

INDIAN SHORES

Ph 727.595.4020 Fax 727.596.0050
19305 Gulf Boulevard, Indian Shores, FL 33785
www.myindianshores.com



LOCAL PLANNING AGENCY MEETING AGENDA TUESDAY, OCTOBER 9, 2018 BEGINS AT 2:00 P.M.

ITEM # AGENDA ITEM

- 1.0 Approval of Agenda for October 9, 2018.
- 2.0 Comments from the public on any agenda item.
- 3.0 Consideration of approving the Local Planning Agency and Council Workshop Minutes of September 12, 2018.
(Ref.: Pgs. 1-7)
- 4.0 Discussion and review of proposed changes to Turtle Ordinance 2018-01. (Ref.: Pgs. 8-17)
- 5.0 Discussion and review of proposed Floodplain Ordinance 2018-02.
(Ref.: Pgs. 18-45)



Freddie Lozano
Town Clerk

Any person who decides to appeal any decision of the Local Planning Agency with respect to any matter considered at any such meeting will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes that testimony and evidence upon which the appeal is to be based.

Any person with a disability requiring reasonable accommodation in order to participate in this meeting should contact the Town Clerk's Office with your request. Phone 727-595-4020, Fax 727-596-0050.

Patrick C. Soranno
Mayor

Diantha Schear
Vice Mayor

Mike Hackerson
Councilor

Michael (Mike) Petruccelli
Councilor

William F. (Bill) Smith
Councilor

Bonnie Dhonau
Town Administrator

Susan L. Scroggins
Director of Finance
and Personnel

Freddie G. Lozano
Town Clerk

Steve Tetlak
Building Official

Regina Kardash, Esq.
Town Attorney

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LOCAL PLANNING AGENCY (LPA) AND COUNCIL WORKSHOP MEETING MINUTES – September 12, 2018

The meeting convened at 1:00 p.m.

Those present: Mayor Patrick C. Soranno, Vice-Mayor Diantha Schear, Councilor Mike Petruccelli, PZB Chairperson Councilor Bill Smith, PZB Vice-Chairperson Councilor Mike Hackerson, Citizen Member Dr. Candiss Rinker, and Town Attorney Regina Kardash.

Also present: Town Administrator Bonnie Dhonau, Chief Terry Hughes, Town Clerk Freddie Lozano, Building Official Steve Tetlak, and Town Engineer Bob Brotherton.

ITEM # AGENDA ITEM

1.0 Approval of Agenda for September 12, 2018.

Motion by Councilor Smith – seconded by **Councilor Hackerson** to approve the Local Planning Agency (LPA) and Council Workshop Meeting Agenda for September 12, 2018. **Motion carried 6-0.**

2.0 Comments from the public on any agenda item.

None.

3.0 Discussion and review of proposed Turtle Ordinance 2018-01.

Attorney Kardash stated this Ordinance was brought to Council in 2016 and was held back due to the determination that Council wanted it to be included within the Land Development Code and Comprehensive Plan. It is now compete for inclusion.

The LPA and Council were brought together for this workshop to provide feedback and direction for the proposed Ordinance that also includes the matter of items left on the beach.

Patrick C. Soranno
Mayor

Diantha Schear
Vice Mayor

Mike Hackerson
Councilor

Michael (Mike) Petruccelli
Councilor

William F. (Bill) Smith
Councilor

Bonnie Dhonau
Town Administrator

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Building Official

Regina Kardash, Esq.
Town Attorney

Most communities have turtle rules within their general code of ordinances. Attorney Kardash suggested and preferred that the rules should be included in the Land Development Code because it contains permitting requirements such as lighting requirements.

Attorney Kardash stated the main aspect that came into question regarding the proposed suggestions was the addition of "Section 106-96: Obstructions on the Beach Prohibited". This section can be severed from the Turtle Ordinance and included in the General Code of Ordinances or it can be a separate standalone ordinance.

Vice Mayor Schear stated the proposed ordinance does not reference tourist season when the problem is most prevalent.

Dr. Rinker added the proposed ordinance specifically states, "marine turtle nesting season".

Attorney Kardash suggested adding the items on the beach provisions to the General Code and excluding the reference to "marine turtle nesting season" to enforce the provisions year-round.

Mayor Soranno asked what law does leaving items on the beach violate and is the violation preempted by an ordinance, state law, FWC (Florida Fish and Wildlife Conservation Commission), or DEP (Department of Environmental Protection).

Councilor Petruccelli asked for clarification if the proposed ordinance says a property owner cannot leave his chairs on their property between 10 p.m. – 6 a.m.

Attorney Kardash replied yes, unless they are anchored or fastened in a manner that prevents them from being a hazard.

Dr. Rinker added that the anchoring is already in the current code.

Discussion continued on illumination/lighting rules for turtles, lighting standards, and who enforces the violations.

Mr. Brotherton thought there was a standard defining light intensity not specified by lumens but whether the light casts a shadow on the beach.

Attorney Kardash stated that the model code does not contain specific lighting standards. The language pertaining to light casting a shadow has

been written in other communities' ordinances and has been adopted by the Town.

Discussion continued on enforcement of violations in relation to the turtles and beach renourishment.

Vice Mayor Schear asked if Duke Energy addressed the light coming from street lights.

Ms. Dhonau replied Duke did it and with compliance to all turtle lighting standards. She also reached out to Duke for a cost estimate to convert all street lights to amber light and has not received a response.

Attorney Kardash added that the lighting standards is a local issue and is within the Town's purview as having authority over land development regulations. This is another reason why she feels this proposed ordinance has a place in the Land Development code versus the General Code.

Councilor Hackerson recalled the reason why this ordinance was tabled at the last meeting, as it was the result of the obstructions on the beach only being addressed during turtle nesting season. Removing the reference and adding the Items on the Beach code to the General Code will enforce the provision year-round.

Mayor Soranno asked if the language can be in both in the General and Land Development code.

Attorney Kardash replied yes as long as both codes contain matching language and cross-reference each other.

Mayor Soranno mentioned Section 106-97 regarding open fires on the beach and why they are not banned.

Attorney Kardash referred to Chapter 38 (Fire Prevention and Protection) sub-section E that addresses fires on the beach.

Councilor Petruccelli asked if the rules on fires on the beach is for property owners or the public.

Attorney Kardash replied that Chapter 38 does not make any distinction between the public and private beaches. She suggested reviewing

Chapter 38 and have feedback or recommendations from PSFRD, Chief, and Marshall Eiss for any updates to the Chapter.

Mayor Soranno asked for Attorney Kardash's recommendations to pass the Turtle Ordinance.

Attorney Kardash reviewed what she gathered from the discussion; the beach obstructions to apply year-round and that it will be removed from the Turtle Ordinance and instead added to the General Code with reference to the Turtle Ordinance.

Councilor Hackerson asked if adding the word "public" with regard to beaches would help differentiate code enforcement on a public beach versus a private beach.

Attorney Kardash is hesitant and stated defining a beach as being public, if it is not already defined as such, could have unintended consequences. There were recent legislation and unknown anticipated changes that will be addressed at the upcoming legislative session.

She asked for direction on how to proceed with wording the proposed code and how closely it should follow what the Town currently has in place with regard to obstructions on the beach.

Discussion ensued on what time items left should be removed from the beach.

Ms. Dhonau asked if Public Services will have the authority by ordinance to remove items left on the beach.

Attorney Kardash responded yes.

Dr. Rinker asked about possibly adding provisions for filling holes in the sand.

Attorney Kardash has drafted provisions for other communities regarding holes in the sand and added that this section of the code will be a good place for it to be included.

Discussion continued on solicitors' permits/licenses for businesses who have tents, chairs, and chaise lounges on the beach for public use.

Attorney Kardash will revise the Turtle Ordinance to include a cross-reference to the obstructions on the beach Section 109-96 and leave in place 107-97 referencing Chapter 38. Language will also be added to address filling holes on the beach. No exceptions will be written in the obstructions on the beach ordinance until further research is completed to see what permits are currently in place.

Mayor Soranno asked if bbq grills on the beach should be banned and added to the ordinance.

Attorney Kardash replied Chapter 38 would require amending if banned.

The addition of banning grills and hibachis on the beach to Chapter 38 was agreed upon consensus of the LPA and Council.

Ms. Dhonau asked if the Turtle Ordinance and Items on the Beach will go in the Land Use or General Code

Attorney Kardash replied the Turtle Ordinance will go in the Land Use and the Items on the Beach will be mirrored in the General Code.

Consensus was reached for Attorney Kardash to proceed with amending the Ordinance.

4.0 Discussion and review of proposed Floodplain Ordinance 2018-02.

Ms. Dhonau mentioned Rebecca Quinn was working with Attorney Kardash, then the State asked if they could work with Mr. Tetlak, and Mr. Brotherton was asked for his input on this complex ordinance. FEMA recently issued new FIRM (Flood Insurance Rate Maps) that have not yet been adopted. Her concern is ensuring that the Town's CRS (Community Rating System) rating is not negatively impacted as a result of changes to the ordinance. Ms. Dhonau recommended hiring a consultant who is well-versed with CRS to walk us through the CRS process and provide recommendations to items the Town needs to pay attention to in order to maintain our current CRS rating or help position the Town to improve its rating.

Mayor Soranno added that the Town's current CRS rating of 6 provides significant flood insurance savings for Town residents. He believes it is

worth hiring a CRS expert if it will help with improving the Town's rating even more.

Attorney Kardash agreed. She mentioned the Town has higher standards in place than most of the coastal communities, hence the CRS rating and significant flood discounts. She added that some of the language in the model code does not pertain due to the size of Indian Shores. She removed sections referencing mobile homes and floodways.

Discussion on the Town's process on a substantial improvement calculation that is designed to get people to comply with the higher standards quicker. The Town uses a 10-year cumulative for the 50% substantial improvements, and that is part of why the Town has the development it has currently.

Mr. Tetlak mentioned many communities use a 1-year cumulative and feels that the Town's 10-year cumulative should remain in place to ensure that new developments will be required to meet the higher standards of the Town.

He also spoke on the non-conversion agreement that developers sign agreeing development cannot be done on the first floor of the building. He believes that this can garner CRS points.

Discussion on garnering more CRS points.

Mr. Brotherton sent a memo to Ms. Dhonau on how to gain more CRS points. Based on the new flood elevation levels, he mentioned adding 1 foot to the current 4-foot freeboard making it 5-feet which may gain the Town more CRS points.

Mayor Soranno asked for the next steps and timetable of deliverables.

Attorney Kardash believes what she and Mr. Tetlak have suffices for an ordinance and will keep in place at a minimum the higher standards the Town currently has in effect. A CRS consultant can be hired to add and or strengthen the ordinance as appropriate for the Town.

She provided information on the recent FEMA FIRM map updates regarding new AE and BE zones.

Mayor Soranno asked what the next step is.

Mr. Brotherton replied that the ordinance needs to be passed to satisfy a CRS audit.

Attorney Kardash said we need to maintain the higher standards currently in the ordinance and pass the version that she, Mr. Tetlak, and Mr. Brotherton drafted.

Meeting adjourned at 1:38 p.m.

Freddie Lozano
Town Clerk

ORDINANCE 2018-01

AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, REPEALING SECTION 106-90 OF ARTICLE VII – BEACHES, CHAPTER 106 – WATERWAYS, SUBPART B – LAND DEVELOPMENT REGULATIONS; AMENDING PART II, CODE OF ORDINANCES, CHAPTER 4 – ANIMALS, ARTICLE III.- SEA TURTLE PROTECTION, LIGHTING REQUIREMENTS, BY REPEALING AND RE-ENACTING AS PART OF THE LAND DEVELOPMENT CODE, RENUMBERING UNDER ARTICLE VII, CHAPTER 106, SUBPART B- LAND DEVELOPMENT CODE; AMENDING THE ARTICLE TITLE; AMENDING THE PURPOSE TO REFERENCE FLORIDA LAW AND THE RESPONSIBLE STATE AGENCY; ADDING A NEW SECTION 106-96. – OBSTRUCTIONS ON THE BEACH PROHIBITED; ADDING A NEW SECTION 106-97.- OTHER PROHIBITED CONDITIONS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN OF INDIAN SHORES LAND DEVELOPMENT CODE; PROVIDING FOR CERTIFICATION BY THE TOWN COUNCIL THAT THIS ORDINANCE IS IN CONFORMANCE WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Indian Shores desires to provide its residents with a fair, consistent, clear and concise code; and

WHEREAS, the Florida Constitution provides for municipal home rule power and the charter of the Town of Indian Shores authorizes the Town Council to exercise any power for municipal purposes, except where prohibited by law; and

WHEREAS, the Town Council of the Town of Indian Shores desires to continue to protect marine turtles and provide for an environment that is conducive to marine turtle nesting and habitat protection; and

WHEREAS, the Town's Sea Turtle Protection Plan contains land development regulations governing the development and redevelopment of property in accordance with the Florida Building Code and Florida Statutes; and

WHEREAS, the Town Council finds that marine turtle protection and conservation advances the goals and objectives of the Town's Comprehensive Plan; and

WHEREAS, the Florida Fish and Wildlife Commission (FWC) provides and the Town of Indian Shores recognizes that items left on the beach interfere with marine turtle nesting and hatchlings and pose a danger to the survival rate of the species; and

WHEREAS, the FWC further provides and the Town recognizes that fires on the beach could interfere with marine turtle nesting and hatchlings and prove to be detrimental to the species; and

WHEREAS, the Town Council desires to continue to comply with updated standards for marine turtle protection in accordance with FWC guidelines and the "Marine Turtle Protection Act," *Florida Statutes* § 379.2431; and

WHEREAS, the Town Council desires to adequately balance the interests of its residents in the full use and enjoyment of the beach and their beachfront residences while safeguarding nesting female marine turtles and their hatchlings; and

WHEREAS, items of personal property left on the beach constitute a public nuisance and pose a serious and immediate threat to marine turtles; and

WHEREAS, the Town Council believes that regulating for the protection of marine turtles serves a significant public interest aimed at preserving the natural environment for the benefit of the public, visitors and tourists;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES:

SECTION I

That the foregoing findings are true and correct, and are hereby adopted as if fully set forth herein.

SECTION II

That Section 106-90. – Unattended or abandoned umbrellas, canopies, volleyball nets, etc., on beach., of Article VII – Beaches, Chapter 106- Waterways, Subpart B – Land Development Code of the Town of Indian Shores Land Development Code is hereby repealed in its entirety.

SECTION III

That the Town of Indian Shores, Florida, Town Code Chapter 14 – ANIMALS, Article III.- SEA TURTLE PROTECTION, LIGHTING REQUIREMENTS, is hereby renumbered, re-enacted as ARTICLE VII of Chapter 106 – Waterways, Subpart B – Land Development Code of the Town of Indian Shores Land Development Code, and amended to read as follows:

ARTICLE ~~III~~VII. - SEA TURTLE PROTECTION PLAN, ~~LIGHTING~~ REQUIREMENTS

Sec. ~~14-56~~106-90. - Purpose

The purpose of this article is to provide for a sea turtle protection plan in compliance with the Federal Endangered Species Act, ~~the Florida Marine Turtle Protection Act~~ and to incorporate therein the requirements, recommendation and guidelines of the ~~Florida Fish and Wildlife Commission~~ state department of natural resources for sea turtle protection.

Sec. ~~14-57~~106-91. - Definitions.

[For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:]

Artificial light means the light emanating from any man-made device.

Beach means the zone of unconsolidated material that extends landward from the mean low water line to either the place where there is a marked change in material or physiographic form: the line of permanent vegetation, which is usually the effective limit of storm waves; or constructed bulkheads or other coastal protection structures.

Beachfront means all of the area west of Gulf Boulevard and extending to the water line.

Beach access ~~Any path through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.~~

Coastal construction control line means that line established by the ~~Florida Department of Environmental Protection~~ state department of natural resources westward of which no construction of any kind is permitted.

Coastal construction activities means any work or construction in the area defined as the beachfront.

County means Pinellas County in the State of Florida.

Decorative lighting ~~Any source of artificial lighting used solely for accent or decorative purposes. Decorative lighting shall include, but are not limited to, accent lighting and landscape lighting.~~

Directly illuminated ~~Glowing element(s), lamp(s), or globe(s) of an artificial light source or electronic device(s) which illuminate, and are visible from, any portion of the beach. "Direct illumination of the beach." Light from a point source which is sufficiently strong to cast a detectable shadow on the beach on a dark, moonless night.~~

Downward-direct ~~Light fixture which directs artificial light entirely down.~~

Dune ~~A mound or ridge of loose sediments, usually sand sized, lying landward of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location.~~

Excavations means the mechanical or manual removal of consolidated or unconsolidated soil material from the ~~beachfront~~. It includes, but is not limited to, dredging, draglining, bulldozing, scraping or grading.

Existing development Any building or structure for which a building permit has been issued prior to the adoption of Article VII.

FDEP Florida Department of Environmental Protection or its successor agency.

Floodlight A reflector-type light fixture which is freestanding or attached directly to a building or other structure and which is unshielded.

Frontal dune The first natural or manmade mound or bluff of sand which is located landward of the beachfront and which has sufficient ground vegetation, height, continuity and configuration to offer protective value.

FWC Florida Fish and Wildlife Conservation Commission or its successor agency.

FWC approved marine turtle fixtures and bulbs Fixtures and bulbs that have been reviewed through the Wildlife Lighting Certification Process and approved by FWC for marine turtle lighting use, or similar fixtures and bulbs that meet the same lighting standards for marine turtle lighting use.

FWS United States Fish and Wildlife Service or successor agency.

Ground-level barrier Any vegetation, natural feature or artificial structure rising from the ground that prevents artificial light from directly, indirectly, or cumulatively illuminating any of the beach.

Hatching means any specimen of sea turtle which has recently hatched from an egg.

Illuminated Exposed to light from an artificial light source that does not meet the approved specification of Article VII in a way that produces a direct illumination of the beach visible from any portion of the beachfront.

Indirectly illuminated Illumination of any portion of the beach as a result of an artificial light source in which the artificial light source is not directly visible from any portion of the beach.

Light fixture The mechanism which, or within which, sources of artificial light are attached.

Nest means an area where sea turtle eggs have been naturally deposited or subsequently relocated.

Nesting season means the period from May 1 through October 31 of each year.

Nighttime means the time period between sunset and sunrise.

Sea turtle means any marine turtle found in state waters and/or using the beach as nesting habitat, including the species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green) *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempi* (Kemp's ridley).

STPP means ~~s~~Sea ~~t~~Turtle ~~p~~Protection ~~p~~Plan as provided in this article.

Temporary structures Any human-made structure or objects with a location or arrangement that is temporary or transient in nature. Temporary structures and objects shall include, but are not limited to, tents, canopies, chairs, tables, umbrellas, and cabanas.

Tinted or filmed glass Any glass or glazing treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

Turtle permit holder means any qualified individual, group or organization possessing a valid permit from the Florida Department of Environmental Protection ~~state department of natural resources~~ to conduct activities related to sea turtle protection and conservation.

Sec. 14-58106-92. - Sea ~~t~~Turtle ~~p~~Protection ~~p~~Plan (STPP) application procedures.

- (a) Persons seeking a building permit for coastal construction activities which involve the installation of temporary or permanently mounted light fixtures shall prepare a sea turtle protection plan (STPP). The STPP shall be submitted to the town concurrently with the application for building permit. The STPP shall include the following information:
 - (1) A schedule of proposed costal construction activities.
 - (2) The number of linear feet of shoreline seaward of the coastal construction control line upon or over which construction related activities may be necessitated by the project.
 - (3) The number and types of vehicles or other equipment necessary for such activity and the location of beach access points to be used.
- (b) Prior to the issuance of a building permit or the approval of a site plan, the town's building official shall review the applicant's STPP for compliance with the standards set forth in this article. No permit shall be issued, or site plan approved, until the building official is satisfied that all applicable standard have been incorporated in the applicant's STPP.
- (c) Subsequent to the issue of the building permit and during the period of coastal construction activities, the applicant shall comply with the terms and provisions of the approved STPP. Failure of the applicant to comply with the STPP, upon notice by the building official, shall be grounds for the issuance of a stop work order until the violation of the STPP had been rectified. No certificate of occupancy shall be issued by the town until the applicant has complied with the approved STPP to the satisfaction of the building official.

Sec. 14-59106-93. - General lighting standard for coastal construction activities.

The following lighting standard shall apply to all coastal construction activities subject to this article.

- (1) Coastal construction activities which would result in direct illumination on the beach during any portion of the nesting season shall be conducted during daylight hours, between 8:00 a.m. and 6:00 p.m., unless specifically approved otherwise by the building official.
- (2) In those instances where night illumination of the beach from temporary security or construction lighting cannot be prevented, an approved STPP is required. The

following protective or mitigative measures shall be included in the approved STPP:

- a. A turtle permit holder shall conduct a preliminary site survey for coastal construction activities during the nesting season in order to determine whether sea turtle nests are present or are likely to be present. Coastal construction activities in progress on or before May 1 of each year shall be exempt from this survey but must implement daily nesting surveys pursuant to subsections c. and d. below.
- b. Any person anticipating coastal construction activities involving night lighting during the nesting season must obtain the services of a turtle permit holder to locate nests in the construction area on a daily basis, beginning no later than May 1 of each year. Nest location must encompass all areas of the beach affected by construction lighting.
- c. A turtle permit holder shall conduct daily nesting surveys of the construction areas on the beach, following the provisions of the approved STPP after March 1 or during the nesting season as applicable, until any one of the following occur:
 1. All coastal construction activities have been completed;
 2. The nesting season has ended; or
 3. All nests have hatched and hatchlings have emerged from the nests.
- d. Daily records shall be maintained for all sea turtle monitoring or relocation conducted pursuant to this article and, together with a summary of monitoring and relocation results, shall be provided to the town upon completion of coastal construction activities, or the end of the sea turtle nesting season, whichever comes first. The records shall include, as appropriate:
 1. The date of the preliminary survey;
 2. The starting date of the daily nesting surveys;
 3. The observed or recorded nesting activity in the area of coastal construction activities on, the beach;
 4. The number of nests relocated;
 5. The number of eggs relocated per nest;
 6. The nest location area;
 7. The hatch success;
 8. The name of the turtle permit holder performing the monitoring program; and
 9. The end date of the daily monitoring.

- e. During coastal construction activities, temporary security lighting shall be limited to the fewest number of lights necessary to provide adequate security. Those lights which are used shall not:
 1. Directly illuminate area outside of the subject property; or
 2. Directly illuminate areas of the beach unless specific protective or mitigative measures for lighting impacts are developed within the STPP submitted by the applicant.

Sec. 14-60106-94. - Lighting standards for new beachfront construction.

All beachfront artificial light sources installed in new beachfront construction commenced after adoption of this article shall comply with the following standards:

- (1) Beachfront lighting, insofar as reasonably possible, shall not directly illuminate the beach.
- (2) Beachfront high intensity lighting for decorative or accent purposes, such as that emanating from spotlights or floodlights, shall not be used.
- (3) Beachfront high intensity lighting used for safety or security purposes shall be limited to the minimum number required to achieve their functional role(s).
- (4) Beachfront lighting fixtures containing high intensity lights shall be designed and/or positioned such that they do not cause direct illumination of area of the beach and such that the source of light is not directly visible from the beach.
- (5) Beachfront wall-mounted fixtures, landscape lighting fixtures, and other sources of low intensity lighting shall be designed and/or positioned, insofar as reasonably possible, such that they do not cause direct illumination of areas of the beach and such that the source of light is not directly visible from the beach.
- (6) All lights on balconies shall be shielded from the beach.
- (7) Low intensity lighting shall be used in beachfront parking lots within a direct line sighting of the beach. Such lighting shall be:
 - a. Set on a base which raises the source of light no higher than 48 inches off the ground, unless a different height is required by the state department of transportation or any federal, state or local statute or regulation; and
 - b. Positioned or shielded such that the source of light is not visible from the beach.
- (8) Tinted glass or any window film which, when applied to window glass, meets the criteria from tinted glass, shall be installed on all windows of single and multi-storied structures within line of sight of the beach.
- (9) Parking lots and roadways, including any paved or unpaved area upon which motorized vehicles will operate, shall be designed and/or positioned such that vehicular headlights do not cast light toward the beach.
- (10) Vehicular lighting shall be shielded from the beach through the use of hedges or other plant material, dune vegetation, and/or other ground-level barriers.

(11) Beach access points, dune crossovers, beach walkways, piers or any other structure on or seaward of the beach designed for pedestrian traffic shall use the minimum amount of light necessary to ensure safety and to follow the aforementioned guidelines. Pedestrian lighting shall be recessed or shielded so that the source of light is not directly visible from the beach and light does not directly illuminate the beach.

Sec. 44-64106-95. - Standard for existing beachfront lighting.

Within five years of the effective date of this article, existing beachfront lighting shall comply with the following standards:

- (1) Existing artificial light sources shall, insofar as reasonably possible, be repositioned or modified so that the sources of light are not directly visible from the beach, or do not directly illuminate the beach.
- (2) The following measures shall be used to reduce the effects of lighting on nesting females and hatchlings:
 - a. Install ground level barriers to reduce the amount of indirect lighting illuminating the beach.
 - b. Shield lights illuminating beach access points, dune access points, beach walkways, piers, and any structure on or seaward of the beach designed for pedestrian traffic so that the light sources are not directly visible from the beach.
 - c. All lights on balconies shall be reduced in intensity and/or shielded as necessary to prevent direct illumination of the beach or viewing of light sources from the beach.
 - d. High intensity lighting for decorative or accent purposes, such as that emanating from spotlights or floodlights shall not be used.
 - e. Beachfront lighting required for safety and security purposes shall be reduced to the minimum number and intensity possible to reasonably perform their functional roles(s).

Sec. 106-96.- OBSTRUCTIONS ON THE BEACH PROHIBITED

Obstructions on the beach are prohibited and may be enforced in accordance with Chapter 34, ARTICLE V. – LEAVE NO TRACE.

Sec. 106-97.- OTHER PROHIBITED CONDITIONS

It shall be unlawful to start, maintain or otherwise ignite an open fire on the beach or sand within the Town of Indian Shores and as otherwise prohibited in Chapter 38 – FIRE PREVENTION AND PROTECTION.

SECTION IV

That all ordinances or parts of ordinances in conflict herewith are hereby repealed insofar as the same conflict with the provisions of this ordinance.

SECTION V

That if a court of competent jurisdiction finds any provisions of this ordinance to be invalid or unenforceable as a matter of law, the offending portion shall be stricken and all other provisions shall remain in full force and effect.

SECTION VI

That the provisions of this ordinance shall be included and incorporated into the Land Development Code of the Code of Ordinances for the Town of Indian Shores, Florida, as an amendment thereto, and shall be renumbered to conform to the uniform numbering system thereof as necessary.

SECTION VII

The Town Council does hereby certify that this Ordinance is consistent with the Town's Comprehensive Plan and elements thereof adopted pursuant to the Florida Community Planning Act, *Florida Statute § 163.3161*, et. seq.

SECTION VIII

That this ordinance shall be in full force and affect immediately upon its passage, or in the manner provided by law.

FIRST READING this _____ day of _____, 2018.

SECOND READING AND FINAL PASSAGE this _____ day of _____, 2018.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES, FLORIDA, THIS _____ day of _____, 2018.

Patrick Soranno
Mayor

ATTEST:

Freddie Lozano
Town Clerk

Approved as to form:

Regina A. Kardash, Esq.
Town Attorney

ORDINANCE NO. 2018-02

AN ORDINANCE BY THE TOWN OF INDIAN SHORES, FLORIDA, AMENDING THE INDIAN SHORES CODE OF ORDINANCES TO REPEAL ARTICLES I AND II, CHAPTER 86 – FLOODS, OF SUBPART B THE LAND DEVELOPMENT CODE; TO ADOPT NEW ARTICLES I AND II REVISING THE FLOODPLAIN MANAGEMENT ORDINANCE TO INCORPORATE THE FEMA APPROVED MODEL ORDINANCE; 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; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN OF INDIAN SHORES LAND DEVELOPMENT CODE; PROVIDING FOR CERTIFICATION BY THE TOWN COUNCIL THAT THIS ORDINANCE IS IN CONFORMANCE WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Indian Shores 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 Indian Shores was accepted for participation in the National Flood Insurance Program on May 21, 1977, adopted a Floodplain Management Ordinance on September 1, 1993, and the Town Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

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

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local amendments to the *Florida Building Code* to implement the National Flood Insurance Program; and

WHEREAS, the Town Council of Indian Shores has historically maintained more stringent adopted requirements for buildings and structures within the Town, including to (a) require accumulation of costs of improvements, additions, and repairs of buildings, based on issued building permits, over a ten (10) year period; (b) increase the minimum elevation requirement for buildings and structures in flood hazard areas; (c) require all nonresidential buildings to comply with the elevation requirements; (d) require all buildings in flood hazard areas to comply with the requirements for coastal high hazard areas; (e) limit window area in walls enclosing areas under elevated buildings; and (f) limit partitioning of and access to

enclosed areas below elevated buildings; and, pursuant to section 553.73(5), F.S., is formatting these requirements to coordinate with the Florida Building Code; and

WHEREAS, the Town Council is adopting a requirement to require declarations of land restriction ("non-conversion agreements") for enclosures below elevated buildings; and

WHEREAS, the Town Council has determined that it is in the public interest to adopt more stringent technical amendments to the *Florida Building Code* and the proposed amendments do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes; and

WHEREAS, the Town updated and adopted revisions to its Comprehensive Plan on **XX/XX/2018**, in accordance with Chapter 163, Florida Statues, which included addressing floodplains and flood hazard areas within the Town; and

WHEREAS, the Town desires to maintain its more restrictive standards given the nature of the Town's coastal location and designations as a Special Flood Hazard Area; and

WHEREAS, the Council believes these standards are in the best interests for the health, safety, and welfare of its citizens, residents, and guests of the Town; and

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

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Indian Shores, Florida that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

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

SECTION 2. REPEAL AND REPLACE

The provisions of this ordinance specifically repeal and replace the following ordinance(s) and regulation(s): ARTICLES I and II, Chapter 86- Floods, Subpart B Land Development Code; New ARTICLES I and II are hereby enacted, and shall henceforth read as follows:

ARTICLE I.- ADMINISTRATION AND DEFINITIONS

Division 1. GENERALLY

86-1 Title. These regulations shall be known as the *Floodplain Management Ordinance* of Indian Shores, hereinafter referred to as "this chapter."

86-2 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 tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

86-101.3 Intent. The purposes of this chapter and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

86-4 Coordination with the *Florida Building Code*. This chapter is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

86-101.5 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 chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.

86-6 Disclaimer of Liability. This chapter shall not create liability on the part of Town Council of Indian Shores or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

Division 2 APPLICABILITY

86-7 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

86-8 Areas to which this chapter applies. This chapter shall apply to all flood hazard areas within the Town of Indian Shores as established in Section 86-9 of this section.

86-9. Basis for establishing flood hazard areas. The Flood Insurance Study for Pinellas County, FL dated August 18, 2009 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 the Pinellas County Building and Development Review Services, 310 Court Street, Clearwater, Florida 33756

86-10. Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Division 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:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the *Florida Building Code*.
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

86-11. Other laws. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

86-12. 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.

86-13. 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.

DIVISION 3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

86-14. Designation. The Town Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

86-15. 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 Division 7 of this ordinance.

86-16. 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) Any individual who was delegated duties by the Flood Plain Administrator shall 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.

86-17. Substantial improvement and substantial damage determinations and calculations. All improvements, modifications, and/or additions to all existing structures shall be calculated cumulatively for ten years from the date of the initial issue date of the permit. Additionally, all reconstruction and/or repairs to a damaged structure shall be calculated cumulatively for ten years from the date of the initial permit date.

- (1) *Substantial improvement.* Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure taking place during a ten year period, the

cost of which equals or exceeds 50 percent of the market value of the building before the "start of construction," or any addition, combination or accumulation of additions which increases the floor area of a structure by 50 percent regardless of cost or value. This includes structures that have incurred "substantial damage". Regardless of the actual repair work performed:

- a. For the purposes of this section, the costs of improvements for a project shall be obtained from one of the following sources:
 1. Detailed cost estimate from the licensed general contractor of record in the form of a cost itemization affidavit; or
 2. Professional construction estimation software, such as Marshall and Swift, or the Federal Emergency Management Agency's (FEMA) substantial damage estimation program FEMA P-758.
- b. For the purposes of this section, the market value shall be established by the property appraisals used for tax assessment purposes with an adjustment recommended by the Pinellas County Property Appraiser to reflect market conditions (adjusted assessed value).
- c. For structures in which the substantial improvement percentage is greater than or equal to 40 percent, a more precise market value may be required.

(2) Substantial damage. Damage to a structure of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition which equals or exceeds 50 percent of the market value of the structure before the damage occurred.

- a. Cost to repair a structure shall be calculated for full repair to the building before damage condition, even when the owner elects not to restore the building to its prior state. Cost to repair shall also include the cost of any improvement that the owner has opted to include during the repair project. For the purposes of this section, the cost to repair shall be obtained from one of the following objective third party sources:
 1. A licensed general contractor;
 2. Professional construction estimation software, such as Marshall and Swift or the Federal Emergency Management Agency's (FEMA) substantial damage estimation program FEMA P-758;
- b. Market value shall be calculated as set forth in subsection (1)b., above.
- c. For structures in which the substantial damage percentage is greater than or equal to 40 percent, a more precise market value may be required.

(3) Tracking of substantial improvement and substantial damage, repairs and additions to existing structures. Improvement value divided by market value equals percent improvement. Percent improvement accumulates over life of building. When during the ten-year period; the cost equals or exceeds 50 percent; building must be brought into conformance with the flood damage prevention requirements of this ordinance.

Example:

$$\$20,000.00/\$100,000.00 = 20 \text{ percent improvement in 1990}$$

$\$10,000.00/\$120,000.00 = 8$ percent improvement in 1991

$\$28,600.00/\$130,000.00 = 22$ percent improvement in 1999

Cumulative improvement from 1990 to 1999 = 50 percent of building value and building must be brought into conformance.

86-18. 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.

86-19. 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.

86-20. Inspections. The Floodplain Administrator shall make the required inspections as specified in Division 6 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.

86-21. Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 86-17;
- (2) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
- (3) Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* to determine that such certifications and documentations are complete;
- (4) Notify the Federal Emergency Management Agency when the corporate boundaries of Indian Shores are modified; and
- (5) 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."

86-22. 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 Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and 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 Indian Shores Building Department.

DIVISION 4 PERMITS

86-23. 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.

86-24. 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.

86-25. Buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this ordinance:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and

assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

86-26. Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Section 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.

86-27. 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.

86-28. 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.

86-29. 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.

86-30. Other permits required. Floodplain development permits and building permits shall include a condition that all other applicable county, state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The South West Florida Water Management District; section 373.036, F.S.

- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C., and Pinellas Count water, wastewater or reclaimed water permits as applicable.
- (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.
- (4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (6) Federal permits and approvals.
- (7) Pinellas County Navigation Control Authority for docks and work in the Intra-coastal waterway.

DIVISION 5 SITE PLANS AND CONSTRUCTION DOCUMENTS

86-31. 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 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 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.

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 licensed and 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.

86-32. 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 activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V and AE), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

86-33. 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.

DIVISION 6 INSPECTIONS

86-34. General. Development for which a floodplain development permit or approval is required shall be subject to inspection.

86-35. 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.

86-36. 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.

86-37. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Division 5 of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

86-38. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 86-106.4 of this ordinance.

DIVISION 7 VARIANCES AND APPEALS

86-39. General. The Board of Adjustment shall hear and decide on requests for variances and appeals from determinations of the Floodplain Administrator or Building Official pursuant to Chapter 110 of the Town of Indian Shores Land Development Code.

86-40. Appeals. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

DIVISION 8 VIOLATIONS

86-41. 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.

86-42. 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.

86-43. 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, including but not limited to, Section 1-16 of the Town of Indian Shores Code of Ordinances, or under applicable *Florida Statutes*.

DIVISION 9 DEFINITIONS

86-44. Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

86-45. 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.

86-46. 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.

86-47 Definitions.

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

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

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

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

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

Coastal construction control line. The line established by the State of Florida pursuant to section 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, V, or AE.

Costs of improvements or repairs. The cost of all improvements, the costs to repair all damage to pre-damage condition regardless of how much repair an owner elects to perform, or a combination of all improvement costs and all costs to repair. Costs may be established as provided in Section 86-17(2).

Declaration of Land Restriction (Nonconversion Agreement). A form provided by the Floodplain Administrator to be signed by the owner and recorded on the property deed in Official Records of the Clerk of Courts, for the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, enclosures below elevated buildings.

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

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

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

depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not 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 May 21, 1971.

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:

- (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.

Flood hazard area. The greater of the following two areas:

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

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.

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.

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this ordinance.

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 12 Historic Buildings.

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

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

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

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

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

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 chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel, calculated as provided in Section 86-17.

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 September 1, 1993 and includes any subsequent improvements to such structures.

Repetitive Loss Property. Flood-related damage sustained by a structure on two or more separate occasions during a 10-year period for which the cost of repairs at the time of the flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

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.

Start of construction. The date of issuance of permits for new construction and substantial improvements, 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.

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition or

improvement of a building or structure taking place during a 10-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 10-year period is calculated retroactively, beginning from the date the permit application is received. If the structure has sustained 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, Section 202.]

- (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.

ARTICLE II.- FLOOD RESISTANT DEVELOPMENT

DIVISION 1 BUILDINGS AND STRUCTURES

86-61. Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to Section 86-25 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 Division 7 of this ordinance.

86-62. Buildings and structures seaward of the coastal construction control line.

- (1) No new construction or substantial improvement of any structure shall be permitted west or seaward of the coastal construction control line.
- (2) The Town shall not permit, support or finance any projects involving construction seaward beyond the coastal construction control line, such as but not limited to the following:
 - a. New local transportation corridors or public roads.
 - b. Sewer, water or utility line extension or expansion.

86-63. General Standards.

- (1) All areas of the Town of Indian Shores is a special flood hazard area, all development sites including new construction and substantial improvement shall be reasonably safe from flooding, and meet the following provisions:
 - a. The Town of Indian Shores hereby establishes a four-foot freeboard above the FEMA established base flood elevation. The bottom of the lowest horizontal structural member must meet this requirement.
 - b. All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - c. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

- d. All new construction or substantial improvement shall be constructed by methods and practices that minimize flood damage.
- e. All utilities including the electrical, heating, ventilation, plumbing, air condition equipment, ducts etc. shall be elevated above the base flood level plus the four-foot freeboard.
- f. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities including duct work, shall be designed and/or located to prevent floodwater from entering or accumulating within the components during conditions of flooding.
- g. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- h. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- i. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- j. Any alteration, repair, construction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said nonconformity is not furthered, extended or replaced.
- k. Adequate drainage is provided to reduce exposure to flood damage.
- l. All activities in the Town of Indian Shores that may be hazardous to public health or water quality are prohibited.
- m. All new development in the Town of Indian Shores is required to avoid or minimize disruption to shorelines, stream channels and their banks.
- n. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

86-64. Specific Standards

All areas in the Town of Indian Shores are in a special flood hazard zone, where base flood elevation data has been provided by FEMA. The following provisions are required:

- (1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, the bottom of the lowest horizontal structural member including basement, all utilities including the electrical, heating, ventilation, plumbing, and air condition equipment, ducts, etc. shall be elevated to or above base flood elevation plus four feet freeboard.
- (2) Nonresidential construction. Includes new construction or substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement all utilities including the electrical, heating, ventilation, plumbing, and air condition equipment, ducts, etc. shall be elevated to or above base flood elevation plus four feet freeboard.
- (3) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the building official.

- a. All structures erected in the Town of Indian Shores, each of the following four design criteria must be met for new and substantially improved buildings that have enclosed areas below the BFE plus four feet freeboard as established by the Town of Indian Shores with openings designed and certified by a design professional:
 1. There must be a minimum of two openings on different sides of each enclosed area. If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to enter.
 2. The total area of all openings must be at least one square inch for each one square foot of enclosed area.
 3. The bottom of each opening can be no more than one foot above the adjacent grade.
 4. Any louvers, screens, or other opening covers must not block or impede the automatic flow of floodwaters into and out of the enclosed area.
 5. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- b. All new buildings and structures erected in the Town of Indian Shores shall be constructed on foundations that are approved by a licensed professional engineer, supported on pilings and/or columns and adequately anchored to such supports to resist collapse and lateral movement from wind and velocity water pressures. Spread footings and fill shall not be used for structural support purposes. Foundations must be designed to transfer safely to the under-laying soil all loads due to wind, water, dead load, live load, and other loads, including uplift due to wind and water. These areas have special flood hazards associated with high-velocity waters from tidal surge and hurricane wave wash; therefore, the following provisions shall apply:
 1. All buildings or structures shall be located landwards of the reach of the mean high tide and east of the Coastal Construction Control Line.
 2. All buildings or structures shall be elevated so that the bottom of the lowest supporting member is located no lower than the base flood elevation plus four feet freeboard as established by the Town of Indian Shores. With all space below the lowest supporting member, open so as not to impede the flow of water, except for breakaway walls.
 3. All buildings or structures shall have an "as built survey" and an "elevation certificate" that verifies the elevation of the bottom of the lowest horizontal structural member based on NAVD 88.
 4. All buildings or structures shall be securely anchored on/to pilings to resist flotation, collapse and lateral movement due to effects of wind and water loads.
 5. Pilings or columns used as structural support shall be designed and anchored to withstand all applied loads of the base flood flow. Determining an appropriate embedment depth requires consideration of several factors; pile depth necessary to resist vertical, uplift, and horizontal loads; anticipated

scour depth or elevation at the side; existing ground elevation; base flood elevation, etc.

6. Pile spacing. The design ratio of pile spacing to pile diameter shall not be less than eight to one for individual piles; however this would not apply to pile clusters located below the design grade. The maximum center-to-center spacing of woodpiles shall not be more than 12 feet on center under load bearing sills, beams, or girders.
7. Pile embedment. Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of eight feet below mean sea level (msl) datum if the BFE is ten feet msl or less, or to at least ten feet below msl if the BFE is greater than ten feet msl. Additional guidance on pile embedment, including load embedment tables for different soil and pile types, is provided in the Coastal Construction Manual.
8. Column action. Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. To withstand wind and water forces, pilings bracing may be horizontal or diagonal.
9. Pile standards. The minimum acceptable sizes for timber piles are a tip diameter of eight inches for round timber piles and eight by eight inches for timber piles. All woodpiles must be treated in accordance with requirements of AWPA-C3 to minimize decay and damage from fungus. Reinforced concrete piles shall be cast of concrete having a 28-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than one percent nor more than four percent of the gross concrete area. Reinforcement for precast piles shall have a concrete cover of not less than one and one-quarter inches for No. 5 bars and smaller and not less than one and one-half inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two inches.
10. These values may be modified by a design professional registered with the State of Florida.
11. There shall be no fill used as structural support.

(5) Breakaway walls shall be allowed below the base flood elevation plus four feet. Provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

- a. Design safe loading resistance of each wall shall be not less than ten nor more than 20 pounds per square foot. If more than, 20 pounds per square foot, a registered engineer or architect shall certify that the designed wall would collapse from result of a water load less than that, which would occur during the base flood event, and the elevated portion of the building and section supporting foundation

system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Maximum wind and water loading values to be used in this determination shall each have one percent chance of being equaled or exceeded in any given year.

- b. Window openings shall be limited to the minimum required for light and ventilation (maximum of one-twentieth of the floor area served).
- c. Walls shall be of flood resistant materials.
- d. If breakaway walls are utilized, such enclosed space shall not be usable for human habitation but shall be designed to be usable only for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises.
- e. Prior to construction, plans for any structure that will have breakaway walls must be submitted to the building department for approval.

(6) Any alteration, repair, reconstruction or improvements to a structure started after the enactment of this article shall not enclose the space below the lowest horizontal structural member unless breakaway walls are used as provided in F.S. ch. 161 this area may not be used a habitable space.

86-65 Florida Building Code Modifications; Specifics

- (1) Modify Section R322.2 of the Florida Building Code, Residential, as follows:
 - a. R322.2 Flood hazard areas (including A Zones). All flood hazard areas of the Town of Indian Shores are designated coastal high hazard areas and all dwellings shall be designed and constructed in accordance with Section R322.3.
- (2) Modify Section R322.3.2 of the Florida Building Code, Residential, as follows:
 - a. R322.3.2 Elevation requirements. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the bottom of the lowest horizontal structure members supporting the lowest floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 4 feet or the design flood elevation, whichever is higher.
 - b. R322.3.3 Foundations. Buildings and structures erected in coastal high-hazard areas and Coastal A Zones shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. The space below the elevated building shall be either free of obstruction or, if enclosed with walls, the walls shall meet the requirements of Section R322.3.4. Site-specific flood conditions, flood loads, and combination of loads used to develop foundation designs shall be determined in accordance with ASCE 24 and ASCE 7. Piling and column foundations shall be designed and constructed in accordance with ASCE 24 and FBC, Building Chapter 18. Foundation design and installation shall be certified in accordance with Section R322.3.6. Spread footing, mat, raft or other foundations that support columns shall not be permitted where soil investigations that are required in accordance with Section R401.4 indicate that soil material under the spread footing, mat, raft or other foundation is subject to scour or erosion from wave-velocity flow conditions. If permitted, spread footing, mat, raft or other

foundations that support columns shall be designed in accordance with ASCE 24. Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of buildings and structures and their foundations to prevent transfer of flood loads to the buildings and structures during conditions of flooding, scour or erosion from wave-velocity flow conditions, unless the buildings and structures and their foundations are designed to resist the additional flood load. See FEMA P-55, Coastal Construction Manual, for guidance on the design and construction of buildings in coastal high hazard areas.

- i. Exception: In Coastal A Zones, stem wall foundations supporting a floor system above and backfilled with soil or gravel to the underside of the floor system shall be permitted provided the foundations are designed to account for wave action, debris impact, erosion and local scour. Where soils are susceptible to erosion and local scour, stem wall foundations shall have deep footings to account for the loss of soil.
- c. Modify Section R322.3.4 of the Florida Building Code, Residential, as follows:
 - i. R322.3.4 Walls below design flood elevation. Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are not part of the structural support of the building or structure and are designed in accordance with the requirements of ASCE 24 for enclosed areas. Window openings are limited to the minimum required for light and ventilation (maximum of one-twentieth of the floor area served).
- d. Modify Section R322.3.5 of the Florida Building Code, Residential, as follows:
 - i. R322.3.5 Enclosed areas below the design flood elevation. Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

(3) Modify Section 107.3.5 of the Florida Building Code, Building, as follows:

- a. 107.3.5 Minimum plan review criteria for buildings.
 - i. Commercial Buildings: Building
 1. 8. Structural requirements shall include:
 2. Flood requirements in accordance with Section 1612, including lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), flood damage-resistant materials.
 - ii. Residential (one- and two-family):
 1. 6. Structural requirements shall include:
 - a. Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land

restriction (nonconversion agreement), equipment, and flood damage-resistant materials.

(4) Modify Section 1612.4 of the Florida Building Code, Building, as follows:

- a. 1612.4 Design and construction. The design and construction of buildings and structures located in flood hazard areas, including coastal high hazard areas, shall be in accordance with Chapter 5 of ASCE 7 and with the requirements for coastal high hazard areas specified in ASCE 24.
 - i. 1612.4.1 Modification of ASCE 24. Table 6-1 and Section 6.2.1 in ASCE 24 shall be modified as follows:
 1. All areas of the town of Indian Shores is designated coastal high hazard area and buildings and structures shall be designed and construction in accordance with the requirements applicable to coastal high hazard areas.
 2. The minimum elevation requirement the base flood elevation plus 4 feet.
 3. Dry floodproofing is not permitted.
 4. Window openings are limited to the minimum required for light and ventilation (maximum of one-twentieth of the floor area served).
 5. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

(5) Substantial Improvements referenced in the Florida Building Code shall be defined and calculated in accordance with Section 86-17 of this ordinance.

86-66. Required Disclosure in Contracts for Sale of Real Estate.

In any contract for the sale of improved real estate located in the Town of Indian Shores, which is in a special flood hazard area, the seller shall include in the contract or a rider to the contract the following disclosure in not less than ten-point bold-faced type:

THIS HOME OR STRUCTURE IS LOCATED IN A SPECIAL FLOOD HAZARD AREA. IF THIS HOME OR STRUCTURE IS BELOW THE APPLICABLE FLOOD ELEVATION LEVEL AND IS SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED, AS DEFINED IN CHAPTER 86 OF THE TOWN OF INDIAN SHORES CODE OF ORDINANCES, IT MAY, AMONG OTHER THINGS, BE REQUIRED TO BE RAISED TO THE APPLICABLE FLOOD ELEVATION LEVEL.

DIVISION 2 SUBDIVISIONS

86-67. Minimum requirements. All subdivision proposals shall be consistent with the need to minimize flood damage and shall comply with the requirements, standards, and procedures for subdividing lands a specified in Chapter 98. 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.

86-68. Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 86-105.2(1) of this ordinance; and
- (3) Compliance with the site improvement and utilities requirements of Division 203 of this ordinance.

DIVISION 3 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

86-69. 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.

86-70. 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.

86-71. 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.

86-72. 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*.

86-73. Limitations on sites in coastal high hazard areas (Zone V and AE). In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 86-105.3(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 Section 86-207.8(3) of this ordinance.

DIVISION 4 OTHER DEVELOPMENT

86-74. 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 or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

86-75. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V and AE). 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.

86-76. Decks and patios in coastal high hazard areas (Zone V and AE). In addition to the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the

foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

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

86-77. Other development in coastal high hazard areas (Zone V and AE). 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 runup 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.

86-78. Nonstructural fill in coastal high hazard areas (Zone V and AE). 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 runup 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 runup 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.

SECTION 3. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in The Town of Indian Shores, Florida. 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 4. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the Town Council that the provisions of this ordinance shall become and be made a part of the Town of Indian Shores' Land Development Code, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. CONSISTENCY WITH COMPREHENSIVE PLAN.

The Town Council does hereby certify that this Ordinance is consistent with the Town's Comprehensive Plan and elements thereof adopted pursuant to the Florida Community Planning Act, *Florida Statute § 163.3161*, et. seq.

SECTION 6. 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 7. EFFECTIVE DATE.

This ordinance shall take effect immediately after its passage in the manner provided by law.

PASSED on first reading

PASSED and ADOPTED in regular session, with a quorum present and voting, by the Town Council upon second and final reading

Town of Indian Shores, FL

Mayor Patrick Soranno

ATTEST:

Freddie Lozano
Town Clerk

APPROVED AS TO FORM:

Regina Kardash, Esq.
Town Attorney