MEMORANDUM

Date: November 22, 2013

TO: Dave Bullock, Town Manager

FROM: James K. Linkogle, Public Works Project Manager

Steve Schield, Town Planner

THROUGH: Juan Florensa, Public Works Director

Alaina Ray, Interim Planning Zoning Building Director

SUBJECT: Ordinance 2013-25, Amending Chapter 154, Revision to Flood Control Ordinance – First Reading

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At the Town Commission's November 13, 2013 Regular Workshop, the proposed Ordinance 2013-25 was presented to the Commission as a Consent Agenda item. The Commission forwarded the Ordinance 2013-25 for a first reading at the December 2, 2013 Regular Meeting.

All Communities that participate in the National Flood Insurance Program (NFIP) are reviewed periodically for compliance with the NFIP, especially when they are in the process of adopting a new or updated Flood Insurance Rate Map (FIRM).

Revising the Town Flood Control Ordinance as part of this process is also a good time to ensure there are no conflicts with the current Florida Building Codes, adopted March 2012.

Public Works and Planning, Zoning and Building staff have completed a re-codification of the new State model ordinance to match the enumeration of the current Chapter 154, Flood Control Ordinance of the Town Code.

While conducting a final review with the current Chapter 154, staff recognized the current code states:

> Chapter 154.15 Provisions for flood hazard reduction
>
> (B)(1), (*second paragraph)*
>
> "Notwithstanding anything herein to the contrary, in all A Zones except those identified in section 154.18, any residential building (including manufactured homes) constructed between December 31, 1974, and December 31, 2006, which met the then existing flood code at the time of construction, shall not be required to elevate above BFE unless it is to be constructed as a new structure."

Those structures in the mapped A Zones, built compliant to the required Base Flood Elevation (BFE) per the FIRM effective at the time of construction, would not be required to be elevated to the additional one (1) foot freeboard requirement included in the code, if substantially improved or damaged.

In order to accomplish this same policy within the new Ordinance 2013-25, staff conducted a review with the State of Florida NFIP Coordinator's office and concurs with their recommendation, resulting in the following addition:

> **154.301 Buildings and Structures**
> Add a new Section (C) as below:
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> **(C) Existing residential buildings.** Existing residential buildings (including manufactured homes) that were constructed between December 31, 1974 and December 31, 2006 in compliance with the flood protection and elevation requirements in effect at the time of construction and that are not located in coastal high hazard areas (Zone V or Zone A seaward of the Coastal Construction Control Line), shall, if proposed work is determined pursuant to Section 154.103(D) to be:
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> **(1)** Substantial improvement, not be required to elevate above the base flood elevation, except reconstruction as a new structure (or replacement with a new manufactured home) shall be in compliance with the *Florida Building Code, Residential*; or
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> **(2)** Repair of substantial damage, be required to comply with the *Florida Building Code, Existing Building*.

Staff recommends that, pending first reading and discussion, the Commission forwards Ordinance 2013-25 to the January 6, 2014 Regular Meeting, with this revision, for second reading and public hearing.

Cc: Alaina Ray, Acting Planning, Zoning and Building Director
Wayne Thorne, Building Official
Steve Schield, Town Planner

ORDINANCE 2013-25

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY COMMISSION AMENDING THE TOWN OF LONGBOAT KEY CODE OF ORDINANCES TO REPEAL CHAPTER 154, FLOOD CONTROL; TO ADOPT A NEW CHAPTER 154, FLOOD CONTROL; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Town of Longboat Key ("TOWN") and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the TOWN was accepted for participation in the National Flood Insurance Program on July 30, 1971 and the Longboat Key Town Commission ("COMMISSION") desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

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

WHEREAS, Section 553.73(5), F.S., allows adoption of local administrative amendments to the Florida Building Code to implement the National Flood Insurance Program; and

WHEREAS, the TOWN, for the purpose of participating in the National Flood Insurance Program's Community Rating System, adopted requirements prior to July 1, 2010 to increase the minimum elevation requirement for buildings and structures; and to require buildings that sustain repetitive flood damage over a 10-year period to be included in the definition of "substantial damage," and

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The above Whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 154 of the Town Code of Ordinances, Flood Control (Ordinance 06-10, adopted October 9, 2006), is hereby repealed and replaced as written herein:

CHAPTER 154 FLOOD CONTROL

154.100 ADMINISTRATION

154.101 GENERAL

(A) Title. These regulations shall be known as the Floodplain Management Ordinance of the Town of Longboat Key ("TOWN"), hereinafter referred to as "this ordinance."

(B) Scope. The provisions of this ordinance 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 purpose of this ordinance and the flood load and flood resistant construction requirements of the *Florida Building Code* is 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, §59.22.

(D) Coordination with the *Florida Building Code*. This ordinance 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 ordinance 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 ordinance 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, §§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 ordinance.

(F) Disclaimer of Liability. This ordinance shall not create liability on the part of the TOWN or any of its past or present officials, officers, employees or agents for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

154.102. 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 ordinance applies. This ordinance shall apply to all flood hazard areas within the TOWN, as established in §154.102(C) of this ordinance.

(C) Basis for establishing flood hazard areas. The Flood Insurance Study for Manatee County, Florida and Incorporated Areas, dated March 17, 2014, and the Flood Insurance Study for Sarasota County, Florida, and incorporated areas, dated September 3, 1992, 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 ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at Town of Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida 34228:

(1) Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to §154.105 of this ordinance 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 community indicates that ground elevations:
   (a) 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 ordinance and, as applicable, the requirements of the Florida Building Code.
   (b) 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.

(D) Other laws. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

(E) Abrogation and greater restrictions. This ordinance 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 ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

(F) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(1) Considered as minimum requirements;
(2) Liberally construed in favor of the governing body; and
(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

154.103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

(A) Designation of Floodplain Administrator. The Town Manager.

The COMMISSION hereby appoints the Town Manager, or his designee, to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

(B) General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance 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 ordinance without the granting of a variance pursuant to §154.107 of this ordinance.

(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 ordinance;
(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 ordinance is 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 ordinance.

(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; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition 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 ordinance 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 §154.107 of this ordinance.

(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 ordinance.

(G) Inspections. The Floodplain Administrator shall make the required inspections as specified in §154.106 of this ordinance 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 §154.103(D) of this ordinance;
(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);
(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;
(4) Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* and this ordinance to determine that such certifications and documentations are complete;
(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the TOWN are modified; and
(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 ordinance 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 ordinance; 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 ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the Town of Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida 34228.

154.104 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 ordinance, 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 ordinance 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 ordinance 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.

(1) 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. §§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 ordinance:
   (a) Railroads and ancillary facilities associated with the railroad.
   (b) Nonresidential farm buildings on farms, as provided in §604.50, F.S.
   (c) Temporary buildings or sheds used exclusively for construction purposes.
   (d) Mobile or modular structures used as temporary offices.
   (e) Those structures or facilities of electric utilities, as defined in §366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
   (f) 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.

(g) 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.

(h) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(i) Structures identified in §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.

(C) 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 §154.105 of this ordinance.
(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.

(D) Validity of permit or approval. The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, 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.

(E) 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.

(F) 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 ordinance or any other ordinance, regulation or requirement of this community.

(G) 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 Southwest Florida Water Management District; §373.036, F.S.
(2) Florida Department of Health for onsite sewage treatment and disposal systems; §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; §161.141, F.S.
(4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; §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; §404 of the Clean Water Act.
(6) Federal permits and approvals.

154.105 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 ordinance 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) 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 requirements of Town Code Chapter 158.150(D)and landward of the reach of mean high tide.
(3) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
(4) 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.
(5) Delineation of the Coastal Construction Control Line (CCL) or notation that the site is seaward of the coastal construction control line, if applicable.
(6) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
(7) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance 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 ordinance.

(B) Additional analyses and certifications. 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 154.105(C) of this ordinance 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 154.105(C) of this ordinance.

(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.

(C) Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

154.106 INSPECTIONS

(A) General. Development for which a floodplain development permit or approval is required shall be subject to inspection.

(1) Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

(2) 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 ordinance and the conditions of issued floodplain development permits or approvals.

(a) 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 the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor.

(b) 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 154.106(A)2(a) of this ordinance.

(B) 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 ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

154.107 VARIANCES AND APPEALS

(A) General. The Town of Longboat Key Zoning Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to §553.73(5), F.S., the Town of Longboat Key Zoning 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 §3109 of the *Florida Building Code, Building.*

(B) Appeals. The Town of Longboat Key Zoning 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 ordinance. Any person aggrieved by the decision of Town of Longboat Key Zoning Board of Adjustment may appeal such decision to the Circuit Court, as provided by Florida Statutes.

(C) Limitations on authority to grant variances. The Town of Longboat Key Zoning Board of Adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in 154.107(F) of this ordinance, the conditions of issuance set forth in 154.107(G) of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Town of Longboat Key Zoning Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

(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 11 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 ordinance, 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 Town of Longboat Key Zoning Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, 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 ordinance or the required elevation standards;

(2) Determination by the Town of Longboat Key Zoning 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 the County the property is situated in, 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.

154.108 VIOLATIONS

(A) Violations. Any development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. 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 ordinance 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 ordinance 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 and in Town Code, Chapter 10, General Provisions, 10.99, General Penalty.

154.200 DEFINITIONS

154.201 GENERAL

(A) Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

(B) Terms defined in the *Florida Building Code*. Where terms are not defined in this ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

(C) Terms not defined. Where terms are not defined in this ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

154.202 DEFINITIONS

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

"Appeal." A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

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

"Base flood." A flood having a 1-percent chance of being equaled or exceeded in any given year. (Also defined in FBC, B, §1612.2.) The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

"Base flood elevation." The elevation of the base flood, including wave height, relative to

the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Also defined in FBC, B, §1612.2.)

"Basement." The portion of a building having its floor subgrade (below ground level) on all sides. (Also defined in FBC, B, §1612.2.)

"Coastal construction control line. (CCCL)" The line established by the State of Florida pursuant to §161.053, F.S., and recorded in the official records of the community, which 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.

"Coastal high hazard area." 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(Note: The FBC, B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas.")

"Design flood." The flood associated with the greater of the following two areas: (Also defined in FBC, B, §1612.2.)

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

"Design flood elevation." The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. (Also defined in FBC, B, §1612.2.)

"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.

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

"Existing building and existing structure." Any buildings and structures for which the "start of construction" commenced before July 30, 1971. (Also defined in FBC, B, §1612.2.)

"Existing manufactured home park or subdivision." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before July 30, 1971.

"Expansion to an existing manufactured home park or subdivision." The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured

homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency (FEMA)." The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

"Flood or flooding." A general and temporary condition of partial or complete inundation of normally dry land from: (Also defined in FBC, B, Section 1612.2.)

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

"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. (Also defined in FBC, B, §1612.2.)

"Flood hazard area." The greater of the following two areas: (Also defined in FBC, B, Section 1612.2.)

(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.

"Flood Insurance Rate Map (FIRM)." 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. (Also defined in FBC, B, §1612.2.)

"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 defined in FBC, B, §1612.2.)

"Floodplain Administrator." The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

"Floodplain development permit or approval." An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

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

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

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

"Historic structure." Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

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

(1) *"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.

(2) *"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.

(3) *"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.

(4) *"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.

"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:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

"Lowest floor." 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. (Also defined in FBC, B, Section 1612.2.)

"Manufactured home." A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." (Also defined in 15C-1.0.101, F.A.C.)

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

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

"New construction." For the purposes of administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after July 30, 1971 and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after July 30, 1971.

"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. (Defined in §320.01, F.S.)

"Recreational vehicle." A vehicle, including a park trailer, which is: [See §320.01, F.S.)

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

"Sand dunes." Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Special flood hazard area." An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. (Also defined in FBC, B §1612.2.)

"Start of construction." The date of issuance 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. (Also defined in FBC, B §1612.2.)

"Substantial Damage." Damage of any origin sustained by a structure whereby the cost of

restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (Also defined in FBC, B §1612.2.)

"Substantial improvement." 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: (Also defined in FBC, B, §1612.2.)

(1) 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.
(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

"TOWN." "TOWN" and "the Town of Longboat Key" for the purposes of this chapter shall be one and the same.

"Variance." A grant of relief from the requirements of this ordinance, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this ordinance or the *Florida Building Code*.

"Watercourse." A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

154.300 FLOOD RESISTANT DEVELOPMENT

154.301 BUILDINGS AND STRUCTURES

(A) Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to §154.104(B)1 of this ordinance, 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 §154.307 of this ordinance.

(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* §3109 and §1612 or *Florida Building Code, Residential* §R322.
(2) Minor structures and non-habitable major structures as defined in §161.54, F.S., shall be designed and constructed to comply with the intent and applicable provisions of this ordinance and ASCE 24.

154.302 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) Compliance with the site improvement and utilities requirements of §154.303 of this ordinance.

154.303 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

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

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

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

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

(D) Limitations on placement of fill. Subject to the limitations of this ordinance, 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) 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 §154.105(B)(4) of this ordinance 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 §154.307(E)(3) of this ordinance.

154.304 MANUFACTURED HOMES

(A) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to §320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance. 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 ordinance.
(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 ordinance.
(3) In areas seaward of the coastal construction control line, are designed in accordance with the more restrictive requirements of Chapter R44 of *Florida Building Code, Residential,* the *Florida Building Code, Residential* Section R322.3, and this ordinance.

(C) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(D) Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with §154.304(D)(1) or §154.304(D)(2) of this ordinance, as applicable.

(1) General elevation requirement. Unless subject to the requirements of Section §154.304(D)(2) of this ordinance, 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* §R322.2 (Zone A) or §R322.3 (Zone V).
(2) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to §154.304(D)(1) of this ordinance, 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:
    (a) 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 §R322.2 (Zone A) or §R322.3 (Zone V); or

(b) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(E) 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) 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* §R322, as applicable to the flood hazard area.

154.305 RECREATIONAL VEHICLES AND PARK TRAILERS

(A) Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1) Be on the site for fewer than 180 consecutive days; or

(2) 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 §154.305(A) of this ordinance for temporary placement shall meet the requirements of §154.304 of this ordinance for manufactured homes.

154.306 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 §154.306(C) of this ordinance shall:

(1) 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 and 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.

154.307 OTHER DEVELOPMENT

(A) General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the *Florida Building Code*, shall:

(1) Be located and constructed to minimize flood damage;
(2) 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) Be constructed of flood damage-resistant materials; and
(4) 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) 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) 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 run-up 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 run-up and wave reflection.

(D) 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) 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 unit vertical to five 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.

154.308 LOCAL ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE

(A) The Florida Building Code. Sections 104.10.1, 107.6.1 and 117 are hereby amended by the following administrative amendments to the *Florida Building Code, Building.*

(1) Add a new Section 104.10.1 as follows:
104.10.1 Modifications of the strict application of the requirements of the *Florida Building Code.* The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood resistant construction requirements of the *Florida Building Code* to determine whether such requests

require the granting of a variance pursuant to §117.

(2) Add a new Section 107.6.1 as follows:

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. §§59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Sections 105.14 and 107.6, shall not extend to the flood load and flood resistance construction requirements of the *Florida Building Code.*

(3) Add a new Section 117 as follows:

117 VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to §553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the *Florida Building Code, Building* or, as applicable, the provisions of Section R322 of the *Florida Building Code, Residential.* This section shall not apply to Section 3109 of the *Florida Building Code, Building.*

(B) The *Florida Building Code, Residential* is hereby amended by the following technical amendments.

(1) Add new Section R322.2.1 and renumber, as follows:

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher.
2. Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or to the design flood elevation, whichever is higher.
3 Buildings and structures seaward of the coastal construction control line shall have the lowest horizontal structural member of the lowest floors elevated to or above the base flood elevation plus 3 feet.
4. ~~3.~~ In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM, or at least 2 feet (610 mm) if a depth number is not specified.
5. ~~4.~~ Basement floors that are below grade on all sides shall be elevated to or above the design flood elevation.

Exception: Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.

(2) Modify Section R322.3.2 as follows:

R322.3.2 Elevation requirements.

1. All buildings and structures erected within coastal high-hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of mat or raft foundations, piling, pile caps, columns, grade beams and bracing, is at or above the base flood elevation plus 3 feet or the design flood elevation, whichever is higher.

~~1.1 Located at or above the design flood elevation, if the lowest horizontal~~

~~structural member is oriented parallel to the direction of wave approach, where parallel shall mean less than or equal to 20 degrees (0.35 rad) from the direction of approach, or~~

~~1.2 Located at the base flood elevation plus 1 foot (305 mm), or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented perpendicular to the direction of wave approach, where perpendicular shall mean greater than 20 degrees (0.35 rad) from the direction of approach.~~

2. Basement floors that are below grade on all sides are prohibited.
3. The use of fill for structural support is prohibited.
4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

Exception: Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

(C) The *Florida Building Code, Building* is hereby amended by the following technical amendments.

(1) Modify a definition in Section 1612.2 as follows:
"SUBSTANTIAL DAMAGE." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. <u>The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.</u>

(2) Add a new Sec. 1612.4.1 as follows:
<u>1612.4.1 Elevation requirements. The minimum elevation requirements in flood hazard areas subject to high velocity wave action (coastal high hazard areas) and in areas seaward of the coastal construction control line shall be as specified in ASCE 24 or the base flood elevation plus 3 feet, whichever is higher.</u>

(D) The *Florida Building Code, Existing Building* is hereby amended by the following technical amendment.

(1) Modify a definition in Section 202 as follows:
"SUBSTANTIAL DAMAGE." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. <u>The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.</u>

<u>SECTION 3.</u> Fiscal Impact Statement.
In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local

floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

SECTION 4. Applicability.
For the purposes of jurisdictional applicability, this ordinance shall apply in the Town of Longboat Key. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this Ordinance.

SECTION 5. Repealed.
Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict. This ordinance specifically repeals and replaces the following ordinance and regulation: Chapter 154, Flood Control, as written and adopted per Ordinance 06-10, passed on October 9, 2006.

SECTION 6. Inclusion into the Code of Ordinances.
It is the intent of the Town of Longboat Key Commission that the provisions of this ordinance shall become and be made a part of the Town of Longboat Key Code of Ordinances, that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions, and a footnote for Cross Reference will be added to Chapter 150.01 Adoption of the Florida Building Code to refer to Chapter 154.308 for Local Administrative Amendments to the Florida Building Code.

SECTION 7. Severability.
If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 8. Effective Date.
This Ordinance shall take effect on March 17, 2014, in accordance with law and the Charter of the Town of Longboat Key.

Passed on first reading the _____ day of _____, 20__.

Adopted on second reading and public hearing this ____ day of _____, 20___.

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk

End of Agenda Item