

ORDINANCE NO. 2021-009

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 10, "FLOOD PREVENTION AND PROTECTION," ARTICLE II, "APPLICABILITY," SECTION 10-9, "BASIS FOR ESTABLISHING FLOOD HAZARD AREAS;" AND BY AMENDING ARTICLE III, "ADMINISTRATION," DIVISION 5, "VARIANCES AND APPEALS," SECTIONS 10-41, 10-42, 10-43, 10-47, AND 10-48, THEREIN; AND BY AMENDING ARTICLE IV, "DEFINITIONS," SECTION 10-63, "DEFINITIONS;" AND BY AMENDING ARTICLE V, "FLOOD RESISTANT DEVELOPMENT," DIVISION 4, "MANUFACTURED HOMES," SECTION 10-80, "FOUNDATIONS;" BY REPEALING IN THEIR ENTIRETY SECTIONS 10-83, "GENERAL ELEVATION REQUIREMENT," AND 10-84, "ELEVATION REQUIREMENT FOR CERTAIN EXISTING MANUFACTURED HOME PARKS AND SUBDIVISIONS," AND RENUMBERING THE SUBSEQUENT SECTIONS WITHIN DIVISION 4, STARTING AT 10-83; AND BY ENACTING NEW PROVISIONS WITHIN ARTICLE III, "ADMINISTRATION," DIVISION 5, "VARIANCES AND APPEALS," SPECIFICALLY NEW SECTIONS 10-49, "ADDITIONAL VARIANCE CONSIDERATIONS FOR CERTAIN ACCESSORY STRUCTURES," AND 10-50, "ADDITIONAL VARIANCE CONSIDERATIONS FOR AGRICULTURAL STRUCTURES;" AND ENACTING WITHIN ARTICLE V, "FLOOD RESISTANT DEVELOPMENT," DIVISION 1, "BUILDINGS AND STRUCTURES," SPECIFICALLY THE NEW SECTION 10-70, "ACCESSORY STRUCTURES," TO PROVIDE CONSISTENCY WITH CHANGES RECOMMENDED BY THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY RELATING TO FLOODPLAIN MANAGEMENT IN FLOOD HAZARD AREAS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City participates in the National Flood Insurance Program's (NFIP) Community Rating System (CRS), a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements; and

CODING: Words in ~~struck through~~ type are deletions from existing text.  
Words in underscored type are additions to existing text.  
A line of \*\*\* indicates existing text not shown.

**WHEREAS**, the City achieved a CRS rating of Class 7, making City residents eligible for a fifteen percent (15%) discount in the premium costs for NFIP policies issued or renewed in the Special Flood Hazard Area (SFHA); and

**WHEREAS**, on January 1, 2021, the NFIP CRS established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better (the City's rating of Class 7 is better than Class 8); and

**WHEREAS**, to satisfy the prerequisite, and for the City to maintain the current CRS rating, all manufactured homes installed or replaced in the SFHA must be elevated such that the lowest floors are at or above at least the base flood elevation plus one (1) foot, which necessitates modification of the City's existing requirements; and

**WHEREAS**, in addition, NFIP regulations also require that buildings and structures must be elevated to or above the base flood elevation, with an allowance for dry floodproofing of certain structures in the SFHA identified as Flood Zone A/AE; and

**WHEREAS**, in February 2020, Federal Emergency Management Agency (FEMA) released FEMA Policy #104-008-03, Floodplain Management Requirements for Agricultural Structures and Accessory Structures, to provide minimum criteria and variances for accessory and agricultural structures in the SFHA; and

**WHEREAS**, the FEMA Policy specifies conditions and limitations that must be imposed when communities allow property owners to build such structures using dry floodproofing or wet floodproofing techniques when not complying with the NFIP requirements to elevate; and

**WHEREAS**, pursuant to Section 166.021, Florida Statutes, the City has home rule powers and can enact regulations that protect the health, safety, and welfare of the residents of the City of Coconut Creek; and

**WHEREAS**, the City hereby adopts regulations that are consistent with the NFIP regulations and the new FEMA Policy, and follow the model code language approved by the Florida Division of Emergency Management; and

**WHEREAS**, the City Commission desires to amend its Code of Ordinances in order to maintain its NFIP Community Rating and protect the health, safety, and welfare of the residents of the City of Coconut Creek.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:**

**Section 1: Ratification.** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

**Section 2: Amendments.** That the Code of Ordinances of the City of Coconut Creek, Florida, are hereby amended by amending Chapter 10, "Flood Prevention and Protection," Article II, "Applicability," Section 10-9, "Basis for establishing flood hazard areas;" by amending Article III, "Administration," Division 5, "Variances and Appeals," Sections 10-41, 10-42, 10-43, 10-47, and 10-48, therein; by amending Article IV, "Definitions," Section 10-63, "Definitions;" by amending Article V, "Flood Resistant Development," Division 4, "Manufactured Homes," Section 10-80, "Foundations;" by repealing in their entirety Sections 10-83, "General elevation requirement," and 10-84, "Elevation requirement for certain existing manufactured home parks and subdivisions," and renumbering the subsequent sections within Division 4, starting at 10-83, to read as follows:

**Chapter 10 – FLOOD PREVENTION AND PROTECTION**

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**ARTICLE II. – APPLICABILITY**

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**Sec. 10-9. - Basis for establishing flood hazard areas.**

The flood hazard areas identified by FEMA in its currently effective flood insurance study (FIS) for Broward County, Florida and incorporated areas ~~dated October 2, 1997,~~ its FIS dated August 18, 2014 (~~upon that date~~), and all subsequent amendments and revisions to its FIS and accompanying flood insurance rate maps (FIRM) are adopted by reference as part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the floodplain administrator's office.

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**ARTICLE III. – ADMINISTRATION**

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**DIVISION 5. – VARIANCES AND APPEALS**

**Sec. 10-41. - General.**

The planning and zoning board (PZB) shall hear and make a recommendation to the City Commission~~decide on requests for appeals and requests for variances from the strict application of this chapter.~~ Pursuant to Section 553.73(5), Fla. Stat., the City Commission~~PZB shall hear and decide~~have final decision-making authority on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the 2010 Florida Building Code, and as amended. This section does not apply to Section 3109 of the 2010 FBC ~~and as amended, Building, as may be amended.~~

**Sec. 10-42. – Appeals and Enforcement.**

~~The PZB shall hear and decide~~ An appeal alleging s ~~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 chapter~~ must be handled in the manner set forth in Section 13-34, “Appeals,” of the City’s Code of Ordinances. Without limitation to any other rights or remedies available to the City, enforcement of this chapter will proceed pursuant to the City’s Code Enforcement System adopted and codified within Sections 2-226 through 2-239 of the City’s Code of Ordinances. ~~Any person aggrieved by the decision of the PZB may appeal such decision to the circuit court, as provided by Florida Statutes.~~

**Sec. 10-43. - Limitations on authority to grant variances.**

The PZB and City Commission shall base its recommendations and decisions, respectively, on variances on technical justifications submitted by applicants, the considerations for issuance in section 10-47, the conditions of issuance set forth in section 10-48 of this chapter, as well as sections 10-49 and 10-50, when applicable, and the comments and recommendations of the floodplain administrator and the building official. The PZB and City Commission each has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

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**Sec. 10-47. - Considerations for issuance of variances.**

In reviewing requests for variances, the PZB and the City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the 2010 FBC and as amended, this chapter, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;

- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**Sec. 10-48. - Conditions for issuance of variances.**

Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards.
- (2) Final Determination by the City Commission~~PZB~~ that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense nor create nuisances, cause fraud on or victimization of the public with existing local laws and ordinances; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Official Records Book of Broward County~~office of the clerk of the court~~ in such a manner that it appears in the chain of title of the affected parcel of land.
- (4) If the request is for a variance to allow construction of the lowest floor of a new building or, substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting

from the reduced floor elevation (up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

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**ARTICLE IV. – DEFINITIONS**

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**Sec. 10-63. – Definitions.**

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Chapter, have the meanings shown in this Article. Any references by citation to another authority must be interpreted as the updated, as amended, version of those cited authorities.

Accessory structure. For purposes of this Chapter only, a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

Agricultural structure. For floodplain management purposes, a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

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~~Existing manufactured home park or subdivision.~~ A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before April 2, 1979.

~~Expansion to an existing manufactured home park or subdivision.~~ The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pad).

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~~New manufactured home park or subdivision.~~ A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after April 2, 1979.

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**ARTICLE V. – FLOOD RESISTANT DEVELOPMENT**

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## DIVISION 4. – MANUFACTURED HOMES

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### Sec. 10-80. - Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that, ~~which in flood hazard areas (zone A) other than coastal high hazard areas,~~ are designed in accordance with the foundation requirements of the 2010 FBC ~~and as amended,~~ Residential Section R322.2 and this chapter, ~~as each may be amended from time to time.~~

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### Sec. 10-82. - Elevation.

All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the 2010 FBC, Residential Section R322.2 (Zone A), as may be amended. ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with section 10-83 or 10-84 of this chapter, as applicable.~~

### Sec. 10-83. – General elevation requirement.

~~Unless subject to the requirements of section 10-84 of this chapter, all manufactured homes that are placed, replaced, or substantially improved on sites located:~~

- ~~(1) Outside of a manufactured home park or subdivision;~~
- ~~(2) In a new manufactured home park or subdivision;~~
- ~~(3) In an expansion to an existing manufactured home park or subdivision; or~~
- ~~(4) In an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the 2010 FBC and as amended, Residential Section R322.2 (zone A) or Section R322.3 (zone V).~~

### Sec. 10-84. – Elevation requirement for certain existing manufactured home parks and subdivisions.

~~Manufactured homes that are not subject to section 10-83 of this chapter, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:~~

- ~~(1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the 2010 FBC and as amended, Residential Section R322.2 (zone A) or Section R322.3 (zone V); or~~
- ~~(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty-six (36) inches in height above grade.~~

**Sec. 10-8310-85. - Enclosures.**

Fully enclosed areas below elevated manufactured homes shall comply with the requirements of the 2010 FBC and as amended, Residential Section R322 for such enclosed areas, as applicable to the flood hazard area.

**Sec. 10-8410-86. - Utility equipment.**

Utility equipment that serves manufactured homes, including electric heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the 2010 FBC and as amended, Residential Section R322, as applicable to the flood hazard area.

**Secs. 10-8510-87 - 10-95. - Reserved.**

**Section 3: Enactments.** That the Code of Ordinances of the City of Coconut Creek, Florida, are hereby amended by amending Chapter 10, "Flood Prevention and Protection," Article III, "Administration," Division 5, "Variances and Appeals," by enacting new Sections 10-49, "Additional Variance Considerations for Certain Accessory Structures," and 10-50, "Additional Variance Considerations for Agricultural Structures;" and by amending Article V, "Flood Resistant Development," Division 1, "Buildings and Structures," by enacting a new Section 10-70, "Accessory Structures," to read as follows:

**Chapter 10 – FLOOD PREVENTION AND PROTECTION**

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**ARTICLE III. – ADMINISTRATION**

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**DIVISION 5. – VARIANCES AND APPEALS**

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**Sec. 10-49. – Additional Variance Considerations for Certain Accessory Structures.**

A variance may be authorized for the construction or substantial improvement of accessory structures provided the requirements of this Chapter are satisfied and the accessory structures are used only for parking or storage and:

- (1) A determination has been made that proposed accessory structure:
  - a. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, the accessory structure is larger than one (1) story and 600 square feet, and has flood openings in accordance with Section R322.2 of the Florida Building Code, Residential, as amended.
  - b. Has low damage potential (amount of physical damage, contents damage, and loss of function).
  - c. Complies with the wet floodproofing construction requirements of paragraph (2), below.
- (2) Wet floodproofing construction requirements.
  - a. Anchored to resist flotation, collapse, and lateral movement.
  - b. When enclosed by walls, walls have flood openings that comply with



- the flood opening requirements of ASCE 24, Chapter 2, as amended.
- c. Flood damage-resistant materials are used below the base flood elevation plus one (1) foot.
- d. Mechanical, electrical, and utility equipment, including plumbing fixtures, are elevated above the base flood elevation plus one (1) foot.

**Sec. 10-50. - Additional Variance Considerations for Agricultural Structures.**

A variance may be authorized for the construction or substantial improvement of agricultural structures provided the requirements of this Chapter are satisfied and:

- (1) A determination has been made that the proposed agricultural structure:
  - a. Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
  - b. Has low damage potential (amount of physical damage, contents damage, and loss of function).
  - c. Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquefied natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
  - d. Complies with the wet floodproofing construction requirements of paragraph (2), below.
- (2) Wet floodproofing construction requirements.
  - a. Anchored to resist flotation, collapse, and lateral movement.
  - b. When enclosed by walls, walls have flood openings that comply with the flood opening requirements of ASCE 24, Chapter 2, as amended.
  - c. Flood damage-resistant materials are used below the base flood elevation plus one (1) foot.
  - d. Mechanical, electrical, and utility equipment, including plumbing fixtures, are elevated above the base flood elevation plus one (1) foot.

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**ARTICLE V – FLOOD RESISTANT DEVELOPMENT**

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**DIVISION 1. - BUILDINGS AND STRUCTURES**

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**Sec. 10-70. - Accessory structures.** Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

- (1) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one (1) story and not larger than 600 square feet.
- (2) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, have flood openings in accordance with Section R322.2 of the

Florida Building Code, Residential, as amended.

(3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

(4) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

(5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

**Section 4: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 5: Severability.** That should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 6: Codification.** That the provisions of this ordinance shall be codified within the Code of Ordinance of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

**Section 7: Effective Date.** That this ordinance shall become effective immediately upon its passage on second and final reading.

**PASSED FIRST READING THIS 8<sup>TH</sup> DAY OF APRIL, 2021.**

**PASSED SECOND READING THIS 22<sup>ND</sup> DAY OF APRIL, 2021.**

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Rebecca A. Tooley, Mayor

Attest:

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Leslie Wallace May, City Clerk

	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>
Tooley	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>