



Meeting Agenda
Thursday, October 3, 2024

7:00 PM

REGULAR

Cocoa Beach Country Club
5000 Tom Warriner Blvd.
Cocoa Beach, 32931

WELCOME

Meeting re-broadcasts on: Spectrum - Channel 499 and www.cityofcocoabeach.com.
Meeting Video Archives: www.cityofcocoabeach.com

Packets: Packets are on the City's website (www.cityofcocoabeach.com) and at Commission meetings

Rules of Order: Robert's Rules of Order and the Florida Sunshine Law govern the conduct of our meeting

Speaking Courtesy Rules:

- The Commission accepts relevant comments.
- A time limit of three minutes is imposed on each speaker. If speaking for a group, the Commission may grant an additional three minutes
- Please direct comments and questions through the Mayor
- Complete speaker cards are required for each of the items you wish to address. Submit the card to the City Clerk prior to the introduction of the item. Speaker Cards are available in the rear of the Commission Room and in the City Clerk's office prior to the meeting. The purpose of the card is to obtain the spelling of your name, contact information if follow-up is needed, and provide for efficient meeting administration
- Upon being recognized by the Mayor, please approach the dais, state your name and address, and speak into the microphone

Approval Of Order Of Business:

Note: Members of the public, Commission and Staff may remove items from the Consent Agendas, if they wish to discuss them. Requests for removal need to be made known to the City Commission under the Approval of the Order of Business, at the beginning of the meeting

Appealing a Decision:

Any person desiring to appeal any decision made by the City Commission, with respect to any matter considered at such meeting or hearing, will need a record of the proceedings and for such purposes must ensure that a verbatim record and transcript of the proceeding is made in a form acceptable for official court proceedings, which record includes the testimony and evidence upon which the appeal is to be based. It shall be the responsibility of the person desiring to appeal any decision to prepare a verbatim record and transcript at his/her own expense as the City does not provide one

American with Disabilities Act:

ATTN: PERSONS WITH DISABILITIES. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations to participate in this proceeding shall, at least forty-eight (48) hours prior to the meeting, contact the Office of the City Clerk at (321) 868-3286; Florida Relay Service (800) 955-8771 (TDD); or (800) 955-8770 (Voice) or 711.

THANK YOU for participating in your Cocoa Beach City Government.

A. MEETING CALLED TO ORDER

1. Pledge of Allegiance
2. Invocation by Keith Capizzi, Pastor, Club Zion Community Church
3. Roll Call

B. APPROVAL OF THE AGENDA

(Note: Members of the public, Commission and Staff may remove items from the Consent Agendas if they wish to discuss them. Requests for removal need to be made known to the City Commission under the Approval of the Order of Business, at the beginning of the meeting.)

C. SPECIAL PRESENTATION

1. Amend the FY25 Annual Budget to remove the \$75k budget item for the Marina Feasibility Study and remove the \$450k Capital budget item for 2026 and any other budget items related to the Marina Project. - Added 9/30/24
Representative: Dave Netterstrom - Cocoa Beach Resident

D. PUBLIC COMMENTS

Comments will be heard on items that do not appear on the agenda of this meeting. Citizens will limit their comments to three (3) minutes. Per Commission Procedures, the City Commission will not take any action or discuss items brought up under the "Public Comment" section of the agenda. The City Commission may schedule such items as regular agenda items and act upon them in the future.

E. STAFF REPORTS AND ANNOUNCEMENTS

F. CITY ATTORNEY REPORTS AND ANNOUNCEMENTS

G. CITY COMMISSION REPORTS AND ANNOUNCEMENTS

H. CONSENT AGENDA

1. Approve the September 19th City Commission Minutes
Staff Representative: City Clerk's Office
2. Approve the City Commission Meeting for October 17th, 2024 to be rescheduled to October 24th, 2024 at 7:00 pm. This will give staff time to provide additional agenda items that must be approved before November 1, 2024, for state-funded grants.

I. ITEMS REMOVED FROM THE CONSENT AGENDA

J. UNFINISHED BUSINESS

1. Permission to contract Central Sand for dredging the 400 Channel under our continuing services agreement.
Budgeted Item
Total Project Cost - \$297,000.00
Staff Representative - Scott Maxim, Project Manager

K. NEW BUSINESS

1. **Requested Motion/Action:**
Approve First Reading of Ordinance 1689: AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, AMENDING SECTIONS OF APPENDIX B OF THE COCOA BEACH CODE OF ORDINANCES, LAND DEVELOPMENT CODE; PROVIDING FOR MINIMUM REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP); AMENDING ARTICLE IV "DEFINITIONS;" WITHIN CHAPTER I, "PURPOSE AND GENERAL PROVISIONS"; AMENDING Article III "FLOOD DAMAGE PREVENTION" WITHIN CHAPTER VII "STORMWATER MANAGEMENT AND FLOOD CONTROL"; ALL WITHIN THE LDC; INCORPORATING RECITALS; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY; AND EFFECTIVE DATE.

Ordinance 1689 is a request to implement changes to the Land Development Code (LDC) Chapter I and Chapter VII. These changes were determined to be necessary to maintain or improve the City's Community Rating System (CRS) Class 8 rating under the National Flood Insurance Program (NFIP). Ordinance 1689 reflects FDEP recommended changes needed to satisfy the prerequisite requirements of the NFIP, and those necessary for the City of Cocoa Beach to maintain or improve its current CRS 8 rating. Without these changes, the city was informed it could be retrograded to a CRS Class 9 rating.

Staff Representative: Loren Wiltse - Principal Planner, John Castillo-Chief Building Official, Randy Stevenson - Development Services Director

2. Port Waster Water Agreement Update.
This item was pulled 10/3/24. It has been placed on the 12/5/24 Commission Meeting.

- L. GENERAL PUBLIC COMMENT
(Only if not accommodated in the 30-minute Public Comment period earlier)
- M. ADJOURNMENT

City of Cocoa Beach City Commission
Request to add agenda Item

DEPARTMENT MAKING

Resident of Cocoa Beach

REQUEST/NAME:

Dave Netterstrom

MEETING DATE:

10/3/24 or next meeting

REQUESTED MOTION/ACTION:

Amend the FY25 Annual Budget to remove the \$75k budget item for the Marina Feasibility Study and remove the \$450k Capital budget item for 2026 and any other budget items related to the Marina Project

Resident Recommendation: **APPROVE!**

CITY OF COCOA BEACH
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A. MEETING CALLED TO ORDER

1. Pledge of Allegiance
2. Invocation by Pastor Keith Capizzi, Club Zion
3. Roll Call

Commission Members Present:

City Commissioner - Mayor Keith Capizzi
City Commissioner Joshua Jackson
City Commissioner Karalyn Woulas
City Commissioner Skip Williams
City Commissioner Jeremy Hutcherson

Administrative Members Present:

City Attorney Becky Vose
City Manager Wayne Carragino
City Clerk Karin Grooms
Chief Finance Officer/ ACM Patrisha Draycott
Deputy Fire Chief Justin Grimes
Director of Grants and Special Projects Devan Pritts
Fleet Director Jonathan Mickler
Human Resources Cindy DePina
Information Technology Kevin Perez
Leisure Services Laird McLean
Police Chief Wes Mullins
Project Manager Scott Maxim
Stormwater Manager, Morgan Zuhlke
Water Rec/ Public Works Director Brad Kalsow
IT Support Coordinator Lauren Domenech
Lt. Peter Marks
Firefighter, Alec Diamond
Firefighter, Kate Munn
Firefighter, Nick Lesch
Firefighter, Cheyne Wilson
Captain Steve Lea
Firefighter Zach Anthony
Fire Support Administrator, Shelby Teat
Fire Marshall, Sal Liberto
Major Tom Cooper

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Deputy Police Chief, Kris Kuehn
Assistant Leisure Services Director, Andrea Segarra
Lt. Joe Versaggi
Pro Shop - Joe Tucker
Pro Shop Manager, Ed Thinger
IT Tech, Mike Ledesma
IT Manager, Ron Munn

B. APPROVAL OF THE AGENDA

(Note: Members of the public, Commission and Staff may remove items from the Consent Agendas if they wish to discuss them. Requests for removal need to be made known to the City Commission under the Approval of the Order of Business, at the beginning of the meeting.)

MOTION BY WILLIAMS/WOULAS

I MOVE TO APPROVE

VOICE VOTE ON THE MOTION CARRIED UNANIMOUSLY.

C. BUDGET HEARING

1. Approve Resolution No. 2024-21, A Resolution Of The City Commission of the City of Cocoa Beach of Brevard County, Florida, adopting the final levying of ad valorem taxes for the appropriations to be paid out of the General Fund during the Fiscal Year 2025 of the City Of Cocoa Beach, Florida; Providing for an effective date.

Resolution No.2024-21 adopts the Millage rate of 6.1644 mills for Fiscal Year 2025. The Tentative Millage rate of 6.1644 mills is **8.25% higher than the rollback rate of 5.6945 mills.**

Pursuant to Florida Statue 200.065 (2), the first substantive issue discussed at the second public hearing to adopt the final millage rate and budget will be the millage.

This final millage rate must be adopted before the budget, by separate votes.

The Commission adopted a tentative millage rate of 6.1644 mils. at the first public hearing on September 4, 2024. The final millage rate may not exceed this, but may be lower.

The staff has prepared the budget based on a millage rate of 6.1644 mills, which is the same as the current year millage rate of 6.1644, and is a tax increase. The legislatively prescribed tax rate that gives local government the same tax revenue as the year before (i.e. rolledback rate) is 5.6945 mills. The proposed millage rate of 6.1644 mills is 8.25% higher than the rollback rate of 5.6945 mills, which is a tax increase.

Recommendation: Approve

The city attorney read item C1 Resolution 2024-21.

MOTION BY WILLIAMS/ WOULAS

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I MOVE TO APPROVE THE PROPOSED MILLAGE RATE OF 6.1644 MILLAGE
ROLL CALL VOTE AYE 4 NAY 1 - HUTCHERSON

Vice-Mayor Hutcherson discussed the position the city is currently in and noted the potential issues in future years.

Mayor Capizzi urged the City Manager and staff to keep the budget the same. Noted keeping the millage rate down and explained what could be done to not exceed it.

Vice-Mayor Hutcherson inquired from the Mayor if he was speaking on rollback or keeping the current rate for next year.

Mayor Capizzi and Vice-Mayor Hutcherson discussed the need for the city to keep the millage rate low.

Ms. Janice Scott, Cocoa Beach resident, inquired about the city's current debt.

Requested that the city make a priority list for expenditures and operations.

Mayor Capizzi recapped the current debt, projected debt, and reserves.

Vice-Mayor Hutcherson inquired how the debt is going down if the city added a City Hall.

Mayor Capizzi noted the interest rates, and the federal rates dropping.

Mr. Tim Tumulty, a Cocoa Beach Resident, shared that the homestead property taxes increased 1% over the last 12 years. Noted the 3% increase for assessed property values.

Mayor Capizzi noted the Save Our Homes assessment on the 2024 election ballot.

Vice-Mayor Hutcherson noted the pressure added to the city.

Commissioner Williams spoke on the city's biggest expense, the employees. To maintain adequate employees, and to maintain good employees is the biggest expense.

He added that the only way to reduce employee costs is to reduce the head count. He stated employees are the biggest asset. Commissioner Williams requested from Ms.

Patrisha Draycott, CFO, a current listing of all the millage rates in Brevard County.

Mayor Capizzi noted the employees and the staff. He thanked the staff and the cost of living.

Commissioner Woulas noted the employees and the infrastructure that needs to be completed. There is not much other to cut out. For the millage, she urged the commission to think about the situation and not automatically go to rollback or keep it the same.

Commissioner Williams stated the goal is to keep the millage the same next year with the same services.

The commission discussed what-if scenarios that included loss of amenities or services.

2. Approve Resolution No.2024-22, A Resolution of the City Commission of the City of Cocoa Beach, Brevard County Florida, adopting the final budget for the Fiscal Year 2025 of the City of Cocoa Beach, Florida; providing for an effective date. The total budget is \$123,248,506, which includes the capital improvement expenditures.

The final budget is being presented and must be adopted by a separate vote

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from the millage. Resolution No. 2024-22 establishes an operating budget for FY2025.

The proposed budget was discussed at the July 2, 2024 and July 18, 2024 budget workshops, and tentatively adopted by the Commission at the first hearing on September 4, 2024.

Representatives: Patrisha Draycott, Chief Financial Officer; Wayne Carragino, City Manager

MOTION BY WILLIAMS/WOULAS

I MOVE TO APPROVE THE BUDGET BY RES. 2024-22

ROLL CALL AYE 4 NAY 1 - HUTCHERSON

Commissioner Williams noted that the dollar value on the agenda was \$123,000,000. He discussed the balance sheet for government spending.

Mayor Capizzi clarified the value, which included grants and enterprise funds.

Vice-Mayor Hutcherson noted spending more than taking in.

Mayor Capizzi mentioned the City Hall.

3. Approve Resolution No.2024-23, A Resolution of the City Commission of the City of Cocoa Beach, Florida, adopting a Five-Year Capital Improvements Program, to include the Fiscal Year 2025 Capital Improvements Budget and adopting a Proposed Capital Improvements Program for the next Four Fiscal Years 2025 - 2029 which may be revised and extended each year with regard to capital improvements.

Representatives: Patrisha Draycott, Chief Financial Officer; Wayne Carragino, City Manager

Recommendation: Approve

MOTION BY WOULAS/JACKSON

I MOVE TO APPROVE RESOLUTION 2024-23

VOICE VOTE ON THE MOTION CARRIED 4-1 NAY HUTCHERSON.

Mr. Orson Tarver, a Cocoa Beach Resident, thanked the commission regarding the Holiday Lane boat ramp.

4. Approve Resolution No. 2024-25. A Resolution of the City Commission of the City of Cocoa Beach of Brevard County, Florida, adopting changes to the Financial Policies and Practices in the FY2025 Budget, Exhibit A.

Representatives: Patrisha Draycott, Chief Financial Officer; Wayne Carragino, City Manager

Recommendation: Approve

MOTION BY WILLIAMS/JACKSON

I MOVE TO APPROVE RESOLUTION 2024-25

VOICE VOTE ON THE MOTION CARRIED UNANIMOUSLY.

5. Approve Resolution No. 2024-01 A Resolution of the City Commission of the

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City of Cocoa Beach, Brevard County, Florida, adopting the final Community Redevelopment Agency Budget for the Fiscal Year 2025 of the City of Cocoa Beach.

Staff Representative: Devan Taly, Director of Grants & Special Projects

MOTION BY WOULAS/WILLIAMS

I MOVE TO APPROVE

VOICE VOTE ON THE MOTION CARRIED UNANIMOUSLY.

Commissioner Williams inquired about the numbers on the resolution. It was clarified.

D. PUBLIC COMMENTS

Comments will be heard on items that do not appear on the agenda of this meeting. Citizens will limit their comments to three (3) minutes. Per Commission Procedures, the City Commission will not take any action or discuss items brought up under the "Public Comment" section of the agenda. The City Commission may schedule such items as regular agenda items and act upon them in the future.

Mr. Orson Tarver, Cocoa Beach resident, spoke on Airbnb. Mentioned the planning board and provided observations. Requested the Commission to give direction to the city staff. Stated that these are businesses and need to provide it as a business.

Mr. Dan Dvorak, a Cocoa Beach resident, spoke about the usage of his property at 124 S. Orlando Ave. Discussed issues and the change of use of the property. Noted that current usage does not allow to have a storage facility.

Commissioner Williams requested the city attorney to work with Mr. Randy Stevenson, Director of Development Services to look at a modification. He spoke about what could be done. However, without a code change, a storage facility is not an option.

Mayor Capizzi stated he is pro-business and would like for businesses to do what they wish within the close. Noted the unique situation and noted it being vacant.

Ms. Janice Scott spoke on the political form, including the candidates, responded - and spoke on who is going to be speaking, same as any other year. Mentioned if time allows questions from the audience. The forum will be from 10:00 am - 12:30 pm Saturday 9/28/24. Ms. Scott also spoke on a project she had been working on for 15 years and the signatures she obtained to be placed on the house floor.

Mr. Tim Tumulty mentioned the weeks events at the high school. He spoke on an incident at the high school, a bomb threat during the week. He explained what occurred and the entire situation. He read a letter regarding the situation from the Principal Mr. Tim Powers. Mr. Powers thanked all the agencies involved. Noted the water provided and the hours the students had to wait. There was no bomb and that every case was taken seriously.

Commissioner Williams noted training that is done at work with drills in different facilities. He inquired if a lessons learned succession was done. Mr. Tumulty mentioned

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the errors and the need for corrections.

Commissioner Jackson stated he was a parent of a student and thanked the public safety crews/staff.

Mayor Capizzi noted and thanked the public safety teams.

E. STAFF REPORTS AND ANNOUNCEMENTS

Mr. Wayne Carragino, City Manager, brought forward the preliminary costs for lifeguards for the upcoming fiscal year. He discussed that the numbers before the commission were being brought forward to the county commission the following Tuesday at the county meeting. Mr. Carragino requested the commission for approval to move forward with the MOU if options 1,2, or 4 are approved by the county for lifeguards. Commissioner Williams requested consent from the commission to allow the City Manager to work on the MOU for options 1,2 and 4 then bring it back to the City Commission for final approval. The commission approved the request 5-0.

F. CITY ATTORNEY REPORTS AND ANNOUNCEMENTS

The city attorney had no reports.

G. CITY COMMISSION REPORTS AND ANNOUNCEMENTS

Vice-Mayor Hutcherson thanked Mr. Tumulty for the update on the school incident. The Vice-Mayor requested a conscience vote that the new police vehicles have "In God We Trust" on the side of the cars. The commission agreed.

H. SPECIAL PRESENTATIONS

1. Proclamation - Proclaiming the week of September 15th, 2024 - Surgical Technologist's Week.
Representative Charles Robinson will attend to receive.

Mayor Capizzi read the proclamation for Surgical Technologist's Week.

Mr. Robinson accepted the Proclamation and thanked the City Commission. He expressed the importance of recognizing surgical technologists as they are undervalued and many do not know what they do.

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I. CONSENT AGENDA

MOTION BY WILLIAMS/JACKSON

I MOVE TO APPROVE CONSENT AGENDA AS READ

VOICE VOTE ON THE MOTION CARRIED UNANIMOUSLY.

1. Approve Meeting September 4, 2024 Minutes
Staff Representative: City Clerk's Office
2. Approve contract CB 24 - 008 with Mauldin & Jenkins, LLC, Certified Public Accountants.
Staff Representative: Patrisha Draycott, Chief Financial Officer
3. Request approval to contract with Geosyntec Consultants Firm for the Cocoa Beach Stormwater Vulnerability Assessment. If unable to negotiate with the first firm, authorize City staff to negotiate a contract with the next rated firm that the City Manager can approve. This is a budgeted item.
Staff Representative: Devan Taly, Director of Grants & Special Projects
4. Ratify the following three-year union contract, for the period of October 1, to September 30, 2027, between the City of Cocoa Beach and:
 - a. The Florida State Lodge Fraternal Order of Police Inc. (FOP).
 - b. Local 3570, The International Association of Fire Fighters (IAFF) {updated 9-17-2024}Staff Representative: Cindy DePina, Director of Human Resources and Patrisha Draycott, CFO
5. Approve the Second Amendment of the Legal Services Contract with Vose Law Firm. This is a minor amendment to the City Attorney contract relating to the method of billing with no impact on the amount of fees or costs billed.
Staff Representative: Becky Vose, City Attorney.

J. ITEMS REMOVED FROM THE CONSENT AGENDA

K. UNFINISHED BUSINESS

1. Adopt Ordinance 1693 on second reading:
An Ordinance of the City of Cocoa Beach, Florida, amending City of Cocoa Beach Code of Ordinances, Section 15-17, "restrictions on camping" and section 30-29 "classes of violations and associated civil penalties"; providing for findings and intent; prohibiting overnight public camping and sleeping; providing for exceptions to the prohibition; providing for enforcement of section 15-17; Providing general clean-up changes; and providing for severability, conflicts, codification, and an effective date.

This ordinance is to prevent potential conflicts with the County or the new State law (Section 125.0231, Florida Statutes), it is recommended that the City Commission adopt by Ordinance a prohibition of public camping or sleeping.

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Adopting a zero-tolerance policy for camping or sleeping on municipal property will head off any potential costs associated with potential litigation from citizens or business owners negatively impacted by camping or sleeping on city property. The first reading was September 4th, 2024.

Staff Representative: Becky Vose, City Attorney

MOTION BY WILLIAMS/WOULAS
I MOVE TO APPROVE ORDINANCE 1693 AS READ
ROLL CALL AYES 5 NAY 0
L. NEW BUSINESS

1. Requesting permission to enter into contract negotiations with Nutt Construction, the highest ranked bidder, for the golf course irrigation project.
Total project cost - \$2,129,300.00
This is a budgeted project.
Representative: Scott Maxim, Project Manager

MOTION BY WOULAS/WILLIAMS
I MOVE TO APPROVE CONTRACT NEGOTIATIONS
VOICE VOTE ON THE MOTION CARRIED UNANIMOUSLY.

Mr. Rick Anderson inquired about the funds and an explanation regarding the funds. Mr. Scott Maxim, Project Manager, noted the phases and spoke about the issues with the issues regarding consultant to work with the City. It was previously budgeted and how the funding was expected.

Commissioner Williams confirmed the total of all phases is \$2,129,300.

Vice-Mayor Hutcherson stated that the project is under budget.

Ms. Janice Scott inquired about the consultant fees for the project.

Mr. Maxim introduced Mr. Mike Pignato with The Pignato Group. He noted that his company works with Mead and Hunt. The fee for the design work and all the data collected was \$70,000. He also explained the city will receive the as-built for the golf course.

Vice-Mayor Hutcherson requested to revisit the rates of the golf course. He noted the funds and the improvements. Requested to revisit the golf studies done the previous year.

The commission discussed the statistics and the science behind the rates. Discussed ensuring not to raise rates just to raise the rates.

Mr. Tim Tumulty spoke about the consultants who did the previous survey. Invited the commission to go on the course and speak with the golfers on the course for more of an understanding.

2. **First Reading of Ordinance 1689:** Moved to October 3rd, 2024 - Due to text modification and re-advertisement.

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The City Attorney read the items notifying the public of Ordinance 1689 being moved to the next meeting set for October 3, 2024.

M. GENERAL PUBLIC COMMENT

(Only if not accommodated in the 30-minute Public Comment period earlier)

Ms. Janice Scott commented on the lifeguard information provided by Mr. Carragino. She gave her opinion on the TDC and other municipalities' handling of tourist dollars.

N. ADJOURNMENT

The meeting was adjourned at 8:15 pm.

X

Karin Grooms
City Clerk, CMC, MPA

X

Keith Capizzi
Mayor-Commissioner

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Manager /

MEETING DATE

October 3, 2024

REQUESTED MOTION/ACTION

Approve the City Commission Meeting for October 17th, 2024 to be rescheduled to October 24th, 2024 at 7:00 pm. This will give staff time to provide additional agenda items that must be approved before November 1, 2024, for state-funded grants.

Staff Representative:

Recommendation:

IS THIS ITEM BUDGETED (IF APPLICABLE)?

BACKGROUND:

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Manager /
Scott Maxim, Project Manager

MEETING DATE

October 3, 2024

REQUESTED MOTION/ACTION

Permission to contract Central Sand for dredging the 400 Channel under our continuing services agreement.

Budgeted Item

Total Project Cost - \$297,000.00

Staff Representative - Scott Maxim, Project Manager

Staff Representative:

Recommendation:

IS THIS ITEM BUDGETED (IF APPLICABLE)?

BACKGROUND:

This item was originally brought to commission in February of 2022 when staff requested permission to execute the grant agreement with F.I.N.D. for Phase 1 (engineering & permitting) of this project.

The 400 Channel was last dredged in 2011. Silting in has occurred to the point where maintenance dredging is required.

This project consists of engineering, permitting, and dredging of the 400 Channel which is one of the six public connecting channels to the AICW in the public waters of the City of Cocoa Beach.

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

Development Services /

MEETING DATE

October 3, 2024

REQUESTED MOTION/ACTION

Requested Motion/Action:

Approve First Reading of Ordinance 1689: AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, AMENDING SECTIONS OF APPENDIX B OF THE COCOA BEACH CODE OF ORDINANCES, LAND DEVELOPMENT CODE; PROVIDING FOR MINIMUM REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP); AMENDING ARTICLE IV "DEFINITIONS;" WITHIN CHAPTER I, "PURPOSE AND GENERAL PROVISIONS"; AMENDING Article III "FLOOD DAMAGE PREVENTION" WITHIN CHAPTER VII "STORMWATER MANAGEMENT AND FLOOD CONTROL"; ALL WITHIN THE LDC; INCORPORATING RECITALS; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY; AND EFFECTIVE DATE.

Ordinance 1689 is a request to implement changes to the Land Development Code (LDC) Chapter I and Chapter VII. These changes were determined to be necessary to maintain or improve the City's Community Rating System (CRS) Class 8 rating under the National Flood Insurance Program (NFIP). Ordinance 1689 reflects FDEP recommended changes needed to satisfy the prerequisite requirements of the NFIP, and those necessary for the City of Cocoa Beach to maintain or improve its current CRS 8 rating. Without these changes, the city was informed it could be retrograded to a CRS Class 9 rating.

Staff Representative: Loren Wiltse - Principal Planner, John Castillo-Chief Building Official, Randy Stevenson - Development Services Director

Staff Representative:

Recommendation:

IS THIS ITEM BUDGETED (IF APPLICABLE)?

BACKGROUND:

Ordinance 1689 is a request to implement changes to the Land Development Code (LDC) Chapter I and Chapter VII. These changes were determined to be necessary to maintain or improve the City's Community Rating System (CRS) Class 8 rating under the National Flood Insurance Program (NFIP).

Early last year, the Florida Division of Emergency Management (FDEM), an agency the Federal Emergency Management Agency (FEMA) relies upon to help review and keep local floodplain ordinances compliant, informed the city that we were scheduled for CRS policy review in 2023. This triggered the Florida Division of Environmental

Protection (FDEP) and City Staff to perform an in-depth review of the LDC's floodplain regulations. The review discovered that recent updates to the cities' LCD, related to land use regulations, inadvertently altered floodplain prevention provisions, resulting in flood regulations that are no longer compliant with the National Flood Insurance Program (NFIP).

Ordinance 1689 reflects FDEP recommended changes needed to satisfy the prerequisite requirements of the NFIP, and those necessary for the City of Cocoa Beach to maintain or improve its current CRS 8 rating. Without these changes, the city was informed it could be retrograded to a CRS Class 9 rating.

Planning Board Recommendation: Following a public hearing on July 8, 2024, the Board approved the following recommendation of approval: Vote- unanimously approved.

Motion: In reference to Ordinance 1689, I move that the Planning Board finds that Ordinance 1689, amending the City's LDC, Chapters I, III, IV and VII to meet the prerequisite requirements necessary for the City of Cocoa Beach to maintain or improve its current CRS 8 rating is in the best interest of the Citizen of the City, and move to forward a recommendation of approval to the City Commission.

ORDINANCE NO. 1689

AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, AMENDING SECTIONS OF APPENDIX B OF THE COCOA BEACH CODE OF ORDINANCES, LAND DEVELOPMENT CODE; PROVIDING FOR MINIMUM REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP); AMENDING ARTICLE IV “DEFINITIONS;” WITHIN CHAPTER I, “PURPOSE AND GENERAL PROVISIONS”; AMENDING ARTICLE III “FLOOD DAMAGE PREVENTION” WITHIN CHAPTER VII “STORMWATER MANAGEMENT AND FLOOD CONTROL”; ALL WITHIN THE LDC; INCORPORATING RECITALS; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, Chapter 163, Florida Statutes requires that municipalities maintain Land Development Regulations that are consistent with and implement their Comprehensive Plans; and

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, 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 City of Cocoa Beach participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class 8, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

WHEREAS, to satisfy the prerequisite and for the City of Cocoa Beach to maintain the current CRS rating, all manufactured homes and other listed improvements installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the City of Cocoa Beach Commission determined that it is in the public interest to amend the floodplain management regulations to better protect manufactured homes and other listed improvements, and to continue participating in the Community Rating System at the current class rating.

WHEREAS, the City Commission finds that an update to Appendix B of the Cocoa Beach Code of Ordinances will provide development guidelines and regulations which are more objective and detailed with a greater clarity of language; and

WHEREAS, the Planning Board and the City Commission both find that the proposed amendments are consistent with the City Charter and will be internally consistent with the remainder of the City Code of Ordinances and Comprehensive Plan; and

NOW, BE IT ORDAINED BY the City Commission of the City of Cocoa Beach, Florida:

SECTION 1. Recitations. The above recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein.

SECTION 2. Enactment. Appendix B of the Cocoa Beach Code of Ordinances, entitled Cocoa Beach Land Development Code (LDC) is hereby amended to read as set forth in the following attached exhibits incorporated herein.

- Exhibit A amending Article IV “Definitions” within Chapter 1 “Purpose and General Provisions”.
- Exhibit B amending Article III “Flood Damage Prevention” within Chapter VII Stormwater Management and Flood Control”

SECTION 3. Codification. The provisions of this Ordinance shall be codified as, and become and be made a part of the Code of Ordinances of the City of Cocoa Beach. The sections of this Ordinance may be renumbered or re-lettered to accomplish such an intention. Text shown as underline is being added and text shown as ~~cross-out~~ is being removed.

SECTION 4. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

SECTION 6. Effective Date. This ordinance shall become effective upon adoption by the City Commission.

Upon Motion by Commissioner _____, seconded by Commissioner _____, this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the ____ day of _____, 2024.

Ayes: _____
Nays: _____
Absent or Abstaining _____

Keith Capizzi
Mayor-Commissioner

ATTEST:

Karen Groom
City Clerk

First Reading: _____
Date Posted: _____
Date Published: _____

CHAPTER I PURPOSE AND GENERAL PROVISIONS

ARTICLE I. PURPOSE AND INTENT

ARTICLE IV. DEFINITIONS¹**Section 1-20. Definitions of words, terms, and phrases.**

- A. *Purpose.* For the purpose of these Land Development Code (LDC) regulations, certain words and terms shall be interpreted to have meanings as defined herein. When words or terms are not defined, their most commonly accepted meaning shall apply. The context in which the word or term is used may imply the intended meaning. Words used in the present tense include the future tense; the singular number includes the plural and the plural includes the singular. The words "shall", "must" and "will" are mandatory; the words "may" or "might" are permissive. The masculine gender shall imply the feminine and neuter genders and vice versa. The words "used" or "occupied" include the words intended, designed, maintained, or arranged to be used or occupied. The word "lot" includes the words plot, tract or parcel. The word "structure" includes the word building and vice versa. The word "land" includes the words marsh, water, or swamp.
- B. *Definitions.* For the purpose of these regulations, the following definitions apply, unless they are found to be inconsistent with the intent of the city commission, the City Charter or the Comprehensive Plan:
1. *Abut/abutting.* To have a common property or zoning district line.
 2. *Accepted planning standards and practices.* The planning standards and practices which are generally accepted and used by the American Institute for Certified Planners (AICP).
 3. *Accessory dwelling unit.* A secondary residential unit, which can be attached or detached, located on the same property as the principal residential structure.
 4. *Accessory structure or facility.* A detached subordinate structure located on the same property as the principal structure but with a use that is incidental to the primary use. Examples include, but are not limited to, a shed or pergola.
 5. *ADA (Americans with Disabilities Act).* A civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.
 6. *Adjacent.* Touching, next to or contiguous, having a common border
 7. *Administrator.* The development services director for the city, who is responsible for the administration of the Comprehensive Plan and Land Development Code regulations; who may engage the assistance of other city staff and area professionals, as required; and whose determinations are subject to review by the city manager.
 8. *Administrative approval.* Approval received and only required by the administrator, subject to review by the city manager.
 9. *Administrative waiver.* A grant of permission by the administrator, according to the procedures within section 4-42, that authorizes an applicant to deviate from specific standards or provisions of these regulations.

10. *Adult entertainment/establishment.* An adult theater, adult store, adult performance establishment, commercial contact parlor, sexual encounter business, or escort service.
11. *Aggrieved person or party.* Person or entity who is dissatisfied with an interpretation of the LDC regulations by the administrator or other city staff or the final ruling on a case heard by the planning board, board of adjustment or the city commission.
12. *Alcoholic beverage establishment.* Those establishments selling alcoholic beverages, as licensed by the state, such as bars, cocktail lounges and nightclubs, but not including restaurants where at least fifty-one (51) percent of the sales are food sales or hotel/motel pool bars which provide alcoholic beverage services exclusively to guests.
13. *Alley.* See *street, alley*.
14. *Alteration.* Any change in size, shape, character, occupancy or use of a building or land, including a change in the amount of impervious surface.
15. *Apartment house.* See dwelling, multi-family.
16. *Applicant.* The person or agent responsible for completing a city application.
17. *Appurtenances.* See Building element.
18. *Aquatic Preserve.* Those sovereign lands established by the state and managed under the provisions set forth in F.S. Chapters 253 and 258, as amended.
19. *Artist workspace/dwelling.* A combination working studio and dwelling unit for artists.
20. *ASCE 24.* A standard titled flood resistant design and construction that is referenced by the Florida Building Code. The standard states the minimum requirements and expected performance for the siting, design and construction of buildings and structures in flood hazard areas that are subject to building code requirements.
21. *Assisted living facility/adult congregate living facility.* A combination of housing, personalized supportive services, and health care designed to meet the individual needs of persons who need help with the activities of daily living, but do not need the skilled medical care provided in a higher level nursing facility. A nursing home is typically a home for the aged, chronically ill, or persons with incurable conditions in which three (3) or more persons not in the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted to the diagnosis and treatment of the sick or injured.
22. *Automobile maintenance facility, body shop, automobile mechanics garage, service or filling station or vehicle repair shop.* Buildings and premises where automobiles and other vehicles, such as scooters, motorcycles, boats, RVs, aircraft, golf carts, etc., may be worked-on, serviced, repaired, painted, rebuilt, fueled, tinted, enhanced, customized or otherwise have work done on or to them, such as: body shops; mechanical garages; and service/filling stations.
23. *Average daily traffic.* The average number of vehicles crossing a specific point on a roadway on an average weekday.
24. *Awning.* Any roof like overhang or flexible covering extended from the outside wall of a building.
25. *Balcony.* A horizontal flat surface that projects from the wall of a building, is enclosed by a parapet or railing, and is entirely supported by the building.

26. *Bar*. A business whose primary activity is the sale of alcoholic beverages to be consumed on premises. Bars include taverns, night clubs, private clubs, and similar facilities serving alcoholic liquor.
27. *Base flood*. The flood having a one percent chance of being equaled or exceeded in any given year. This is the regulatory standard also referred to as the "100-year flood." The base flood is the national standard used by Federal agencies for regulating new development. Base flood elevations (BFEs) are typically shown on flood insurance rate maps (FIRMs).
28. *Base flood elevation*. The computed elevation relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or as specified on the Flood Insurance Rate Map (FIRM) to which floodwater including wave height is anticipated to rise during the base flood. Base flood elevation (BFE) zones are shown on flood insurance rate maps (FIRM) and on the flood profiles. The BFE is the regulatory requirement for the elevation or flood proofing of structures.
29. *Basement*. For the purposes of Chapter VII, the portion of a building having its floor subgrade (below ground level) on all sides.
30. *Bed and breakfast establishment*. A family home structure, with no more than ten (10) sleeping rooms, which has been modified to serve as a lodging establishment, is personally and physically operated and occupied by an owner or manager, where transient guests are permitted to reside and where payment is exchanged for this service.
31. *Best management practices (BMP)*. Methods or techniques found to be the most effective and practical means in achieving an objective, while making the optimum use of the available resources. Examples of BMPs on a construction site include silt fences, inlet protection, and site-stabilization techniques.
32. *Block*. An area of land completely surrounded by private or public streets, easements, waterways or other natural physical barriers.
33. *Boat slip*. A space designed for the mooring or embarking/disembarking of a single watercraft and usually projecting from a dock or shoreline.
34. *Buildable area*. The area remaining on a lot or parcel, after the minimum setbacks have been met, and outside of any property drainage or utility easements.
35. *Building/development permit and/or agreement*. The permit issued or an agreement entered into by the city and the applicant to allow construction to commence on a building, subdivision or parcel of land. Also referred to as a development order.
36. *Building element*. An architectural feature, including, but not limited to, windows, columns, awnings, chimneys or decorative ornaments. On the top of buildings elements include, but are not limited to, elevator shafts, stairways, mechanical equipment, chimneys, skylights, railings, antennas, roof peaks or parapet walls. Also referred to as an appurtenance.
37. *Building, height of*. The vertical distance from the finished grade, or other legally required minimum elevation, of the site as measured twelve (12) inches from the outside wall of the building to the highest point of the finished roof deck elevation (top of the roof deck) of a flat roof, or to the highest bearing point of the roof trusses or roof joists for gable, hip or gambrel roofs, provided any habitable space above the bearing point of the trusses or joists shall be solely for the use of occupant of the floor immediately below and not used as separate occupancy. This definition is for purposes of implementing the regulation of building height found in chapter II "zoning" and chapter III "design standards" of these regulations only.

38. *Building painting/mural*. A painting, drawing, or image applied to an external wall which is considered generic art and does not graphically depict a business-related product or service. Any business-related wording or graphics in the painting, drawing, or image shall be considered signage and, as such, shall require zoning authorization.
39. *Building setback lines*. Lines established by these regulations along the front, rear and sides of a lot, which governs the location where structures may be placed on a lot.
40. *Building width*. The distance from one (1) side of a building frontage to the other.
41. *Canal*. See Waterway.
42. *Certificate of occupancy (CO) or temporary (TCO)*. A document, certified by the chief building official, which certifies a building was constructed in accordance with all building codes, and which may now be opened, used and/or occupied permanently (CO) or for a defined, finite period of time (TCO).
43. *Change of use or occupancy*. Replacement of an existing use and/or occupancy with another.
44. *Chief building official (CBO)*. The licensed individual responsible for the administration of the Florida Building Code within the city. Other qualified individuals may be employed under the supervision of the chief building official.
45. *City*. The City of Cocoa Beach, Brevard County, Florida.
46. *Civic/public*. Civic/public areas are used for functions of public benefit such as parks and recreation, conservation areas that are dedicated to the public and governmental uses such as city hall, Cocoa Beach Junior/Senior High School, and the U.S. Post Office.
47. *Clearance*. The height above the sidewalk, roadway or other flat surface, to the lowest point of an element such as an overhang, balcony, awning, etc.
48. *Clinic*. A building where patients are admitted for examination and treatment by one (1) or more persons practicing any form of healing arts, which are licensed in the State of Florida.
49. *Coastal construction control line (CCCL)*. The line ~~of jurisdiction defining the landward limit of the authority of FDEP to regulate construction, as~~ established pursuant to the provisions of F.S. § 161.053, and recorded in the official records of the county. The CCCL defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.
50. *Coastal construction general permit line (GP)*. The line that defines the seaward limit where general permits can be issued by FDEP for construction activities, is established pursuant to the provisions of F.S. § 161.053(18), and is recorded in the official records of the county. Also referred to as the *Coastal construction setback line (CCSBL)* or the 1981 CCCL.
51. *Coastal high hazard area*. For the purposes of Chapter VII, a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V. ~~*Coastal high hazard area*. Coastal areas below the elevation of the category 1 storm surge line as established by sea, lake, and overland surges from hurricanes (SLOSH) computerized storm surge model and/or which are designated on the Federal Emergency Management Agency (FEMA) FIRM map as zone VE.~~

52. *Coastal construction setback line (CCSBL)*. See *Coastal construction general permit line (GP)*.
53. *Colonnade, gallery or arcade*. A covered, open-air walkway at standard sidewalk level attached to or integral with a building frontage; the structure overhead is supported architecturally by columns or arches along the sidewalk.
54. *Commercial use*. Buildings, structures or uses designed or intended for transacting commercial business, including hotels and motels, retail or professional activities of any kind.
55. *Commercial parking*. A parking lot, area or garage operated with the intent of collecting money for the ability to park vehicles.
56. *Commercial vehicle*. Any motor vehicle, trailer, or semi-trailer designed or used to carry freight, passengers for a fee, or merchandise in the furtherance of any commercial enterprise and having a gross weight of more than ten thousand (10,000) pounds.
57. *Commission*. The city commission of the City of Cocoa Beach.
58. *Common open space*. An approved and dedicated area of land and/or water designed and intended for the recreational use and enjoyment of residents living within a residential subdivision.
59. *Common space*. Generally, the part of a building shared as communal space by occupants.
60. *Compact Car*. Cars having a wheelbase of approximately one hundred (100) inches to one hundred nine (109) inches and further defined by the United States EPA.
61. *Community residential home*. A dwelling unit licensed to serve clients of the Florida Department of Children and Families, which shall be categorized by levels according to the number of assigned residents on the premises as well as the zoning district in which it is a permitted use. Residents of these homes shall be as defined in F.S. § 419.001(1)(d). Level I permits includes six (6) or fewer residents, level II permits up to nine (9) residents and level III permits up to fourteen (14) residents.
62. *Conforming*. A building, land or use that complies with the LDC or any amendments thereto.
63. *Construction*. Any on-site intentional activity that will result in the change of the natural or existing site or building characteristics, including, but not limited to, land clearing or any alterations to property contours, grading, or elevations; the demolition, creation, or alteration of structures; or any changes to the amount of impervious area or ability of the property to manage stormwater.
64. *Contractor and trade operation*. An establishment that is primarily engaged in providing an off-site service but which maintains a business office and inventory or equipment at a central location, such as a general contractor or subcontractor, pest control operator, caterer, surveyor, etc.
65. *Convalescent facility*. A housing or medical clinic that allows the gradual recovery of health and strength after an illness or injury.
66. *Crown of road*. The elevation of the highest part of the vehicle travel-way surface on a right-of-way. If used to measure the height of buildings or structures, the elevation of the crown of road shall be calculated by averaging the three (3) elevations of the crown at the points of intersection of the crown and an extension of the property's side lot lines and at the crown located midpoint between the extensions of the property's side lot lines.
67. *County*. The County of Brevard.

68. *DBPR (Department of Business and Professional Regulation).* The agency charged with licensing and regulating businesses and professionals in the State of Florida, such as, but not limited to, cosmetologists, veterinarians, real estate agents, restaurants, and vacation rentals.
69. *Density.* An objective measurement of the number of residential units allowed per unit of land (acre).
70. *Design flood.* The flood associated with the greater of the following two areas:
- (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.
71. *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.
72. ~~69.~~ *Development.* Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities. This includes ~~construction, installation, building construction alteration,~~ and demolition or removal of a structure or an impervious surface; clearing, scraping, grubbing or otherwise removing, altering or destroying the vegetation of a site; adding, removing, exposing, ~~excavating,~~ leveling, ~~grading,~~ digging, burrowing, dumping, piling, ~~dredging,~~ or otherwise significantly disturbing the soils or altering the natural topographic elevations of the site. Any installation, alteration, ~~building, construction,~~ renovation, material change in the use or appearance of a structure or in the land itself, which can also include the division of land into lots, a change in the intensity or use of the land, an increase in the number of dwelling units in a structure or on the land.
- Development, small scale. Development on a site that is less than three (3) acres and contains structures totaling less than thirty thousand (30,000) square feet.
 - Development, large scale. Development on a site of three (3) acres or greater or contains structures totaling thirty thousand (30,000) square feet or greater, or both.
73. *Development plan, site plan, plat, preliminary plat, final plat, record drawings or construction plans.* A graphic presentation, typically in the form of plans or drawings, which may include a detailed map drawn to an accepted scale, to depict how a property is or shall be developed.
74. *Dormitories.* A building primarily used for and containing sleeping accommodations for students or instructors affiliated with an educational institution, churches, athletic teams, or other groups.
75. *Drive-through facility.* Any establishment that provides physical facilities which allow its customers to obtain food, goods or receive services while remaining in their motor vehicles.
76. *Dune.* An accumulation of sand in ridges or mounds landward of the beach.

77. *Dwelling area*. The total internal usable space on all floors of a structure, not including porches, balconies, terraces, stoops, patios, or garages.
78. *Dwelling, accessory*. See *Accessory dwelling unit*.
79. *Dwelling or dwelling unit*. A single unit, providing complete living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
80. *Dwelling, single-family*. A permanent, detached, private, residential building designed to be used as a home or residence for one (1) family.
81. *Dwelling, multi-family, townhouse, apartment building, or a house/group development*. A permanent building designed to have multiple dwelling units which are to be used by three (3) or more families. This does not include *Transient accommodations*.
82. *Dwelling, two-family or duplex*. A single building designed with two (2) separate dwelling units which are to be used by two (2) separate families.
83. *Easement*. A granted strip of privately owned land which shall provide access to either the general public, a governmental entity or a utility corporation, for public utilities, drainage or other specified purposes, where access is needed onto private property.
84. *FAR*. See *Floor Area Ratio*.
85. *FEMA (Federal Emergency Management Agency)*. The agency which coordinates the federal government's role in preparing for, preventing, mitigating the effects of, responding to, and recovering from all domestic disasters, whether natural or man-made, including acts of terror and administers the National Flood Insurance Program.
86. *Fence wall*. An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.
87. *Fingerfill*. A manmade portion of land nearly surrounded by water, containing a street ending in a cul-de-sac and having lots which typically abut both the street and waterway.
88. *Finished floor elevation (FFE)*. The elevation of the top of the structural slab or foundation.
89. *Fireworks*. Any combustible or explosive composition or substance or combination of substances or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, as defined by F.S. § 791.01(4)(a). The term "fireworks" does not include those devices and materials defined by F.S. § 791.01(4)(b) and (c).
90. *Flea market*. An open-air or enclosed market for the sale of new or used merchandise which is typically sold by various merchants.
91. *Flood or flooding*. A general and temporary condition of partial or complete inundation of normally dry land from:
(1) The overflow of inland or tidal waters.
(2) The unusual and rapid accumulation or runoff of surface waters from any source.
92. *Flood control*. Any undertaking for the conveyance, control, and dispersal of flood waters.

93. *Flood damage-resistant materials.* Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.
94. *Flood hazard area.* The greater of the following two areas:
- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
 - (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.
95. ~~*Flood insurance rate maps (FIRM).* The maps created for the National Flood Insurance Program (NFIP) used by all municipalities for determining flood zones and flood insurance rates.~~ The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community.
96. *Flood insurance study (FIS).* The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data (also see FBC, B, Section 1612.2.). A compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. When a flood study is completed for the National Flood Insurance Program (NFIP), the information and maps are assembled into an FIS. The FIS report contains detailed flood elevation data in flood profiles and data tables.
97. *Floodplain administrator.* The office or position designated and charged with the administration and enforcement of floodplain resources and flood mitigation. Sometimes referred to as the floodplain manager.
98. *Flood profile.* A graphical representation of the elevations of the water surface of the 100-year flood along the watercourse.
93. ~~*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 (1) foot.~~
99. *Floor area ratio (FAR).* The measurement (ratio) of the intensity of a building development on a site, most commonly applied to non-residential development. The FAR is the ratio of the gross floor developed area on a site and the gross land area. The FAR is calculated by adding together the gross floor areas of all buildings on the site and dividing by the gross land area.
100. *Floor area, gross.* The total horizontal areas of all floors, including penthouses (excluding areas in a building used for parking) measured from the exterior walls of a building.
101. *Floor area, base.* The enclosed livable floor area within a dwelling, exclusive of open or screened porches, breezeways, terraces, carports, garages or patios.
102. *Floor area, net.* The total horizontal areas of all floors, including penthouses (excluding areas in a building used for parking) measured from the interior walls/surfaces of a building, less areas of non-usable space by patrons of the building, such as walls, utility closets or mechanical rooms.
103. *Florida Building Code.* The set of minimum standards which govern the design, construction, erection, alteration, modification, repair and demolition of public and private buildings, structures, and facilities in Florida, and which is adopted, updated

and administered by the Florida Building Commission, a division of the Department of Business and Professional Regulation (DBPR).

104. *Forecourt*. A private frontage wherein a portion of the facade is close to the front property line and the central portion is set back from the front property line.
105. *Freeboard*. Additional height above a specified minimum used as a factor of safety. Freeboard compensates for factors that may increase the depth of flooding.
106. *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.
107. *Gambling*. Participation, which shall include setting up, promoting, playing, participating, staking, betting or wagering, knowingly aiding, assisting or abetting, in the following events: (i) those games of cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value; (ii) any game or drawing of chance by lot or with dice, cards, numbers, hazards or any other gambling device whatever for, or for the disposal of money or other thing of value or under the pretext of a sale, gift or delivery thereof, or for any right, share or interest therein; and (iii) any trial or contest of skill, speed or power or endurance of human or beast. The intent of the definition is to prohibit commercialized gambling, including, but not limited to, "Las Vegas-style casinos," professional card rooms and internet gambling style cafes. It is not intended to include permitted lotteries, such as the state lottery, bingo games, such as those organized by charitable, nonprofit or veterans' organizations, penny-ante games, including, but not limited to, those games operated solely in a personal dwelling (e.g. neighborhood poker game), bowling tournaments, arcade style games wherein coupons or points may be exchanged for merchandise only, or game promotions in connection with, and incidental to, the sale of legitimate products or services or legitimate promotional giveaways.
108. *Garage, parking*. A building/structure or portion thereof used exclusively for the storage or parking of vehicles.
109. *Garage, private*. A detached building or a portion of the principal building, used for the storage or parking of automobiles by the property occupants. A carport is a private garage.
110. *Garage sale*. The sale of old, used or unwanted personal household items, articles and effects on a residential lot by the property owner or occupant. Garage sales shall not include any new or used items, articles or effects which have been purchased for the purpose of resale at the garage sale.
111. *Grade*. The surface of the ground.
- *Existing grade*. The vertical elevation of the ground surface prior to any development or redevelopment activity.
 - *Finished grade*. The final grade, after development, of the site that conforms to the approved site plan.
 - *Highest adjacent*. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.
112. *Habitable space*. Any enclosed space used, or intended for use, on a day-to-day basis by people for residential purposes, or for purposes of conducting commercial business, or for purposes of a similar nature. Space used for storage or parking is not a habitable space.

113. *Helipad/heliport*. A landing pad or area designed and built solely to land helicopters, but not to maintain or store them.
114. *Historic structure*. Any structure that is accredited as being of historic significance by a state or local authority after careful review of the historical value of the building or structure and therefore determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings. Other considerations including the structural condition of the building its proposed use, its impact on life safety and how the intent of the code, if not the letter, will be achieved, will be considered.
115. *Home occupation*. Any lawful business use inside a residential home as defined by city codes, as a secondary use to the residential dwelling and which does not change the residential character of the neighborhood.
116. *Hotel or motel*. See *transient accommodations*.
117. *Impervious surface*. A surface that has been covered with a layer of material or has been compacted to the point that the surface becomes highly resistant to infiltration by water. It includes most conventionally surfaced streets, roofs, sidewalks, parking lots, swimming pools, wet pond surface areas at normal or control elevation, and other similar nonporous surfaces. A surface covered with material such as gravel or coquina is impervious.
118. *Industrial use*. An activity involving the research, development, manufacturing or repair of goods, materials, components, devices, equipment or systems, and associated storage.
119. *Institutional use*. Public and quasi-public buildings and uses for public assemblage such as, libraries, city hall buildings, fire and police stations, hospitals, sanitariums, convalescent homes, public/private schools, public/private camps and clubs, and similar types of uses.
120. *Junkyard*. An area or place containing any scrap materials or whole items which are purchased or collected for the purpose of selling, storing, dismantling, recycling or processing for profit as a commercial business.
121. *Kennel*. A business location where four (4) or more dogs, cats or combination of both over four (4) months old are kept.
122. *Land clearing*. The removal of vegetation from a site, parcel or lot beyond those activities considered to be routine land maintenance, such as mowing, trimming or pruning.
123. *Landscaping*. The use of plants, construction, and grading to create a desired effect. Landscaping elements may consist of, but are not limited to, turf and other ground covers, shrubs, vines, hedges, and trees, as well as cover materials, such as mulch, stones, etc. Landscaping related terms are as follows:
- *Caliper*. A nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four (4) inches shall be measured six (6) inches above the soil line. Trees greater than four (4) inches in caliper shall be measured twelve (12) inches above the soil line.
 - *DBH (diameter at breast height)*. A standard measurement of a tree trunk diameter as measured at a predetermined point of measurement. Trunks of existing trees shall be measured at four and one-half (4½) feet above the soil line. For multitrunked trees, the DBH shall mean the cumulative diameter of the two (2) largest trunks divided by two (2).
 - *Existing tree*. An existing healthy species of tree with a minimum DBH of one and one-half (1½) inches which normally grows to a mature height of forty (40) feet or

more and is not listed as a prohibited plant. Existing trees may be counted to meet some portions of this Code.

- *Florida-friendly landscaping.* A statewide program that encourages landscape design, installation, and maintenance practices that conserve water, reduce runoff of fertilizers, and minimize the need for pesticides (<http://www.floridayards.org/>).
- *Ground cover.* A low-growing plant that grows over an area of ground providing protection from erosion and inhibiting weed growth.
- *Hedge.* A planting of shrubs and trees, forming a compact, dense, living barrier which screens an area from view.
- *High-water use zone.* An area(s) of a property that receives the application of landscape irrigation by use of rotors or sprays with application rates greater than sixty (60) gallons per hour (gph).
- *Irrigation plan.* A scaled plan (no greater than 1:40 scale) showing protected trees, turf and high-, moderate-, and low-water use zones separately outlined and illustrated with their separate zones of irrigation, indicating pipe size and layout, the location and type of irrigation heads and valves, and water supply.
- *Landscape buffer.* An area of landscaping separating two (2) distinct land uses, or a land use and a public right-of-way, acting to soften or mitigate the effects of one (1) land use on the other.
- *Landscape plan.* A scaled plan (no greater than 1:40 scale) showing the whole property, plant materials, complementary hardscape elements such as fountains, sculpture, masonry, walls, tree wells, and water use areas.
- *Landscape architect.* A design professional registered in the state as defined by F.S. § Chapter 481, Part II, Landscape Architecture
- *Low-water use zone.* An area(s) of a property that receives the application of landscape irrigation by only rainfall or the use of micro-irrigation.
- *Ordinary high-water level.* The level that the Indian River Lagoon can be expected to reach during an "ordinary" wet season.
- *Prohibited plant species or invasive plant.* A tree or plant that disrupts naturally occurring native plant communities as determined by the University of Florida (UF), Institute of Food and Agricultural Sciences (IFAS) Plant Directory, latest edition, or the Florida Exotic Pest Plant Council's (FLEPPC) List of Invasive Plant Species, most recent edition.
- *Rain sensor.* A device connected to the automatic controller of an in-ground irrigation system that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.
- *Shade tree.* A species of tree which normally grows to a mature height of forty (40) feet or more, and which is a minimum of twelve (12) feet in height and a minimum of three (3) inch DBH at planting.
- *Shrub.* A woody plant that is smaller than a tree and has several main stems arising at or near the ground.
- *Understory tree.* A species of tree whose mature height is expected to range between fifteen (15) feet and forty (40) feet, and which is a minimum of six (6) feet in height and a minimum of one (1) inch DBH at planting.

- *Water use zones.* Distinct portions of a property that are of a low-, moderate-, or high-water use, and which are irrigated with separate irrigation zones on separate programs.
124. *Laundry, self-service.* A business location where patrons go to do their laundry and pay for the use of clothes washing and drying machines and where other laundry services may be provided.
125. *Legal nonconforming.* Any characteristic of a building, property or use which lawfully existed prior to the enactment of these regulations but does not comply with the current regulations.
126. *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 areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
127. *Level of service (LOS).* A method used to measure the amount of service proposed or provided by a public facility based on its operational characteristics.
128. *LID (Low impact development).* Systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat
129. *Light-duty truck.* As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:
- *Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or*
 - *Designed primarily for transportation of persons and has a capacity of more than 12 persons, or*
 - *Available with special features enabling off-street or off-highway operation and use.*

130. *Lighting*. Any fixed source of light emanating from a man-made device, including but not limited to incandescent, mercury vapor, fluorescent, halogen, or LED. Lighting related terms are as follows:
- *Accent lighting*. Lighting used as an enhancement to an architectural feature of a building, sign or other manmade improvement and it includes lighting to enhance landscape features. Such lighting is designed to be subtle and muted and not to create unnecessary reflection or glare.
 - *Animated lighting*. Flashing, moving or changing lights.
 - *Beacon*. A light with one (1) or more beams directed into the atmosphere or at one (1) or more points not on the same property as the light source, or any beam of light which rotates.
 - *Foot candle*. A measure of illumination on a surface that is everywhere one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.
 - *Full light cutoff*. Fixtures shielded in such a manner that all light rays emitted are projected only through the bottom of the fixture.
 - *Light trespass*. Unwanted light emitted beyond the boundaries of the property on which the light fixture is located, detrimentally affecting residents, vehicle operators, watercraft operators and pedestrians.
 - *Lumen*. A unit of luminous flux. One (1) lumen per square foot is equal to one (1) foot candle.
 - *Turtle friendly lighting*. Coastal lighting which is certified and approved by the Florida Fish and Wildlife Conservation Commission (FWC).
131. *Liner building*. A building constructed in front of a parking garage, cinema, supermarket, etc. to conceal large expanses of blank wall area and to face the street space with a façade that has doors and windows opening onto the sidewalk.
132. *Live/work unit*. A single dwelling unit in a detached building or in a multi-family or mixed use building that also accommodates limited commercial uses within the dwelling unit. The predominant use of a live/work unit is residential, and commercial activity is a secondary use.
133. *Living shoreline*. Stabilized coastal edge made of natural materials such as plants, sand, or rock.
134. *Loading zone, off-street loading*. An unobstructed area on private property at least twelve (12) feet by thirty (30) feet in area that is provided and maintained for the temporary parking of trucks or other vehicles for the purpose of loading or unloading goods, wares, materials, and merchandise.
135. *Lot, lot of record or metes and bounds parcel*. A parcel of land with a legal description with frontage onto an improved public or private street that is recorded with the county. Related terms are provided below:
- *Corner lot*. A lot where two (2) intersecting sides abut public or private streets on perpendicular lot lines. A side lot line abutting a street, which is not a front lot line as defined below, is a side street lot line.
 - *Double frontage lot*. A lot with frontage on two (2) parallel streets on opposing lot lines.
 - *Front lot line or frontage*. The property line that abuts a street, except on a corner lot where the front lot line is determined by the property address, unless special

circumstances exist which require an administrator interpretation. Typically, but not always, the shortest lot line abutting a street is considered the lot frontage.

- *Interior lot.* A lot other than a corner or double frontage lot.
 - *Lot area.* The square footage of a lot measured within the lot boundary lines.
 - *Lot coverage.* A measure of the intensity of land use that represents the portion of a site that is an impervious surface, expressed as a percentage of the total lot area. This portion includes but is not limited to all areas covered by building, parking structures, driveways, gravel or rock, roads, sidewalks, pools, and any areas of concrete, asphalt, gravel, rock or other impervious material.
 - *Lot depth.* Distance measured in a straight line between the midpoint of front and rear lot lines. Lots of an irregular shape may use the midpoint of the rear and front lot lines when determining depth.
 - *Lot lines.* The property boundary lines of a lot.
 - *Lot split.* The division of a single lot into two (2) legal lots of record where both lots have frontage onto a public or private improved street.
 - *Lot width.* The distance between two (2) side lot lines. Lots of an irregular shape may use the midpoint of each side lot line to determine width.
 - *Rear lot line.* The lot line opposite and parallel or approximately parallel to the front lot line.
 - *Reverse frontage lot.* A lot that has double frontage onto an arterial or collector street on one (1) side, and onto a local street on the opposite side of the lot.
 - *Side corner lot line.* A lot line which is perpendicular or approximately perpendicular to the front lot line, and which runs parallel or approximately parallel to the side street of a corner lot. Also referred to as *Side street lot line*.
 - *Side lot line.* The two (2) lot lines that are not the front or rear lot lines, as established herein.
 - *Single tier lot.* A lot where the rear lot line abuts a highway, any kind of physical barrier, or a nonresidential district that prohibits vehicular access onto the lot from the rear lot line.
 - *Side street lot line.* See *Side corner lot line*.
 - *Waterfront lot.* Any lot with a rear or side yard not separated from a waterway by any dedicated road or other platted parcel.
 - *Zero lot line.* Buildings/structures built along one (1) or more lot lines, without setbacks.
136. *Lowest floor.* ~~The floor with the lowest elevation within a building or structure including sunken living rooms, basements, or uninhabitable spaces.~~ The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.
137. *Manufactured home.* ~~A detached dwelling unit or office unit which is transported to the site in large pre-manufactured sections and assembled on site and on a permanent foundation.~~ 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."

138. *Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
139. *Marijuana dispensary.* A location where a qualified patient or their caregiver (both as defined in Florida State Statutes) can access cannabis in a legal and safe manner.
140. *Marina, commercial.* A business that stores, services, fuels, launches, and/or secures boats and may provide related services for owners, crews, and guests.
141. *Market value.* For the purposes of Chapter VII, the value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the county property appraiser.
142. *Marquee.* A permanent roof architectural projection, the sides of which are vertical and are intended for the display of signs and which provides protection against the weather for the pedestrian, and which is supported entirely from an exterior wall of a building.
143. *Masonry wall.* A wall and footing constructed of masonry material meeting the requirements of the Florida Building Code and Land Development Code.
144. *Mixed-use development.* A development that includes two (2) or more physically integrated uses on one (1) site or within one (1) structure. This can be any combination of residential, retail, office, or other uses. Mixed-use developments of less than three (3) acres are not permitted to have both permanent occupancy dwellings and transient accommodations.
145. *Mobile food dispensing vehicle.* A public food service establishment mounted on wheels and axle(s) that is movable from place to place and, if applicable, includes self-contained utilities, such as gas, water, electricity, and liquid waste disposal. Examples are a food truck or hot dog cart.
146. *Mobile home.* A detached mobile dwelling or office unit built onto its own chassis and wheels which can be transported on streets and highways.
147. *Mobile home park.* Premises where spaces can be rented or sold for the temporary or permanent placement of a mobile home, including any land or facilities used by the mobile home occupants.
148. *Motor vehicle.* Any self-propelled vehicle designed primarily for transportation of persons or goods along public rights-of-way.
149. *Multi-use path.* A form of infrastructure, usually located along the side of a street but wider than a traditional sidewalk, that supports multiple recreation and pedestrian transportation opportunities, such as walking, bicycling, and skating, with access for wheelchairs and strollers.
150. *Mural.* See Building painting/mural.
151. *NAVD88 or North American Vertical Datum.* The vertical control datum of orthometric height established for vertical control surveying in the United States.
152. *New construction.* For the purposes of Chapter VII, structures for which the "start of construction" commenced on or after June 16, 1972 and includes any subsequent improvements to such structures.
153. *Nursery school.* A day school for the care and instruction of pre-school age children.

154. *Nursing home.* A public or private residential facility providing a high level of personal or nursing care for persons, such as the aged or chronically ill, who are unable to care for themselves.
155. *Ocean park and/or public beach.* The city managed and maintained public beach area found within the corporate limits of the city which is between the top of the dune line of the beach and a line parallel thereto and five hundred (500) feet east therefrom. Also known as Ocean Beach Park.
156. *Official city maps or plans.* Maps/plans officially adopted by the commission used for development, to delineate between various and different districts or for informational purposes.
157. *Open space.* Land that is set aside to remain undeveloped and, in the case of public open spaces, may be utilized as civic/public areas.
158. *Open storage area.* An outdoor area used to store equipment, materials, or products.
159. *Owner.* The person who owns the whole or a part of a building or land.
160. *Pain management clinic.* Any publicly or privately owned facility that advertises in any medium for any type of pain-management services or where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain and which is required to register with the Florida Department of Health pursuant to F.S. § 458.3265.
161. *Park trailer.* A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.
162. *Parkway.* A wide road with trees and grass along the sides and often with a center median.
163. *Parking garage.* A covered structure or portion of a covered structure that provides parking areas for motor vehicles, usually in multiple levels.
164. *Pedestrian/urban trail.* A multi-use path which creates an active transportation corridor for walking, running, bicycling, skating, or similar use, through a developed environment.
165. *Permanent.* The opposite of temporary, mobile or moveable, that includes being permanently attached to a structure, building, or land and fixed in place without change or without being capable of being moved without deconstruction and reassembly at a new location.
166. *Person.* This includes agents, associations, firms, partnerships, political bodies, corporations, and individuals.
167. *Pervious/Porous surface.* A surface that allows water to percolate through to the underlying ground and includes, but is not limited to, grass/turf, mulch, or landscaped open areas.
168. *Pet care facility.* A business location where four (4) or more domestic animals, such as dogs and cats, are provided care. A pet care facility includes, but is not limited to, veterinary facilities, boarding facilities, kennels, groomers, animal sitters/foster care, rescues, shelters, and pet stores.
169. *Pharmacy.* A location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.
170. *Place of worship.* A specially designed structure or consecrated place where a group of people, such as a congregation, comes to perform acts of devotion, veneration, or

religious study. Places of worship may include ancillary buildings for education, recreation, and social functions.

171. *Planned development.* A contiguous land area of a minimum size, as specified, to be planned and developed using a common master plan and containing two (2) or more uses and appurtenant common areas.
172. *Porch.* A roofed area, attached at the first floor level of a building, open except for railings and support columns. Porches may be mid story and attached to the front, side or rear of a structure.
173. *Principal plane.* The front of the primary mass of a building, typically the first load bearing wall. Porches, stoops, colonnades, and terraces are common architectural details and do not constitute the "principal plane" of a building.
174. *Principal structure/building.* The main building on a property which is used for the primary or principal use of the property, which may or may not have accessory structures subordinate to it.
175. *Professional services.* Work done for others, predominately on the premises of an office, by someone trained and engaged in such work for a career. Examples include, but are not limited to, lawyers, accountants, insurance agents, engineers, or cosmetologist.
176. *Public safety communications tower.* A wireless communication facility owned or operated by a municipal, county, state, or federal government used in part for fire, law enforcement, or other public safety communications purposes. A public safety communications tower does not constitute a building or structure for the purposes of height regulations.
177. *Public facilities and services.* The facilities and services typically provided or supervised by a governmental entity or public utility, such as streets, stormwater potable water, sanitary sewer, solid waste, electric, telecommunications, and/or recreational parks, and open space. A public utility is one (1) that is regulated by the Florida Public Services Commission.
178. *Public food service establishment.* Any building, vehicle, place, structure, or any room of a building, vehicle, place, or structure where food is prepared, served, or sold for consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered.
179. *Public place.* Any government-owned land or facilities to which the public has access.
180. *Public open space.* An outdoor space that is maintained by a government or nonprofit entity as a civic amenity for the general public. Public spaces include parks, playgrounds, golf courses, beaches, beach accesses, boat ramps, nature preserves, etc.
181. *Recreational vehicle.* ~~A vehicle primarily designed as a temporary living quarters for recreation, camping, or travel use, which is either self-propelled or attached to or pulled by another vehicle.~~ A vehicle, including a park trailer, which is: [See section 320.01, F.S.)
- Built on a single chassis;
 - Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - Designed to be self-propelled or permanently towable by a light-duty truck; and
 - Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

182. *Redevelopment*. Any proposed expansion, addition, or major façade upgrade to an existing building or structure, a demolition and rebuild of an existing building or structure, or changes to impervious surfaces, topography, grading, paving, or excavation.
183. *Registered professional*. A professional registered or licensed by and in the State of Florida and practicing under F.S. Chapter 471, 472, 481, or 492.
184. *Replat*. The act of dividing or combining parcels and easements which are part of an existing plat, such that lots lines are created or removed to create new property boundaries in a newly recorded plat or subdivision which will increase or decrease the number of parcels.
185. *Residential use*. Buildings, structures or uses designed primarily for single family, duplex or multifamily residences, excluding hotels and motels.
186. *Restaurant*. A commercial establishment where food and beverages are prepared and served, and where food sales constitute at least fifty-one (51) percent of gross sales receipts.
187. *Right-of-way (ROW or plural rights-of-way)*. Publicly owned land which is dedicated and used for a street, alley, walkway, drainage, ingress, egress or other public purpose.
188. *Right-of-way line*. The lines that form the boundaries of the right-of-way.
189. *Riparian rights*. Right to access the water bordering a property for ingress, egress, boating, and fishing, and those rights are determined as an extension of the property lines to the ordinary high watermark of the navigable waterway, and as further defined in F.S. § 253.141.
190. *Screen enclosure*. An enclosure consisting entirely of screen mesh, except for essential structural framework required for support.
191. *Sea dune area*. That area of land immediately adjacent to the ocean beach consisting of accumulations of sand in ridges or mounds landward of the ocean beach often stabilized and covered by salt-resistant plants and vegetation indigenous to this formation, including but not limited to sea oats, herbs, woody vegetation, and other growth common to the beach area adjacent to the coastline, which serves as an immediate buffer to the waters of the Atlantic Ocean and onshore winds.
192. *Seawall/bulkhead*. Shoreline protection structures designed to combat erosion constructed along ocean and other waterway shorelines, which may also include revetments and sandbags.
193. *Self-storage facility*. A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.
194. *Semi-public facilities and services*. Institutional, academic, governmental, and community service uses, either owned publicly or privately, including, but not limited to, hospitals, schools, libraries, and cemeteries. See also *Institutional use*.
195. *Semi-trailer*. A freight trailer, enclosed or open, with wheels at the rear end, with the forward end being supported by the rear of a semi-trailer truck/tractor when attached and by other means, including, but not limited to, vertical extendable legs, when not attached to a semi-trailer truck/tractor.
196. *Semi-trailer truck/tractor*. A truck, also called a tractor, which connects to a semi-trailer for the purpose of hauling freight. Sometimes referred to as a semi-truck or just a semi.

197. *Service area.* An equipment area, loading area or dock, trash collection area, trash compaction area, truck parking area, recycling area, or other similar service function area.
198. *Setbacks.* See *Building setback lines*.
199. *Shopfront/storefront.* Display windows of a building housing a commercial use that is visible from a street, sidewalk, or other pedestrian way accessible to the public or adjacent public or private property.
200. *Sidewalk.* A path for pedestrians, and sometimes bicyclists, usually along the side of a street.
201. *Sign.* Any words, lettering, figures, numerals, emblems, devices, trademarks, trade names, or any combination thereof, by which anything is made known and which is designed to attract attention or convey a message. Sign related terms are listed below:
- *Address sign.* A sign applied to a building wall, curb or other similar surface that displays a building or unit address.
 - *Animated sign.* A sign which is designed or intended to change physical position by any movement, rotation or lighting effects.
 - *Awning sign.* A sign incorporated into or attached to an awning.
 - *Backlit awning sign.* A sign incorporated into or attached to an awning with an interior source of light which illuminates the sign by shining through the surface of the sign from the internal light source.
 - *Balloon/inflated sign.* A sign filled with gaseous elements which make it rise, dance, or float.
 - *Banner or flag sign.* A sign having wording or illustrations applied to a flexible material. Banner signs are usually attached to flat wall surfaces or hang vertically. Flag signs are attached to vertical, flexible poles.
 - *Bulletin board.* A sign with removable letters, words, or numerals.
 - *Channel letters.* Removable letters that fit into channels on a sign or marquee.
 - *Dilapidated sign.* Any sign which is structurally unsound, fails to meet applicable building, electrical, and safety codes, has defective parts or is in need of painting and/or maintenance.
 - *Directional sign.* A sign which directs or guides traffic, vehicular or pedestrian, to a destination.
 - *Discontinued sign.* A sign on property which is vacant or unoccupied for a period of ninety (90) days or more, which references services no longer available at the site, or a which offers goods no longer available at the location where the sign is located.
 - *Electronic message board sign.* Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.
 - *Freestanding sign.* Any mobile or portable sign or sign structure not securely attached to the ground or a structure.
 - *Ground or monument sign.* A freestanding sign attached to a structure secured to the ground. Ground signs are typically supported by poles and monument signs typically have a solid monument structure built up from the ground without pole supports.

- *Hanging sign.* A sign attached to and extending below a marquee, roof overhang or canopy.
- *Illuminated sign.* Any sign illuminated in any way by an artificial light source.
- *Message board or message center sign.* A sign with changeable text. Non-electronic message boards typically consist of letters attached to a surface within a transparent display case.
- *Nameplate.* A sign consisting of either a panel or individual letters applied to a building listing the name and/or address of businesses or building tenants.
- *Nit.* A unit of measurement of luminance, or the intensity of visible light, where one (1) nit is equal to one (1) candela per square meter (DC/M2). The higher number of nits, the brighter the screen.
- *Noncommercial.* A sign that does not contain information or advertising for any business, commodity, services, entertainment, product or other attraction.
- *Obscene sign.* A sign which is deemed obscene pursuant to the Florida and United States Constitutions.
- *Off-site sign.* A sign identifying an activity which is not on the property where the sign is located or which offers products or services available at a location different from the sign location.
- *Painted wall sign.* A sign applied to a building wall with paint and which has no individual sign structure.
- *Portable sign.* A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and that may be easily moved or relocated for reuse. Portable signs shall include, but are not limited to, signs mounted on a trailer, bench, wheeled carrier, or other nonmotorized mobile structure with or without wheels.
- *Roadside sign.* A temporary sign on wheels, stands or pulled by a trailer that is intended to be installed at or near the right of way to attract attention.
- *Reader board.* A portion of a sign which allows for modification of the message by manual, electronic, or mechanical means.
- *Roof sign.* A sign erected upon or directly above a roof or on top of/above the parapet of a building.
- *Sidewalk sign.* A moveable, freestanding sign that is typically double-sided and placed at the entrance to a business to attract pedestrians. (also called a sandwich board or A-frame sign).
- *Shingle sign.* A small blade or projecting sign, usually mounted on the ground floor level.
- *Snipe sign.* A temporary sign of any material attached in any manner to trees, poles, stakes, fences or other objects, and displayed on public property or in the public right-of-way.
- *Temporary sign.* Any sign on display for a limited amount of time and not intended or designed for permanent installation.
- *Vehicle sign.* A sign affixed to or applied to a trailer, vehicle, or watercraft.
- *Wall sign.* A sign attached flush to the wall of a building as a single unit, with only one (1) advertising surface, including signs attached to a mansard roof and facade signs.

- *Window sign.* A sign painted, attached or hanging on the inside of a window or other opening which is visible from outside.
202. *Site plan.* A plan, to scale, showing uses and structures proposed for a parcel of land as required by these regulations, including lot lines, streets, building sites, reserved open spaces, buildings, elevations, stormwater management elements, major landscape features, and the location of proposed utility lines.
203. *Special exception.* The use of a property which is not permitted "by right" but is only granted after approval by the board of adjustment when it has been determined to be compatible with the permitted use(s) on a property in a specific zoning district and is found not to be detrimental to the surrounding properties, businesses, traffic-flows or area, to the extent that such special exception is consistent with the Comprehensive Plan.
204. *Special flood hazard area (SFHA).* The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.
205. *Start of construction.* For the purposes of Chapter VII, the date of issuance of permits for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns. Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
206. *State.* The State of Florida.
207. *Stoop.* A small platform and/or entrance stairway at a home's door, commonly covered by a secondary roof or awning.
208. *Street.* Any public or private roadway, avenue, drive, boulevard, cul-de-sac, road, alley, lane, viaduct, causeway and all other highways, roadways, and rights-of-way in the city. Streets within the city are classified as follows:
- *Arterials—Highways—Causeways.* Major streets/highways used for fast and heavy traffic with minimal ingress/egress and a minimum of two (2) lanes of travel in each direction.
 - *Collectors—Boulevards—Avenues.* Mid-sized streets that bring local traffic to arterials with up to two (2) lanes of travel in each direction and slower speeds.
 - *Local streets (roads/lanes/drives/cul-de-sac).* Minor streets typically found in neighborhoods with one (1) lane of travel in each direction and slow travel speeds.
 - *Alleys.* Rights-of-way designed to serve as secondary access to the rear or side of properties, typically less than twenty-five (25) feet wide.

- *Primary pedestrian street.* These streets, as designated in this code, support decreased dependence on motor vehicles, make travel on foot pleasant, safe, and easy. The development along a primary pedestrian street should: acknowledge the need to accommodate arrival by vehicle; support increased arrival by transit, carpool, bike, and on foot; and create incentives to circulate within the area by non-auto modes (on foot, by shuttle or bus, or bicycle).
209. *Stores and services.* Establishments that sell merchandise or food or provide personal or professional services. The following are not considered stores and services: automotive maintenance facility, adult entertainment establishment, contractor and trade operations, convenience store with fuel, drive-through facilities for any use, parking lot or garage, marina, self-storage facility, nightclub or bar, or pain management clinic. Classifications of stores and services, as used in these regulations, are listed below:
- *Stores and services, limited.* An establishment, as defined above, containing no greater than one thousand (1,000) square feet of enclosed floor space.
 - *Stores and services, general.* An establishment, as defined above, containing greater than one thousand (1,000) square feet but no greater than thirty thousand (30,000) square feet of enclosed floor area.
 - *Stores and services, large format.* An establishment, as defined above, containing greater than thirty thousand (30,000) square feet of enclosed floor area.
210. *Stormwater.* Water that originates from a rainfall event.
211. *Stormwater management plan.* Describes how the proposed stormwater management system for a development will be constructed to meet the requirements of the city's stormwater master plan which is managed by the city's stormwater department.
212. *Stormwater management system.* A system which is designed and constructed to control discharges necessitated by rainfall events, incorporating methods (BMPs) to collect, convey, store, absorb, inhibit, treat, use, or reuse stormwater to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.
- Note: additional definitions related to stormwater management, flood control and pollution prevention are listed within chapter VII of these LDC regulations.
213. *Structural alteration.* Any change in the supporting members of a structure, such as load bearing walls, columns, beams, girders, or any substantial change in the roof or exterior wall of a structure, as determined by the building official.
214. *Structure.* Any building, stand-alone system or facility, that is thirty (30) inches or more in height, that requires support by a foundation, such as a footer, stem wall, or piling, and which is constructed in place.
215. *Structure, temporary.* Any structure that is not attached to a permanent foundation.
216. *Structure, temporary storage.* A temporary structure designed primarily for storage of building materials, household items, and other such material; and that is not intended for permanent installation.
217. *Structure, portable.* A structure assembled offsite and delivered to a location as a complete unit or a structure purchased in a kit and assembled onsite, which can then be moved to another location without disassembly.
218. *Structured parking.* See *Parking garage*.
219. *Subdivision, major.* The division of a tract of land into more than ten (10) lots or parcels for the purpose of individual lot sales and/or building development. This shall

also include any subdivisions which have a dedication of a new public/private street or change the alignment of existing street(s).

220. *Subdivision, minor.* The division of a tract of land into ten (10) or less lots or parcels for the purpose of individual lot sales and/or building development and does not include any new public/private streets or a change in the alignment of an existing street.
221. *Substantial damage.* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.
222. ~~*Substantial improvement.* Any alteration, repair, reconstruction or improvement of a structure, the cumulative cost of which exceeds fifty (50) percent of the current market value of the structure, as determined by the city's chief building official.~~ *Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:*
- *Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.*
 - *Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.*
223. *Summary plat.* Where two (2) or more lots are combined into one (1) lot of record under single ownership, and where no public or private streets or rights-of-way are added or altered as a result.
224. *Tattoo studio.* Any place of business licensed to perform tattooing, as defined in F.S. § 381.
225. *Temporary sales.* Any sale made by a person, firm, or corporation engaging in the temporary business of selling goods, wares, or merchandise.
226. *Temporary use permit.* A permit approved for authorization of a particular activity for a specified length of time. The administrator is responsible for assigning applicable conditions and the approved time limit.
227. *Terrace.* A level paved area or platform next to a building, a patio, or a veranda.
228. *Traffic impact statement/analysis.* A traffic report/study/analysis to identify the impact of the traffic generation and flow created by a development, and its impact on the community. This report may also contain options for addressing any identified impact.
229. *Transient accommodations (hotels, motels).* A group of lodging units for guests which include, at a minimum, sleeping quarters with private bath(s) that may or may not include additional rooms, that are not intended to be permanent residences, and which have a centralized rental office on the property with no less than twelve (12) hours of operation every day.
230. *Travel trailer/camper trailer.* A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, or vacation.

231. *Vacation rental.* Any residential unit that is used as transient lodging, which is rented to separate guests more than three (3) times in a year, or which is rented for less than one (1) month at a time, or which is advertised as lodging for guests.
232. *Valance.* The portion of an awning that hangs perpendicular to the sidewalk.
233. *Variance.* A variance is a type of formal modification of the dimensional or numerical requirements of the LDC regulations where not contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of these regulations would result in unnecessary and undue hardship. As used in section 4-39 of these regulations, a variance may be approved by the board of adjustment and it is authorized only for height, area and size of structure or size of yards and open spaces to the extent that such variance is consistent with the Comprehensive Plan and City Charter. Applications for a variance for a building height to exceed forty-five (45) feet shall be governed solely by section 4-40. For a variance from the flood resistant construction requirements of the Florida Building Code, see Chapter VII, Section 7-16.
234. *Vehicle.* An instrument of conveyance, which can include any conveyance used for transporting passengers or things by land, water, or air. It can be a self-propelled conveyance that runs on tires, such as a car, truck, motorcycle or cart, or runs on water, such as a boat or barge.
235. *Vehicular use area.* Any paved or unpaved ground surface area used for storage, display, temporary parking, and/or maneuvering of vehicles by employees or customers, either for compensation or to provide an accessory service to a commercial, institutional, or residential use, excluding single-family and duplex residences.
236. *Vending machine, freestanding.* Any unattended self-service device that, upon payment, dispenses something of value, such as ice, beverages or merchandise and which is standing alone or on its own foundation free of support or attachment to a structural wall.
237. *Waiver, administrative.* See *Administrative waiver*.
238. *Watercourse.* A water channel and Banks, but not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the carrying capacity of the channel.
239. *Watercraft.* A boat, canoe, raft, surfboard or other vessel designed for use on the water.
240. *Waterfront launch facility.* Water dependent facilities that are open to the public and offer public access by vessels to the waters of the state that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include piers, wharves, docks, and similar structures to which vessels may be secured, buildings on such structures or contiguous to them, and equipment and materials on such structures or in such buildings.
241. *Waterway.* A body of water, including any creek, canal, river, lake, bay, or any other body of water, natural or artificial, but not including a swimming pool, spa, or ornamental pond.
- *Canal.* An artificial open channel or waterway constructed for one (1) or more of the following purposes: transporting water, connecting two (2) or more bodies of water, or serving as a waterway for watercraft.
 - *Navigable waterway.* A body of water, such as a river, canal or lake that is deep, wide, and slow enough for a motorized vessel to pass

242. *Waterside accessory structure.* Residential and commercial piers, docks, decks, slips, boathouses, boat lifts, boat shelters, mooring posts, davits, piles, buoys, dolphins, or other similar structures.
243. *Wireless communication facility.* Any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment towers, or supporting equipment.
244. *Work/live unit.* A single dwelling unit in a detached building, or in a multi-family, mixed-use, or commercial building, where the predominant use is commercial, and residential activity is a secondary use.
245. *Workshop/studio.* An establishment for the creation or display of arts and crafts, the production or repair of clothing and jewelry, or instruction in dance, exercise, or martial arts, or other similar uses/activities.
246. *Yard.* Open space unoccupied and unobstructed by any structure.
247. *Year.* A calendar year.

CHAPTER VII STORMWATER MANAGEMENT AND FLOOD CONTROL
 ARTICLE III. FLOOD DAMAGE PREVENTION

Section 7-10. General.

- A. *Title.* These regulations shall be known as the floodplain management chapter of the City of Cocoa Beach.
- B. *Scope.* The provisions of this [article chapter](#) 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 [article chapter](#) 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 the Title 44 Code of Federal Regulations, Section 59.22.
- D. *Coordination with the Florida Building Code.* This [article chapter](#) is 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 [article chapter](#) and the Florida Building Code, as amended by this community, 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. This [article chapter](#) does 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 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community 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 [article chapter](#)

- F. *Disclaimer of liability.* this [article chapter](#) shall not create liability on the part of the City Commission of the City of Cocoa Beach or by any officer or employee thereof for any flood damage that results from reliance on this [article chapter](#) or any administrative decision lawfully made thereunder.

Section 7-11. 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 [article chapter](#) applies.* This [article chapter](#) shall apply to all flood hazard areas within the City of Cocoa Beach, as established in subsection C of this section.
- C. *Basis for establishing flood hazard areas.* The flood insurance study for Brevard County, Florida and incorporated areas dated [January 29, 2021](#) ~~[March 17, 2014](#)~~, 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 [article chapter](#) 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 Development Services Department, 2 S. Orlando Ave., Cocoa Beach.
- D. *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to section 7-14 of this [article chapter](#) 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 flood plain administrator indicates that ground elevations:
1. Are below the closest applicable base flood elevation, even in areas 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 [article chapter](#) 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 [article chapter](#) shall not be deemed to nullify any provisions of local, state or federal law.
- F. *Abrogation and greater restrictions.* This [article chapter](#) supersedes 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 [article chapter](#) and any other ordinance, the more restrictive shall govern. This [article chapter](#) shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this [article chapter](#).
- G. *Interpretation.* In the interpretation and application of this [article chapter](#), 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.

Section 7-12. Duties and powers of the floodplain administrator.

- A. *Designation.* The chief building official is designated as the floodplain administrator.
- B. *General.* The floodplain administrator shall have the authority to render interpretations of this [article chapter](#) consistent with the intent and purpose of this article [these provisions](#) 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 this [article chapter](#) without the granting of a variance pursuant to [Section 7-16 of this article chapter IV of this LDC](#).
- C. *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, 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 [this article these provisions](#);
 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;
 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. 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 [this article these provisions](#) are demonstrated, or disapprove the same in the event of noncompliance; and
 8. 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 this [article chapter](#).
- 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; 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 this [article chapter](#) 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 variance pursuant to [Section 7-16 of this article chapter IV of this LDC](#).
- 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 this [article chapter](#).
- G. *Inspections.* The floodplain administrator shall make the required inspections as specified in section 7-15 of this [article chapter](#) 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 [subsection D of this section 7-12 of this chapter](#);
 - ~~2. 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);~~
 - ~~2. 3.~~ 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 six (6) months of such data becoming available;
 - ~~3. 4.~~ Review required design certifications and documentation of elevations specified by this [article chapter](#) and the Florida Building Code and this [article chapter](#) to determine that such certifications and documentations are complete;
 - ~~4. 5.~~ Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Cocoa Beach are modified; and
 - ~~5. 6.~~ Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on flood insurance rate maps as "coastal barrier resource system areas" and "otherwise protected areas."
- 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 this [article chapter](#) and the flood resistant construction requirements of

the Florida Building Code, including flood insurance rate maps; letters of 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 this ~~article chapter~~; ~~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 variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ~~article chapter~~ and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at Development Services Department, 2 S. Orlando Ave., Cocoa Beach.

Section 7-13. ~~Reserved.~~ 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 article, 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 article 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 this article 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 article:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (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, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

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

D. Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in section 14 of this article.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

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

F. Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

G. Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of this community.

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 Water Management District; section 373.036, F.S.
2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
3. Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.
4. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
5. 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.
6. Federal permits and approvals.

Section 7-14. 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 [article chapter](#) 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.
 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 [subsection C.2 or .3 of this section 7-14 of this chapter](#).
 3. Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (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 [subsection C.1 of this section 7-14 of this chapter](#).
 4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 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. Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.
 8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
 - ~~9. Existing and proposed alignment of any proposed alteration of a watercourse.~~
- B. The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this [article chapter](#) but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this [article chapter](#).
- C. *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:
1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
 2. Obtain, review, and provide to applicants base flood elevation [and floodway data](#) available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation [and floodway data](#) available from a federal or state agency or other source.
 3. Where base flood elevation [and floodway data](#) are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

- a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is three (3) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet.
4. Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.
- D. *Additional analyses and certifications.* For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage shall be prepared. ~~As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:~~
- ~~1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 7-14 of this chapter and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.~~
 - ~~2. 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.~~
 - ~~3. 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 7-14 of this chapter.~~
 - ~~4. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.~~
- E. *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

Section 7-15. Inspections.

- 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 this [article](#) chapter 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 this [article](#) [chapter](#) 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 7-14.C.3.b](#) of this chapter, 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 [subsection D of this section 7-15 of this chapter](#).
- F. *Manufactured homes.* The building official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this [article](#) [chapter](#) and the conditions of the issued permit. Upon placement of a manufactured home, [an elevation](#) certification [of the elevation of the lowest floor](#) shall be

Section 7-16. ~~Reserved.~~ Variances and Appeals.

A. General. The Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

B. Appeals. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this article. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Circuit Court, as provided by Florida Statutes.

C. Limitations on authority to grant variances. The Board of Adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection F of this section, the conditions of issuance set forth in subsection G of this section, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

D. Historic buildings. A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12

Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

E. Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

F. Considerations for issuance of variances. In reviewing requests for variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this article, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development to the community;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. 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, streets and bridges.

G. Conditions for issuance of variances. Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
2. Determination by the Board of Adjustment that:
 - (a) Failure to grant the 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;
 - (b) The granting of a 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

- (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the 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
 4. If the request is for a 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 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 7-17. Violations.

- A. *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this [article chapter](#) that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this [article chapter](#), shall be deemed a violation of the Land Development Code. 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 [article chapter](#) 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 [article chapter](#) 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.

Section 7-18. Reserved.

ARTICLE IV. RESERVED

Sections 7-19—7-20. Reserved.

ARTICLE V. FLOOD RESISTANT DEVELOPMENT

Section 7-21. Buildings and structures.

- A. *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of section 7-27 of this [article chapter](#).
- B. *Buildings and structures seaward of the coastal construction control line.* If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

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

Section 7-22. Subdivisions.

- A. *Minimum requirements.* Subdivision proposals, including proposals for 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 fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section [7-14.C.1 of this article](#) [1.5\(b\)\(1\) of this chapter](#); and
 3. Compliance with the site improvement and utilities requirements of section 7-23 of this [article](#) [chapter](#).

Section 7-23. 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 floodwaters, 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 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 7-14 of this chapter demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.~~
- ~~D. E.~~ *Limitations on placement of fill.* Subject to the limitations of this [article chapter](#), 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.
- ~~E. F.~~ *Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by section 7-14.D of this [article chapter](#) demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 7-27.E of this [article chapter](#).

Section 7-24. Manufactured homes.

- A. *General.* All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this [article chapter](#). If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.
- B. *Foundations.* All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:
1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this [article chapter](#).
 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this [article chapter](#).
- 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.* All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas 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) or Section R322.3 (Zone V and Coastal A Zone). ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with section 7-24 of this chapter, as applicable.~~
- ~~E. *General elevation requirement.* Unless subject to the requirements of section 7-24 of this chapter, 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) or Section R322.3 (Zone V).

- ~~F. Elevation requirement for certain existing manufactured home parks and subdivisions.~~ Manufactured homes that are not subject to section 7-24 of this chapter, 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:
- ~~1. Bottom of the frame of the manufactured home 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) or Section R322.3 (Zone V); or~~
 - ~~2. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty-six (36) inches in height above grade.~~

~~E. G. Enclosures.~~ Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the flood hazard area.

~~F. H. Utility equipment.~~ Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

Section 7-25. Recreational vehicles and park trailers.

- A. *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
- Be on the site for fewer than one hundred eighty (180) consecutive days; or
 - Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
- B. *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in subsection ~~A (a)~~ of this section for temporary placement shall meet the requirements of section 7-24 of this ~~article~~ ~~chapter~~ for manufactured homes

Section 7-26. Tanks.

- A. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- B. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of ~~subsection C~~ ~~section 7-26~~ of this ~~article~~ ~~chapter~~ shall:
- Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic

loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

2. Not be permitted in coastal high hazard areas (Zone V).
- C. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to an elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of 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.

Section 7-27. Other development.

- A. *General requirements for other development.* All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this ~~article~~ ~~chapter~~ or the Florida Building Code, shall:
1. Be located and constructed to minimize flood damage;
 - ~~2. Meet the limitations of section 7-23 of this chapter if located in a regulated floodway;~~
 - ~~2. 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;
 - ~~3. 4.~~ Be constructed of flood damage-resistant materials; and
 - ~~4. 5.~~ Have mechanical, plumbing, and electrical systems above the design flood elevation, 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 7-23 of this chapter.~~
- ~~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 7-23 of this chapter.~~
- ~~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 (1) side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 7-23 of this chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 7-14 of this chapter.~~
- ~~B. E.~~ *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:
1. Structurally independent of the foundation system of the building or structure;

2. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
3. Have a maximum slab thickness of not more than four (4) inches.

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

1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
3. A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
4. A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

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

1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

E.H. *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:

1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
2. Nonstructural fill with finished slopes that are steeper than one (1) unit vertical to five (5) units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or

wave run-up and wave reflection that would increase damage to adjacent buildings and structures.

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

**City of Cocoa Beach City Commission
Agenda Item Summary**

**DEPARTMENT MAKING
REQUEST/NAME:**

City Clerk /

MEETING DATE

October 3, 2024

REQUESTED MOTION/ACTION

Port Waster Water Agreement Update.

This item was pulled 10/3/24. It has been placed on the 12/5/24 Commission Meeting.

Staff Representative:

Recommendation:

IS THIS ITEM BUDGETED (IF APPLICABLE)?

BACKGROUND: