

ORDINANCE NO. 2018-27

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AMENDING THE CODE OF THE CITY OF ORLANDO, FLORIDA, TO REPEAL AND REPLACE CHAPTER 63, PART 2C - FLOODPLAINS; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS; TO AMEND CHAPTER 65, PART 1I – PUBLIC WORKS DIRECTOR; TO AMEND PART 6D – FLOODPLAIN DEVELOPMENT PERMIT; TO AMEND CHAPTER 65, PART 6E – FLOODPLAIN VARIANCES AND APPEALS; TO AMEND CHAPTER 66, DEFINITIONS; AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY, CODIFICATION, CORRECTION OF SCRIVENER’S ERRORS, REPEALER, SEVERABILITY; AND AN EFFECTIVE DATE.

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Orlando and such areas may be subject to periodic inundation which may result 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, and

WHEREAS, the City of Orlando (the “City”) was accepted for participation in the National Flood Insurance Program on September 3, 1980, and the City Council desires to continue to meet the requirements of Title 44, Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

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

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

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. CHAPTER 63, ORLANDO CITY CODE AMENDED.

Part 2C, Chapter 63, Code of the City of Orlando, Florida is hereby repealed in its entirety and replaced as follows:

Sec. 63.220. - Floodplains, General.

- (a) Title. These regulations, with Chapter 65 Part 6D and Part 6E shall be known as the Floodplain Regulations of the City of Orlando, hereinafter referred to as "the Floodplain Regulations."
- (b) Scope. The provisions of this Part shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.
- (c) Intent. The purposes of this Part and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
 5. Minimize damage to public and private facilities and utilities;
 6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
 8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44 Code of Federal Regulations (C.F.R.), Section 59.22.
- (d) Coordination with the Florida Building Code. The Floodplain Regulations are intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- (e) Warning. The degree of flood protection required by this Part and the Florida Building Code, as amended by the City, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. The

Floodplain Regulations do not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 C.F.R., Sections 59 and 60, may be revised by the Federal Emergency Management Agency, requiring the City to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this Part.

- (f) *Disclaimer of Liability.* The Floodplain Regulations shall not create liability on the part of City Council of the City of Orlando or by any officer or employee thereof for any flood damage that results from reliance on this Part or any administrative decision lawfully made thereunder.

Sec. 63.221. – Applicability.

- (a) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) *Areas to which this Part applies.* The Floodplain Regulations shall apply to all flood hazard areas within the City of Orlando, as established in Section 63.221(c) of this Part.
- (c) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Orange County, Florida and Incorporated Areas dated June 20, 2018, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Part and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's Office.
- (d) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to Section 63.223 of this Part, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the City indicates that ground elevations:
1. Are below the closest applicable base flood elevation or hydraulically connected to the special flood hazard area, even if not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Part and, as applicable, the requirements of the *Florida Building Code*.
 2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
- (e) *Other laws.* The provisions of this Part shall not be deemed to nullify any provisions of local, state or federal law.
- (f) *Abrogation and greater restrictions.* The Floodplain Regulations supersede any ordinance in effect for management of development in flood hazard areas. However, it is

not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this Part and any other ordinance, the more restrictive shall govern. The Floodplain Regulations shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this Part.

(g) Interpretation. In the interpretation and application of this Part, 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.

Sec. 63.222. – Permits.

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

(b) Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to Chapter 65, Part 6D, Orlando City Code, and this Part for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures, and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

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

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in section 604.50, Florida Statutes.
3. Temporary buildings or sheds used exclusively for construction purposes.
4. Mobile or modular structures used as temporary offices.
5. Those structures or facilities of electric utilities, as defined in section 366.02, Florida Statutes, which are directly involved in the generation, transmission, or distribution of electricity.

- 191 6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole
192 Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided
193 wooden hut that has a thatched roof of palm or palmetto or other traditional
194 materials, and that does not incorporate any electrical, plumbing, or other non-wood
195 features.
- 196 7. Family mausoleums not exceeding 250 square feet in area which are prefabricated
197 and assembled on site or preassembled and delivered on site and have walls, roofs,
198 and a floor constructed of granite, marble, or reinforced concrete.
- 199 8. Temporary housing provided by the Department of Corrections to any prisoner in the
200 state correctional system.
- 201 9. Structures identified in section 553.73(10)(k), Florida Statutes, are not exempt from
202 the Florida Building Code if such structures are located in flood hazard areas
203 established on Flood Insurance Rate Maps
- 204
- 205 (d) Application for a permit or approval. To obtain a floodplain development permit or
206 approval the applicant shall first file an application in writing on a form furnished by the
207 City. The information provided shall:
- 208 1. Identify and describe the development to be covered by the permit or approval.
- 209 2. Describe the land on which the proposed development is to be conducted by legal
210 description, street address or similar description that will readily identify and
211 definitively locate the site.
- 212 3. Indicate the use and occupancy for which the proposed development is intended.
- 213 4. Be accompanied by a site plan or construction documents as specified in Section
214 63.223 of this Part.
- 215 5. State the valuation of the proposed work.
- 216 6. Be signed by the applicant or the applicant's authorized agent.
- 217 7. Give such other data and information as required by the Floodplain Administrator.
- 218
- 219 (e) Validity of permit or approval. The issuance of a floodplain development permit or
220 approval pursuant to this Part shall not be construed to be a permit for, or approval of,
221 any violation of this Part, the Florida Building Codes, or any other ordinance of this
222 community. The issuance of permits based on submitted applications, construction
223 documents, and information shall not prevent the Floodplain Administrator from requiring
224 the correction of errors and omissions.
- 225
- 226 (f) Expiration. A floodplain development permit or approval shall become invalid unless the
227 work authorized by such permit is commenced within 180 days after its issuance, or if
228 the work authorized is suspended or abandoned for a period of 180 days after the work
229 commences. Extensions for periods of not more than 180 days each shall be requested
230 in writing and justifiable cause shall be demonstrated.
- 231
- 232 (g) Suspension or revocation. The Floodplain Administrator is authorized to suspend or
233 revoke a floodplain development permit or approval if the permit was issued in error, on
234 the basis of incorrect, inaccurate or incomplete information, or in violation of this Part or
235 any other ordinance, regulation or requirement of the City.

- (h) Other permits required. Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:
1. The St. Johns River or South Florida Water Management Districts; section 373.036, Florida Statutes.
 2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, Florida Statutes and Chapter 64E-6, Florida Administrative Code.
 3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
 4. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
 5. Federal permits and approvals.

Sec. 63.223. – Site Plans and Construction Documents.

- (a) Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of this Part shall be drawn to scale and shall include, as applicable to the proposed development:
1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development. Flood zone(s), base flood elevation(s), ground elevations, and proposed building elevation shall be provided on a FEMA Elevation Certificate (FEMA Form 086-0-33).
 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 63.223(b).2 or .3 of this Part.
 3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 63.223(b).1 of this Part.
 4. Location of the proposed activity and proposed structures, locations of existing buildings and structures, and storage of materials or equipment.
 5. Location, extent, amount, and proposed final grades of any filling, grading, excavation, drainage facilities and stormwater management plans; elevations shall be referenced to the datum on the FIRM.
 6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 7. Existing and proposed alignment of any proposed alteration of a watercourse, and the extent to which any swamp, marsh, lake, or pond will be altered, relocated, or created.

- 280 8. Copy of the proposed stormwater management report and floodplain study, if any,
281 complete with technical supporting data.

282
283 The Floodplain Administrator is authorized to waive the submission of site plans,
284 construction documents, and other data that are required by this Part but that are not
285 required to be prepared by a registered design professional if it is found that the nature
286 of the proposed development is such that the review of such submissions is not
287 necessary to ascertain compliance with this Part.

- 288
289 (b) Information in flood hazard areas without base flood elevations (approximate Zone A).
290 Where flood hazard areas are delineated on the FIRM and base flood elevation data
291 have not been provided, the Floodplain Administrator shall:

- 292 1. Require the applicant to include base flood elevation data prepared in accordance
293 with currently accepted engineering practices.
- 294 2. Obtain, review, and provide to applicants base flood elevation and floodway data
295 available from a federal or state agency or other source or require the applicant to
296 obtain and use base flood elevation and floodway data available from a federal or
297 state agency or other source.
- 298 3. Where base flood elevation and floodway data are not available from another source,
299 where the available data are deemed by the Floodplain Administrator to not
300 reasonably reflect flooding conditions, or where the available data are known to be
301 scientifically or technically incorrect or otherwise inadequate:
- 302 i. Require the applicant to include base flood elevation data prepared in
303 accordance with currently accepted engineering practices; or
- 304 ii. Specify that the base flood elevation is two (2) feet above the highest
305 adjacent grade at the location of the development, provided there is no
306 evidence indicating flood depths have been or may be greater than two (2)
307 feet.
- 308 4. Where the base flood elevation data are to be used to support a Letter of Map
309 Change from FEMA, advise the applicant that the analyses shall be prepared by a
310 Florida licensed engineer in a format required by FEMA, and that it shall be the
311 responsibility of the applicant to satisfy the submittal requirements and pay the
312 processing fees.

- 313
314 (c) Additional analyses and certifications. As applicable to the location and nature of the
315 proposed development activity, and in addition to the requirements of this section, the
316 applicant shall have the following analyses signed and sealed by a Florida licensed
317 engineer for submission with the site plan and construction documents:

- 318 1. For development activities proposed to be located in a regulatory floodway, a
319 floodway encroachment analysis that demonstrates that the encroachment of the
320 proposed development will not cause any increase in base flood elevations; where
321 the applicant proposes to undertake development activities that do increase base
322 flood elevations, the applicant shall submit such analysis to FEMA as specified in
323 Section 63.223(d) of this Part and shall submit the Conditional Letter of Map
324 Revision, if issued by FEMA, with the site plan and construction documents prior to
325 final approval of the proposed activity.

2. For development activities proposed to alter the boundaries of the special flood hazard area, the applicant shall submit analyses and documentation to FEMA as specified in Section 63.223(d) of this Part and shall submit the Conditional Letter of Map Revision, if issued by FEMA, to the Floodplain Administrator within 30 days of receipt of receiving such approval prior to the final approval of the proposed activity.
3. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
4. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 63.223(d) of this Part.
- (d) Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant. When a Conditional Letter of Map Revision is issued by FEMA, within 30 days of completion of development, the applicant shall comply with FEMA's requirements for submission of final, constructed (as-built) plans and documentation required for issuance of final Letters of Map Revision. The Floodplain Administrator shall be provided copies of all related correspondence.

Sec. 63.224. – Violations.

- (a) Violations. Any development that is not within the scope of the *Florida Building Code* but that is regulated by this Part that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Part, shall be deemed a violation of this Part. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Part or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.
- (b) Authority. For development that is not within the scope of the *Florida Building Code* but that is regulated by this Part and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

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

Sec. 63.225. – Definitions.

In addition to the definitions in Chapter 66, the following words and terms shall, for the purposes of this article, have the meanings shown in this section. Terms that are not defined in this article and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code. Where terms are not defined in this article or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

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

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

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

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

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

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

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

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

Development: Any man-made change to improved or unimproved real estate, including but not

424 limited to, buildings or other structures, tanks, temporary structures, temporary or permanent
425 storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling
426 operations or any other land disturbing activities.

427
428 *Encroachment:* The placement of fill, excavation, buildings, permanent structures or other
429 development into a flood hazard area which may impede or alter the flow capacity of riverine
430 flood hazard areas.

431
432 *Existing building and existing structure:* Any buildings and structures for which the “start of
433 construction” commenced before September 3, 1980. [Also defined in FBC, B, Section 202.]
434

435 *Existing manufactured home park or subdivision:* A manufactured home park or subdivision for
436 which the construction of facilities for servicing the lots on which the manufactured homes are to
437 be affixed (including, at a minimum, the installation of utilities, the construction of streets, and
438 either final site grading or the pouring of concrete pads) is completed before September 3,
439 1980.

440
441 *Expansion to an existing manufactured home park or subdivision:* The preparation of additional
442 sites by the construction of facilities for servicing the lots on which the manufactured homes are
443 to be affixed (including the installation of utilities, the construction of streets, and either final site
444 grading or the pouring of concrete pads).

445
446 *Federal Emergency Management Agency (FEMA):* The federal agency that, in addition to
447 carrying out other functions, administers the National Flood Insurance Program.
448

449 *Flood damage-resistant materials:* Any construction material capable of withstanding direct and
450 prolonged contact with floodwaters without sustaining any damage that requires more than
451 cosmetic repair. [Also defined in FBC, B, Section 202.]
452

453 *Flood hazard area:* The greater of the following two areas: [Also defined in FBC, B, Section
454 202.]

- 455 (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any
456 year.
457 (2) The area designated as a flood hazard area on the community’s flood hazard map, or
458 otherwise legally designated.
459

460 *Flood Insurance Rate Map (FIRM):* The official map of the community on which the Federal
461 Emergency Management Agency has delineated both special flood hazard areas and the risk
462 premium zones applicable to the community. [Also defined in FBC, B, Section 202.]
463

464 *Flood Insurance Study (FIS):* The official report provided by the Federal Emergency
465 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and
466 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting
467 technical data. [Also defined in FBC, B, Section 202.]
468

469 *Floodplain Administrator:* The office or position designated and charged with the administration
470 and enforcement of this Part (may be referred to as the Floodplain Manager).
471

472 *Floodplain development permit or approval:* An official document or certificate issued by the

community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this Part.

Floodway: The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 202.]

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

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

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

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

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

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

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

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

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

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard

523 areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood
524 Insurance Study; upon submission and approval of certified as-built documentation, a
525 Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
526

527 Light-duty truck: As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds
528 Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or
529 less and which has a basic vehicle frontal area of 45 square feet or less, which is:
530

- 531 (1) Designed primarily for purposes of transportation of property or is a derivation of such a
532 vehicle, or
533
534 (2) Designed primarily for transportation of persons and has a capacity of more than 12
535 persons; or
536
537 (3) Available with special features enabling off-street or off-highway operation and use.
538

539 Lowest floor: The lowest floor of the lowest enclosed area of a building or structure, including
540 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement,
541 usable solely for vehicle parking, building access or limited storage provided that such
542 enclosure is not built so as to render the structure in violation of the non-elevation requirements
543 of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]
544

545 Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into
546 two or more manufactured home lots for rent or sale.
547

548 Market value: The price at which a property will change hands between a willing buyer and a
549 willing seller, neither party being under compulsion to buy or sell and both having reasonable
550 knowledge of relevant facts. As used in this Part, the term refers to the market value of
551 buildings and structures, excluding the land and other improvements on the parcel. Market
552 value may be established by a qualified independent appraiser, Actual Cash Value
553 (replacement cost depreciated for age and quality of construction), or tax assessment value
554 adjusted to approximate market value by a factor provided by the Property Appraiser.
555

556 New construction: For the purposes of administration of this Part and the flood resistant
557 construction requirements of the Florida Building Code, structures for which the "start of
558 construction" commenced on or after September 3, 1980, and includes any subsequent
559 improvements to such structures.
560

561 New manufactured home park or subdivision: A manufactured home park or subdivision for
562 which the construction of facilities for servicing the lots on which the manufactured homes are to
563 be affixed (including at a minimum, the installation of utilities, the construction of streets, and
564 either final site grading or the pouring of concrete pads) is completed on or after September 3,
565 1980.
566

567 Park trailer: A transportable unit which has a body width not exceeding fourteen (14) feet and
568 which is built on a single chassis and is designed to provide seasonal or temporary living
569 quarters when connected to utilities necessary for operation of installed fixtures and appliances.
570 [Defined in section 320.01, Florida Statutes.]
571

572 Special flood hazard area: An area in the floodplain subject to a 1 percent or greater chance of

573 flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO,
574 A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]
575

576 *Start of construction:* The date of issuance of permits for new construction and substantial
577 improvements, provided the actual start of construction, repair, reconstruction, rehabilitation,
578 addition, placement, or other improvement is within 180 days of the date of the issuance. The
579 actual start of construction means either the first placement of permanent construction of a
580 building (including a manufactured home) on a site, such as the pouring of slab or footings, the
581 installation of piles, or the construction of columns. Permanent construction does not include
582 land preparation (such as clearing, grading, or filling), the installation of streets or walkways,
583 excavation for a basement, footings, piers, or foundations, the erection of temporary forms or
584 the installation of accessory buildings such as garages or sheds not occupied as dwelling units
585 or not part of the main buildings. For a substantial improvement, the actual "start of
586 construction" means the first alteration of any wall, ceiling, floor or other structural part of a
587 building, whether or not that alteration affects the external dimensions of the building. [Also
588 defined in FBC, B Section 202.]
589

590 *Substantial damage:* Damage of any origin sustained by a building or structure whereby the cost
591 of restoring the building or structure to its before-damaged condition would equal or exceed 50
592 percent of the market value of the building or structure before the damage occurred. [Also
593 defined in FBC, B Section 202.]
594

595 *Substantial improvement:* Any combination of repair, reconstruction, rehabilitation, addition, or
596 other improvement of a building or structure taking place during a 5-year period, the cumulative
597 cost of which equals or exceeds 50 percent of the market value of the building or structure
598 before the improvement or repair is started. The period of accumulation begins when the first
599 improvement or repair of each building is permitted subsequent to April 1, 2013. If the structure
600 has incurred "substantial damage," any repairs are considered substantial improvement
601 regardless of the actual repair work performed. The term does not, however, include either:
602 [Also defined in FBC, B, Section 202.]

- 603 (1) Any project for improvement of a building required to correct existing health, sanitary, or
604 safety code violations identified by the building official and that are the minimum
605 necessary to assure safe living conditions.
606 (2) Any alteration of a historic structure provided the alteration will not preclude the
607 structure's continued designation as a historic structure and is approved by variance.
608

609 *Watercourse:* A river, creek, stream, channel or other topographic feature in, on, through, or
610 over which water flows at least periodically.
611

612 **Sec. 63.226. – Buildings and Structures.**

- 613
614 (a) *Design and construction of buildings, structures and facilities exempt from the Florida*
615 *Building Code.* Pursuant to Section 63.222(c) of this Part, buildings, structures, and
616 facilities that are exempt from the *Florida Building Code*, including substantial improvement
617 or repair of substantial damage of such buildings, structures and facilities, shall be designed
618 and constructed in accordance with the flood load and flood resistant construction
619 requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not
620 walled and roofed buildings shall comply with the requirements of Section 63.231.1 of this
621 Part.

- (b) Accessory structures. Accessory structures that are subordinate to and accessory to a primary structure are permitted below the base flood elevation provided the structures comply with Section 63.231.1(a) of this Part. Accessory structures that are enclosed by walls shall be used solely for parking of vehicles and storage and shall have flood openings. One electrical switch and one outlet are permitted if connected to a ground-fault interrupt breaker.
- (c) Temporary structures. Temporary structures are permitted below the base flood elevation provided the structure is mobile, or can be made mobile, and can be removed from intended locations with a minimum of four (4) hours warning, and remains on a site for less than 180 days. Temporary structures may be authorized only if the applicant submits a plan for removal of the structure. The plan for removal shall be attached to the permit, a copy shall be retained by the Floodplain Administrator, and a copy of the permit and plan shall be provided to the local emergency management coordinator. Plans for removal shall contain the following:
1. Name, address, phone number and emergency contact point for the individual responsible for removal;
 2. The time at which the structure will be removed relative to anticipated flooding, such as landfall of a hurricane;
 3. Copy of a contract or other suitable instrument with a trucking company to ensure availability for removal when needed, together with the name, address, and emergency phone number of the responsible trucking company agent;
 4. Designation, accompanied by documentation of owner's consent, of a site outside of the special flood hazard area to which the temporary structure will be moved; and
 5. Signatures of the applicant and owner of the temporary structure, agreeing to abide by the terms of the plans for removal.

Sec. 63.227. – Subdivisions.

- (a) Minimum requirements. Subdivision proposals, including proposals for industrial and commercial subdivisions and manufactured home parks and subdivisions, shall be reviewed to determine that:
1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
2. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 63.223(b)1 of this Part; and
3. Compliance with the site improvement and utilities requirements of Section 63.228 of this Part.

Sec. 63.228. – Site Improvements, Utilities and Limitations.

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

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

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

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

(d) Limitations on stream encroachments. In special flood hazard areas without base flood elevations, or in special flood hazard areas with base flood elevations but without floodway designations, no encroachments, including fill material or structures, shall be located within a distance of a stream bank equal to five times the width of the stream at the top of bank or twenty (20) feet on either side from top of bank, whichever is greater.

(e) Limitations on sites in regulatory floodways. No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 63.223(c).1 of this Part demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

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

Sec. 63.229. – Manufactured Homes.

- (a) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, Florida Statutes, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this Part. Manufactured homes shall not be installed in floodways, except on existing lots or pads in existing manufactured home parks or subdivisions.
- (b) Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this Part. At a minimum, foundations shall be reinforced piers placed on poured footings, or foundation elements of equivalent strength. Foundations for manufactured homes subject to Section 63.229(f) of this Part are permitted to be reinforced piers or other foundation elements of at least equivalent strength.
- (c) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- (d) Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 63.229(e) or (f) of this Part, as applicable.
- (e) General elevation requirement. Unless subject to the requirements of Section 63.229(f) of this Part, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A).
- (f) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 63.229(e) of this Part, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- 764 1. Bottom of the frame of the manufactured home is at or above the elevation required
765 in the *Florida Building Code, Residential* Section R322.2 (Zone A); or
- 766 2. Bottom of the frame is supported by reinforced piers or other foundation elements of
767 at least equivalent strength that are not less than 36 inches in height above grade.
- 768
- 769 (g) Enclosures. Enclosed areas below elevated manufactured homes shall comply with the
770 requirements of the *Florida Building Code, Residential* Section R322.2 for such
771 enclosed areas.
- 772
- 773 (h) Utility equipment. Utility equipment that serves manufactured homes, including electric,
774 heating, ventilation, plumbing, and air conditioning equipment and other service
775 facilities, shall comply with the requirements of the *Florida Building Code, Residential*
776 Section R322.
- 777
- 778 (i) Additions. Additions to manufactured homes are new construction. Additions shall be
779 supported by independent foundation systems and shall comply with the requirements
780 of this section.
- 781

782 **Sec. 63.230. – Recreational Vehicles and Park Trailers.**

783

- 784 (a) Temporary placement. Recreational vehicles and park trailers placed temporarily in
785 flood hazard areas shall be fully licensed and ready for highway use, which means the
786 recreational vehicle or park model is on wheels or jacking system, is attached to the site
787 only by quick-disconnect type utilities and security devices, and has no permanent
788 attachments such as additions, rooms, stairs, decks and porches.
- 789
- 790 (b) Permanent placement. Recreational vehicles and park trailers that do not meet the
791 limitations in Section 63.230(a) of this Part for temporary placement shall meet the
792 requirements of Section 63.229 of this Part for manufactured homes.
- 793

794 **Sec. 63.231. – Tanks.**

795

- 796 (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to
797 prevent flotation, collapse or lateral movement resulting from hydrodynamic and
798 hydrostatic loads during conditions of the design flood, including the effects of buoyancy
799 assuming the tank is empty.
- 800
- 801 (b) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation
802 requirements of Section 63.231(c) of this Part shall be permitted in flood hazard areas
803 provided the tanks are anchored or otherwise designed and constructed to prevent
804 flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic
805 loads during conditions of the design flood, including the effects of buoyancy assuming
806 the tank is empty and the effects of flood-borne debris.
- 807
- 808 (c) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be
809 elevated to or above the design flood elevation and attached to a supporting structure
810 that is designed to prevent flotation, collapse or lateral movement during conditions of
811 the design flood. Tank-supporting structures shall meet the foundation requirements of
812 the applicable flood hazard area.

- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Sec. 63.231.1. – Other Development.

- (a) General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Part or the *Florida Building Code*, shall:
1. Be located and constructed to minimize flood damage;
 2. Meet the limitations of Section 63.228(e) of this Part if located in a regulated floodway;
 3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 4. Be constructed of flood damage-resistant materials; and
 5. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- (b) Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 63.228(e) of this Part.
- (c) Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 63.228(e) of this Part.
- (d) Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 63.228(e) of this Part. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 63.223(c)3 of this Part.

SECTION 3. CHAPTER 65, ORLANDO CITY CODE AMENDMED.

Section 65.203. Code of the City of Orlando, Florida is hereby amended as follows:

Sec. 65.203. - Additional Responsibilities Relating to Floodplain Regulations.

In addition to the other responsibilities outlined in this Part, the Public Works Director shall:

~~*Minimum Floor Elevations.* Maintain a record of the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement.~~

~~*Floodproofing Elevations.* If the structure has been floodproofed, maintain a record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.~~

~~*Annual Report.* Prepare an annual report giving an information summary of the City's activities pertaining to floodplain management and flood damage prevention and forward a copy of such report to the Office of Federal Insurance and Hazard Mitigation.~~

~~*Disaster Preparedness.* In cooperation with the City of Orlando police and fire chiefs, prepare and file with the appropriate disaster preparedness authorities an evacuation plan indicating alternate vehicular access and escape route for mobile home developments located within areas of special flood hazards.~~

~~*Maintain Records.* Maintain all records pertaining to the provisions of this Chapter and have such records open for public inspection.~~

~~*Interpretation of Boundaries.* Interpret 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 physical conditions) as established in Chapter 63, Part 2C.~~

~~*Use Available Data.* When base flood elevation data has not been provided in accordance with Chapter 63, Basis for Establishing the Areas of Special Hazard, then the Director of Public Works shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer this Chapter.~~

~~*Appeals and Variances.* Maintain the records of all appeal actions and applications for floodplain variances, and report the granting of any floodplain variances, upon request, to the Office of Federal Insurance and Hazard Mitigation.~~

Secs. 65.2034-65.209.-Reserved.

SECTION 4. PART 6D, CHAPTER 65, ORLANDO CITY CODE AMENDED.

Part 6D, Chapter 65, Code of the City of Orlando, Florida is hereby amended as follows:

6D. - FLOODPLAIN DEVELOPMENT PERMIT

Sec. 65.620. - Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of the Floodplain Regulations, and shall be secured prior to the commencement of any development activities and for any building or structure (including placement of manufactured mobile homes), or portion thereof which is located in an area of special flood hazard. A separate Floodplain Development Permit shall be required for each building, structure, or mobile manufactured home located in an area of special flood hazard areas. "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.

Sec. 65.621. –Designation of City Engineer as Enforcing Official. Permit Procedure for Building Construction.

~~The City Engineer is hereby appointed to administer and implement this Part by granting or denying Floodplain Development Permit applications in accordance with the provisions of this Chapter and by performing such other functions as may be required by this Chapter.~~

~~*Duties and Responsibilities of the Local Administrator.* Duties of the City Engineer, as the local administrator of this ordinance, 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, the National Flood Insurance Program (NFIP) Coordinating Office, appropriate Water Management District, Army Corps of Engineers, appropriate State Regulatory Agencies, and other Agencies as may be appropriate, prior to any alteration or relocation of a watercourse, and submit evidence of such notification along with a copy of the notice to the Federal Emergency Management Agency (FEMA) Region IV office.~~

~~(4) — Assure that the flood-carrying capacity of said watercourse is not diminished by the proposed alteration or relocation.~~

~~(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 Chapter 63, Part 2C.~~

942 ~~(6) — Verify and record the actual elevation (in relation to mean sea level) to which the new~~
943 ~~or substantially improved buildings have been flood-proofed, in accordance with Chapter 63,~~
944 ~~Part 2C.~~

945
946 ~~(7) — When flood-proofing is utilized for a particular building, the City Engineer shall obtain~~
947 ~~certification from a registered professional engineer or architect, in accordance with Chapter~~
948 ~~63, Part 2C.~~

949
950 ~~(8) — Determine whether a building or development site is located within an Area of Special~~
951 ~~Flood Hazard by referencing the FEMA Flood Insurance Study and accompanying maps. If~~
952 ~~detailed topographic mapping is available, the boundary of the Area of Special Flood Hazard~~
953 ~~shall be plotted on such mapping utilizing the base flood elevations provided in the Flood~~
954 ~~Insurance Study. This more detailed definition of the boundary of the base flood shall be~~
955 ~~utilized as "best available data" for purposes of regulating the Area of Special Flood Hazard. If~~
956 ~~there are significant discrepancies between the boundary as shown on the FEMA maps and~~
957 ~~the topographic mapping available, the City Engineer shall so advise the FEMA Region IV~~
958 ~~office.~~

959
960 ~~(9) — Within numbered A and AE Zones along rivers, streams, lakes, swamps, and marshes,~~
961 ~~determine the appropriate base flood elevation for such individual building site utilizing the~~
962 ~~Flood Data Tables (for lakes) and the Stream Profiles contained in the FEMA Flood Insurance~~
963 ~~Study. The base flood elevations printed on the FEMA maps are illustrative only. The City~~
964 ~~Engineer shall interpolate the base flood elevation at a site between two given base flood~~
965 ~~elevation markers by referring to the stream profiles and measuring the distance of the site~~
966 ~~upstream or downstream from a cross-section shown on the FEMA map.~~

967
968 ~~(10) — Within coastal AE or numbered A Zones, for which stream profiles are not provided,~~
969 ~~determine the Base Flood Elevations (BFEs) by interpolating along a line perpendicular to and~~
970 ~~running between the midpoints of two adjoining zones, utilizing the printed BFE shown on the~~
971 ~~Flood Insurance Rate Maps (FIRMs) as the BFE at the midpoint of each zone. The printed~~
972 ~~BFEs are the average within each zone. The zone boundaries ("gutter lines") of the coastal~~
973 ~~numbered A and AE Zones actually denote an elevation midway between the printed BFE in~~
974 ~~one zone and that of the adjoining zone.~~

975
976 ~~(11) — Where interpretation is needed as to the exact location of boundaries of the areas of~~
977 ~~special flood hazard (for example, where there appears to be a conflict between a mapped~~
978 ~~boundary and the natural grade of actual field conditions) the City Engineer shall make the~~
979 ~~necessary interpretation, and shall utilize the most accurate topographic mapping available.~~
980 ~~The elevations published in the FEMA Flood Insurance Study, as portrayed in the profile~~
981 ~~sheets, shall be the ruling reference for delineating the boundary of the floodplain. The person~~
982 ~~contesting the location of the boundary shall be given a reasonable opportunity to appeal the~~
983 ~~interpretation as provided in this article. Property may not be excluded from the area of~~
984 ~~special flood hazard as a result of filling, unless a Letter of Map Revision has been approved~~
985 ~~by FEMA.~~

986
987 (12) — Where the City Engineer has determined all or a portion of a property to be located
988 outside of the flood hazard area, yet it is shown as being within the flood hazard area on the
989 FEMA maps, the applicant shall be advised of the need to obtain a Letter of Map Amendment
990 or Revision from the FEMA Region IV office and shall be given an application packet utilizing
991 forms provided by FEMA. While the property may be exempt from the requirements of this
992 ordinance, flood insurance purchase will remain mandatory until FEMA authorizes a Letter of
993 Map Amendment or Revision.

994
995 (13) — When base flood elevation data or floodway data have not been provided in
996 accordance with Chapter 63, Section 63.222, then the City Engineer shall obtain, review, and
997 reasonably utilize any base flood elevation and floodway data available from a federal, state
998 or other source, in order to administer the provisions of this Chapter and Chapter 63. Base
999 flood elevations may be estimated using topographic maps or scientific engineering
1000 methodology. Base flood elevation and floodway data shall be developed and provided for
1001 subdivision proposals and other proposed developments (including industrial parks, shopping
1002 centers, public facilities, and manufactured home parks and subdivision) which are greater in
1003 size than the lesser of fifty lots or five acres. Such data shall be submitted to FEMA Region IV
1004 office within 30 days of receipt and acceptance by the community for review as a possible
1005 Map Revision.

1006
1007 (14) — When a development project will cause a reconfiguration of the flood hazard area due
1008 to grading, filling, channel alteration or relocation, development of a stormwater management
1009 system, or the excavation of lakes, the City Engineer shall require the applicant to submit and
1010 obtain approval from FEMA of a conditional Letter of Map Revision. Where a floodway is
1011 being impacted, this must be obtained prior to construction. Following completion of all or
1012 each phase of such a development, the City Engineer shall require the applicant to submit to
1013 FEMA the as-built topographic and hydrologic information to obtain a final Letter of Map
1014 Revision.

1015
1016 (15) — The office of the City Engineer shall serve as the official "map repository" for FEMA
1017 Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Hazard
1018 Boundary Maps for the community, together with Letters of Map Amendment (LOMAs) and
1019 Letters of Map Revision (LOMRs). At least one copy of all current and superseded maps,
1020 LOMAs and LOMRs shall be maintained for public use and viewing.

1021
1022 (16) — All records pertaining to the provisions of this ordinance shall be maintained in the
1023 office of the City Engineer and shall be open for public inspection. Copies of all development
1024 permits and summary supporting documentation shall be filed by geographic area for ease of
1025 coordinating all floodplain development activities.

1026
1027 (17) — Obtain a "no-rise" certification, pursuant to Chapter 63, Part 2C, or a Conditional Letter
1028 of Map Revision from FEMA prior to issuance of final approval of a proposed development
1029 located within a regulatory floodway.

Specific standards for submittal of a permit are provided in Section 63.223.

Sec. 65.622. – Permit Procedure for Building Construction. Duties and Powers of the Floodplain Administrator.

Application for a Development Permit for constructing or substantially improving a structure shall be made to the City Engineer on forms furnished by the City Engineer's office 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 questions, existing or 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), or the lowest surface of any heating or air conditioning ductwork installed below the lowest floor, of all proposed buildings or substantial improvements;~~

~~(b) — Elevation in relation to mean sea level to which any proposed non-residential building or substantial improvement will be flood-proofed;~~

~~(c) — Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Chapter 63, Part 2C;~~

~~(d) — Description of the extent to which any watercourse, swamp, marsh, lake, or pond will be altered, relocated, or created as a result of proposed construction;~~

~~(e) — Description of the type, extent, and depth of proposed fill and the elevation in relation to mean sea level of the top surface of the fill;~~

~~(f) — Description of the type, extent, and depth of proposed excavation in relation to mean sea level;~~

~~(g) — Plot plan, to scale, illustrating the locations of all proposed construction, fill, excavating, and other aspects of the development;~~

~~(h) — Copy of the proposed stormwater management report and floodplain study, if any, complete with technical supporting data;~~

(i) ~~"No-rise" certification, pursuant to Chapter 63, Part 2C, if located in a regulatory floodway.~~

(2) ~~Construction Stage. Floor elevation or flood proofing certifications.~~

~~(a) Upon placement of the lowest floor it shall be the duty of the permit holder to submit to the City Engineer a certification of the elevation of the top of lowest floor, as built, in relation to mean sea level, or the lowest surface of any heating or air conditioning ductwork installed below the lowest floor. Said certification shall be made on a FEMA Elevation Certificate Form No. 81-31, or a form containing at least the same information, and shall be prepared by or under the direct supervision of a Florida Professional Surveyor and Mapper or professional engineer and certified by same, except that in "A" Zones for which flood elevations have not been provided or determined and in AO Zones, the City Engineer may certify the lowest floor elevation.~~

~~(b) When flood-proofing is utilized for a non-residential building, the permit holder shall submit to the City Engineer a floodproofing certification at the time the exterior walls are completed to the required floodproofed elevation. Said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same, utilizing the FEMA Floodproofing Certificate Form No. 81-65, or the equivalent.~~

~~(c) Any additional work undertaken prior to submission and approval of the certification shall be at the permit holder's risk.~~

~~(d) The City Engineer shall review the floor elevation survey data or flood-proofing certification submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed.~~

~~(e) Failure to submit the elevation or flood proofing certifications or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.~~

(a) Designation. The City Engineer is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

(b) General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of the Floodplain Regulations. The Floodplain Administrator shall have the authority to render interpretations of the Floodplain Regulations consistent with the intent and purpose of the Floodplain Regulations and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving

requirements specifically provided in the Floodplain Regulations without the granting of a floodplain variance pursuant to Chapter 65, Part 6E.

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

1. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of the Floodplain Regulations;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information; the base flood elevations printed on FIRMs are illustrative only; the Floodplain Administrator shall (a) use Flood Data Tables (for lakes) and (b) stream profiles by interpolating base flood elevations at specific sites between base flood elevation designations by measuring the distance to a site upstream or downstream from a cross-section;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;
7. Review applications to determine whether proposed development adversely affects the flood carrying capacity of the floodplain, where "adversely affects" means damage to adjacent properties because of rises and flood stages attributed to physical changes of the channel and adjacent overbank areas; if it is determined there is an adverse effect, the applicant shall provide a technical analysis of the impact of proposed development on the flood carrying capacity of the floodplain.
8. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with the Floodplain Regulations is demonstrated, or disapprove the same in the event of noncompliance; and
9. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of Chapter 63, Part 2C and this Part.

(d) Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; and
 4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and the Floodplain Regulations is required.
- (e) Modifications of the strict application of the requirements of the *Florida Building Code*. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a floodplain variance pursuant to Chapter 65, Part 65E.
- (f) Notices and orders. The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with the Floodplain Regulations.
- (g) Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 65.623 of this Part for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (h) Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:
1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 65.622(d) of this Part;
 2. When all or portions of properties are determined to be above the base flood elevation but are shown on the FIRM as in the special flood hazard area, advise applicants that development in the portion shown in the special flood hazard area is subject to the requirements of the Floodplain Regulations and the flood provisions of the *Florida Building Code* unless the applicant obtains a Letter of Map Change from FEMA.
 3. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State

Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

4. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
5. Review required design certifications and documentation of elevations specified by the Floodplain Regulations and the *Florida Building Code* to determine that such certifications and documentations are complete; and
6. Notify the Federal Emergency Management Agency when the corporate boundaries of the City are modified.

- (i) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of the Floodplain Regulations and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and the Floodplain Regulations; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and floodplain variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to the Floodplain Regulations and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the city clerk's Office.

Sec. 65.623.-Permit Procedures for Other Developments (Including Subdivisions) Inspections.

~~Application for a Development Permit for developments other than the construction of buildings, such as bridges, subdivisions, shopping centers, and other large construction projects that include substantial site development or alteration, shall be made to the City Engineer on forms furnished by the City Engineer's office prior to any development activities, and shall include, but not be limited to, the following plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in questions, existing or 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) — Plot plan, to scale, illustrating the locations of all proposed construction, fill, excavating, and other aspects of the development;~~

- 1249
- 1250 (b) ~~Grading and drainage plans;~~
- 1251 (c) ~~Stormwater management plans;~~
- 1252
- 1253 (d) ~~Floodplain studies, including computer modeling of hydrology;~~
- 1254
- 1255 (e) ~~Description of the extent to which any watercourse, swamp, marsh, lake,~~
1256 ~~or pond will be altered, relocated, or created as a result of proposed~~
1257 ~~construction;~~
- 1258
- 1259 (f) ~~Description of the type, extent, and depth of proposed fill and the~~
1260 ~~elevation in relation to mean sea level of the top surface of the fill;~~
- 1261
- 1262 (g) ~~Description of the type, extent, and depth of proposed excavation in~~
1263 ~~relation to mean sea level;~~
- 1264
- 1265 (h) ~~Topographic mapping in North American Vertical Datum of 1988;~~
- 1266
- 1267 (i) ~~"No-rise" certification for projects within a regulatory floodway, prepared~~
1268 ~~pursuant to Chapter 63, Part 2C.~~
- 1269 ~~(2) Conditions of Approval (Mapping of Flood Hazard Areas).~~
- 1270 (a) ~~If the project proposes to alter the boundaries of a regulatory floodway~~
1271 ~~or the configuration of the watercourse contained within the floodway,~~
1272 ~~the applicant shall submit the proposed grading and drainage plans,~~
1273 ~~stormwater management plans, floodplain studies, and all supporting~~
1274 ~~computer modeling to the FEMA Region IV Office for a Conditional~~
1275 ~~Letter of Map Revision. The project will not receive final approval until~~
1276 ~~the proposed alteration of the watercourse and/or floodway boundaries~~
1277 ~~has been approved by FEMA.~~
- 1278
- 1279 (b) ~~If a proposed project will alter the boundaries of the area of special flood~~
1280 ~~hazard as shown on the FEMA Flood Insurance Rate Maps, the~~
1281 ~~applicant shall submit the approved grading and drainage plans,~~
1282 ~~stormwater management plans, floodplain studies, and all supporting~~
1283 ~~computer modeling to the FEMA Region IV Office for a Conditional~~
1284 ~~Letter of Map Revision, within 30 days of receiving final approval.~~
- 1285
- 1286 (c) ~~Within 30 days following completion of the entire project or a phase~~
1287 ~~thereof, the applicant shall submit engineer's certified copies of the final,~~
1288 ~~constructed grading and drainage plans and stormwater management~~

plans to the FEMA Region IV Office for the issuance of a Final Letter of Map Revision.

~~(d) The City Engineer shall be provided with copies of all related correspondence, and shall sign the required "community acknowledgement form."~~

- (a) General. Development for which a floodplain development permit or approval is required shall be subject to inspection.
- (b) Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of the Floodplain Regulations and the conditions of issued floodplain development permits or approvals.
- (c) Buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of the Floodplain Regulations and the conditions of issued floodplain development permits or approvals.
- (d) Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:
1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
 2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 63.223(b)3.ii of Part 2D, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.
- (e) Buildings, structures and facilities exempt from the Florida Building Code, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 65.623(d) of this Part.
- (f) Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of the Floodplain Regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

Secs. 65.624—65.629. – Reserved.

SECTION 5. PART 6E, CHAPTER 65, ORLANDO CITY CODE AMENDED.

Part 6E. – Floodplain Variances and Appeals.

Sec. 65.630. - Flood Protection Review Committee.

~~A. *Establishment.* A Flood Protection Review Committee (FPRC) is hereby established which shall consist of:~~

~~(1) — The Public Works Director or his designee;~~

~~(2) — The Planning Director or his designee;~~

~~(3) — The Chief of Police or his designee;~~

~~(4) — The Chief of the Fire Department or his designee.~~

~~B. *Powers and Duties.* The powers, duties, and responsibilities of the Flood Protection Review Committee shall be as follows:~~

~~(1) — To hear and decide appeals from the denial of Floodplain Development Permits by the City Engineer.~~

~~(2) — To hear and decide appeals when it is alleged there is error in any requirement, decision or determination made by an administrative official in the enforcement or administration of Chapter 63, Part 2C.~~

~~(3) — To hear and decide applications for variances from the requirements of Chapter 63, Part 2C in cases which fall within the provision of this Part.~~

~~(4) — To interpret the boundaries of the areas of special flood hazards on appeal from a decision of the City Engineer.~~

~~(5) — To adopt such rules of procedure as are necessary to carry out its duties as required by this Part.~~

Sec. 65.630. – General.

The Flood Protection Review Committee shall hear and decide on requests for appeals of decisions by the Floodplain Administrator and requests for floodplain variances from the strict application of Chapter 63, Part 2C. Pursuant to section 553.73(5), Florida Statutes, the Flood Protection Review Committee shall hear and decide on requests for appeals and requests for

1380 floodplain variances from the strict application of the flood resistant construction requirements of
1381 the Florida Building Code. The City Council shall hear and decide on requests for appeals of
1382 the decisions of the Flood Protection Review Committee.

1383
1384 (a) Establishment. A Flood Protection Review Committee (FPRC) is hereby
1385 established which shall consist of:

- 1386 1. The Public Works Director or designee;
- 1387 2. The Planning Director or designee;
- 1388 3. The Chief of Police or designee;
- 1389 4. The Chief of the Fire Department or designee.

1390
1391 (b) Powers and Duties. The powers, duties, and responsibilities of the Flood
1392 Protection Review Committee shall be as follows:

- 1393 1. To hear and decide appeal requests when it is alleged there is an error in any
1394 requirement, decision, or determination made by the Floodplain Administrator.
- 1395 2. To hear and decide applications for variances from the requirements of the
1396 Floodplain Regulations and the flood resistant construction requirements of
1397 the Florida Building Code.
- 1398 3. To adopt such rules of procedure as are necessary to carry out its duties as
1399 required by this Part.
- 1400 4. To appoint an Executive Secretary to serve as the custodian of all Committee
1401 records, in accordance with City records policies.

1402
1403 **Sec. 65.631. - Procedure for Obtaining Floodplain Variances.**

1404
1405 A. ~~The FPRC shall hear and decide appeals when it is alleged there is an error in any~~
1406 ~~requirement, decision, or determination made by the City Engineer in the enforcement or~~
1407 ~~administration of this ordinance.~~

1408
1409 B. ~~In passing upon such applications, the FPRC shall consider all technical~~
1410 ~~evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:~~

- 1411
1412 (1) ~~the danger that materials may be swept onto other lands to the injury of others;~~
- 1413
1414 (2) ~~the danger to life and property due to flooding or erosion damage;~~
- 1415
1416 (3) ~~the susceptibility of the proposed facility and its contents to flood damage and the~~
1417 ~~effect of such damage on the individual owner;~~
- 1418
1419 (4) ~~the importance of the services provided by the proposed facility to the community;~~
- 1420
1421 (5) ~~the necessity of the facility to a waterfront location, in the case of a functionally~~
1422 ~~dependent use (see definition);~~

- ~~(6) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~
- ~~(7) the compatibility of the proposed use with existing and anticipated development;~~
- ~~(8) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
- ~~(9) the safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~(10) 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~~
- ~~(11) 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.~~
- ~~C. Upon consideration of the factors listed above, and the purposes of this ordinance, the FPRC may attached such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.~~
- ~~D. *Conditions for Variances.*~~
- ~~(1) 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;~~
- ~~(2) 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 conflict with existing local laws or ordinances.~~

(3) ~~Any applicant to whom a variance is granted shall be given written notice specifying the differences 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.~~

(4) ~~The City Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.~~

~~E. Notification to Applicants.~~ The Public Works Director or his designee shall notify, in writing, all applicants for a Floodplain Variance that:

(1) ~~The issuance of a Floodplain Variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for every one hundred dollars (\$100.00) of insurance coverage; and~~

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

~~A record of this notification shall be maintained with all Floodplain Variance actions.~~

Sec. 65.631. - Procedure for Submitting a request for a Floodplain Variance or an Appeal.

(a) Requests. Requests for a floodplain variance or appeal shall be submitted to the Floodplain Administrator and shall include the following information:

1. A map of the subject property and surrounding area.
2. An affidavit signed by the property owner.
3. An accurate up-to-date survey completed by a Florida licensed professional surveyor that includes delineation of flood hazard areas, floodway boundaries, base flood elevations, and ground elevations, if necessary to review the request.
4. A site plan showing the complete property and proposed improvements.
5. A justification statement identifying the reason for the request and providing evidence or data supporting the request.
6. And other relevant information as requested by the Floodplain Administrator to ensure that the applicant adequately address the requirements of Sections 65.638 and 65.639.
7. The Floodplain Administrator shall be authorized to waive the informational requirements above where deemed appropriate.

(b) Submittal deadlines. Appeals shall be filed within twenty (20) days of the mailing of Notice of Denial or other decision. Variance applications may be filed at any time.

Sec. 65.632. - Variances in Floodways.

1507 ~~Variances shall not be issued within any designated floodway if any increase in flood~~
1508 ~~levels during the base flood discharge would result.~~

1509 **Sec. 65.632. - Hearings and Decisions of the Flood Protection Review Committee.**

1510 (a) On receipt of a request for appeal or a request for a floodplain variance, the FPRC shall
1511 hold a public hearing within thirty (30) days of the receipt of the request, unless additional
1512 information from the requestor is required, in which case the FPRC shall hold a hearing on said
1513 request within thirty (30) days of the receipt of such information. At the hearing any party may
1514 appear in person or by agent or by attorney and present written or oral evidence.

1515 (b) The FPRC shall arrive at a decision at the hearing, or may defer action to a future public
1516 hearing.

1517 (c) For appeals, the FPRC, in conformity with the requirements of the Floodplain
1518 Regulations, may reverse or affirm, wholly or in part, or modify the order, requirements, decision
1519 or determination appealed. The FPRC may attach such conditions and safeguards as it deems
1520 necessary to further the purposes of the Floodplain Regulations.

1521 **Sec. 65.633. - Variances for Historic Structures.**

1522 ~~Variances may be issued for the repair or rehabilitation of historic structures (see definition)~~
1523 ~~upon a determination that the proposed repair or rehabilitation will not preclude the structure's~~
1524 ~~continuing designation as a historic structure and the variance is the minimum to preserve the~~
1525 ~~historic character and design of the structure.~~

1526 **Sec. 65.633. - Appeal to City Council.**

1527 (a) Appeals to a decision of the FPRC shall be filed in writing with the City Clerk within
1528 thirty (30) days of the Committee's decision.

1529 (b) Within thirty (30) days of the filing of an appeal with the City Clerk, the City Council
1530 shall hold a public hearing to determine whether the actions of the FPRC are in
1531 conformity with the terms of this Part. Upon a finding that the actions of the FPRC
1532 are not justified the City Council may, consistent with the terms of this Part, reverse,
1533 wholly or in part, or modify the decisions appealed. The City Council may attach
1534 such conditions and safeguards as it deems necessary to further the purposes the
1535 Floodplain Regulations. The decision of the City Council shall be final.

1536 **Sec. 65.634. - Hearings and Decisions of Floodplain Protection Review Committee.**

1537 ~~A. *Scheduling of Hearing.* On an application for a Floodplain Variance or an appeal~~
1538 ~~from a decision of the Public Works Director, the FPRC shall hold a public hearing. Said~~
1539 ~~hearing shall be held within thirty (30) days from receipt of the appeal or application,~~
1540 ~~unless additional information is required in which case the FPRC shall hold a hearing~~
1541 ~~on said appeal or application within thirty (30) days from the receipt of such information.~~
1542 ~~At the hearing any party may appear in person or by agent or by attorney and present~~
1543 ~~written or oral evidence.~~

1544 ~~B. *Decisions.* The Committee shall arrive at a decision on an appeal from a decision of~~
1545 ~~the Public Works Director or a Floodplain Variance application within thirty (30) days~~
1546 ~~after the hearing. In passing upon an appeal the Committee may in conformity with the~~
1547 ~~terms of this Part reverse or affirm, wholly or in part, or modify the order, requirement,~~

1552 ~~decision or determination appealed from. In granting a Floodplain Variance, the~~
1553 ~~Committee may attach such conditions and safeguards as it deems necessary to further~~
1554 ~~the purposes of this Chapter.~~

1555
1556
1557 **Sec. 65.634. - Limitations on authority to grant floodplain variances.**

1558
1559 The Flood Protection Review Committee shall base its decisions on floodplain variances
1560 on technical justifications submitted by applicants, the considerations for issuance in Section
1561 65.638 of this Part, the conditions of issuance set forth in Section 65.639 of this Part, and the
1562 comments and recommendations of the Floodplain Administrator and the Building Official. The
1563 Flood Protection Review Committee has the right to attach such conditions as it deems
1564 necessary to further the purposes and objectives of this Floodplain Regulations.

1565
1566
1567 **Sec. 65.635. -- Appeal to City Council.**

1568
1569 ~~*A. Time Limit for Filing Appeal.* Any appeal of a decision of the Flood Protection Review~~
1570 ~~Committee must be made to the City Council of the City of Orlando within thirty (30)~~
1571 ~~days of the mailing of notice of action of the FPRC. (Hand delivery of notice may be~~
1572 ~~substituted for mail delivery.) All appeals shall be in writing and filed with the City Clerk.~~

1573
1574 ~~*B. City Council Decision.* Within thirty (30) days of the filing of a written notice of appeal~~
1575 ~~with the City Clerk, the City Council shall hold a public hearing to determine whether the~~
1576 ~~actions of the Flood Protection Review Committee are in conformity with the terms of~~
1577 ~~this Chapter. Upon a finding that the actions of the FPRC are not justified, the City~~
1578 ~~Council may, consistent with the terms of this Chapter, reverse, wholly or in part, or~~
1579 ~~modify the decision appealed from. The City Council may attach such conditions to the~~
1580 ~~granting of the appeal as it deems necessary to further the purpose of this Chapter. The~~
1581 ~~decision of the City Council shall be final.~~

1582
1583 **Sec. 65.635. - Restrictions in floodways.**

1584 A floodplain variance shall not be issued for any proposed development in a floodway if
1585 any increase in base flood elevations would result, as evidenced by the applicable analyses and
1586 certifications required in Section 63.223(c) of Chapter 63, Part 2C.

1587
1588
1589 **Sec. 65.636. - Historic buildings.**

1590
1591 A floodplain variance is authorized to be issued for the repair, improvement, or
1592 rehabilitation of a historic building that is determined eligible for the exception to the flood
1593 resistant construction requirements of the *Florida Building Code, Existing Building, Chapter 12*
1594 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation
1595 will not preclude the building's continued designation as a historic building and the floodplain
1596 variance is the minimum necessary to preserve the historic character and design of the building.
1597 If the proposed work precludes the building's continued designation as a historic building, a
1598 floodplain variance shall not be granted and the building and any repair, improvement, and
1599 rehabilitation shall be subject to the requirements of the *Florida Building Code*.

1601 **Sec. 65.637. - Functionally dependent uses.**

1602
1603 A floodplain variance is authorized to be issued for the construction or substantial
1604 improvement necessary for the conduct of a functionally dependent use, as defined in Chapter
1605 66, provided the floodplain variance meets the floodway requirements of Section 65.635 of this
1606 Part, is the minimum necessary considering the flood hazard, and all due consideration has
1607 been given to use of methods and materials that minimize flood damage during occurrence of
1608 the base flood.

1609
1610 **Sec. 65.638. - Considerations for issuance of floodplain variances.**

1611
1612 In reviewing requests for floodplain variances, the Flood Protection Review Committee
1613 shall consider all technical evaluations, all relevant factors, all other applicable provisions of the
1614 Florida Building Code, the Floodplain Regulations, and the following:

- 1615 (a) The danger that materials and debris may be swept onto other lands resulting in
1616 further injury or damage;
1617 (b) The danger to life and property due to flooding or erosion damage;
1618 (c) The susceptibility of the proposed development, including contents, to flood damage
1619 and the effect of such damage on current and future owners;
1620 (d) The importance of the services provided by the proposed development to the
1621 community;
1622 (e) The availability of alternate locations for the proposed development that are subject
1623 to lower risk of flooding or erosion;
1624 (f) The compatibility of the proposed development with existing and anticipated
1625 development;
1626 (g) The relationship of the proposed development to the comprehensive plan and
1627 floodplain management program for the area;
1628 (h) The safety of access to the property in times of flooding for ordinary and emergency
1629 vehicles;
1630 (i) The expected heights, velocity, duration, rate of rise and debris and sediment
1631 transport of the floodwaters and the effects of wave action, if applicable, expected at
1632 the site; and
1633 (j) The costs of providing governmental services during and after flood conditions
1634 including maintenance and repair of public utilities and facilities such as sewer, gas,
1635 electrical and water systems, streets and bridges.
1636

1637 **Sec. 65.639. - Conditions for issuance of floodplain variances.**

1638
1639 Floodplain variances shall be issued only upon:

- 1640 (a) Submission by the applicant, of a showing of good and sufficient cause that the
1641 unique characteristics of the size, configuration, or topography of the site limit
1642 compliance with any provision of the Floodplain Regulations and the Florida Building
1643 Code or the required elevation standards;
1644 (b) Determination by the Flood Protection Review Committee that:

1. Failure to grant the floodplain variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 2. The granting of a floodplain variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 3. The floodplain variance is the minimum necessary, considering the flood hazard, to afford relief;
- (c) Receipt of a signed statement by the applicant that the floodplain variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (d) If the request is for a floodplain variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the floodplain variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

SECTION 6. Chapter 66, Code of the City of Orlando, Florida is hereby amended as follows:

* * * *

Appeal: A request for a review of an administrative interpretation of any provision of Chapters 58 through 66, or a review of a decision made by any administrative official or board or commission. ~~When applied to the Floodplain Regulations of Chapter 63, this term shall include a request for a Floodplain Variance.~~

Area of Special Flood Hazard: The land in the floodplain within the City of Orlando subject to a one per cent or greater chance of flooding in any given year.

Construction Cost, Total: The sum of direct and indirect costs of building a development. Direct costs shall include the cost of land preparation, structure (including fixtures), tenant improvements, parking and vehicular use areas, landscaping, and irrigation. Direct costs do not include the cost of land, demolition of existing structures, furniture, or equipment. Indirect costs shall be calculated to be ten percent (10%) of the total direct costs. Indirect costs include non-construction expenses such as architectural, engineering, surveying, appraisal, and legal fees, construction interest, permit fees, impact fees, and sales and marketing expenses. Indirect costs are not included for the

purposes of the substantial improvement and substantial damage determinations in Chapter 63, Part 2C Floodplains.

Development: Except where the context otherwise requires, "development" shall mean the performance of any building or mining operation, the making of any material change in the use or appearance of any structure or land, the division of land into two or more parcels, and any construction of improvements or the alteration of land from a natural state to facilitate a residential, commercial, business, industrial, or public use. For the purposes of Chapter 63, Part 2C Floodplains, "development" is defined in Chapter 63, Part 2C.

Encroachment: Any structure or object occupying, projecting into or obstructing any portion of a designated public right-of-way, yard, ~~floodplain or floodway~~, bufferyard, landscaped area or any other designated area in which the structure or object is not permitted by Chapters 58 through 66, including but not limited to: building or other materials, all or portions of permanent or temporary buildings or other structures, fences and ornamental structures, and where appropriate to the context, vehicles; but excluding federally approved mailboxes where permitted and approved driveways as permitted by Chapters 60, 61, 62 and 65. For the purposes of Chapter 63, Part 2C Floodplains, "encroachment" is defined in Chapter 63, Part 2C.

~~Flood Hazard Boundary Map (FHBM): The official map of a community, issued by the Office of Federal Insurance and Hazard Mitigation, on which the boundaries of the areas of special flood hazard have been designated as Zone A.~~

~~Flood Insurance Rate Map (FIRM): The official map of a community, on which the Office of Federal Insurance and Hazard Mitigation has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.~~

~~Flood Insurance Study: The official report provided by the Office of Federal Insurance and Hazard Mitigation. The report contains flood profiles, as well as the flood hazard boundary floodway map and the water surface elevation of the base flood.~~

Floodplain regulations: Chapter 63, Part 2C Floodplains; Chapter 65, Part 6D Floodplain Development Permit; and Chapter 65, Part 6E Floodplain Variances and Appeals.

Floodplain Variance: A grant of relief to a person from the requirements of Chapter 63, Part 2C Floodplains, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner otherwise prohibited by Chapter 63, Part 2C Floodplains or the Florida Building Code where specific enforcement would result in unnecessary hardship.

~~Floodplain Development Permit: The permit required by Chapter 63 which must be secured prior to the erection, addition, or alteration of any building or structure (including the placement of mobile homes), or portion thereof, which is located in an area of special flood hazard.~~

Floodplain Development Permit or Approval: An official document or certificate

issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with Chapter 63, Part 2C Floodplains.

~~Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

~~Functionally Dependant Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.~~

Habitable Floor: Any floor area usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor area usable only for storage purposes is not a "habitable floor." For the purposes of Chapter 63, Part 2C Floodplains and the flood resistant design requirements of the Florida Building Code, the defined term is "lowest floor."

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

~~Manufactured Home: A structure originally built on a permanent chassis and originally designed to be transportable in one or more sections for use with or without a permanent foundation when attached to the required utilities. The term does not include a "recreational vehicle."~~

New (Use, Structure or Activity) (or New Construction): Any use, structure or activity for which the "Start of Construction" commenced on or after the original effective date of a regulation or standard contained in Chapters 58 through 66, exclusive of Chapter 63, Part 2C Floodplains. When referring to a Mobile Home Park or Mobile Home Subdivision, this term shall mean that the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of such regulation or standard.

Recreational vehicle (RV): A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(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.

~~Recreational Vehicle (RV): Any travel trailer, motor home, camping trailer, personal watercraft, water vessel or other similar vehicle, which is occupied or intended for occupancy on a temporary, transient basis for travel, recreation, or vacation purposes.~~

Start of Construction: The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. Permanent construction does not 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 as part of the principal structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed. For the purposes of Chapter 63, Part 2C Floodplains, "start of construction" is defined in Chapter 63, Part 2C.

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement of a structure over the preceding 5 years when the actual and aggregate cost of the improvements or repairs of the structure equals or exceeds 50% of the present replacement value of the structure. For the purposes of Chapter 63, Part 2C Floodplains, "substantial improvement" is defined in Chapter 63, Part 2C.

For the purposes of this definition, "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. The term does not include any work needed to comply with state or local health, sanitary, or safety codes nor any work to a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, an Orlando Historic Landmark, or a contributing structure in an Orlando Historic Preservation Overlay District.

For purposes of this definition, the "present replacement value" of the structure shall mean the present replacement value arrived at by the Orange County Property Appraiser in accordance with section 193.011(5), Florida Statutes. If such value is not provided by the Orange County Property Appraiser, then the present replacement value shall be as determined by the City building official. Also for purposes of this definition, the value of improvements shall be determined by the City building official.

SECTION 7. APPLICABILITY. For the purposes of jurisdictional applicability, this

ordinance shall apply in City of Orlando. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 8. REPEALER. Any and all ordinances in conflict herewith are hereby repealed.

SECTION 9. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 10. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 11. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 12. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2018.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of _____, 2018.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2018.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE
CITY OF ORLANDO, FLORIDA:

Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

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City Clerk

Print Name

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

Assistant City Attorney

Print Name

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