or improvement, the market value used by the City of North Miami Beach in the absence of a recent appraisal shall be the total appraised value according to the latest records of the Miami-Dade County Property Appraiser which may be appealed as provided herein, or (2) in the case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. For the purposes of this definition, "substantial damage" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary or Safety Code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced. The market value used by the City of North Miami Beach in the absence of a recent appraisal shall be the total appraised value according to the latest records of the Miami-Dade County Property Appraiser which may be appealed as provided herein.

Variance is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship. A variance from the terms of this ordinance does not automatically confer on the applicant a variance from the requirements of the Florida Building Code, the technical construction codes, the Fire Code, or other laws, codes and ordinances that may apply to construction in flood prone areas.

Violation means the failure of a structure or other development to be fully compliant with the requirements of this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 24-109 General Provisions

(A) *Lands to Which This Ordinance Applies.* This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of North Miami Beach.

(B) *Basis for Establishing the Areas of Special Hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated ~~effective November 4, 1987~~ September 11, 2009, with accompanying maps, digital maps, and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and the Flood Insurance Rate Maps, including digital maps, are on file at the offices of the Department of Community Development, 17050 N.E. 19th Avenue, North Miami Beach, Florida 33162-4900.

(C) *Establishment of Development Permit.* A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities.

(D) *Compliance.* No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(E) *Abrogation and Greater Restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions or any other provisions of the Code of Ordinances of the City of North Miami Beach. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Interpretation.* In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

(G) *Warning and Disclaimer of Liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of North Miami Beach or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(H) *Penalties for Violation.* Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred (\$500.00) dollars or imprisoned for not more than sixty (60) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of North Miami Beach from taking such other lawful actions as is necessary to prevent or remedy any violation.

Sec. 24-110 Administration

(A) *Designation of ~~City Manager~~ Director of Community Development or Designee.* The ~~City Manager~~ Director of Community Development or designee is hereby appointed to administer and implement the provisions of this ordinance.

(B) *Permit Procedures.* Application for a Development Permit shall be made to the ~~City Manager~~ Director of Community Development or designee on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question: existing ~~or~~ and proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) *Application Stage.*

(a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;

(b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;

(c) Certificate from a registered professional engineer or architect that the nonresidential flood-proofed building will meet the flood-proofing criteria in Sec. 24-111(B)(2);

(d) Description of the extent to which any watercourse will be altered or relocated as the result of proposed development; and;

(2) *Construction Stage.* Provide a floor elevation or flood-proofing certification after the lowest floor is completed, ~~or instances where the building is subject to the regulations applicable to Coastal High Hazard Areas, after placement of the horizontal structural members of the lowest floor.~~ Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the ~~City Manager~~ Director of Community Development or his designee a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Elevations shall be referenced to the National Geodetic Vertical Datum of 1929 until such time as the Director of Community Development directs a change in the required datum based upon his or her receipt of revised Flood Insurance Rate Maps from the Federal Emergency Management Agency that reference flood elevations to the North American Vertical Datum of 1988. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. ~~The City Manager~~ Director of Community Development or designee shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(C) *Duties and Responsibilities of the ~~City Manager~~ Director of Community Development or designee.* Duties of the ~~City Manager~~ Director of Community Development or Designee shall include, but not be limited to:

(1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied.

(2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.

(3) Notify adjacent communities and the Florida Department of Community Affairs, the South Florida Water Management District, and other state and federal agencies having jurisdiction over the proposed action prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Sec. 24-110(B)(2).

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Sec. 24-110(B)(2).

(7) When flood-proofing is utilized for a particular building, the ~~City-Manager~~ Director of Community Development or designee shall obtain certification from a registered professional engineer or architect, in accordance with Sec. 24-111(B)(2).

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the ~~City-Manager~~ Director of Community Development or designee shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

(9) When base flood elevation data or floodway data have not been provided in accordance with Sec. 24-109(B), then the ~~City-Manager~~ Director of Community Development or designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Sec. 24-111.

(10) Maintain all records pertaining to the provisions of this ordinance in the office of the ~~City-Manager~~ Director of Community Development or designee, which records shall be open for public inspection.

(11) Review permits to assure that the proposed development sites are, or upon completion of development will be, reasonably safe from flooding.

(12) Coordinate all change requests to the Flood Insurance Study and the Flood Insurance Rate Maps with the requester, the State of Florida, and the Federal Emergency Management Agency.

(13) Submit annual and biennial reports, and any other required reports, to the Federal Department of Emergency Management or their contractors, and to the State of Florida.

(D) *Variance Procedures.*

(1) The City Council of the City of North Miami Beach shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the ~~City-Manager~~ Director of Community Development or designee in the enforcement or administration of this ordinance.

(3) Any person aggrieved by the decision of the City Council or any taxpayer may appeal such decision to the Circuit Court of Miami-Dade County.

(4) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(5) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(6) Upon consideration of the factors listed above, and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) *Conditions for Variances:*

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship; and
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or a conflict with existing local laws or ordinances.

~~(e) Specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

(c) Required Variance Notification:

Any applicant to whom a variance is granted shall be given written notice over the signature of a city official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and

(2) Such construction below the base flood elevation level increases risks to life and property.

A copy of the notice shall be recorded by the Director of Community Development or designee in the Office of the Clerk of the Court for Miami-Dade County and shall be recorded in a manner so that it will appear in the property records of the affected parcel of land.

(d) The City Manager Director of Community Development or designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request, and annually or biennially as required by Title 44 Code of Federal Regulations 60.6(a)(6).

Sec. 24-111 Provisions for Flood Hazard Reduction

(A) In all areas of special flood hazard the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and

(10) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.

(B) *Specific Standards.* In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Sec. 24-109(B), the following provisions are required:

(1) *Residential Construction.* New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate the unimpeded movements automatic equalization of flood waters shall be provided hydrostatic forces in accordance with standards of Sec. 24-111(B)(3). Except that the construction of new residential buildings shall have the lowest finished floor elevated at least one foot above the base flood elevation.

(2) *Nonresidential Construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than the level of the base flood elevation. Buildings located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the Federal Emergency Management Agency Flood proofing Certificate. Such certification along with the supporting engineering data and calculations, and construction, operational, and maintenance plans shall be provided to the official Director of Community Development or designee as set forth in Sec. 24-110(C)(9). Except that the construction of new nonresidential buildings shall either have the lowest floor elevated at least one foot above the base flood elevation, or be flood proofed up to at least one foot above the base flood elevation.

(3) *Elevated Buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood lowest floor elevation shall be designed to preclude finished living space and

designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect, as appropriate to the work being certified, or to meet or exceed the following minimum criteria:

1. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one (1) foot above the adjacent interior grade (which must be equal to or higher than the adjacent exterior grade); and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.

(b) Fully enclosed areas below the lowest floor shall only be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(4) *Standards for Manufactured Homes and Recreational Vehicles.*

(a) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

(b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, except that a new or replacement manufactured home shall have its lowest floor elevated no less than one foot above the base flood elevation, or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than thirty-six (36) inches in height above grade. Except that a new or replacement manufactured home shall be elevated no less than forty-eight (48) inches in height above grade.

3. The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation collapse and lateral movement.

4. In an existing manufactured home park or sub-division on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of Sec. 24-111(B)(4)(b)1. and 3. above.

(c) All recreational vehicles placed on sites must either:

1. Be fully licensed and ready for highway use, or
2. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of Sec. 24-111 (B)(4)(a) or (b) 1. and 3. above.

A recreational vehicle is ready for highway use if it is on its wheels or ~~lacking~~ jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

(C) *Standards for Streams Without Established Base Flood Elevation and/or Floodways.* Within the areas of special flood hazard established in Sec. 24-109(B) where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

(1) No encroachments, including fill material or structures shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(2) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Sec. 24-110(C)(11).

(D) *Standards for Subdivision Proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty (50) lots or five (5) acres. (Ord. No. 92-25, 11-17-92)

Secs. 24-112 - 24-114 Reserved

Section 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

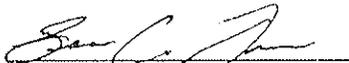
Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this 1st day of September, 2009.

APPROVED AND ADOPTED on second reading this 5th day of January, 2010.

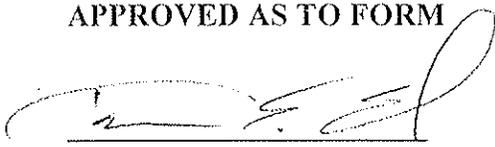
ATTEST:


SUSAN A. OWENS
CITY CLERK

(CITY SEAL)


MYRON ROSNER
MAYOR

APPROVED AS TO FORM


DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor and City Council

ORDINANCE NO. 2009-18