



## Office of the Town Manager

Rafael G. Casals, ICMA-CM, CFM  
Town Manager

# MEMORANDUM

To: Honorable Mayor and Town Council

From: Rafael G. Casals, ICMA-CM, CFM, Town Manager

Date: April 17, 2019

Re: FEMA Approved *FBC* Model Ordinance - Amending Chapter 18, Article II -  
Relating to Floodplain Management Regulations (***First Reading***)

## REQUEST

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 18, "FLOODS"; ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND ADOPTING TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

## BACKGROUND AND ANALYSIS

In order for the Town of Cutler Bay's (the "Town") residents to be eligible for participation in the National Flood Insurance Program (NFIP), the Town adopted a Floodplain Management Ordinance known as Town Ordinance No. 06-10 on May 25, 2006 (Chapter 18, Article II- "Floods"). The Town was accepted for participation in the NFIP on August 31, 2006 and the Town desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation. Town Staff and consulting engineers have met with the Federal Emergency Management Agency (FEMA) to determine how to improve the Town's initial rating under the NFIP's Community Rating System (CRS) Program. A higher rating with the CRS will provide additional savings to Town residents, who currently pay for flood insurance.





One of the activities that the Town may undertake to improve its CRS rating is to amend the existing Floodplain Management Regulations to include more stringent regulatory standards. Therefore, the Town has amended Ordinance No. 06-10 on February 18, 2009 with Ordinance No. 09-06, on March 17, 2010 with Ordinance No. 10-04, and on March 16, 2016 with Ordinance No. 16-02 to include these standards.

The Town Council previously adopted Code requirements to (1) require accumulation of cost of improvements and repairs of buildings in flood hazard areas, based on issued building permits, over a five year period; (2) require buildings that sustain repetitive flood damage over a 10-year period to be included in the definition of “substantial damage”; (3) establish a threshold of 44 percent for substantial improvement and substantial damage; (4) prohibit enclosed areas below elevated buildings for buildings and structures in flood hazard areas; (5) establish minimum attached garage slab elevations; (6) require minimum elevation of buildings outside of flood hazard areas; and (7) require elevation of critical facilities higher than required by the *Florida Building Code (FBC)*, prior to July 1, 2010 and for the purposes of participating in the NFIP’s CRS; and, pursuant to Chapter 8 Article III of the Miami-Dade County Code and section 553.73(5), F. S., is formatting that requirement to coordinate with the *FBC*.

The Town desires to tailor the Town’s Floodplain Management Regulations to the FEMA approved, *FBC*-coordinated model Ordinance while still retaining the Town’s higher standards from previous Ordinance Nos. 06-10, 09-06, 10-04, and 16-02. Florida Division of Emergency Management (FDEM) State Floodplain Management Office assisted in reviewing and transitioning the Town’s Ordinance to the FEMA approved, *FBC*-coordinated Floodplain Management Ordinance.

Chapter 553, of the 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 *FBC*. By State law, only the *FBC* governs the design and construction of buildings. This makes it necessary for communities to expeditiously consider and take action to adopt the model Ordinance. As of early 2017, more than 380 of Florida’s 468 NFIP communities have used the model Ordinance or are in the process of adopting it, and the rest are expected to do so in the coming year. Alternatively, a very small number of communities have elected to revise their existing regulations to remove flood provisions for buildings and structures and correct any inconsistencies with the NFIP as stated in the Notes and Instructions for Floodplain Management Ordinance (*Attachment “A”*).

Florida has 468 communities that participate in the NFIP. The Division of Emergency Management (DEM) started working with communities in 2012 to adopt the *FBC*-coordinated Ordinance. To date, more than 95% have adopted or are in review. DEM’s goal is to complete the transition of local flood Ordinances by mid-2019.





Listed below are the Miami-Dade County communities that have adopted and/or are in review.

**IN REVIEW:**

- Medley
- Miami Gardens
- North Miami
- Homestead
- Cutler Bay
- Coral Gables

**ADOPTED:**

- Aventura
- North Bay Village
- Miami Shores
- Doral
- Pinecrest
- Sweetwater
- Biscayne Park
- Palmetto Bay
- Virginia Gardens
- Key Biscayne
- Sunny Isles Beach
- Hialeah Gardens

The goal of the attached Ordinance is to amend Chapter 18, Article II- “Floods” relating to Floodplain Management Regulations, in order to provide clear and balanced regulations that reflect the vision of the Town, while meeting the needs and enhancing the safety of the residents within the Town. Changes to local Floodplain Management Regulations are necessary to properly coordinate with the *FBC*. The model Ordinance is coordinated with the *FBC* and satisfies the requirements of the NFIP. This model Ordinance is designed to repeal and replace the Town’s existing Floodplain Management Regulations.

**RECOMMENDATION**

Town Staff is recommending the adoption of the attached *FBC* model Ordinance amending Chapter 18, Article II- “Floods” relating to Floodplain Management Regulations; repealing and replacing the Town’s existing Floodplain Management Regulations to satisfy the requirements of the NFIP, *FBC*, FEMA, and the State of Florida Legislature.

**ATTACHMENTS**

- Attachment “A” - Notes and Instructions for Floodplain Management Ordinance

