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**ORDINANCE NO. 2011- 03**

**AN ORDINANCE OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 8, BUILDING CONSTRUCTION AND CONDOMINIUM, ARTICLE III, FLOOD DAMAGE PREVENTION, SECTION 8-74, ADMINISTRATION; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Hallandale Beach’s Code of Ordinances, Chapter 8, Building Construction and Condominium, Article III, Flood Damage Prevention, Section 8-74, Administration regulates construction and improvements to prevent and minimize flood damage; and

**WHEREAS**, Article III provides for an appeal and variance procedure pertaining to flood damage prevention; and

**WHEREAS**, the City would like to streamline the appeal and variance process in the best interest of the City and property owners; and

**WHEREAS**, the Code of Ordinances, Chapter 8, Article III, will be amended to allow the City Manager to hear and decide appeals and requests for variances from the requirements of this Article based upon the Local Administrator’s and City Engineer’s recommendations on flood mitigation and the base elevations for constructions and improvements located outside of the special flood hazard areas (outside of the 100 year floodplain).

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:**

**SECTION 1.** Chapter 8, Building Construction and Condominium, Article III, Flood Damage Prevention, Section 8-74 (e) is hereby amended as follows:

Sec. 8-74. Administration

(e) *Appeals and variance procedures.*

(1) In areas located outside the special flood hazard areas (outside of the 100-year floodplain), the City Manager shall hear and decide appeals and requests for

35 variances from the requirements of this article based upon the Local  
36 Administrator's and City Engineer's recommendations on flood mitigation and  
37 the base elevations.

- 38 (2) In areas located within the special flood hazard areas (within the 100-year  
39 floodplain), the City Commission shall hear and decide appeals and requests for  
40 variances from the requirements of this article.
- 41 (3) The City Commission or City Manager, as applicable, shall hear and decide  
42 appeals when it is alleged there is an error in any requirement, decision or  
43 determination made by the local administrator in the enforcement or  
44 administration of this article.
- 45 (4) Any person aggrieved by the decision of the City Commission or any taxpayer  
46 may appeal such decision to the circuit court in and for the county.
- 47 (5) Variances may be issued for the reconstruction, rehabilitation or restoration of  
48 structures listed on the National Register of Historic Places or the state inventory  
49 of historic places without regard to the procedures set forth in the remainder of  
50 this section.
- 51 (6) In passing upon such applications, the City Commission or City Manager, as  
52 applicable, shall consider all technical evaluations, all relevant factors, standards  
53 specified in other sections of this article, and the:
- 54 a. Danger that materials may be swept onto other lands to the injury of others;
  - 55 b. Danger to life and property due to flooding or erosion damage;
  - 56 c. Susceptibility of the proposed facility and its contents to flood damage and  
57 the effect of such damage on the individual owner;
  - 58 d. Importance of the services provided by the proposed facility to the city;
  - 59 e. Necessity to the facility of a waterfront location, where applicable;
  - 60 f. Availability of alternative locations, not subject to flooding or erosion  
61 damage, for the proposed use;
  - 62 g. Compatibility of the proposed use with existing and anticipated  
63 development;

- 64 h. Relationship of the proposed use to the comprehensive plan and floodplain  
65 management program for that area;
- 66 i. Safety of access to the property in times of flood for ordinary and  
67 emergency vehicles;
- 68 j. Expected heights, velocity, duration, rate of rise and sediment transport of  
69 the floodwaters and the effects of wave action, if applicable, expected at  
70 the site; and
- 71 k. Costs of providing governmental services during and after flood conditions,  
72 including maintenance and repair of public utilities and facilities, such as  
73 sewer, gas, electrical, and water systems, and streets and bridges.

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75 Generally, variances may be issued for new construction and substantial  
76 improvements to be erected on a lot of one-half acre or less in size contiguous to  
77 and surrounded by lots with existing structures constructed below the base flood  
78 level, providing subsection (e)(6)a.--(e)(6)k. of this section have been fully  
79 considered. As the lot size increases beyond one-half acre, the technical  
80 justification required for issuing the variance increases.

81 (7) Upon consideration of the factors listed in this subsection [paragraph (6)] and the  
82 purposes of this article, the City Commission or City Manager, as applicable, may  
83 attach such conditions to the granting of variances as it deems necessary to further  
84 the purposes and objectives of this article.

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

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89 (9) Conditions for variances are as follows:

- 90 a. Variances shall only be issued upon a determination that the variance is the  
91 minimum necessary, considering the flood hazard, to afford relief.
- 92 b. Variances shall only be issued upon a:
- 93 1. Showing of good and sufficient cause;

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- 2. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- 3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

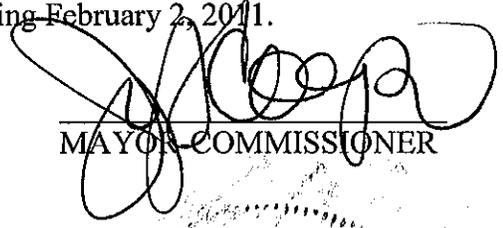
- c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- d. The local administrator and the City Clerk shall maintain the records of all appeal actions and the local administrator shall report any variances to the Federal Emergency Management Agency upon request.

(10) Variances sought under this section shall be advertised, posted and noticed as provided in section 32-967 et seq. relating to variances. An administrative fee, which is established and on file in the City Clerk's office, shall be due at the time an application is submitted.

**SECTION 2** This Ordinance shall be effective immediately upon passage.

PASSED AND ADOPTED on 1<sup>st</sup> Reading January 18, 2011.

PASSED AND ADOPTED on 2<sup>nd</sup> Reading February 2, 2011.

  
MAYOR COMMISSIONER

ATTEST:

  
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CITY CLERK

