

# ARTICLE 18

## FLOOD DAMAGE PREVENTION

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# ARTICLE 18

## FLOOD DAMAGE PREVENTION

### CHAPTER A FLOOD DAMAGE PREVENTION

#### Section 1 General

##### A. Authority

[Chapter 125, Florida Statutes](#), authorizes the legislative and governing body of PBC the power to establish and administer programs of flood control; and the BCC of PBC, Florida has the responsibility to adopt regulations designed to promote the public health, safety and general welfare of its citizens. [Ord. 2008-003] [Ord. 2011-016]

##### 1. Basis for Establishing Special Flood Hazard Areas (SFHAs)

SFHAs identified by FEMA in the FIS "Wave Height Analysis" for PBC, Florida Unincorporated Areas" dated April 15, 1982, together with FIRM maps of Community Panels 1201920140A, 1201920150A, 1201920160A, 1201920170A, 1201920180A, 1201920185A, 1201920200A and 1201929215A and other supporting data, and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article and those areas developed into lots or building sites without minimum floor elevations engineered from a master storm water drainage network.

##### B. Finding of Fact

The flood hazard areas of PBC are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Flood losses are caused by the cumulative effect of obstructions in Special Flood Hazard Areas (SFHAs) causing increases in flood heights and velocities, and by the occupancy in flood prone areas of uses vulnerable to floods or hazardous to other lands inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

##### C. Statement of Objectives

The objectives of this Article are to protect human life, health and safety; minimize expenditure of public money for costly flood control projects; minimize the need for rescue and relief efforts associated with flooding generally undertaken at the expense of the general public; minimize prolonged business interruptions; minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, roadways, bridges and culverts located in flood prone areas; and to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize adverse impact of new buildings and to minimize future flood blight areas; and to ensure that those obtaining building permits and potential buyers are notified of property that is in an SFHA.

##### D. Methods of Reducing Flood Losses

In order to accomplish its objectives, this Article includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in adverse impacts from erosion, flood heights or floodwater velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage throughout their intended life span;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, minimum floor elevations and other construction detail which may affect flood damage to buildings; and
5. Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters, which may increase flood hazards in other areas.

##### E. Requirement for Building Permit and Elevation Confirmation

A building permit shall be required in conformance with the provisions of this Article and building codes prior to the commencement of any building activities. All required minimum elevations for building floors or components shall be confirmed by a certified survey prior to subsequent building inspections.

**F. Compliance**

No structure or land shall hereafter be located, extended, converted, developed, built or structurally altered without full compliance with the terms of this Article and other applicable regulations.

**G. Abrogation and Greater Restrictions**

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions.

**H. Interpretation**

In the interpretation and application of this Article all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes. The Flood Damage Prevention Administrator shall be responsible for interpretations pertaining to this Article.

**I. Warning and Disclaimer of Liability**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This Article does not imply that land outside SFHAs or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the governing body of PBC or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

**J. Penalties for Violation**

Violation of this Article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances shall be enforceable pursuant to the Code Enforcement Procedures established in [Chapter 162, Parts I and II, F.S.](#), as amended or replaced and [Article 10, Code Enforcement](#). Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Flood Damage Prevention Administrator or PBC from taking such other lawful actions as are necessary to prevent or remedy any violation, including enforcement pursuant to [Section 125.69, F.S.](#) as amended or replaced. Any person who receives a conviction pursuant to [Section 125.69, F.S.](#), as amended or replaced, for violating or failing to comply with any of the requirements herein shall, upon conviction hereof, be fined not more than \$500 or imprisoned for not more than 60 days.

**Section 2 Administration**

**A. Designation of Flood Damage Prevention Board and Administrator**

The governing body of PBC hereby appoints the seven members of the Construction Board of Adjustment and Appeals to act as the Flood Damage Prevention Board. The Building Official of Palm Beach County, or his/her designee holding FEMA Certified Floodplain Manager designation, shall be the Flood Damage Prevention Administrator.

**1. Duties and Responsibilities of the Flood Damage Prevention Administrator**

Duties of the Flood Damage Prevention Administrator shall include, but are not limited to:

- a. Review of all building permits to assure that the permit requirements as provided herein have been satisfied;
- b. Advise permittee that additional federal, state or local permits may be required, and if such additional permits are necessary, require that copies of such permits be provided and maintained on file with the building permit;
- c. Verify and record the actual elevation (in relation to NGVD) of the lowest floor on all new or substantially improved buildings, in accordance with [Art. 18.A.2.B.2, Construction Stage](#);
- d. Verify and record the actual elevation (in relation to NGVD) to which the new or substantially improved non-residential buildings have been flood-proofed, in accordance with [Art. 18.A.2.B.2, Construction Stage](#);
- e. Review certified plans and specifications for compliance;
- f. Interpret the exact location of boundaries of SFHAs. When there appears to be a conflict between a mapped boundary and actual field conditions, the Flood Damage Prevention Administrator shall make the necessary interpretation; and,
- g. When BFE data or floodway data have not been provided in accordance with [Art. 18.A.1.A.1, Basis for Establishing Flood Hazard Areas](#), the Flood Damage Prevention Administrator shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or any other source, in order to administer the general provisions of [Art. 18.A.1.D, Methods of](#)

[Reducing Flood Losses](#); and shall coordinate all change requests to the FIS and FIRM or FBFM or both with the requester, State and FEMA. The Flood Damage Prevention Administrator shall also decide engineered acceptability on Alternate Methods of compliance with these regulations following procedures in [Florida Building Code Sec. 103.7](#) as amended or replaced but this shall not grant to the Flood Damage Prevention Administrator the power to grant variances.

## **B. Development Procedures**

Application for a building permit shall be made to the Flood Damage Prevention Administrator on forms furnished by him or her prior to any building activities. Such application may include, but shall not be limited to: plans drawn to scale, and in duplicate, showing the nature, location, dimensions, and elevations of the area in question; existing and proposed structures; existing and finished earth grades; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

### **1. Application Stage**

#### **a. On All Buildings**

The proposed lowest floor elevation (including any basement floor) shall be clearly indicated on plans submitted with the completed building permit application. Building plans shall clearly indicate designed hydrostatic opening for enclosed space below minimum floor elevation. Said elevation shall be stated in reference to NGVD, and the FEMA zone designation of the site shall be stated.

#### **b. On Any Non-Residential Buildings to be Flood Proofed**

A certificate from a registered professional engineer or architect shall be submitted detailing compliance with flood proofing criteria in [Art. 18.A.3.B.2, Non-Residential Construction](#), [Art. 18.A.3.C.2](#), below and [Art. 18.A.3.D.2, Non-Residential](#).

#### **c. On Any Watercourse Alteration or Relocation**

An analysis from a qualified registered Florida Professional Engineer of flood profiles and flow velocities shall be submitted revealing no adverse impact of proposed construction on adjacent and upstream properties.

### **2. Construction Stage**

#### **a. Lowest Floor Elevation Prior to Placement**

A certified survey or a registered Florida Professional Engineer affidavit revealing the exact lowest floor elevation, related to NGVD, shall be submitted. For slab-on-grade floors, a tie-in statement to NGVD elevation at the top of the form boards shall be acceptable.

#### **b. In FEMA Designated V or A Zones**

FEMA "Floor Elevation Certification" and a certified final survey shall be submitted detailing the as-built lowest floor elevation, compliance details on any permitted flood proofing of any non-residential building, plus finished grade elevations at all building corners. Said certification shall be fully executed by a registered professional engineer or surveyor revealing compliance with permitted elevation minimums prior to approval of final inspections.

#### **c. In SFHA Outside FEMA V or A Zone**

A certified survey prepared by a registered professional engineer or surveyor shall be acceptable (without the FEMA "Floor Elevation Certification") to fully reveal compliance with all minimum elevations required on permit plans.

#### **d. On Any Flood Proofed Buildings**

In addition to the requirements above, a certification of compliance from a registered professional engineer or architect on flood proofing features shall be submitted revealing completed installations of said features prior to approval of final inspections.

## **Section 3 Provisions for Flood Damage Prevention**

### **A. General Standards**

In all SFHAs the following provisions shall apply:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement by methods which may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements for resisting wind forces;
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage with minimum floor elevations at or above those required by any local drainage districts and at or above the minimum set forth in the following [Art. 18.A.3.B](#) through [Art. 18.A.3.D](#), below.
5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding by placement above minimum flood elevations;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system in accordance with Palm Beach County Health Department regulations;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate any adverse impacts from infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
8. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, in accordance with Palm Beach County Health Department regulations;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Article shall meet the requirements of "new construction" as contained herein;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this Article, shall be undertaken only if said non-conformity is not furthered, extended or replaced.

**B. Specific Standards in FEMA Areas: A1-99, AE or AH**

In all these SFHAs, where BFE data has been provided, as set forth in [Art. 18.A.1.A.1, Basis for Establishing Special Flood Hazard Areas](#), the additional following provisions shall apply:

**1. Residential Construction**

New Buildings or substantial improvement of any residential building (or manufactured home) including duct work and Heating, Ventilating, and Air Condition (HVAC) equipment, shall have the lowest floor, including basement, elevated no lower than 12 inches above the BFE and not less than 18 inches above LARC. Should solid foundation perimeter walls be used to elevate a residential structure on a suspended elevated floor above an open crawl space, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior foundation walls shall be provided;

**2. Non-Residential Construction**

New Buildings or substantial improvements (including duct work and Heating, Ventilating, and Air Condition (HVAC) equipment of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to no lower than 12 inches above the BFE and not less than 18 inches above LARC. Alternately, non-residential buildings located in all "A" Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components designed to be lower than 12 inches above BFE or lower than 18 inches above LARC, are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall sign, seal and certify that the standards of this subsection are satisfied. Such certification shall be provided to the Flood Damage Prevention Administrator prior to permitting, as set forth in [Art. 18.A.2.B.2, Construction Stage](#).

**3. Elevated Buildings**

- a. New construction or substantial improvements of elevated buildings that include enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- b. Designs for compliance with this requirement shall be signed, sealed and certified by a professional engineer or architect and meet the following minimum criteria:
  - 1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - 2) The bottom of all openings shall be no higher than 12 inches above earth grade inside and outside foundation walls;
  - 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions;

- 4) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);
- 5) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms;
- 6) Where the open height below the lowest floor elevation exceeds six feet above the HANG, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design, shall be presented by the permit holder as a condition of issuance of the final Certificate of Occupancy or Certificate of Completion from the County.

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

- a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision, or in substantially improved manufactured home parks or subdivisions, shall meet all the requirements for new construction, including elevation and anchoring and shall be elevated so that the lowest floor of the manufactured home is elevated no lower than 12 inches above the BFE and at least 18 inches above LARC. The manufactured home chassis shall be supported by reinforced piers, or other foundation elements, of at least an equivalent strength, and not less than 36 inches in height above the grade;
- b. All recreational vehicles placed on sites shall either be on the site for fewer than 180 consecutive days, or be fully licensed and ready for highway use by virtue of being on its wheels or jacking system, being attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**5. Floodways**

Located within SFHAs as established in [Art. 18.A.1.A.1, Basis for Establishing Special Flood Hazard Areas](#), may be areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters carrying debris, potential projectiles and have significant erosion potential, the following additional provisions shall apply:

- a. Encroachments shall be prohibited in floodways, including fill, new construction, substantial improvements and other developments unless certification with supporting technical data by a registered professional engineer is provided, demonstrating that the encroachments shall not create any adverse impact by any increase in flood levels during occurrence of the base flood discharge;
- b. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of [Art. 18.A.3, Provisions For Flood Damage Prevention](#);
- c. Placement of manufactured homes (mobile homes) shall be prohibited in floodways except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the standards of [Art. 18.A.3.A.2](#), [Art. 18.A.3.A.3](#) and the encroachment standards of [Art. 18.A.3.B.5.a](#), above.

**C. Specific Standards in FEMA Area "A" Unnumbered**

Within SFHAs established in [Art. 18.A.1.A.1, Basis for Establishing Special Flood Hazard Areas](#), where no BFE data or regulatory floodway has been provided, designated as unnumbered A zones by the Federal Emergency Management Agency (FEMA), the following provisions shall apply:

1. When BFE data or floodway data have not been provided in accordance with [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#), the Flood Damage Prevention Administrator shall:
  - a. Receive, review, and reasonably utilize any BFE and floodway data available from any source, including a federal or state agency. When such BFE is utilized to obtain the elevation (in relation to the NGVD) of the lowest floor (including the basement) of all new and substantially improved structures;
  - b. Obtain, if the structure has been flood-proofed in accordance with the requirements of [Art. 18.A.3.B.2, Non-Residential Construction](#), the elevation in relation to the NGVD to which the structure has been flood-proofed;
  - c. Maintain a record of all such information;
  - d. Notify, in riverine situations, adjacent communities and the Florida DCA Community Program Administrator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

- e. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
2. When minimum floor elevation data is not available from any source, the lowest floor of the structure shall be elevated to no lower than 18 inches above the HANG, and at least 18 inches above the LARC.

**D. Specific Standards in FEMA Area AO**

Located within established SFHAs as defined in [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#) are areas designated as areas of shallow flooding. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

**1. Residential**

All new buildings and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to at least 12 inches above the flood depth on the latest edition FIRM but not less than 18 inches above LARC. If no flood depth number is specified, the lowest floor, including basement shall be elevated no less than 24 inches above the HANG, and to be at least 18 inches above LARC;

**2. Non-residential**

All new buildings and substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated to at least 12 inches above the flood depth specified on the FIRM but not less than 18 inches above LARC. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least 24 inches above the HANG, and shall be at least 18 inches above the LARC. Or, together with attendant utility and sanitary facilities, the structures may be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Certification is required as per [Art. 18.A.2.B.2, Construction Stage](#).

**E. Specific Standards for FEMA Areas B or C**

On sites located within FEMA designated B and C zones without a master storm water drainage system, the following provisions shall apply on all buildings: new construction or substantial improvements of any building shall have the lowest floor, including basement, elevated not lower than 18 inches above LARC. Flood proofing in accordance with [Art. 18.A.3.D.2, Non-Residential](#) may be used on non-residential buildings.

**F. Coastal High Hazard Areas, FEMA Zone V1-30, VE OR V**

Located within established as defined in [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#), are Coastal High Hazard Areas, designated as Zones V1-V30, VE, or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this Article, the following shall also apply:

1. All new buildings and substantial improvements in Zones V1-V30 and VE, V if BFE is available, shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to at least 12 inches above the BFE. And a signed and sealed certification from a licensed surveyor shall confirm the required elevation before approval of the floor inspection;
2. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one percent annual chance). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for construction, and shall certify, by professional seal and signature, that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of [Art. 18.A.3.F.1](#), above;
3. All new construction shall be located landward of the reach of mean high-tide;
4. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting, breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and not more than 20 pounds per square foot. Unless a registered professional engineer or architect proves that a design proposed with more than 20



pounds per square foot resistance meets the following conditions: breakaway wall collapse shall result from water load less than that which would occur during the base flood; and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effect of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year; The enclosed space below the lowest floor shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature controlled, or used for human habitation;

5. Fill is prohibited for structural support of buildings;
6. Man-made alteration of sand dunes that would increase potential flood damage is prohibited;
7. Shall be placed or substantially improved upon outside manufactured home parks existing prior to the effective date of this Article within Zones V1-V30, V, and VE on the PBC FIRM;
8. Any recreational vehicle located in any established V zone as defined in [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#), shall remain fully licensed and ready for highway use. Such vehicles shall remain on its wheels or jacking system, be attached to the site utilities only by quick disconnect type devices without any permanent accessory attachments, such as carports or screen rooms;
9. Although raised septic mounds are allowed in any established V zone as defined in [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#), they shall not be under buildings or directly against any building foundation wall. Any such mounds shall be placed so as to avoid any adverse impacts from worsened flood conditions for any building.

**G. Standards for Streams With Established BFE Without Regulatory Floodways**

Within established SFHAs as defined in [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#), where streams exist for which BFE data has been provided by FEMA without the delineation of the regulatory floodway, the following provisions shall apply:

1. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within established SFHAs as defined in [Art. 18.A.1.A.1, Basis for Establishing Special Flood Hazard Areas](#), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 12 inches at any point within Palm Beach County;
2. Development activities within established SFHAs as defined in [Art. 18.A.1.A.1, Basis For Establishing Special Flood Hazard Areas](#), which increase the water surface elevation of the base flood by more than 12 inches, may be allowed, provided the developer or applicant first applies, with PBC endorsement, for a conditional FIRM revision, and receives the approval of FEMA.

**H. Standards for Subdivision Proposals, General**

All new subdivision proposals:

1. Shall be consistent with the need to minimize flood damage;
2. Shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. Shall have adequate master drainage systems provided to minimize exposure to flood damage; and
4. Shall have BFE data provided for subdivision proposals and other proposed development proposals, including manufactured home park and subdivisions, that exceed 50 lots or five acres, whichever is the lesser, stating minimum floor elevations to reduce flooding probability to less than one percent per year; and the standards of South Florida Water Management District, Palm Beach County Land Development Division and local drainage districts shall be met.

**I. Critical Facility**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of SFHAs. Construction of new critical facilities may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within SFHAs shall have the lowest floor elevated three or more feet above the level of the BFE at the site. Flood-proofing and sealing measures shall be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the BFE shall be provided to all critical facilities.

**Section 4 Grading and Earth Fill Restrictions**

### **A. Grading**

On all new permitted construction, regardless of flood zone designation, grading shall keep all rainfall and runoff flow on the building site, until discharged into the roadway drainage system or to public drainage ways adjacent to the property lines. Berms shall be constructed along lot lines, if necessary, to prevent storm water flow directly onto adjacent properties. Erosion sedimentation off the building site shall be controlled until vegetative cover is established. The Flood Damage Prevention Administrator may require grading plans showing pre-construction and proposed finish earth grades.

### **B. Earth Fill**

On all new construction, earth fill brought onto the site of construction from another site shall be minimized to maximize existing floodwater storage capacity. Maximum volume of imported fill shall be limited to that necessary to raise an earth pad to elevate the slab-on-grade, not more than six inches above minimum floor elevation set in this Article, with side slopes of the pad of 1:5 to 1:3 starting ten feet from the slab edges.

### **C. Exceptions From This Section's Requirements**

1. Only on building sites requiring raised septic mounds to Palm Beach County Health Department minimum elevations, will additional volume of fill be allowed to construct the mound;
2. Earth fill dug from an on-site excavation shall be unregulated if in accordance with Palm Beach County Unified Land Development Code regulations and provided finish grade directs lot drainage back into the excavation;
3. Any volume of fill for placement inside the perimeter foundation walls to raise an interior concrete slab to any higher elevation shall be allowed;
4. Fill shall be permitted to raise earthen berms on side property lines to prevent drainage onto adjacent lots, provided said berms have side slopes of 1:5 to 1:3, with a triangular cross section;
5. Fill shall be allowed inside retaining walls for American Disabilities Act (ADA) required building access ramps or driveway ramps;
6. Fill necessary to direct on site drainage to the public roadway or drainage system shall also be permitted;
7. Minimum fill for sites that have sloping topography that do not store floodwater shall be permitted. Any fill in excess of this minimum grading requirement shall be subject to approval of the Flood Damage Prevention Board as a variance;
8. Fill necessary for critical facilities and public service buildings; and
9. Areas included within a South Florida Water Management District permit shall be filled and graded in accordance with the fill and grading design conditions identified in said permit even when elevations are more than six inches above the flood minimum set in [Art. 18.A.4.B, Earth Fill](#).

## **Section 5 Appeal and Variance Procedures**

### **A. Flood Damage Prevention Board**

The Flood Damage Prevention Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Flood Damage Prevention Administrator in the enforcement or administration of this Article and shall decide any variance request following procedures in Section 108, Florida Building Code as amended by PBC.

### **B. Appeals Procedures**

1. A request for appeal to the decision of the Flood Damage Prevention Administrator enforcing the provisions of this Article shall include the Ordinance section of the appeal, and the applicant's technical basis of contesting the decision of the Flood Damage Prevention Administrator. The appeal is to be filed in writing within 30 calendar days after the decision is rendered by the Flood Damage Prevention Administrator whenever any one of the following conditions are claimed to exist:
  - a. The Flood Damage Prevention Administrator rejected or refused to approve the applicant's request;
  - b. The provisions of this Article do not apply to the applicant's specific case;
  - c. That an equally good or more desirable method can be employed and fully meet the intent of this Article, which the Flood Damage Prevention Administrator has rejected;
  - d. The true intent and meaning of this Article or any of the regulations there under have been misconstrued or incorrectly interpreted.
2. The Flood Damage Prevention Board shall hear appeals requests at the next available meeting within 60 days of date of appeal;

3. At the conclusion of the hearing, the Flood Damage Prevention Board shall orally render an order based on evidence entered into the record. An order setting forth findings of fact and conclusion of law shall then be mailed to the appellant.
4. Any persons aggrieved by an appeals decision of the Flood Damage Prevention Board may appeal such decision to the Circuit Court of Palm Beach County Florida by writ of Certiorari; any appeal filed pursuant to this article shall be considered timely if filed within 30 calendar days of the execution of the order to be appealed.

**C. Variance Procedures**

1. An initial request for a variance from the provisions of this Article shall be filed in writing by the affected party with the Flood Damage Prevention Administrator;
2. The Flood Damage Prevention Board shall hear variance requests at the next available meeting. In acting upon variance applications, the Flood Damage Prevention Board shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this Article; and
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment of transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electric, and water systems, and streets and bridges; and
  - l. The negative effect a variance may have on the county rating under the FEMA Community Rating System.
3. Any persons aggrieved by an appeals decision of the Flood Damage Prevention Board may appeal such decision to the Circuit Court of Palm Beach County Florida by writ of Certiorari; any appeal filed pursuant to this article shall be considered timely if filed within 30 days of the execution of the order to be appealed.

**D. Conditions for Variances**

Variances shall only be issued when there is:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship as defined in Art. 1.1.2.E, Definitions;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing laws or ordinances;
4. Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this Article;
5. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the lowest floor is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;
6. Variances shall not be granted after-the-fact;
7. The Flood Damage Prevention Board may attach such conditions to the granting of variances, as it deems necessary to further the objective of this Article. The Flood Damage Prevention Administrator shall maintain the records of all variance actions.

**E. Variance Notification**

Any applicant to whom a variance is granted, shall be given a written order bearing the signature of the Flood Damage Prevention Board Chairperson that the issuance of a variance to construct a structure failing to meet requirements of this Article may result in substantial increase in flood insurance premium

rates, and such noncompliance construction increases risks to life and property. A copy of the notice shall be recorded by the Flood Damage Prevention Administrator in the Office of the Palm Beach County Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land in the official records of PBC. The Flood Damage Prevention Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to FEMA.

**F. Historic Structures**

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation shall not preclude the structure's continued designation as a historic structure.

**G. Structures in Regulatory Floodway**

Variances shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.

**Amendment History:**

**[Ord. 2004-013; July 1, 2004] [Ord. 2008-003; January 30, 2008] [Ord. 2011-016; September 6, 2011]**