

CHAPTER 4: BUILDINGS AND BUILDING REGULATIONS

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ARTICLE I: IN GENERAL

Section

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§ 4-1 FLORIDA BUILDING CODE ADOPTED.

The Florida Building Code as adopted by Broward County, Florida, and as it may be subsequently amended from time to time, shall be the Building Code of the town.
(Ord. 78, § 1, passed 10-6-1969; Am. Ord. 213, passed 7-8-2003)

Cross-reference:

Fire Code adopted, to be supplemental to Building Code, see §§ 5-1/2-2, 5-1/2-3

Statutory reference:

Authority to adopt published codes by reference, see F.S. § 553.73

§ 4-1.1 PERMITS ISSUED PRIOR TO MARCH 1, 2002.

All open and active permits issued prior to Florida Legislature's effective date of the Florida Building Code, March 1, 2002, shall continue to be governed by the South Florida Building Code, and all references to the Florida Building Code in this chapter may be read South Florida Building Code.
(Ord. 213, passed 7-8-2003)

§ 4-2 CODE; ENFORCEMENT.

The Town Commission, by the adoption of this chapter of this code, hereby empowers the proper and appropriate officers and employees of the town to regulate, control and enforce the Florida Building Code as the building code of the town.

(Ord. 78, § 2, passed 10-6-1969; Am. Ord. 213, passed 7-8-2003)

§ 4-3 VIOLATIONS.

(A) Any person who violates any of the provisions of or the regulations and instructions promulgated under the authority of the Florida Building Code shall be guilty of a misdemeanor and shall be subject to a fine not exceeding \$500 or imprisonment not to exceed 60 days or both.

(B) For the enforcement of this provision, each day that a violation shall be permitted to continue by the offender after having been notified of the violation by the municipality, its agents or employees, shall be considered and treated as a separate and distinct offense.

(Ord. 78, § 3, passed 10-6-1969; Am. Ord. 213, passed 7-8-2003)

§ 4-3.1 EASTERLY BUILDING LINE; ESTABLISHED.

(A) The easterly building line as depicted in the plans and drawings of R.C. Fish and Associates, Inc., attached hereto, be and is hereby declared to be the easterly building line of the Town of Hillsboro Beach, Florida.

(B) The Town Clerk is hereby authorized and directed to record this survey in the books and records of the Clerk of the Circuit Court of Broward County, Florida, as effective notice to all property owners of the Town of Hillsboro Beach as to the existence and location of the easterly building line.

(C) No building permits shall hereinafter be issued for the erection of any building or structure by the Town Clerk or other official of the Town of Hillsboro Beach whereby the building or appurtenance thereto sought to be erected shall encroach upon the easterly building line as hereinbefore described. This section shall not apply to swimming pools which have been covered by other ordinances of the Town of Hillsboro Beach.

(Ord. 69, §§ 1—3, passed 5-9-1966)

Cross-references:

Fire prevention and protection, see Ch. 5-1/2

Garbage and trash, see Ch. 6

House trailers, see Ch. 7, Art. II

Signs, see Ch. 12, Div. 6

Water, see Ch. 10

Zoning, see Ch. 12, Div. 5

§ 4-4 EASTERLY BUILDING LINE; EXTENDED.

(A) The easterly building line extension as depicted in the plans and drawings of Arthur V. Strock and Associates, Inc., attached hereto, be and is hereby declared to be the extension of the easterly building line of the town.

(B) The Clerk is hereby authorized and directed to record this survey in the books and records of the Clerk of the Circuit Court of Broward County, Florida, as effective notice to all property owners of the town as to the existence and location of the easterly building line extension.

(C) No building permits shall hereinafter be issued for the erection of any building or structure by the clerk or other official of the town whereby the building or appurtenance thereto sought to be erected shall encroach upon the easterly building line as hereinbefore described.

(Ord. 87, § 3, passed 7-16-1973)

§ 4-5 PAYMENTS IN LIEU OF TAXES.

From the date of issuance of a certificate of occupancy on new buildings, the builder shall pay to the town for all services \$100 per apartment or dwelling unit, per month, for the remainder of the town's fiscal year and until the building appears on the tax rolls of the town. The payment for that service shall be in advance at the time the certificate of occupancy is issued. An additional annual payment of this fee shall be made in the instance where the building is not added to the tax roll on January 1.

(Ord. 166, § 1, passed 5-4-1992)

§ 4-6 REMOVAL OF SAND UNLAWFUL.

It shall be unlawful for any person or firm to remove, or permit to be removed, from within the municipal limits of the Town of Hillsboro Beach, any sand, earth, soil, dirt or other similar material, excavated during any phase of construction.

(Ord. 203, § 1, passed 10-2-2001)

§ 4-7 UNDERGROUND WIRING.

(A) *Requirements and exceptions.* In new residential developments and other land development projects, all utility lines, including but not limited to those required for electrical power distribution, telephone and telegraph communications, cable television, street lighting, electrical distribution system, including service lines to individual properties necessary to serve the development under consideration, shall be installed underground. Telephone and cable television utility lines may be attached to Florida Power and Light electrical transmission facilities when such are allowed by the provisions of this section. Appurtenances such as transformer boxes, pedestal-mounted terminal boxes and meter cabinets may be placed above ground on a level concrete slab and shall be located in such a manner as to minimize noise

effects upon the surrounding residential properties. All underground wires shall be buried a minimum of 18 inches below the finished ground line.

(B) *Easements.* Recorded easements shall be provided for the installation of all underground utilities facilities, in conformance with such size and location of easements as may be determined by the town to be compatible with the requirements of all utility companies involved with respect to a particular utility service.

(C) *Arrangements with persons furnishing utility services.*

(1) The owner or developer shall make the necessary financial compensation and other arrangements for the underground installation with each of the franchised utilities that are involved with respect to a particular development.

(2) The owner or developer shall submit written evidence of a satisfactory arrangement with each of the franchised utilities involved with respect to a particular development before the final site development plan of the project is submitted to the Planning Board for its consideration.
(Ord. 225, passed 3-6-2007)

§§ 4-8 — 4-15 RESERVED.

ARTICLE II: CONTRACTORS

Section

- 4-16 Definitions
- 4-17 Toilets required on construction sites; types permitted
- 4-18 Limitation on hours of construction
- 4-19 — 4-64 Reserved

§ 4-16 DEFINITIONS.

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

HUMAN EXCRETA. The bowel and kidney discharge of human beings.

SANITARY WATER CLOSET. Any flush toilet which is properly connected with the city sewer or septic tanks of approved construction.

§ 4-17 TOILETS REQUIRED ON CONSTRUCTION SITES; TYPES PERMITTED.

(A) Every building contractor, general contractor or other contractor engaged in the work or construction of new buildings in which human beings are employed or congregate, shall be required to have a sanitary method of disposing of human excreta, either a sanitary water closet or toilet that is connected with a city disposal plant or an approved type of septic tank or privy.

(B) When sanitary sewers have been completed in the town, septic tanks or privies shall no longer be permitted.

(Ord. 32, § 1, passed 5-11-1955)

§ 4-18 LIMITATION ON HOURS OF CONSTRUCTION.

(A) It shall be unlawful for any person to perform labor or work, or to operate or conduct any construction enterprise in the town on new construction or remodeling of present improvements, except between the hours of 8:00 a.m. to 6:00 p.m. on weekdays only, from November 1 of each year to April 1 of the succeeding year; and except between the hours of 7:00 a.m. to 6:00 p.m. during the remaining part of the year on weekdays only. For minor remodeling or repair work conducted on the interior of

a residential enclosed structure, the work may be conducted on weekends in residential units during the same time limitations set forth herein above so long as where the location or sites of the work is not so close to inhabited domiciles, apartments or hotels that the noise emanating from the operation of the minor remodeling or repair work shall disturb or is detrimental to the health, business and quiet enjoyment of any occupant or neighbor thereof. No construction activity shall take place in the town on Thanksgiving, Christmas and New Year's Day.

(B) In the event any emergency exists or conditions with reference to the operation of any such business or enterprise are such that it would be unjust and inequitable for the same not to be operated during the prohibited hours, upon application made to the Clerk and after an investigation has been made, the Clerk may issue a permit authorizing the operation of the construction for a limited period of time.

(C) It is the purpose and intention of this provision to include all types of construction work on any and all types of improvements. Its terms shall include seawalls, bridges, boats, docks, buildings of every nature and kind.

(Ord. 35, § 1, passed 1-11-1956; Am. Ord. 224, passed 3-6-2007)

§§ 4-19 — 4-64 RESERVED.

ARTICLE III: BUILDING PERMITS

Section

- 4-65 Required
- 4-66 Application; plot plan; plans and specifications required
- 4-67 Permit fee schedule
- 4-68 Issuance; enforcement
- 4-69 Term; final inspection required
- 4-70 Violation; penalty
- 4-71 Surveys required
- 4-72 — 4-89 Reserved

§ 4-65 REQUIRED.

(A) Any improvement, alteration or modification of real estate or the erection of any structure thereon, including fences, walls and the like, shall require the issuance to the owner or his or her contractor of an appropriate permit by the Town Clerk or, in her absence, by the Town Building Official.

(B) No construction shall be commenced prior to obtaining the required permit except in the case of an emergency. It shall be the duty of the Development Review Officer (DRO) to determine if there is an "emergency".

(C) Any applicant who feels they have been wronged by the DRO in any such determination may appeal this decision to the Town Commission. For the purposes of this section, the Town Building Official shall be the Broward County Building and Zoning Division or its designated employees. (Ord. 166, § 5, passed 5-4-1992)

§ 4-66 APPLICATION; PLOT PLAN; PLANS AND SPECIFICATIONS REQUIRED.

(A) All applications for building permits shall be filed with the Clerk and shall be accompanied by a plot plan drawn to scale, showing the actual dimensions, angles and radii of the lot to be built upon, the size of the building and accessory buildings to be erected, and buildings previously erected with proposed alterations, if any; their location on the lot, and such other information as may, in the opinion of the Clerk, be necessary.

(B) Plans and specifications of proposed buildings and structures, or alterations thereto shall be accepted by the Clerk, provided however, that the plans and specifications shall be prepared by a registered architect of the state and that the plans and specifications shall bear the seal of the architect; the plans and specifications shall be accompanied by a certificate of a registered architect of the state setting forth the number of cubic feet contained within the proposed structure, if it is possible to determine the cubical content.

(Ord. 18, §§ 1, 2, passed 10-12-1950)

Editor's note:

In effect, § 1 of Ord. 123, adopted 1-9-1984, repealed 4-65 and 4-67 through 4-70, which pertained to building permits and derived from Ord. 57, §§ 2, 4 through 6, adopted 9-24-1962; Ord. 93, §§ 3 through 8, adopted 12-2-1974; and Ord. 119, adopted 12-6-1982. Sections 2 through 8 of said Ord. 123 did not specifically amend the code; hence, inclusion within 4-65 and 4-67 through 4-70 was at the discretion of the original editor

§ 4-67 PERMIT FEE SCHEDULE.

(A) *Definitions.* For the purpose of this section the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

CONSTRUCTION COST.

(a) In the case of new construction or additions to an existing structure, the greater of: the product of \$175 times the total square footage under roof being constructed or added, except for multi-family covered parking and storage areas which shall be computed at \$75 times the total square footage under roof being constructed or added; or the cost of construction as shown on the document of construction cost verification.

(b) In all other instances, the actual cost of the work to be performed obtained from the document of construction cost verification.

DOCUMENT OF CONSTRUCTION COST VERIFICATION. A document which is submitted with the original permit application that is the original or a copy of the signed contract describing the construction work to be done and the cost of the work, and which bears the signature of the property owner of record or their authorized representative (trustee, power of attorney or agent established by a notarized letter of authorization), or, a notarized statement from the property owner of record stating the price to be paid for the work being done.

TOTAL COST OF PERMIT. The sum of the permit fee, as defined in subsection (B) below, and all applicable miscellaneous fees, as defined in subsection (C) below.

(B) *Permit fees.* The permit fee schedule of the Broward County Building Department, as currently exists or may be amended, is hereby adopted as the fee schedule for the Town of Hillsboro Beach.

(C) *Miscellaneous fees.*

(1) Starting work prior to obtaining the required permit (except in the case of an emergency): \$10 per calendar day, with a minimum of \$100, from the date of application through the date of permit issuance, excluding time in review in the town offices. In the case of an emergency, the permit must be obtained as soon as possible, but no later than 30 days from the application submittal.

(2) Administrative surcharge: A permit surcharge, based upon the construction cost as defined in this section, shall be levied on all permits for which application is made as cost recovery for processing the application through the town's offices. The surcharge shall be as follows:

\$25	Where the construction cost is less than or equal to \$1,000
\$50	Where the construction cost is greater than \$1,000 but less than or equal to \$4,000
0.75% of the construction cost	Plus \$20 where the construction cost is greater than \$4,000
This surcharge shall be due and payable regardless of whether the permit is approved and issued, disapproved or withdrawn by the applicant.	

(Ord. 166, §§ 6, 7, passed 5-4-1992; Ord. 189, § 1, passed 2-3-1998; Ord. 197, § 1, passed 6-11-2000; Ord. 198, § 1, passed 6-12-2000; Ord. 204, §§ 1, 2, passed 10-2-2001; Am. Ord. 213, passed 7-8-2003; Am. Ord. 219, passed 1-10-2006)

§ 4-68 ISSUANCE; ENFORCEMENT.

The Town Clerk and Town Building Official are hereby authorized to issue permits and levy charges in accordance with the fee schedule set forth herein and to collect fees and charges in accordance with this article. The Building Inspector and Police Department are hereby authorized to enforce the provisions of this article.

(Ord. 123, § 4, passed 1-9-1984; Ord. 153, § 5, passed 10-2-1989)

§ 4-69 TERM; FINAL INSPECTION REQUIRED.

(A) The term of permits issued within the Town of Hillsboro Beach shall be in accordance with § 104.9.3 of the Florida Building Code, Broward County Administrative Provisions, as presently exists or as hereinafter may be amended.

(B) References to "Building Official" in § 104.9.3 of the Florida Building Code, Broward County Administrative Provisions, shall be construed to read "Building Official or Hillsboro Beach Commission".

(C) Upon completion of the work authorized by an issued permit, the person or firm obtaining the permit is required to request a final inspection on the work performed. Failure of the person or firm to

request and receive this inspection shall cause future permits to that person or firm to be delayed until the inspection has been requested and approved.

(Ord. 166, § 8, passed 5-4-1992; Am. Ord. 213, passed 7-8-2003)

§ 4-70 VIOLATION; PENALTY.

(A) Any person, firm or corporation who shall violate any of the provisions of this article hereby adopted; or shall fail to comply therewith; or shall violate or fail to comply with any order made thereunder; or shall build in violation of any details, statements, specifications or plans submitted or approved thereunder; or shall operate not in accordance with the provisions of any certificate, permit or approval issued thereunder who shall fail to comply with such an order of a designated building official of the town shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 5 days nor more than 30 days or by both such fines and imprisonment.

(B) The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All such persons, firms or corporations shall be required to correct or remedy such violations or defects and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 153, § 8, 10-2-1989; Ord. 123, § 8, passed 1-9-1994)

§ 4-71 SURVEYS REQUIRED.

(A) Upon placement of the form boards of a structure, and prior to obtaining an inspection to pour concrete within that area, a survey shall be submitted to the Building Department showing the setback of the building from all 4 property lines. This survey shall be checked against the approved set of plans to verify the correct placement of the structure upon the property.

(B) Prior to the final inspection of the structure, a survey shall be submitted to the Building Department showing the setback of the building from all 4 property lines, measured to the roof overhang of the building. Additionally, this survey shall also indicate the height of the building, at its highest point, measured from the average dune elevation, for properties on the east side of SR A1A, or the average roadway crown elevation of SR A1A, for properties on the west side of SR A1A. The permitted height shall be determined by survey figures at the time of permitting. This survey shall be checked against the approved set of plans to verify the correct placement of the structure upon the property as well as conformance to the height restrictions.

(Ord. 214, passed 12-2-2003)

§§ 4-72 — 4-89 RESERVED.

ARTICLE IV: FLOOD DAMAGE PROTECTION

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DIVISION 1: GENERALLY**§ 4-90 STATUTORY AUTHORIZATION.**

The Legislature of the State of Florida has by law delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Town of Hillsboro Beach, State of Florida, does ordain the provisions set forth in this article.

(Ord. 143, Art. 1, § A, passed 4-6-1987)

§ 4-91 STATEMENT OF PURPOSE.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damage, increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. 143, Art. 1, § B, passed 4-6-1987)

Editor's note:

Ord. 143, Arts. 1 through 5, adopted 4-6-1987, enacted revised flood damage prevention regulations, codified herein as superseding former Art. IV, §§ 4-90 through 4-101, which pertained to the same subject matter and was derived from Ord. 103, Art. I (B) through (D), Arts. II through V, adopted 4-3-1978; and Ord. 118, § 1, adopted 10-4-1982. Provisions of Ord. 143 are designated herein as 4-90 through 4-100, 4-106 through 4-109, 4-116 through 4-118.

§ 4-92 OBJECTIVES.

The objectives of this article are:

- (A) To protect human life and health;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions;
- (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (F) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas; and
- (G) To ensure that potential home buyers are notified that property is in a flood area.
(Ord. 143, Art. 1, § C, passed 4-6-1987)

§ 4-93 DEFINITIONS.

For the purpose of this article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ADDITION (TO AN EXISTING BUILDING). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

APPEAL. A request for a review by the Town Commission of the Town of Hillsboro Beach's interpretation of any provision of this article or a request for a variance.

AREA OF SHALLOW FLOODING. A designated VO Zone on a community's flood insurance rate map (FIRM) with base flood depths from 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING. Any structure built for support, shelter or enclosure for any occupancy or storage.

COASTAL HIGH HAZARD AREA. The area subject to high velocity waters caused by, but not limited to, hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V 1-30.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or permanent storage of materials.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

FLOOD or FLOODING. A general or temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a **HABITABLE FLOOR**.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

MANGROVE STAND. An assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contains 1 or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia racemosa*); and buttonwood (*Conocarpus erecta*).

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this article.

SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION.

(1) (For other than new construction or substantial improvements under the Coastal Barrier Resources Act, being 16 U.S.C. §§ 3501 *et seq.*, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date.

(2) The actual **START** means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation.

(3) Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE. A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other human-made facilities or infrastructures.

SUBSTANTIAL IMPROVEMENT.

(1) Any combination of repairs, reconstruction, alteration or improvements to a structure, the cumulative cost of which equals or exceeds 50% of the market value of the structure. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring.

(2) For the purposes of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

VARIANCE. A grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

(Ord. 143, Art. 2, passed 4-6-1987)

§ 4-94 LANDS TO WHICH THIS ARTICLE APPLIES.

This article shall apply to all areas of special flood hazard within the jurisdiction of the Town of Hillsboro Beach, Florida.

(Ord. 143, Art. 3, § A, passed 4-6-1987)

§ 4-95 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

(Ord. 143, Art. 3, § B, passed 4-6-1987)

§ 4-96 COMPLIANCE REQUIRED.

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

(Ord. 143, Art. 3, § C, passed 4-6-1987)

§ 4-97 ABROGATION AND GREATER RESTRICTIONS.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 143, Art. 3, § D, passed 4-6-1987)

§ 4-98 INTERPRETATION.

In the interpretation and application of this article, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 143, Art. 3, § E, passed 4-6-1987)

§ 4-99 WARNING AND DISCLAIMER OF LIABILITY.

(A) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations.

(B) Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within those areas will be free from flooding or flood damages.

(C) This article shall not create liability on the part of the Town of Hillsboro Beach or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. 143, Art. 3, § F, passed 4-6-1987)

§ 4-100 PENALTIES FOR VIOLATION.

(A) Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor.

(B) Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case.

(C) Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Hillsboro Beach from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 143, Art. 3, § G, passed 4-6-1987)

§§ 4-101 — 4-105 RESERVED.

DIVISION 2: ADMINISTRATION

§ 4-106 DESIGNATION OF LOCAL ADMINISTRATOR.

The Town Commission of the Town of Hillsboro Beach is hereby appointed to administer and implement the provisions of this article.

(Ord. 143, Art. 4, § A, passed 4-6-1987)

§ 4-107 DUTIES AND RESPONSIBILITIES OF THE TOWN COMMISSION.

Duties of the Town Commission shall include, but not be limited to:

(A) Review of all development permits to assure that the permit requirements of this article have been satisfied;

(B) Advise the permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of the permits be provided and maintained on file with the development permit;

(C) Notify adjacent communities and the State of Florida Department of Community Affairs prior to any alteration or relocation of a watercourse, and submit evidence of the modification to the Federal Emergency Management Agency;

(D) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(E) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 4-108(B) below;

(F) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 4-108(B) below;

(G) In coastal hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is designed to be securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash;

(H) In coastal high hazard areas, the Town Commission shall review plans for adequacy of breakaway walls in accordance with § 4-117(F)(8);

(I) When floodproofing is utilized for a particular structure, the Town Commission shall obtain certification from a registered professional engineer or architect, in accordance with § 4-117(B);

(J) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Town Commission shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;

(K) When base flood elevation data or floodway data have not been provided in accordance with article, then the Town Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Division 3 of this Article; and

(L) All records pertaining to the provisions of this article shall be maintained in the office of the Town Commission and shall be open for public inspection.
(Ord. 143, Art. 4, § C, passed 4-6-1987)

§ 4-108 PERMIT PROCEDURES.

Application for a development permit shall be made to the Town Commission on forms furnished by the town prior to any development activities and may include, but not be limited to, the following: Plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and location of the foregoing. Specifically, the following information is required:

(A) *Application stage.*

(1) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

(3) Certificate from a registered professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 4-117(B); and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(B) *Prepour stage.* After plumbing, rough plumbing, rough electrical and structural steel are in place but prior to the pouring of any footer, foundation or slab, a registered professional engineer or surveyor shall determine the elevation of the ground level upon which each such footer, foundation and slab is to be poured and the location and setback from lot lines of each. The Building Department of the town shall be furnished a survey certified and signed by the engineer or surveyor, setting forth all such elevations, locations and setbacks. No pouring of any footer, foundation or slab shall occur until after the survey has been furnished to and reviewed and approved by the Building Department; and

(C) *Construction stage.* Provide a floor elevation or floodproofing certification after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to coastal high-hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Town Commission a certificate of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the certifications shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Town Commission shall review the floor elevation survey data submitted. Deficiencies detected by the review shall be corrected by a permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stopwork order for the project.

(Ord. 143, Art. 4, § B, passed 4-6-1987; Ord. 147, passed 12-5-1988)

§ 4-109 VARIANCE PROCEDURES.

(A) The Board of Zoning Appeals as established by ordinance shall hear and decide appeals and requests for variances from the requirements of this article.

(B) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Commission in the enforcement or administration of this article.

(C) Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal the decision to the Circuit Court of Broward County, as provided by law.

(D) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for § 4-109(H)(1) and (4), and provided

the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.

(E) In passing upon the application, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article; and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(F) Upon consideration of the factors listed above and the purposes of this article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) Conditions for variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;

(2) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship;
and

(c) A determination that the granting of a variance will not result in increased floor heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(4) The Town Commission shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
(Ord. 143, Art. 4, § D, passed 4-6-1987)

§§ 4-110 — 4-115 RESERVED.

DIVISION 3: PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 4-116 GENERAL STANDARDS.

In all areas of special flood hazard the following provisions are required:

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(B) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground

anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters;

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

(I) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article.

(Ord. 143, Art. 5, § A, passed 4-6-1987)

§ 4-117 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in § 4-95 or § 4-107(K) above, the following provisions, are required:

(A) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, to or above base flood elevations. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 4-117(C).

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial or other nonresidential structure shall either have the lowest floor, including basement or underground garages, elevated to the level of the base flood elevation. Structures located in all A Zones may be floodproofed in lieu of being elevated provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of

buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The certification shall be provided to the official as set forth in § 4-108(C).

(C) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Designs for complying with the requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than 1 foot above grade; and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Electrical, plumbing and other utility connections are prohibited below the base flood elevation;

(3) 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); and

(4) The interior portion of the enclosed area shall not be partitioned or finished into separate rooms.

(D) *Mobile homes or mobile home parks.* No mobile homes or mobile home parks or subdivisions shall be permitted in the Town of Hillsboro Beach.

(E) *Floodways.* Located within areas of special flood hazard established in § 4-95 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

(2) If § 4-117(C)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Division 3.

(F) *Coastal high hazard areas (V Zones)*. Located within the areas of special flood hazard established in § 4-95 are areas designated as coastal high hazard areas. No residential structures shall be constructed in whole or in part in these areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:

(1) All buildings or structures shall be located landward of the reach of the mean high tide;

(2) (a) All buildings or structures shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located at or above base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water;

(b) Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of normal wave action and in accordance with subsection (F)(8) below;

(3) All buildings or structures shall be securely anchored on pilings or columns;

(4) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values which equal or exceed the 100-year mean recurrence interval (1% annual chance flood);

(5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection (F)(2) through (4).

(6) There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects or wave deflection. The Town Commission shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect and/or soil scientist, which demonstrates that the following factors have been fully considered:

(a) Particle composition of fill material does not have a tendency for excessive natural compaction;

(b) Volume and distribution of fill will not cause wave deflection to adjacent properties;

and

(c) Slope of fill will not cause wave run up or ramping.

(7) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;

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(8) Lattice work or decorative screening shall be allowed below the base flood elevation provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which it is to be used and provided the following design specifications are met:

- (a) No solid walls shall be allowed; and
- (b) Material shall consist of lattice or mesh screening only.

(9) If aesthetic lattice work or screening is utilized, the enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles building access, or limited storage of maintenance equipment used in connection with the premises;

(10) Prior to construction, plans for any structures that will have lattice work or decorative screening must be submitted to the Town Commission for approval; and

(11) Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in § 4-117(F)(8) and (9).

(Ord. 143, Art. 5, § B, passed 4-6-1987)

§ 4-118 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of 50 lots or 5 acres.

(Ord. 143, Art. 5, § C, passed 4-6-1987)