

# MEMORANDUM

Agenda Item No. 5(N)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** (Public Hearing: 10-18-22)  
September 1, 2022

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Ordinance relating to flood protection; amending chapter 11C of the Code of Miami-Dade County, Florida; revising definitions; amending floodplain and flood protection regulations related to buildings, structures, and other components of development; amending flood protection regulations to meet certain FEMA community rating system program requirements; amending section 2-114.1; providing for administrative review of takings and vested rights claims for decisions pursuant to chapter 11C and providing for appeals to county commission; making technical changes; amending section 8CC-10; providing for enforcement by civil penalty

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.

  
Geri Bonzon-Keenan  
County Attorney


GBK/gh

# Memorandum



**Date:** October 18, 2022

**To:** Honorable Chairman Jose “Pepe” Diaz  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor 

**Subject:** Ordinance Amending Chapter 11C of the Code of Miami-Dade County, Florida, Relating to Flood Protection, Section 2-114.1, Providing for Administrative Review of Takings and Vested Rights Claims for Decisions Pursuant to Chapter 11C, and Section 8CC-10, Providing for Enforcement by Civil Penalty

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## **Executive Summary**

This ordinance revises flood protection and floodplain regulations, makes amendments to improve the County’s Federal Emergency Management Agency (FEMA) Community Rating System (CRS) Program rating from a Class 5 to a Class 4, and implements technical changes to achieve higher regulatory standards to increase resilience and reduce future risks from projected increases in sea level rise. The higher regulatory standards in this ordinance will apply to new construction (new and replacement development) and substantial improvements to existing developments. This will lead to significant savings on flood insurance premiums for property owners.

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance, which amends Chapter 11C and Sections 2-114.1 and 8CC-10 of the Code of Miami Dade County (Code).

## **Scope**

The scope of this ordinance is Countywide. It involves environmental regulation related to flood protection and floodplain management and shall be applied to and enforced within the unincorporated areas of Miami-Dade County, as well as in the portions of the incorporated areas where the County has jurisdiction over building permits.

## **Delegation of Authority**

Chapter 11C currently delegates to the Director of the Department of Regulatory and Economic Resources’ Division of Environmental Resources Management (DERM) or the Director’s designee the authority to enforce flood protection and floodplain regulations. Upon approval by this Board, the Director will have the authority to enforce the regulations contained within this ordinance.

## **Fiscal Impact/Funding Source**

Approval of this item is not anticipated to create a fiscal impact to the County, as the proposed changes will not require additional staffing resources or generate additional operational expenses.

**Track Record/Monitor**

The DERM Director or the Director’s designee will be responsible for monitoring the implementation of this ordinance.

**Social Equity**

Adoption of this ordinance is expected to result in monetary savings in flood insurance premiums for policyholders in unincorporated Miami-Dade County, for the reasons explained in the Background section. In addition, increasing flood protection measures as required by this ordinance will increase the community’s resilience and reduce risks from projected sea level rise.

**Background**

With respect to flood protection and floodplain regulations, new and replacement developments and substantial improvements to existing developments must comply with the requirements in Chapter 11C of the Code of Miami-Dade County (Code) in effect at the time of platting and permitting. The proposed ordinance would require such development and substantial improvements, as defined in the ordinance, to comply with the higher regulatory standards to meet certain FEMA prerequisites that the County needs to improve its Community Rating System (CRS) Program rating from a Class 5 to a Class 4. Improving the County’s CRS rating will result in greater savings in flood insurance premiums, which will benefit policyholders in unincorporated Miami-Dade County. A Class 5 CRS rating currently provides a 25 percent discount to policyholders, whereas a Class 4 CRS rating will increase the discount to 30 percent.

The ordinance makes additional revisions to the regulatory standards in chapter 11C that would apply to new developments, replacement developments, and substantial improvements to existing developments. Establishing such new and higher regulatory standards for the design and construction of projects in Miami-Dade County supports the County’s efforts to increase resilience and reduce future risks from projected increases in sea level rise. Future sea level rise scenarios are based on the Intermediate High curve projections promulgated by the National Oceanic and Atmospheric Administration (NOAA), as further set forth in the Unified Sea Level Rise Projections – Southeast Florida (2019 Update) published by the Southeast Florida Regional Climate Change Compact’s Sea Level Rise Ad Hoc Work Group. This proposed ordinance uses a holistic approach to mitigate flood risk. These ordinance changes are well integrated into the County’s regulatory framework with the Florida Building Code, the FEMA Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS), the County’s Public Works Manual, other Code requirements, and state and federal floodplain and stormwater management regulations.

These revisions are not anticipated to significantly increase project design or construction costs, as the new regulatory standards are triggered only with new and replacement development, or with substantial improvements to existing development. Such improvements already necessitate engineering design and construction services. Hence, costs associated with plans or construction work to meet these standards are not expected to be affected. However, adoption of these standards are expected to reduce flood insurance costs if the County’s CRS rating improves to a Class 4, which will benefit all flood insurance policyholders in the unincorporated areas.

The ordinance also: removes provisions that are redundant of Florida Building Code or other requirements; reorganizes chapter 11C for ease of user reference; updates definitions based on the latest edition of the Florida Building Code; provides greater flexibility in certain current regulations, such as for accessory buildings in special flood hazard areas; codifies the longstanding procedure for review for structures that are exempt from the Florida Building Code but still subject to floodplain regulations; adds chapter 11C to the County’s existing process for administrative review of takings and vested rights claims; and provides for enforcement of chapter 11C through the County’s code enforcement process.

Some key revisions include:

- (1) Ensuring that all new, replacement, and substantially improved developments comply with the Florida Building Code and the County’s floodplain and flood protection regulations (Chapter 11C). This requirement will also apply to manufactured homes within pre-FIRM manufactured or mobile home parks or subdivisions, meaning those parks or subdivisions that were built before the effective date (July 18, 1974) of Miami-Dade County’s original floodplain management regulations. Imposing the same higher regulatory requirements on all new, replacement, or substantially improved mobile homes, regardless of when the park or subdivision in which they are located was constructed, is one of FEMA’s prerequisites to improve unincorporated Miami-Dade County’s CRS Program rating from a Class 5 rating to a Class 4 rating.
- (2) For special flood hazard areas, setting the minimum freeboard as the stricter of (a) one foot above the base flood elevation or (b) the minimum freeboard required by the Florida Building Code. The Florida Building Code currently requires a freeboard of at least one foot above base flood elevation in these special flood hazard areas, so these revisions do not change current requirements. These provisions are included, however, to ensure the County can maintain this same standard should the Florida Building Code requirement be reduced in the future. These provisions would maintain compliance with certain FEMA requirements related to minimum freeboard.
- (3) Requiring that when the base flood elevation is not shown on the FEMA Flood Insurance Rate Maps (FIRMs), as is the case for properties outside of the special flood hazard areas, the project engineer of record must calculate and provide a signed and sealed base flood elevation, to be used in conjunction with the Florida Building Code’s freeboard requirements to determine the lowest floor elevation. The new, replacement, or substantially improved development will then be required to comply with the more stringent of that calculated base flood elevation plus freeboard or the lowest floor elevation determination as provided for in Chapter 11C.
- (4) Minimizing flood damage by preventing stormwater seepage, runoff, or discharge onto adjacent or adjoining parcels. This is already required pursuant to other sections of the Code and is being added to chapter 11C for consistency.
- (5) Requiring evaluation of stormwater seepage, runoff, and discharge, and of infiltration and inflow of floodwaters into sanitary sewer systems and plants, pursuant to accepted engineering and scientific standards and principles. This is already required pursuant to other sections of the Code and is being added to chapter 11C for consistency.
- (6) Revising regulations pertaining to floodways to prohibit the placement of manufactured homes (mobile homes) in a designated floodway. Miami-Dade County currently has no designated floodways, so this provision does not currently apply anywhere in the County.

Honorable Chairman Jose “Pepe” Diaz  
and Members, Board of County Commissioners  
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Even though this condition does not presently exist, this change is being inserted in the event floodways are designated within Miami-Dade County in the future. Any future designation of a floodway would require Board action, as provided in the ordinance.



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Jimmy Morales  
Chief Operations Officer



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** October 18, 2022

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 5(N)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 5(N)  
10-18-22

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO FLOOD PROTECTION;  
AMENDING CHAPTER 11C OF THE CODE OF MIAMI-DADE  
COUNTY, FLORIDA; REVISING DEFINITIONS; AMENDING  
FLOODPLAIN AND FLOOD PROTECTION REGULATIONS  
RELATED TO BUILDINGS, STRUCTURES, AND OTHER  
COMPONENTS OF DEVELOPMENT; AMENDING FLOOD  
PROTECTION REGULATIONS TO MEET CERTAIN FEMA  
COMMUNITY RATING SYSTEM PROGRAM  
REQUIREMENTS; AMENDING SECTION 2-114.1;  
PROVIDING FOR ADMINISTRATIVE REVIEW OF TAKINGS  
AND VESTED RIGHTS CLAIMS FOR DECISIONS PURSUANT  
TO CHAPTER 11C AND PROVIDING FOR APPEALS TO  
COUNTY COMMISSION; MAKING TECHNICAL CHANGES;  
AMENDING SECTION 8CC-10; PROVIDING FOR  
ENFORCEMENT BY CIVIL PENALTY; PROVIDING  
SEVERABILITY, INCLUSION IN THE CODE, AND AN  
EFFECTIVE DATE

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** The memorandum referenced in the above recital is incorporated in this ordinance and is approved.

**Section 2.** Chapter 11C of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**Chapter 11C - >>FLOODPLAIN REGULATIONS<<  
~~[[DEVELOPMENT WITHIN FLOOD HAZARD DISTRICTS]]~~**

\* \* \*

**Sec. 11C-2. - Definitions.**

In construing the provisions of this chapter, where the context will permit and no definition is provided herein, the definitions provided in >>chapter 553<<[[Chapter 403]], Florida Statutes >>and the Florida Building Code<<, as may be amended from time to time, ~~[[and in the rules and regulations promulgated thereunder as may be amended from time to time,]]~~ shall apply. The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section.

- (a) *Accessory building* shall >>be as defined in the Florida Building Code<< ~~[[mean a secondary residence, garage, or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building. An accessory building may include a guest house or servants' quarters unless prohibited by existing deed restrictions or any applicable governmental regulation]]~~.
- (b) ~~[[Addition (to an existing building) shall mean 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.~~
- (~~e~~) *Area of shallow flooding* shall mean a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one ~~[[4]]~~ percent or greater annual chance of flooding to an average depth of one ~~[[4]]~~ to three ~~[[3]]~~ feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.



~~[(d)]~~ ~~Area of special flood hazard shall mean the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.~~

~~(e)]~~ >>(c)<< *Base flood* >>or *100-year flood*<< shall mean >>the level of flooding that, on average, has<< ~~[[a flood having]]~~ a one ~~[(4)]~~ percent chance of being equalled or exceeded in any given year.

>>(d) *Base flood elevation* shall mean the elevation of surface water resulting from the base flood, as specified on the flood insurance rate map.

(e)<< ~~[(f)]~~ *Basement* shall >>be as defined in the Florida Building Code.<< ~~[[mean that portion of a building having its floor subgrade (below ground level) on all sides.~~

~~(g)]~~ >>(f)<< *Below grade facilities* shall mean off-street parking facilities constructed underground and other similar types of below grade areas within a building >>that<< ~~[[which]]~~ are not habitable >>space as defined in section 33-1<< ~~[[areas and, containing neither electrical nor mechanical equipment, are not considered habitable]].~~

>>(g)<< ~~[(h)]~~ *Breakaway* >>wall shall be as defined in the Florida Building Code.<< ~~[[walls shall mean any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which are not a part of the structural support of the building and which are intended through their design and construction to collapse under specific lateral loading forces caused by abnormally high tides or wave action, without causing damage to the elevated portion of the building or the supporting foundation system or any other building to which they might be carried by floodwaters. A breakaway wall shall have a design loading capacity of not less than ten (10) pounds per square foot and no more than twenty (20) pounds per square foot.~~

~~(i)]~~ >>(h)<< *Building site* shall mean the ground area of a property occupied by buildings and other enclosed structures.

>>(i)<< ~~[(j)]~~ *Coastal high hazard area* >>or *CHHA*<< shall mean the area >>designated as such in the Florida Building Code.

The CHHA may overlap with the coastal high hazard area as defined in the Comprehensive Development Master Plan's Land Use and Coastal Management Elements, but for purposes of this chapter, the Florida Building Code designation shall control<< ~~[[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]].~~

>>(j)<< ~~[[~~(k)~~]]~~ *Crown of road (center line)* shall mean a line running parallel with the highway right-of-way which is half the distance between the extreme edges of the official right-of-way width as shown on a map approved by the ~~[[Department of Public Works.]]~~ >>public works department.

(k)<< ~~[[~~(4)~~ Miami-Dade]]~~ *County Flood Criteria* ~~[[~~Maps~~]]~~ shall mean >>the<< ~~[[~~those~~]]~~ official >>map or<< maps of Miami-Dade County >>that show<< ~~[[~~showing~~]]~~ the required minimum finished grade elevation of the ground surface within a development site and ~~[[as]]~~ >>that are<< adopted by the Board of County Commissioners and recorded in >>a<< Plat Book ~~[[~~120 at Page 13-1, 13-2, 13-3, 13-4 and 13-5~~]]~~ of the Public Records of Miami-Dade County~~[[, as the same may be amended from time to time]].~~ >>The current County flood criteria are contained in the maps recorded in Plat Book 120 at Page 13-1, 13-2, 13-3, 13-4, and 13-5.

(l) Department shall be as defined in section 24-5.<<

(m) *Development* shall mean 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.

>>(n) Director shall be as defined in section 24-5, or shall be such other official as is designated by the County Mayor to administer this chapter. Except where expressly provided or where context dictates otherwise, the term "Director" includes the Director's designee.

(o)<< [[(n)]] *Elevated building* shall mean a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation, perimeter walls, pilings, columns (posts and piers), shear walls, or >>other structural support<< [[~~breakaway walls~~]].

>>(p)<< [[(o)]] *Existing manufactured home park or subdivision* shall mean 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 >>pre-FIRM<< [[~~completed before June 18, 1974, the effective date of Miami Dade County's adoption of floodplain management regulations~~]].

>>(q)<< [[(p)]] *Expansion to an existing manufactured home park or subdivision* shall mean the preparation of additional sites >>at an existing manufactured home park or subdivision<< 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).

[[(q)]]>>(r) FEMA shall mean the Federal Emergency Management Agency or successor agency.

(s)<< *Finished grade as applied to a development site* shall mean the established final elevation after filling or grading of the ground surface at a certain point within a development site.

>>(t)<< [[(s)]] *Flood or flooding* shall >>be as defined in the Florida Building Code.<< [[~~mean a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of streams, rivers, or other inland water, or (2) abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tsunamis.~~

(s)]] >>(u)<< *Floodproofing* >>or dry floodproofing<< shall mean structural >>or<< [[~~and~~]] nonstructural additions, changes, or adjustments (other than elevating) to [[~~nonresidential~~]] structures and utilities which reduce or eliminate flood damage to water supply and sanitary sewage facilities, structures and contents of buildings. >>This classification

~~shall not include wet floodproofing, which is separately defined in this section.<< [[Floodproofing may be permitted in large residential structures such as condominiums provided it is limited to electrical and utility rooms only.]] Floodproofing >>may include, without<< [[includes, by way of illustration, not]]~~ limitation, the following measures:

- (1) Anchorage to resist flotation and lateral movement.
- (2) Installation of watertight doors, bulkheads, and shutters, or similar methods of construction to protect against winds, wave action, or flood waters.
- (3) Reinforcement of walls to resist water pressures.
- (4) Use of paints, membranes, or mortars to reduce ~~[[seepage]]~~ >>entrance or infiltration<< of water through walls.
- (5) Addition of mass or weight to structures to resist flotation.
- (6) Installation of pumps>>, such as sump pumps,<< to lower water levels in structures>>, such as may occur through seepage as defined in section 24-5<<.
- (7) Construction of water supply and waste water treatment and disposal systems to prevent the entrance or infiltration of flood waters.
- (8) Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.
- (9) Construction to resist rupture or collapse caused by water pressure or flooding debris.
- (10) Installation of valves or controls of sanitary and storm drains >>that permits<< [[which will permit]] the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.
- (11) Location of all electrical >>equipment<< [[equipments]], circuits>>,<< and installed electrical appliances in a manner >>that assures<< [[which will assure]] they are not subject to flooding and ~~[[to provide]]~~ >>that provides<< protection from inundation by the >>base<< [[regulatory]] flood.
- (12) Location of any structure~~[[,]]~~ >>or facility, for<< storage~~[[, facilities for]]~~ >>of<< chemicals, explosives, buoyant materials, flammable liquids>>,<< or other toxic materials ~~[[which]]~~

>>~~that~~<< could be hazardous to the public health, safety, >>~~or~~<< ~~[[and]]~~ welfare>>.<< in a manner >>~~that assures~~<< ~~[[which will assure]]~~ that >>such structure or facility is<< ~~[[the facilities are]]~~ situated at elevations above the height associated with the regulatory protection elevation or >>is adequately constructed, insulated, or otherwise reinforced<< ~~[[are adequately floodproofed]]~~ to prevent flotation of >>or damage to<< storage containers~~[[, or damage to storage containers which could result in]]~~ >>and to prevent<< the escape of toxic materials into flood waters.

>>~~(v)~~<<~~[[(+)]]~~ *Flood hazard* ~~[[boundary]]~~ area shall >>be as defined in the Florida Building Code.<< ~~[[mean an area within an official map of the community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.~~

~~(+)~~]] >>~~(w)~~<< *Flood insurance rate map (FIRM)* shall mean an official map of a community on which >>FEMA<< ~~[[the Federal Emergency Management Agency]]~~ has delineated ~~[[both]]~~ the ~~[[areas of]]~~ special flood hazard >>areas and their base flood elevations.<< and the risk premium zones applicable to the community. >>In accordance with section 553.73, Florida Statutes, this definition shall not be construed to refer to or permit reliance on preliminary maps issued by FEMA.

~~(x)~~<< ~~[[(+)]]~~ *Flood insurance study* >>~~(FIS)~~<< shall mean the official report provided by >>FEMA<< ~~[[the Federal Emergency Management Agency]]~~. The report contains flood profiles, as well as ~~[[the flood boundary floodway map and]]~~ >>detailed flood elevation data, including<< the water surface elevation of the base flood.

>>~~(y)~~<< ~~[[(+)]]~~ *Floodway* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge >>the quantity of water estimated by<< the base flood without cumulatively increasing the water surface elevation more than one ~~[[(+)]]~~ foot. >>Only floodways that are designated as such by both: (i) appropriate action by FEMA, the United States Army

Corps of Engineers, or the State of Florida; and (ii) an ordinance adopted by the Board of County Commissioners shall be subject to floodway regulations set forth in this chapter.

(z)<< ~~[(\*)]~~ *Floor* shall mean 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 >>or enclosure under an elevated building<< used solely for parking vehicles>>, building access, or storage<<.

>>(aa)<< ~~[(\*)]~~ *Functionally dependent facility* shall mean ~~[[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, >>or<< ship repair~~[[, or seafood processing facilities]]~~. The term does not include long-term storage, manufacture, sales, or service facilities.

>>(bb)<< ~~[(\*)]~~ *Highest adjacent grade* shall >>be as defined in the Florida Building Code.<< ~~[[mean the highest finished grade elevation of the ground surface next to the proposed walls of a structure. (For the purposes of the NFIP this term shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.~~

~~(aa)]~~ >>(cc)<< *Historic structure* shall mean any structure that is:

\* \* \*

>>(dd)<< ~~[(\*)]~~ *Lowest floor* shall >>be as defined in the Florida Building Code.<< ~~[[mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, 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 requirements of Section 60.3 of 44 CFR Ch. I (10-1-88 Edition).~~

~~(ee)]~~ >>~~(ee)~~<< *Mangrove stand* shall mean an assemblage of mangrove trees which consists of one ~~[(1)]~~ or more of the following species: ~~[[Black]]~~ >>black<< mangrove ~~[(*Avicennia germinans*)]~~ >>(*Avicennia germinans*)<<; red mangrove ~~[(*Rhizophora mangle*)]~~ >>(*Rhizophora mangle*)<<; white mangrove ~~[(*Languncularia racemosa*)]~~ >>(*Languncularia racemosa*)<<; ~~[[and]]~~ buttonwood ~~[(*Conocarpus erecta*)]~~ >>(*Conocarpus erectus*); or any other species included as part of a mangrove stand pursuant to the Florida Building Code<<.

>>~~(ff)~~<< ~~[(dd)]~~ *Manufactured home park* or *manufactured home subdivision* shall mean a parcel (or contiguous parcels) of land divided into two ~~[(2)]~~ or more manufactured home lots for rent or sale.

>>~~(gg)~~<< ~~[(ee)]~~ *Manufactured home (trailer)* shall mean a structure, 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 "manufactured home" does not include a "recreational vehicle." However, park trailers, travel trailers, and similar transportable structures placed on a site for >>180<< ~~[[one hundred eighty (180)]]~~ consecutive days or longer shall be regulated as manufactured homes.

>>~~(hh)~~<< ~~[(ff)]~~ *Mean sea level* shall mean the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD >>29<<).

>>~~(ii)~~<< ~~[(gg)]~~ *Minimum finished grade* >>elevation<< shall mean the elevation ~~[[established in the Miami Dade County Flood Criteria Maps at]]~~ >>to which<< a specific development site ~~[[or the crown of an existing adjacent road, whichever is higher]]~~ >>is required to be built pursuant to this chapter<<.

>>~~(jj)~~<< ~~[(hh)]~~ *National Geodetic Vertical Datum (NGVD)* >>29<< ~~[[as corrected in 1929]]~~ shall mean a vertical control used as a reference for establishing varying elevations within the floodplain>>, as corrected in 1929<<.

>>(kk)<< [[(ii)]] *New construction* shall mean a structure for which the "start of new construction" commenced on or after the effective date of the first Floodplain Management Regulation adopted by the County (June 18, 1974). The term includes any subsequent improvement to the structure.

>>(ll)<< [[(jj)]] *New manufactured home park or new manufactured home subdivision* shall mean 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 grading or the pouring of concrete pads) is completed on or after the effective date of >>the first<< floodplain management regulations adopted by Miami-Dade County, June 18, 1974.

>>(mm)<< [[(kk)]] *Physical start* shall mean>>the earliest of the following:<< the first placement of permanent construction of a structure (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>>; or the actual start of construction as defined in the Florida Building Code<<. >>For purposes of this definition, "permanent construction"<< [[~~Permanent construction~~]] does not include>>,<< land preparation such as clearing, grading, and filling; [[~~nor does it include the~~]] installation of streets or walkways; [[~~nor does it include~~]] excavation for a basement, footings, piers>>,<< or foundations or the erection of temporary forms; [[~~nor does it include~~]] >>or<< the installation on the property of accessory buildings>>,<< such as garages or sheds>>, provided that such buildings are<< not occupied as dwelling units or not part of the main structure.

>>(nn) *Pre-FIRM* shall mean prior to June 18, 1974, the effective date of Miami-Dade County's initial adoption of floodplain management regulations. A manufactured home park or manufactured home subdivision constructed before June 18, 1974 is considered pre-FIRM and is also referred to as an "existing manufactured home park or subdivision."



(oo) Public works department shall be as defined in section 2-99.

(pp) Public works manual shall mean the manual of minimum standards for the public works construction promulgated by the county public works department pursuant to section 2-100.

(qq)<< ~~[(hh)]~~ Recreational vehicle shall mean a vehicle which is:  
 (1) Built on a single chassis; and  
 (2) >>No greater than 400<< ~~[[Four hundred (400)]]~~ square feet ~~[[or less]]~~ when measured at the largest horizontal projections; and  
 (3) Designed to be self-propelled or permanently towable by a light duty truck; and  
 (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

>>(rr)<< ~~[[mm)]~~ Regulatory flood ~~[[also herein referred to as the one hundred year flood)]~~ shall mean the >>base flood<< ~~[[level of flooding that, on the average, is likely to be equalled or exceeded once in any one hundred year period (i.e., that has a one (1) percent chance of occurring in any year).~~

~~(nn)]~~ >>(ss)<< Residential or residence shall >>be as defined in the Florida Building Code and in chapter 33 of this Code<< ~~[[mean any lot, plot, parcel, tract, area, piece of land or building used exclusively for family dwelling purposes or intended to be so used, including concomitant uses as specified in Chapter 33, Code of Metropolitan Miami-Dade County, Florida.~~

~~(oo)]~~ >>(tt)<< Sand dunes shall mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

>>(uu) Special flood hazard area or SFHA shall be as defined in the Florida Building Code.

(vv)<< ~~[[pp)]~~ Start of new construction ~~[[for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)]]~~ shall >>be as defined

in the Florida Building Code.<< ~~[[mean the date the building permit was issued provided that physical start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the building permit date.~~

~~(qq)]~~ >>(ww)<< Structure shall >>be as defined in the Florida Building Code.<< ~~[[mean a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.~~

~~(rr)]~~ >>(xx)<< Substantial damage shall >>be as defined in the Florida Building Code<< ~~[[mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred unless another method of computation under certain stated conditions is approved or authorized by the Federal Emergency Management Administration]].~~

>>(yy)<< ~~[[ss)]~~ Substantial improvement >>or substantially improved<< shall ~~[[mean any combination of repairs, reconstruction, alteration, or improvements to a structure,]]~~ >>include those improvements defined as such in the Florida Building Code, as well as repairs to address substantial damage, and shall also include cumulative improvements in accordance with the following:

(1) Except as provided herein, any combination of repairs, reconstructions, alterations, or improvements to a structure that take<< ~~[[taking]]~~ place during a six-month period, in which the cumulative cost equals or exceeds >>50<< ~~[[fifty (50)]]~~ percent of the market value of the structure >>shall constitute a substantial improvement<<. ~~[[However, the]]~~

>>(2) The<< accumulation period for a substantial improvement within any coastal building zone, as defined by Section 161.54(1), Florida Statutes, shall be five ~~[[5]]~~ years.

>>(3)<< The market value of the structure shall be >>calculated as<< ~~[[4]]~~ the appraised value of the structure prior to the start of the initial repair or

improvement, or ~~[(2)]~~ in the case of damage, the value of the structure prior to the damage occurring.

>>(4)<< "Substantial improvement" 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 structure.

>>(5)<< This term includes structures >>that<< ~~[[which]]~~ incur substantial damage regardless of actual work performed.

>>(6)<< The term does not include either:

>>(i)<< ~~[(4)]~~ Any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications >>that<< ~~[[which]]~~ are solely necessary to assure safe living conditions; or

>>(ii)<< ~~[(2)]~~ Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

>>(zz)<< ~~[(tt)]~~ *Substantially improved existing manufactured home*~~[-]~~ *park or subdivision* shall mean when the repair, reconstruction, rehabilitation>><sub>1</sub><< or improvement of the streets, utilities>><sub>1</sub><< and pads equals or exceeds >>50<< ~~[[fifty (50)]]~~ percent of the value of the streets, utilities>><sub>1</sub><< and pads before the repair, reconstruction>><sub>1</sub><< or improvement commenced.

>>(aaa)<< ~~[(uu)]~~ *Variance* is a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

>>(bbb) Watertight shall be as defined in the Florida Building Code for "substantially impermeable."

(ccc) Wet floodproofing shall mean any combination of structural or nonstructural adjustments or measures that reduce or eliminate flood damage to a structure or its contents and attendant utilities and equipment by allowing flood water to enter the structure as per the requirements of the Florida Building Code and other applicable requirements contained in this chapter and thereby prevent or provide resistance to damage from flooding.

(ddd) Zoning department shall mean the “department” defined in section 33-1.<<

**Sec. 11C-3. – ~~[[Development]]~~ >>Reviews pertaining to floodplain related requirements and flood protection<< in ~~[[either]]~~ Special Flood Hazard ~~[[SFH]]~~ Areas >>(SFHA)<<, Coastal High Hazard ~~[[CHH]]~~ Areas >>(CHHA)<<, or ~~[[Outside]]~~ >>outside such areas<< ~~[[Special Flood Hazard Areas]]~~.**

>>For all development, including development in or out of Special Flood Hazard Areas or Coastal High Hazard Areas, and for any structure that is exempt from the Florida Building Code but subject to floodplain regulation, such as a nonresidential farm building as defined in section 604.50, Florida Statutes, the Director<< ~~[[The County official responsible for the administration and enforcement of this chapter]]~~ shall (to the extent not otherwise prohibited by >>sections<<~~[[Sections]]~~ 11C-4 and 11C-5 ~~[[with respect to development within SFH and CHH Areas]]~~) >>do the following<<:

\* \* \*

(c) Review building permit applications for new construction or substantial improvements>>, including for prefabricated homes and for manufactured homes in or out of a pre-FIRM manufactured home park or subdivision.<< ~~[[within said areas]]~~ to assure that the proposed construction ~~[[including prefabricated and mobile homes]]~~:

- (1) Is protected against flood damage~~[[,]]~~>>:<<
- (2) >>Prevents stormwater runoff or discharge onto adjoining or adjacent parcels;
- (3)<< Is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure~~[[,]]~~>>:

~~(4)~~<<[[~~(3)~~]] Uses construction materials and utility equipment which are resistant to flood damage, and also uses construction methods and practices which will minimize flood damage [[:]]>>:

~~(5)~~<<[[~~(4)~~]] Provides in the plans part of the building permit application the appropriate flood plain information>>:<< including >>, without limitation: the minimum finished grade elevation shown on the<< [[~~Miami-Dade~~]] County Flood Criteria >>Map; the FEMA<<base flood elevation[[:]]>>, and elevations and topography of the proposed construction site and all adjoining parcels.<<

(d) Review subdivision [[~~proposals~~]]>>applications, including tentative plats and waiver of plats,<< and other proposed new developments to assure that:

(1) All such proposals are consistent with the need to minimize flood damage, >>including preventing stormwater runoff or discharge onto adjoining or adjacent parcels;<< and

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, or constructed to minimize or eliminate flood damage[[:]]>>:<< and

(3) Adequate drainage is provided so as to reduce the exposure to flood hazards >>to the proposed subdivision, new development, and adjoining or adjacent parcels.<<[[~~;~~and]]

(e) [[~~Require~~]] >>With regard to water, sewage, and waste water:

~~(1)~~ require all<< new or replacement water supply systems>>:<< [[~~and~~]] >>water<< treatment plants>>, building sewers, wastewater collection and transmission<< [[~~and sanitary sewage plants and~~]] systems>>, and sanitary sewage treatment plants<< to be designed to minimize or eliminate infiltration >>and inflow<< of flood waters into the systems and plants and >>minimize or eliminate<< discharges from the systems and plants into flood waters, >>including sewage overflows; and

~~(2)~~ require each onsite sewage treatment and disposal system (OSTDS), as defined in section 24-5,<< [[~~and require on-site waste water disposal systems~~]] to be

located so as to avoid impairment of >>the OSTDS<< ~~[[them]]~~ or contamination >>of the OSTDS<< from ~~[[them during]]~~ flooding.

- (f) Require a lowest floor elevation of floodproofing certification, before tie-beam inspection and after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor>>, in accordance with the following<<.
- >>(1)<< Upon placement of the lowest floor, or floodproofing 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 County a certification of the elevation of the lowest floor, floodproofed 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.
  - >>(2)<< Said certification shall be prepared by or under the direct supervision of a ~~[[registered]]~~ land surveyor or professional engineer >>licensed in the State of Florida<< and certified by same.
  - >>(3)<< When floodproofing 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.
  - >>(4)<< Any work undertaken prior to submission of the certification shall be at the permit holder's risk.
  - >>(5)<< The County 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.
  - >>(6)<< 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.
- (g) Require that all new subdivision ~~[[proposals]]~~ >>applications, including tentative plats and waivers of plat<< and other proposed developments (including >>for manufactured homes in or out of a pre-FIRM manufactured home park or subdivision or<< ~~[[proposals]]~~ for >>new<<

manufactured home parks and subdivisions) include >>a  
survey providing the information required by paragraph  
(c)(5)<< ~~[[within such proposals base flood elevation data,  
Miami Dade County Flood Criteria, existing grade and  
crown of adjacent road elevation]]~~.

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- (j) In coastal high hazard areas, >>require that all plans be  
reviewed<< ~~[[the County shall review plans]]~~ for adequacy  
of breakaway walls >>and other decorative screening or  
lattice work<< in accordance with >>subsections<<  
~~[[Sections]]~~ 11C-4(e), (f) and (g).

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- (l) >>Maintain all<< ~~[[All]]~~ records pertaining to the provisions  
of this chapter >>and ensure that all such records are  
available<< ~~[[shall be maintained in the office of the County  
official and shall be open]]~~ for public inspection.

- (m) Review proposed development to >>ensure<< ~~[[assure]]~~  
that>><sub>1</sub><< ~~[[no use shall be make for]]~~ other than crop,  
grove, nursery>><sub>1</sub><< ~~[[and]]~~ grazing ~~[[purposes]]~~, or similar  
>>agricultural<< uses~~[[,]]~~>><sub>1</sub>:

- (1) No use shall be made of<< and no building of any  
type shall be constructed, erected upon>><sub>1</sub><< or  
moved to>><sub>1</sub><< any land below the >>minimum  
finished grade<< elevation established by the County  
Flood Criteria Map ~~[[as adopted by the Board of  
County Commissioners]]~~, or the back of sidewalk  
elevation of the road fronting the property, or if there  
is no sidewalk, the elevation of the crown of road or  
street abutting such building site, whichever is  
higher. And before any such land shall be used,  
except as above authorized, it shall be filled >><sub>1</sub>  
graded and harmonized as needed to match the road  
fronting the property, and<< as required by the  
~~[[directors of Departments of Environmental  
Resources Management and Public Works.]]~~  
>>Director and the public works department; and

- (2)<< For uses >>requiring a floor<< other than residential  
>>uses<< ~~[[requiring a floor]]~~, the >>lowest<< floor  
elevation shall be a minimum of four ~~[[4]]~~ inches

above >>any of the following:<< the elevation established by the County Flood Criteria Map[[:]]>>:<< or the back of sidewalk elevation[[:]]>>:<< or if there is no sidewalk, the elevation of the highest crown of road or street abutting such building site, whichever is higher[[:]]>>:<< or if the road has no crown, then the highest edge of cross section of the road shall apply[[:]]>>; and

(3)<< For all residential uses, the >>lowest<< floor elevation shall be a minimum of eight [(8)] inches above >>any of the following:<< the elevation established by the County Flood Criteria Map[[:]]>>:<< or the back of sidewalk elevation[[:]]>>:<< or if there is no sidewalk, the elevation of the highest crown of road or street abutting such building site, whichever is higher[[:]]>>:<< or if the road has no crown, then the highest edge of cross section of the road shall apply[[:]]>>; and

(4)<< In all cases and for all uses and whether the property is located in a Special Flood Hazard Area, or outside, the >>lowest<< floor elevation obtained as above described, shall be compared against the base flood elevation shown in the Flood Insurance Rate Maps>>, plus the minimum freeboard required by the Florida Building Code then in effect, and the higher of the two shall be used for design and construction; and

(5) If the base flood elevation is not shown in the Flood Insurance Rate Maps, the lowest floor elevation obtained as described above shall be compared to the base flood elevation calculated and provided in signed and sealed plans prepared by an engineer licensed in the State of Florida plus the minimum freeboard required by the Florida Building Code then in effect,<< and the higher of the two [(2)] shall be used for design and construction[[:]]>>; and

(6) Below grade facilities that<< [[The provisions of this subsection shall not apply to off street parking facilities constructed underground and other similar



~~types of below grade areas within a building which]]~~  
 are not >>the<< lowest floor and contain neither  
 electrical nor mechanical equipment[[.]] >>are  
exempt from this subsection, provided that:

- (i)<< All such facilities ~~[[constructed below grade]]~~ shall be designed and constructed and contain essential equipment, if necessary, to prevent infiltration and accumulation of water or to provide for immediate and continuous elimination of water[[.]]>>; and
- (ii)<< A Florida >>licensed<< ~~[[registered]]~~ engineer or architect shall submit data and a floodproofing certificate to assure that the design complies with >>subsection<< ~~[[all guidelines of Section]]~~ 11C-5(b).

- (n) If in the review of a building application >>pursuant to this chapter<< ~~[[within the unincorporated areas of Miami Dade County]]~~, it is determined that in the application of the provisions of >>subsection (m) above<< ~~[[Section 11C-3(m) of this Code]]~~ the building applicant would be otherwise required to provide flood protection in excess of the requirements of this chapter, ~~[[then it shall be the responsibility and authority of the Director of the Department of Environmental Resources Management, or his designee, to review such plans and may]]~~ >>to<< grant a variance to >>such<< ~~[[the]]~~ requirements>>, subject to section 11C-12, provided that the applicant demonstrates that the property provides<< [[of Section 11C-3(m) of this Code to provide]] >>flood protection >>that<< [[which]] is no less than the flood protection required by this chapter >>and that the protection is<< based upon good engineering practice. ~~[[Said decision shall be subject to appeal in accordance with Section 11C-12(j) of this Code.]]~~

- >>(o) With respect to floodplain-related requirements, ensure compliance with the Florida Building Code and applicable requirements of the state agency with jurisdiction over the installation of manufactured homes for:
  - (1) all new or substantially improved manufactured homes in or out of pre-FIRM manufactured home parks or subdivisions; and
  - (2) all new or substantially improved foundations intended for placement of a modular building or

manufactured home, including such homes or foundations in pre-FIRM manufactured home parks and subdivisions.

- (p) Ensure that all plans for new building foundations in the regulatory floodplain are signed and sealed by a Florida licensed engineer or architect as complying with the requirements of the Florida Building Code.
- (q) For all buildings or other structures that are exempt from the Florida Building Code but subject to floodplain regulation, ensure that such structures comply with the requirements of this chapter for residential or nonresidential buildings or structures, as applicable. Notwithstanding any other provision to the contrary, such review may be performed through an application for a zoning improvement permit pursuant to section 33-8.1, or through other application or review procedure acceptable to the Director and subject to payment of all applicable fees established by implementing order approved by the Board of County Commissioners.
- (r) Ensure that evaluations required by this section for stormwater seepage, runoff, or discharge onto adjacent and adjoining parcels and infiltration and inflow of floodwaters into sanitary sewerage systems and plants comply with the following:
  - (1) Evaluations shall be performed using generally accepted engineering and scientific standards and principles approved by the Director.
  - (2) Accepted engineering and scientific principles include, but are not limited to, those contained in the latest edition of: the County public works manual promulgated pursuant to section 2-100; the National Engineering Handbook; the South Florida Water Management District Environmental Resource Permit Applicant's Handbook; and relevant publications of the National Oceanic and Atmospheric Administration and United States Geological Survey.<<

**Sec. 11C-4. – Development within Coastal High Hazard Areas**  
~~[(CHH)].~~

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- (e) Lattice work or decorative screening>>, including breakaway walls,<< shall be allowed below the base flood elevation>>,<< provided >>that all of the following specifications are met:
- (1)<< it is not part of the structural support of the building>>,<< and
  - >>(2) it<< is designed ~~[[so-as]]~~ to breakaway under abnormally high tides or wave action without damage to the structural integrity of the building on which it is to be used>>, the supporting foundation system, or any other building to which it might be carried by floodwaters;<< and ~~[[provided the following design specifications are met:~~
  - (4)]]>>(3) it consists<< ~~[[Material shall consist]]~~ of lattice, mesh screening>>,<< or unreinforced concrete block>>,<< and ~~[[shall satisfy all provisions in Section 11C-2(h)]]~~
  - >>(4) it is constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material; and
  - (5) it is designed to comply with the Florida Building Code<<.
- (f) If aesthetic lattice work screening or unreinforced concrete block ~~[[breakaway walls]]~~ is utilized ~~[[,such]]~~>>:
- (1) any space<< enclosed >>by such lattice or concrete<< ~~[[space]]~~ shall not be designed for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises ~~[[Areas]]~~>>; and
  - (2) areas<< enclosed by unreinforced concrete block ~~[[breakaway walls]]~~ >>and<< exceeding >>299<< ~~[[two hundred ninety nine (299)]]~~ square feet in size will be considered the lowest floor for flood insurance purposes>>, which may result in<< ~~[[and therefore]]~~ higher insurance premiums ~~[[will result]]~~.
- (g) Prior to construction, plans for any structures that will have lattice work or decorative screening ~~[[or a breakaway wall,]]~~ shall be submitted to the >>Director<< ~~[[county official]]~~ for approval.

- (h) Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided in subsection (e) above for in Section 11C-4(e), or concrete as provided by Section 11C-2(h)).

\* \* \*

- (j) No manufactured homes, ~~[[except]]~~ including in ~~[[existing]]~~ pre-FIRM manufactured home parks and manufactured home subdivisions, shall be placed, replaced, or substantially improved within this ~~[[zone]]~~ area unless such home meets the elevation, anchoring, and other applicable requirements for residential structures set forth in this chapter and the Florida Building Code ~~[[, provided all of the anchoring and elevation standards of Sections 11C-4(i) and 11C-4(b)(2) are met]]~~.

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#### **Section 11C-5. – Development within Special Flood Hazard ~~[[SFH]]~~ Areas.**

- (a) For purposes of this section, “freeboard” means the stricter of: one foot of freeboard above the base flood elevation; or the minimum freeboard required by the Florida Building Code.
- (b) Residential structures. No new construction or substantial improvement of any legally existing residential structure ~~[[or manufactured home]]~~ shall be permitted in an SFHA ~~[[SFH Areas]]~~, and no building permit ~~[[referred to in Section 11C-3 of this chapter]]~~ shall be issued therefor, unless said new construction, reconstruction, or substantial improvement ~~[[has the]]~~ complies with the following:
- (1) For purposes of this subsection: the term “residential structure” includes:
    - (i) Single-family and multi-family residences as defined in section 33-1; and
    - (ii) Manufactured homes, including a manufactured home in a pre-FIRM manufactured home park or subdivision.

- (2) The structure's<< lowest floor (including basement) >>and any attached garages or enclosures and accessory storage sheds shall be<< elevated to or above [[the level of]] the >>base<< [[regulatory]] flood >>elevation<< [[~~(100-year flood)~~]] >>plus freeboard, except as provided in paragraph (4) below.
- (3) Machinery, equipment, and mechanical items, including, without limitation, those placed within attached garages or within enclosures below elevated buildings, shall be elevated to or above the base flood elevation plus freeboard.
- (4) Residential structures may not satisfy these requirements through use of dry or wet floodproofing, except that attached garages or enclosures and accessory storage sheds may use wet floodproofing, provided that machinery, equipment, and mechanical items comply with paragraph (3) above.<<

~~[[~~(b)~~]]~~>>(c) Nonresidential structures.<< No new construction >>of any,<< or substantial improvement of any >>legally existing,<< nonresidential structure shall be permitted in >>an SFHA<< [[~~SFH Areas~~]], and no building permit [[referred to in Section 11C 3 of this chapter]] shall be issued therefor, unless [[said new construction substantial improvement has the]]>>:

- (1) the structure's<< lowest floor (including basement) >>is<< elevated to or above the [[level of the]] >>base<< [[regulatory]] flood [[~~(one hundred year flood)~~]] >>elevation plus freeboard;<< or
- >>(2)<< if the lowest permitted floor level of such nonresidential structure (including basement) is below the [[regulatory]] >>base<< flood [[level]]>>elevation plus freeboard,<< then such nonresidential structure>>,<< together with attendant utility and sanitary facilities>>,<< shall be floodproofed up to >>the foregoing base flood elevation plus freeboard level<< [[~~one (1) foot above the regulatory flood;~~]] >>, provided that in no event shall such<< [[provided that the]] lowest floor

level ~~[[of such nonresidential structure (including basement) shall be not]]~~ >>be<< more than >>10<< ~~[[ten (10)]]~~ feet below the >>base<< ~~[[regulatory]]~~ flood >>elevation<< ~~[[level]]~~.

>>(3) Machinery, equipment, and mechanical items, including, without limitation, those placed within attached garages or within enclosures below elevated buildings, shall be elevated to or above the base flood elevation plus freeboard.

(4)<< Where floodproofing is utilized for a ~~[[particular]]~~ >>nonresidential<< structure, a >>Florida-licensed<< ~~[[registered]]~~ professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depth, pressures, velocities, impact>>,<< and uplift forces associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the >>Director<< ~~[[designated official]]~~.

~~[[e)]]~~ >>(d) Manufactured homes on individual lots or parcels or in manufactured home parks or subdivisions. No manufactured homes, including in pre-FIRM manufactured home parks and manufactured home subdivisions, shall be placed, replaced, or substantially improved within this area unless such home meets the elevation, anchoring, and other applicable requirements for residential structures set forth in this chapter and the Florida Building Code.<< [[All manufactured homes placed, or substantially improved on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, and in new manufactured home parks, shall meet all of the requirements for new construction, including elevation and anchoring.

(d) ~~All manufactured homes placed, or substantially improved in an existing manufactured home park or subdivision shall be elevated so that:~~

(1) ~~The lowest floor of the manufactured home is elevated no lower than the level of the based 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.~~
- (3) ~~The manufactured home shall be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.~~
- (4) ~~In an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved shall meet the standards of Section 11C-5(d)(1) and (3).]~~

(e) >>Recreational vehicles<< All recreational vehicles placed on sites shall meet the requirements of >>subsection<< [[Section]] 11C-4(k).

(f) *Elevated buildings.* New construction or substantial improvements of elevated buildings that >>use wet floodproofing and that<< include fully enclosed areas formed by foundations and other exterior walls below the base flood elevation >>plus freeboard<< shall be designed to preclude >>habitable space as defined in section 33-1,<< [[~~finished living space~~]] except [[~~allowable uses i.e. parking, limited storage and~~]] building access>>,<< and shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

>>(1) For purposes of this subsection, "building access" shall mean an enclosed area with finished interior walls that is not used as habitable space but is designed to allow ingress and egress for a building.

(2) Foundation and all other designs used to comply<< [[~~Designs for complying~~]] with this requirement [[~~must either~~]] >>shall<< be certified by a >>Florida-licensed<< professional engineer or >>Florida-registered<< architect>>, as applicable by type of building,<< [[~~or~~]]>>to<< meet the following minimum criteria:

>>(i)<< [[(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;

- >>(ii)<< [[(2)]] The bottom of all openings shall be no higher than one [[(1)]] foot above grade; and
- >>(iii)<< [[(3)]] Openings may be equipped with screens, louvers, valves>>\_<< or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
- >>(iv)<< [[(4)]] Electrical, plumbing, and other utility connections are prohibited below the base flood elevation >>plus freeboard<<;
- >>(v)<< [[(5)]] 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
- >>(vi)<< [[(6)]] The interior portion of such enclosed area shall not be partitioned or finished into separate rooms or air conditioned.

(g) *Floodways.* >>Miami-Dade County currently has no designated floodways. If a floodway is designated in the future, this subsection (g) shall apply to any such designated floodway.<< ~~[[Located within areas of special flood hazard are areas designated as floodways.]]~~ Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential, the following >>additional requirements<< ~~[[provisions]]~~ shall apply:

- (1) ~~[[Prohibit encroachments]]~~ >>Encroachments<<, including>>, without limitation,<< fill, new construction, substantial improvements>>\_<< and other developments>>, are prohibited,<< unless certification (with supporting technical data) by a >>Florida-licensed<< ~~[[registered]]~~ professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
- (2) >>All construction and substantial improvements shall comply with the requirements set forth in



section 11C-4, provided that, in the event of a conflict with this section, the stricter regulation shall control; and<< ~~[[If Section 11C 5(f)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 11C-5;]]~~

- (3) ~~[[Prohibit—the]]~~ >>The<< placement of manufactured homes (mobile homes), ~~[[except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Section 11C 5(e) and (d) and the elevation standards of Section 11C 5(a) are met.]]~~ >>including those in and out of pre-FIRM manufactured home parks and subdivisions, is prohibited in a floodway.<<

#### **Sec. 11C-6. - Accessory buildings.**

~~[[Nothing herein shall be construed to exclude accessory buildings from the provisions of this chapter except as provided in this section.]]~~

- (a) >>Accessory buildings that meet all of the following requirements are permitted below the elevations otherwise required by this chapter; those that do not must comply with all other applicable provisions of this chapter:
- (1) The building meets all applicable requirements of the Florida Building Code.
  - (2) The building is used only for parking or storage.
  - (3) The building is anchored to resist flotation, collapse, and lateral movement resulting from flood loads.
  - (4) The building complies with subsection 11C-3(m).
  - (5) If the building is located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas:
    - (i) it is no more than one story in height; and
    - (ii) it is no larger than 600 sq. ft.; and

- (iii) it complies with the requirements for dry floodproofing or wet floodproofing, as otherwise required in section 11C-5.
  - (6) If the building is located in coastal high hazard areas (Zone V/VE):
    - (i) it is no larger than 100 sq. ft.; and
    - (ii) it complies with the requirements for wet floodproofing, as otherwise required in section 11C-5.
- (b) Notwithstanding any other provisions to the contrary, pre-manufactured<< [[Pre-manufactured]] sheds and wood sheds >>shall be exempt from the provisions of this chapter if they comply with of the following:
  - (1) the shed has<< [[with]] a gross area less than 720 square feet>>; and
  - (2) the shed is<< used solely for storage[[;]]>>; and
  - (3) the shed is<< incidental to a single-family or duplex use>>; and
  - (4) the shed complies with all applicable requirements of the Florida Building Code<< [[shall be exempt from the provisions of this chapter]].

#### **Sec. 11C-7. – Application of chapter.**

- (a) This chapter shall apply to and be enforced in the unincorporated areas of Miami-Dade County >>, as well as in the portions of the incorporated areas where the County exercises jurisdiction over building permits<<.
- (b) The Flood Insurance Rate Map (FIRM) for Miami-Dade County, as amended effective November 4, 1987, together with the Flood Insurance Study (FIS) therein, and as amended effective January 20, 1993, July 17, 1995, and ~~[[as amended effective]]~~ September 11, 2009, together with the >>FIS<< ~~[[Flood Insurance Study (FIS)]]~~ therein, are hereby adopted and incorporated herein by reference hereto. The FIRM and FIS shall be kept on file, available to the public for public inspection and copying, in the offices of the Department ~~[[of Planning and Zoning, Department of Environmental Resources Management and the Department of Public Works]].~~

>>(c)<< Any changes, additions, or deletions to the FIRM or to the FIS for Miami-Dade County shall be approved by the Board of County Commissioners by ordinance.

>>(1)<< The County shall >>publish a courtesy notice in a newspaper of general circulation<< ~~[[mail a courtesy notice]]~~ of any change in the FIRM or to the FIS, as amended from time to time, >>and may also mail a courtesy notice of such change<< to all property owners in the unincorporated area of Miami-Dade County affected by such change.

>>(2)<< Failure to mail or receive said courtesy >>notices<< ~~[[notice]]~~ shall not affect the validity of any such change or this chapter.

>>(d) All references in this chapter to the Florida Building Code shall be deemed to refer to the most current version.<<

~~[[e)] The provisions of this chapter shall constitute minimum standards throughout unincorporated Miami Dade County.]]~~

#### **Sec. 11C-8. – Enforcement.**

The >>Director<< ~~[[County Manager or his designee]]~~ shall administer and enforce the provisions of this chapter ~~[[within the unincorporated areas of Miami Dade County]]~~.

#### **Sec. 11C-9. – Rules for interpreting area boundaries.**

The boundaries of the flood hazard areas shown on the official flood insurance rate maps may be determined by scaling distances. Required interpretations of those maps for precise locations of said boundaries shall be made by the Director ~~[[of the Miami Dade County Department of Environmental Resources Management or his designee within the unincorporated areas of Miami Dade County]]~~. Said interpretations shall be subject to review in accordance with >>section 11C-12<< ~~[[Section 11C-12(j) of this Code]]~~.

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**Sec. 11C-12. – Variances>>; appeal of administrative decisions<<.**

- (a) Authority of the Director ~~[[of the Department of Environmental Resources Management]]. The Director [[of the Department of Environmental Resources Management or his designee]]~~ shall have the authority and duty to consider and act upon applications for a variance from these regulations ~~[[for properties located within the unincorporated or incorporated areas of Miami-Dade County as hereinafter set forth]].~~

>>(b) Standards and procedures for variances.

(1)<< The Director ~~[[of the Department of Environmental Resources Management or his designee]]~~ is hereby advised that in granting any variances hereunder, said Director shall consider>>, in addition to the criteria enumerated in this section:

(i)<< the purposes of the National Flood Insurance Program as specified in >>Title 44, Code of Federal Regulations, Part 60 (44 C.F.R. § 60.6)<< ~~[[Title 24, Code of Federal Regulations, Chapter 10, subchapter B, Parts 1909 et seq. Furthermore, the Director of the Department of Environmental Resources Management or his designee shall consider]]>>:~~

(ii)<< the fact that an annual report on variances granted >>may be required by<< ~~[[shall be submitted to]]~~ the National Flood Insurance Administration, which report is the basis for continued availability of flood insurance to the inhabitants of the unincorporated areas of Miami-Dade County[[,]]>>:<< and therefore

>>(iii) that<< variances shall be granted with extreme caution.

~~[[ (b) ]]~~>>(2)<< The Director ~~[[of the Department of Environmental Resources Management or his designee]]~~ may grant variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions hereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice

done; provided, that the variance will be in harmony with the general purpose and intent of this chapter and that the same is the minimum variance that will permit the reasonable use of the premises.

>>(3)<< Upon receipt of all necessary information, including a staff report, the Director ~~[[or his designee]]~~ shall review the information and render ~~[[his]]~~ >>a<< decision, either approving, modifying or denying the request.

>>(4)<< A copy of said decision shall be published in a newspaper of general circulation.

>>(5)<< All approvals or modifications shall not be effective until >>10<< ~~[[ten (10)]]~~ days after the Director's ~~[[or his designee's]]~~ decision is published in a newspaper of general circulation.

>>(6)<< A courtesy notice containing the >>Director's<< decision ~~[[of the Director of his designee]]~~ may be mailed to adjacent and abutting property owners of record, their tenants>><sub>i</sub><< or their agents, that are duly noted on the application. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder.

>>(7)<< The Director ~~[[of the Department of Environmental Resources Management or his designee]]~~ shall notify the >>directors of the zoning department and the public works department<< ~~[[Director of the Planning and Zoning Department and the Public Works Department]]~~ of all decisions made pursuant to this subsection.

(c) >>The Director may approve variances<< ~~[[Variances may be issued by the Director or his designee]]~~ for the reconstruction, rehabilitation>><sub>i</sub><< or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for >>paragraphs (g)(1) and (2) below<< ~~[[Section 11C-12(g)(1) and Section 11C-12(g)(2)]]~~, and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.

(d) In passing upon all such applications except those pursuant to >>subsection (c) above<< ~~[[Section 11C-12(e)]]~~, the Director ~~[[of the Miami Dade County Department of~~

~~Environmental Resources Management, or his designee,]]~~  
shall consider all technical evaluations, all relevant factors,  
all standards specified in other sections of this chapter, and:

\* \* \*

- (e) Upon consideration of the factors listed above, and the purposes of this chapter, the Director ~~[[of the Miami Dade County Department of Environmental Resources Management or his designee]]~~ may attach such conditions, limitations, and restrictions to any variance as the Director ~~[[or his designee]]~~ deems necessary >>or appropriate<< to further the purposes of this chapter.

\* \* \*

- (i) The Director ~~[[of the Miami Dade County Department of Environmental Resources Management or his designee]]~~ shall maintain the records of all variance actions and report any variances to >>FEMA<< ~~[[the Federal Emergency Management Agency]]~~ upon request.
- (j) >>Appeal of administrative decisions.<< Review of any decision or action of the Director >>shall be governed by section 24-11 and other provisions of chapter 24 applicable to appeals of the Director's decisions.<< ~~[[of the Department of Environmental Resources Management or his designee pursuant to this chapter shall be to the Miami Dade County Environmental Quality Control Board, in accordance with the procedures set forth in Section 24-6 of the Code of Metropolitan Miami Dade County, Florida. Any person aggrieved by any decision of the Miami Dade County Environmental Quality Control Board on an appeal may seek judicial review in accordance with the Florida Rules of Appellate Procedure.]]~~

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**Section 3.** Section 2-114.1 of the Code of Miami-Dade County, Florida, is hereby

amended to read as follows:

**Sec. 2-114.1. - Administrative review of takings and vested rights claims.**

(a) *Documentation of claim.*

- (1) Any applicant alleging that the Comprehensive Development Master Plan, as applied to a particular development order or action, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights (taking or abrogation)>>\_<< and any person or entity claiming a potential taking or abrogation under >>chapter 11C, chapter 24, or chapter<< [[Chapter]] 33 [[of this Code]]>>\_<< must affirmatively demonstrate the legal requisites of the claim by exhausting the administrative remedy provided in this section.
- (2) Claims of a taking or abrogation ~~[[of vested rights]]~~ are limited solely to extreme circumstances rising to the level of a potential denial of rights under the Constitutions of the United States and the State of Florida. The procedures provided herein for demonstrating such a taking or abrogation ~~[[of vested rights]]~~ are not intended to be utilized routinely or frivolously, but only in the extreme circumstances described above.
- >>(3)<< The claimant or the attorney for the claimant shall exercise due diligence in the filing and argument of any sworn statement, notice of invoking administrative remedy>>\_<< or other claim for a taking or abrogation ~~[[of vested rights]]~~.
- >>(4)<< The signature of the claimant or the attorney for the claimant upon any document in connection with a claim of taking or abrogation ~~[[of vested rights]]~~ shall constitute a certificate that the person signing has read the document and that to the best of his knowledge it is supported by good grounds and that it has not been presented solely for delay.
- >>(5)<< The claimant and the >>claimant's<< attorney ~~[[for the claimant]]~~ shall have a continuing obligation throughout the proceedings to correct any statement or representation found to have been incorrect when made or which becomes incorrect by virtue of changed circumstances.

>>(6)<< If a claim ~~[[of taking or abrogation of vested rights]]~~ is: (1) based upon facts that the claimant or the >>claimant's<< attorney ~~[[for the claimant]]~~ knew or should have known were not true; or (2) frivolous or filed solely for the purposes of delay, the appropriate County board or agency shall make such a finding and may pursue any remedy or impose any penalty provided by law or ordinance.

\* \* \*

(c) *Invocation of administrative remedy.*

\* \* \*

(2) Any applicant alleging that the action of the Board of County Commissioners or a Community Zoning Appeals Board upon an application for a zoning action under >>chapter<< ~~[[Chapter]]~~ 33>>, or the action of the Board of County Commissioners or the Environmental Quality Control Board pursuant to chapter 11C or chapter 24,<< would constitute a >>taking or abrogation<< ~~[[temporary or permanent taking of private property or an abrogation of vested rights]]~~ shall file a complete sworn statement with the Developmental Impact Committee Coordinator not later than >>45<< ~~[[forty-five (45)]]~~ days before the first hearing on the developmental resolution.

>>(i)<< No oral testimony or written reports or documents in support of any argument that the denial of the developmental resolution would constitute a >>taking or abrogation<< ~~[[temporary or permanent taking of private property or would abrogate vested rights]]~~ shall be considered as evidence at the public hearing unless the complete sworn statement has been timely filed pursuant to this paragraph~~[[; provided, however]]~~>>, except as provided herein.

(ii) Notwithstanding any other provision to the contrary<<, ~~[[that]]~~ where >>the claimant<< ~~[[an applicant]]~~ has failed to timely file a sworn statement pursuant to this paragraph, the Board of County Commissioners,



Environmental Quality Control Board, or any other board taking action on a developmental resolution may defer the hearing on an application for a developmental resolution to>>:

1.<< avoid a manifest injustice and to provide adequate time for review of the sworn statement by the Developmental Impact Committee>>;<< or[[;]]

>>2.<< in the event of an application >>for developmental resolution<< initiated by a party other than the affected property owner, to provide adequate time for the >>affected<< property owner to invoke the administrative remedy and to adhere to the time schedules provided herein.

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**Section 4.** Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby

amended to read as follows:

**Sec. 8CC-10. Schedule of civil penalties.**

The following table shows the sections of this code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The “descriptions of violations” below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed sections of this code, except to the extent that different types of violations of the same section may carry different civil penalties. For each section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter, regardless of whether all activities proscribed or required within that particular section are described in the “Description of Violation” column. To determine the exact nature of any activity proscribed or required by this >>code<<, the relevant section must be examined.

Code Section	Description of Violation	Civil Penalty
* * *		
>> <u>Chapter 11C</u>	<u>All chapter 11C violations</u>	<u>250.00</u> <<
* * *		

**Section 5.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 6.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 7.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Abbie Schwaderer-Raurell  
Dennis A. Kerbel

GKS for GBK  
