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**VILLAGE OF ESTERO, FLORIDA**

**ORDINANCE NO. 2015 - 16**

**AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, REPEALING VILLAGE OF ESTERO ORDINANCE 2015-08; AMENDING VILLAGE OF ESTERO LAND DEVELOPMENT CODE CHAPTERS 6 & 10 TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENERS ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Estero, Florida was incorporated on December 31, 2014 and commenced operations on March 17, 2015; and

**WHEREAS**, on June 17, 2015, the Village of Estero adopted Lee County's Ordinance 15-09 to comply with requirements for the Village's application to the National Flood Insurance Program (NFIP); and

**WHEREAS**, as an additional requirement to the NFIP application, the Federal Emergency Management Agency has requested that the Village adopt its own Floodplain Management Ordinance; and

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

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Estero and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

**WHEREAS**, the Village Council adopted Ordinance 2015-08 on June 17, 2015, confirming its intent to continue application of the floodplain management requirements of

45 Lee County and to meet the requirements of Title 44 Code of Federal Regulations, Sections 59  
46 and 60, necessary for participation in the National Flood Insurance Program; and  
47

48 **WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to  
49 provide a mechanism for the uniform adoption, updating, amendment, interpretation and  
50 enforcement of a state building code, called the *Florida Building Code*; and  
51

52 **WHEREAS**, section 553.73(5), Florida Statutes, allows adoption of local technical  
53 amendments to the *Florida Building Code* (FBC); and  
54

55 **WHEREAS**, the amendment of Chapters 6 & 10 of the Village of Estero Land  
56 Development Code (LDC) is necessary to achieve consistency with the National Flood  
57 Insurance Program requirements and the Florida Building Code and to protect the public  
58 health, safety and general welfare; and  
59

60 **WHEREAS**, the Village Council of the Village of Estero, Florida has determined that  
61 it is in the public interest to adopt the proposed floodplain management amendments that are  
62 coordinated with the *Florida Building Code*.  
63

64 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
65 Florida:  
66

67 **SECTION ONE: ADOPTION OF AMENDMENTS TO FLORIDA BUILDING CODE**  
68

69 Village of Estero Land Development Code Chapter 6  
70

71 **Chapter 6. BUILDINGS AND BUILDING REGULATIONS**  
72

73 **ARTICLE II. CODES AND STANDARDS**  
74

75 ~~DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS~~  
76

77 ~~Sec. 6-81. Variations; modification of orders.~~  
78

79 ~~(a) through (b) remain unchanged.~~  
80

81 ~~(e) — Pursuant to section 553.73(5), F.S., the variance procedures adopted in Article IV~~  
82 ~~Flood Hazard Reduction will apply to requests submitted for variances to the provisions of~~  
83 ~~section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of~~  
84 ~~section R322 of the Florida Building Code, Residential. This section does not apply to~~  
85 ~~section 3109 of the Florida Building Code, Building.~~

DIVISION 3. BUILDING CODE

~~Sec. 6-118. Building permits issued on the basis of an affidavit.~~

~~Amend the FBC, Building by adding Section 107.6.1, as follows:~~

~~107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44.C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to section 105.14 and section 107.6, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.~~

**Sec. 6-119. Substantial Improvement.**

Amend FBC, Building Section ~~202+612.2~~ and Existing Building Section 202, pertaining to the definition of substantial improvement, as follows:

*Substantial improvement.* Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of the building or structure subsequent to the date specified in the Local Floodplain Management Ordinance. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

*Substantial damage.* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes buildings and structures that have experienced repetitive loss.

**Sec. 6-120. Critical facilities.**

Amend FBC, Building Section 1612.4, pertaining to elevation of buildings, as follows:

131 **1612.4.1 Elevation of Category III and IV buildings (critical facilities).**  
132

133 Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located  
134 outside the limits of the special flood hazard area where feasible. Construction of new critical  
135 facilities shall be permissible within the special flood hazard area if no feasible alternative site  
136 is available. If permitted, critical facilities shall be elevated or protected to or above the base flood  
137 elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is  
138 higher. Flood proofing and sealing measures must be implemented to ensure that toxic substances  
139 will not be displaced by or released into floodwaters. Access routes elevated to or above the base  
140 flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical  
141 facilities shall be designed to remain operable during such an event.  
142

143 Sec. ~~6-1186-121~~ – 6-210. Reserved  
144

145 Delete ARTICLE IV. FLOOD HAZARD REDUCTION (SECS. 6-401 – 6-476) in its entirety  
146 and replace with:  
147

148 **ARTICLE IV. FLOOD HAZARD REDUCTION**

149 **DIVISION 1. ADMINISTRATION**

150 *Subdivision I. Generally*  
151

152 **Sec. 6-401. Scope.**  
153

154 The provisions of this article apply to all development that is wholly within or partially  
155 within any flood hazard area, including but not limited to the subdivision of land; filling, grading,  
156 and other site improvements and utility installations; construction, alteration, remodeling,  
157 enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures,  
158 and facilities that are exempt from the *Florida Building Code*; placement, installation, or  
159 replacement of manufactured homes and manufactured buildings; installation or replacement of  
160 tanks; placement of recreational vehicles; installation of swimming pools; and any other  
161 development.  
162  
163  
164

165 **Sec. 6-402. Intent.**  
166

167 The purposes of this article and the flood load and flood resistant construction  
168 requirements of the *Florida Building Code* are to establish minimum requirements to safeguard  
169 the public health, safety, and general welfare and to minimize public and private losses due to  
170 flooding through regulation of development in flood hazard areas to:  
171

- 172 (1) Minimize unnecessary disruption of commerce, access and public service  
173 during times of flooding;  
174  
175 (2) Require the use of appropriate construction practices in order to prevent or

- 176 minimize future flood damage;  
177  
178 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling  
179 operations, storage of equipment or materials, and other development which  
180 may increase flood damage or erosion potential;  
181  
182 (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to  
183 minimize the impact of development on the natural and beneficial functions of  
184 the floodplain;  
185  
186 (5) Minimize damage to public and private facilities and utilities;  
187  
188 (6) Help maintain a stable tax base by providing for the sound use and development  
189 of flood hazard areas;  
190  
191 (7) Minimize the need for future expenditure of public funds for flood control  
192 projects and response to and recovery from flood events; and  
193  
194 (8) Meet the requirements of the National Flood Insurance Program for community  
195 participation as set forth in the Title 44 Code of Federal Regulations, Section  
196 59.22.  
197

198 **Sec. 6-403. Coordination with the Florida Building Code.**  
199

200 This article is intended to be administered and enforced in conjunction with the Florida  
201 Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced  
202 by the Florida Building Code.  
203

204 **Sec. 6-404. Warning.**  
205

206 The degree of flood protection required by this article and the Florida Building Code, as  
207 amended by the Village of Estero, is considered the minimum reasonable for regulatory purposes  
208 and is based on scientific and engineering considerations. Larger floods can and will occur. Flood  
209 heights may be increased by man-made or natural causes. This article does not imply that land  
210 outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas,  
211 will be free from flooding or flood damage. The flood hazard areas and base flood elevations  
212 contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the  
213 requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by  
214 the Federal Emergency Management Agency, requiring this community to revise these  
215 regulations to remain eligible for participation in the National Flood Insurance Program. No  
216 guaranty of vested use, existing use, or future use is implied or expressed by compliance with  
217 this article.  
218  
219  
220

221 **Sec. 6-405. Disclaimer of Liability.**

222  
223 This article will not create liability on the part of the Village of Estero or by any officer  
224 or employee thereof for any flood damage that results from reliance on this article or any  
225 administrative decision lawfully made there under.

226  
227 **Secs. 6-406 – 6-410. Reserved.**

228  
229 *Subdivision II. Applicability*

230  
231 **Sec. 6-411. General.**

- 232  
233 (1) Where there is a conflict between a general requirement and a specific  
234 requirement, the specific requirement will be applicable.
- 235  
236 (2) This article applies to all flood hazard areas within the Village of Estero, as  
237 established in Section 6-411(3).
- 238  
239 (3) The Flood Insurance Study for Lee County, Florida and Incorporated Areas,  
240 effective August 28, 2008, and all subsequent amendments and revisions, and  
241 the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent  
242 amendments and revisions to such maps, are adopted by reference as a part of  
243 this article and will serve as the minimum basis for establishing flood hazard  
244 areas. Studies and maps that establish flood hazard areas are on file at the  
245 Village Hall.

246  
247 **Sec. 6-412. Submission of additional data to establish flood hazard areas.**

248  
249 To establish flood hazard areas and base flood elevations, pursuant to Division 1,  
250 Subdivision V of this article the Floodplain Administrator may require submission of  
251 additional data. Where field surveyed topography prepared by a Florida licensed professional  
252 surveyor or digital topography accepted by the community indicates that ground elevations:

- 253  
254 (1) Are below the closest applicable base flood elevation, even in areas not  
255 delineated as a special flood hazard area on a FIRM, the area will be considered  
256 as flood hazard area and subject to the requirements of this article and, as  
257 applicable, the requirements of the *Florida Building Code*.
- 258  
259 (2) Are above the closest applicable base flood elevation, the area will be regulated  
260 as special flood hazard area unless the applicant obtains a Letter of Map Change  
261 that removes the area from the special flood hazard area.

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**Sec. 6-413. Other laws.**

The provisions of this article will not be deemed to nullify any provisions of local, state or federal law.

**Sec. 6-414. Abrogation and greater restrictions.**

This article supersedes any article in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing articles including but not limited to land development regulations, zoning resolutions, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other article, the more restrictive will govern. This article will not impair any deed restriction, covenant or easement, but any land that is subject to such interests will also be governed by this article.

**Sec. 6-415. Interpretation.**

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Secs. 6-416 – 6-420. Reserved.**

*Subdivision III. Duties and Powers of the Floodplain Administrator*

**Sec. 6-421. Designation.**

The Village Manager or his/her designee is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**Sec. 6-422. General.**

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator will have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures will not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Division 1, Subdivision VII of this article.

311 **Sec. 6-423. Applications and permits.**

312 The Floodplain Administrator, in coordination with other pertinent offices of the  
313 community, will:

- 314
- 315
- 316 (1) Review applications and plans to determine whether proposed new  
317 development will be located in flood hazard areas;
- 318
- 319 (2) Review applications for modification of any existing development in flood  
320 hazard areas for compliance with the requirements of this article;
- 321
- 322 (3) Interpret flood hazard area boundaries where such interpretation is necessary to  
323 determine the exact location of boundaries; a person contesting the  
324 determination will have the opportunity to appeal the interpretation;
- 325
- 326 (4) Provide available flood elevation and flood hazard information;
- 327
- 328 (5) Determine whether additional flood hazard data will be obtained from other  
329 sources or will be developed by an applicant;
- 330
- 331 (6) Review applications to determine whether proposed development will be  
332 reasonably safe from flooding;
- 333
- 334 (7) Issue floodplain development permits or approvals for development other than  
335 buildings and structures that are subject to the *Florida Building Code*, including  
336 buildings, structures and facilities exempt from the *Florida Building Code*,  
337 when compliance with this article is demonstrated, or disapprove the same in  
338 the event of noncompliance; and
- 339
- 340 (8) Coordinate to assure that applications, plan reviews, and inspections for  
341 buildings and structures in flood hazard areas comply with the applicable  
342 provisions of this article.
- 343

344 **Sec. 6-424. Substantial improvement and substantial damage determinations.**

345

346 For applications for building permits to improve buildings and structures, including  
347 alterations, movement, enlargement, replacement, repair, change of occupancy, additions,  
348 rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any  
349 other improvement of or work on such buildings and structures, the Floodplain Administrator  
350 will:

- 351
- 352 (1) Estimate the market value, or require the applicant to obtain an appraisal of the  
353 market value prepared by a qualified independent appraiser, of the building or  
354 structure before the start of construction of the proposed work; in the case of

- 355 repair, the market value of the building or structure will be the market value  
356 before the damage occurred and before any repairs are made;  
357  
358 (2) Compare the cost to perform the improvement, the cost to repair a damaged  
359 building to its pre-damaged condition, or the combined costs of improvements  
360 and repairs, if applicable, to the market value of the building or structure;  
361  
362 (3) Determine and document whether the proposed work constitutes substantial  
363 improvement or repair of substantial damage; the determination requires  
364 evaluation of previous permits issued for improvements and repairs as specified  
365 in the definition of “substantial improvement” and previous permits issued for  
366 repair of flood-related damage; and  
367  
368 (4) Notify the applicant if it is determined that the work constitutes substantial  
369 improvement or repair of substantial damage and that compliance with the flood  
370 resistant construction requirements of the *Florida Building Code* and this article  
371 is required.  
372

373 **Sec. 6-425. Modifications of the strict application of the requirements of the *Florida***  
374 ***Building Code.***  
375

376 The Floodplain Administrator will review requests submitted to the Building Official  
377 that seek approval to modify the strict application of the flood load and flood resistant  
378 construction requirements of the *Florida Building Code* to determine whether such requests  
379 require the granting of a variance pursuant to Division 1, Subdivision VII of this article.  
380

381 **Sec. 6-426. Notices and orders.**  
382

383 The Floodplain Administrator will coordinate with appropriate local agencies for the  
384 issuance of all necessary notices or orders to ensure compliance with this article.  
385

386 **Sec. 6-427. Inspections.**  
387

388 The Floodplain Administrator will make the required inspections as specified in  
389 Division 1, Subdivision VI of this article for development that is not subject to the *Florida*  
390 *Building Code*, including buildings, structures and facilities exempt from the *Florida Building*  
391 *Code*. The Floodplain Administrator will inspect flood hazard areas to determine if  
392 development is undertaken without issuance of a permit.  
393

394 **Sec. 6-428. Other duties of the Floodplain Administrator.**  
395

396 The Floodplain Administrator will have other duties, including but not limited to:  
397

- 398 (1) Establish procedures for administering and documenting determinations of  
399 substantial improvement and substantial damage made pursuant to Section 6-  
400 424 of this article;  
401  
402 (2) Require that applicants proposing alteration of a watercourse notify adjacent  
403 communities and the Florida Division of Emergency Management, State  
404 Floodplain Management Office, and submit copies of such notifications to the  
405 Federal Emergency Management Agency (FEMA);  
406  
407 (3) Require applicants who submit hydrologic and hydraulic engineering analyses  
408 to support permit applications to submit to FEMA the data and information  
409 necessary to maintain the Flood Insurance Rate Maps if the analyses propose to  
410 change base flood elevations, flood hazard area boundaries, or floodway  
411 designations; such submissions will be made within 6 months of such data  
412 becoming available;  
413  
414 (4) Review required design certifications and documentation of elevations  
415 specified by this article and the *Florida Building Code* to determine that such  
416 certifications and documentations are complete;  
417  
418 (5) Notify the Federal Emergency Management Agency when the corporate  
419 boundaries of the Village of Estero are modified; and  
420  
421 (6) Advise applicants for new buildings and structures, including substantial  
422 improvements, which are located in any unit of the Coastal Barrier Resources  
423 System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and  
424 the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal  
425 flood insurance is not available on such construction; areas subject to this  
426 limitation are identified on Flood Insurance Rate Maps as “Coastal Barrier  
427 Resource System Areas” and “Otherwise Protected Areas.”  
428

429 **Sec. 6-429. Floodplain management records.**  
430

431 Regardless of any limitation on the period required for retention of public records, the  
432 Floodplain Administrator will maintain and permanently keep and make available for public  
433 inspection all records that are necessary for the administration of this article and the flood  
434 resistant construction requirements of the *Florida Building Code*, including Flood Insurance  
435 Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits;  
436 determinations of whether proposed work constitutes substantial improvement or repair of  
437 substantial damage; required design certifications and documentation of elevations specified

438 by the Florida Building Code and this article; notifications to adjacent communities, FEMA,  
439 and the state related to alterations of watercourses; assurances that the flood carrying capacity  
440 of altered watercourses will be maintained; documentation related to appeals and variances,  
441 including justification for issuance or denial; and records of enforcement actions taken  
442 pursuant to this article and the flood resistant construction requirements of the Florida Building  
443 Code. These records are available for public inspection at the Village Hall.

444

445 **Secs. 6-430 – 6-432. Reserved.**

446

447

*Subdivision IV. Permits*

448

449 **Sec. 6-433. Permits required.**

450

451 Any owner or owner’s authorized agent (hereinafter “applicant”) who intends to  
452 undertake any development activity within the scope of this article, including buildings,  
453 structures and facilities exempt from the Florida Building Code, which is wholly within or  
454 partially within any flood hazard area must first make application to the Floodplain  
455 Administrator and must obtain the required permit(s) and approval(s). No such permit or  
456 approval will be issued until compliance with the requirements of this article and all other  
457 applicable codes and regulations has been satisfied.

458

459 **Sec. 6-434. Floodplain development permits or approvals.**

460

461 Floodplain development permits or approvals will be issued pursuant to this article for any  
462 development activities not subject to the requirements of the Florida Building Code, including  
463 buildings, structures and facilities exempt from the Florida Building Code. Depending on the  
464 nature and extent of proposed development that includes a building or structure, the Floodplain  
465 Administrator may determine that a floodplain development permit or approval is required in  
466 addition to a building permit.

467

468 **Sec. 6-435. Buildings, structures and facilities exempt from the Florida Building Code.**

469

470 Pursuant to the requirements of federal regulation for participation in the National  
471 Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or  
472 approvals will be required for buildings, structures and facilities that are exempt from the  
473 Florida Building Code and any further exemptions provided by law, which are subject to the  
474 requirements of this article.

475

476 **Sec. 6-436. Application for a permit or approval.**

477

478 To obtain a floodplain development permit or approval the applicant must first file an  
479 application in writing on a form furnished by the community. The information provided must:

480

481 (1) Identify and describe the development to be covered by the permit or approval.

- 482 (2) Describe the land on which the proposed development is to be conducted by  
483 legal description, street address or similar description that will readily identify  
484 and definitively locate the site.  
485  
486 (3) Indicate the use and occupancy for which the proposed development is  
487 intended.  
488  
489 (4) Be accompanied by a site plan or construction documents as specified in  
490 Division 1, Subdivision V of this article.  
491  
492 (5) State the valuation of the proposed work.  
493  
494 (6) Be signed by the applicant or the applicant's authorized agent.  
495  
496 (7) Give such other data and information as required by the Floodplain  
497 Administrator.  
498

499 **Sec. 6-437. Validity of permit or approval.**  
500

501 The issuance of a floodplain development permit or approval pursuant to this article  
502 must not be construed to be a permit for, or approval of, any violation of this article, the *Florida*  
503 *Building Codes*, or any other article of this community. The issuance of permits based on  
504 submitted applications, construction documents, and information will not prevent the  
505 Floodplain Administrator from requiring the correction of errors and omissions.  
506

507 **Sec. 6-438. Suspension or revocation.**  
508

509 The Floodplain Administrator is authorized to suspend or revoke a floodplain  
510 development permit or approval if the permit was issued in error, on the basis of incorrect,  
511 inaccurate or incomplete information, or in violation of this article or any other article,  
512 regulation or requirement of this community.  
513

514 **Sec. 6-439. Other permits required.**  
515

516 Floodplain development permits and building permits must include a condition that all  
517 other applicable state or federal permits be obtained before commencement of the permitted  
518 development, including but not limited to the following:  
519

- 520 (1) The South Florida Water Management District; section 373.036, F.S.  
521  
522 (2) Florida Department of Health for onsite sewage treatment and disposal systems;  
523 section 381.0065, F.S. and Chapter 64E-6, F.A.C.  
524

- 525 (3) Florida Department of Environmental Protection for activities subject to the  
526 Joint Coastal Permit; section 161.055, F.S.  
527  
528 (4) Florida Department of Environmental Protection for activities that affect  
529 wetlands and alter surface water flows, in conjunction with the U.S. Army  
530 Corps of Engineers; Section 404 of the Clean Water Act.  
531  
532 (5) Federal permits and approvals.  
533

534 **Secs. 6-440 – 6-443. Reserved.**  
535

536 *Subdivision V. Site Plans and Construction Documents*  
537

538 **Sec. 6-444. Information for development in flood hazard areas.**  
539

540 The site plan or construction documents for any development subject to the  
541 requirements of this article must be drawn to scale and must include, as applicable to the  
542 proposed development:  
543

- 544 (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base  
545 flood elevation(s), and ground elevations if necessary for review of the  
546 proposed development.  
547 (2) Where base flood elevations, or floodway data are not included on the FIRM or  
548 in the Flood Insurance Study, they must be established in accordance with  
549 Section 6-445(2) or (3).  
550  
551 (3) Where the parcel on which the proposed development will take place will have  
552 more than 50 lots or is larger than 5 acres and the base flood elevations are not  
553 included on the FIRM or in the Flood Insurance Study, such elevations must be  
554 established in accordance with Section 6-445(1).  
555 (4) Location of the proposed activity and proposed structures, and locations of  
556 existing buildings and structures; in coastal high hazard areas, new buildings  
557 must be located landward of the reach of mean high tide.  
558  
559 (5) Location, extent, amount, and proposed final grades of any filling, grading, or  
560 excavation.  
561  
562 (6) Where the placement of fill is proposed, the amount, type, and source of fill  
563 material; compaction specifications; a description of the intended purpose of  
564 the fill areas; and evidence that the proposed fill areas are the minimum  
565 necessary to achieve the intended purpose.  
566  
567 (7) Extent of any proposed alteration of sand dunes or mangrove stands, provided  
568 such alteration is approved by the Florida Department of Environmental  
569 Protection.

570 (8) Existing and proposed alignment of any proposed alteration of a watercourse.

571

572 The Floodplain Administrator is authorized to waive the submission of site plans, construction  
573 documents, and other data that are required by this article but that are not required to be  
574 prepared by a registered design professional if it is found that the nature of the proposed  
575 development is such that the review of such submissions is not necessary to ascertain  
576 compliance with this article.

577

578 **Sec. 6-445. Information in flood hazard areas without base flood elevations (approximate**  
579 **Zone A).**

580

581 Where flood hazard areas are delineated on the FIRM and base flood elevation data  
582 have not been provided, the Floodplain Administrator will:

583

584 (1) Require the applicant to include base flood elevation data prepared in  
585 accordance with currently accepted engineering practices.

586

587 (2) Obtain, review, and provide to applicants base flood elevation and floodway  
588 data available from a federal or state agency or other source or require the  
589 applicant to obtain and use base flood elevation and floodway data available  
590 from a federal or state agency or other source.

591

592 (3) Where base flood elevation and floodway data are not available from another  
593 source, where the available data are deemed by the Floodplain Administrator to  
594 not reasonably reflect flooding conditions, or where the available data are  
595 known to be scientifically or technically incorrect or otherwise inadequate:

596

597 (a) Require the applicant to include base flood elevation data prepared in  
598 accordance with currently accepted engineering practices; or

599

600 (b) Specify that the base flood elevation is two (2) feet above the highest  
601 adjacent grade at the location of the development, provided there is no  
602 evidence indicating flood depths have been or may be greater than two  
603 (2) feet.

604

605 (4) Where the base flood elevation data are to be used to support a Letter of Map  
606 Change from FEMA, advise the applicant that the analyses must be prepared  
607 by a Florida licensed engineer in a format required by FEMA, and that it must  
608 be the responsibility of the applicant to satisfy the submittal requirements and  
609 pay the processing fees.

610

611 **Sec. 6-446. Additional analyses and certifications.**

612

613 As applicable to the location and nature of the proposed development activity, and in  
614 addition to the requirements of this section, the applicant must have the following analyses

615 signed and sealed by a Florida licensed engineer for submission with the site plan and  
616 construction documents:

- 617
- 618 (1) For development activities proposed to be located in a regulatory floodway, a  
619 floodway encroachment analysis that demonstrates that the encroachment of the  
620 proposed development will not cause any increase in base flood elevations;  
621 where the applicant proposes to undertake development activities that do  
622 increase base flood elevations, the applicant must submit such analysis to  
623 FEMA as specified in Section 6-447 of this article and must submit the  
624 Conditional Letter of Map Revision, if issued by FEMA, with the site plan and  
625 construction documents.
- 626
- 627 (2) For development activities proposed to be located in a riverine flood hazard  
628 area for which base flood elevations are included in the Flood Insurance Study  
629 or on the FIRM and floodways have not been designated, hydrologic and  
630 hydraulic analyses that demonstrate that the cumulative effect of the proposed  
631 development, when combined with all other existing and anticipated flood  
632 hazard area encroachments, will not increase the base flood elevation more than  
633 one (1) foot at any point within the community. This requirement does not  
634 apply in isolated flood hazard areas not connected to a riverine flood hazard  
635 area or in flood hazard areas identified as Zone AO or Zone AH.
- 636
- 637 (3) For alteration of a watercourse, an engineering analysis prepared in accordance  
638 with standard engineering practices which demonstrates that the flood-carrying  
639 capacity of the altered or relocated portion of the watercourse will not be  
640 decreased, and certification that the altered watercourse must be maintained in  
641 a manner which preserves the channel's flood-carrying capacity; the applicant  
642 must submit the analysis to FEMA as specified in Section 6-447 of this article.
- 643
- 644 (4) For activities that propose to alter sand dunes or mangrove stands in coastal  
645 high hazard areas (Zone V), an engineering analysis that demonstrates that the  
646 proposed alteration will not increase the potential for flood damage.
- 647

648 **Sec. 6-447. Submission of additional data.**

649

650 When additional hydrologic, hydraulic or other engineering data, studies, and  
651 additional analyses are submitted to support an application, the applicant has the right to seek  
652 a Letter of Map Change from FEMA to change the base flood elevations, change floodway  
653 boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such  
654 data to FEMA for such purposes. The analyses must be prepared by a Florida licensed engineer  
655 in a format required by FEMA. Submittal requirements and processing fees will be the  
656 responsibility of the applicant.

657

658 **Secs. 6-448 – 6-450. Reserved.**

659

Subdivision VI. Inspections

**Sec. 6-451. General.**

Development for which a floodplain development permit or approval is required will be subject to inspection.

**Sec. 6-452. Development other than buildings and structures.**

The Floodplain Administrator will inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

**Sec. 6-453. Buildings, structures and facilities exempt from the Florida Building Code.**

The Floodplain Administrator will inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

**Sec. 6-454. Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.**

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, must submit to the Floodplain Administrator:

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 6-445 of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**Sec. 6-455. Buildings, structures and facilities exempt from the Florida Building Code, final inspection.**

As part of the final inspection, the owner or owner's authorized agent must submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations must be prepared as specified in Section 6-454 of this article.

702 **Sec. 6-456. Manufactured homes.**

703  
704 The Building Official must inspect manufactured homes that are installed or replaced  
705 in flood hazard areas to determine compliance with the requirements of this article and the  
706 conditions of the issued permit. Upon placement of a manufactured home, certification of the  
707 elevation of the lowest floor must be submitted to the Building Official.

708  
709 **Secs. 6-457 – 6-460. Reserved.**

710  
711 *Subdivision VII. Variances and Appeals*

712  
713 **Sec. 6-461. General.**

714  
715 The Board of Adjustment and Appeals must hear and decide on requests for appeals  
716 and requests for variances from the strict application of this article. Pursuant to section  
717 553.73(5), F.S., the Board of Adjustment and Appeals hear and decide on requests for appeals  
718 and requests for variances from the strict application of the flood resistant construction  
719 requirements of the Florida Building Code. This section does not apply to Section 3109 of the  
720 Florida Building Code, Building.

721  
722 **Sec. 6-462. Appeals.**

723  
724 The Board of Adjustment and Appeals will hear and decide appeals when it is alleged  
725 there is an error in any requirement, decision, or determination made by the Floodplain  
726 Administrator in the administration and enforcement of this article. Any person aggrieved by  
727 the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

728  
729 **Sec. 6-463. Limitations on authority to grant variances.**

730  
731 The Board of Adjustment and Appeals will base its decisions on variances on technical  
732 justifications submitted by applicants, the considerations for issuance in Section 6-467 of this  
733 article, the conditions of issuance set forth in Section 6-468 of this article, and the comments  
734 and recommendations of the Building Official. The Board of Adjustment and Appeals has the  
735 right to attach such conditions as it deems necessary to further the purposes and objectives of  
736 this article.

737  
738 **Sec. 6-464. Restrictions in floodways.**

739  
740 A variance will not be issued for any proposed development in a floodway if any  
741 increase in base flood elevations would result, as evidenced by the applicable analyses and  
742 certifications required in Section 6-446 of this article.

747 **Sec. 6-465. Historic buildings.**  
748

749 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a  
750 historic building that is determined eligible for the exception to the flood resistant construction  
751 requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings,  
752 upon a determination that the proposed repair, improvement, or rehabilitation will not preclude  
753 the building's continued designation as a historic building and the variance is the minimum  
754 necessary to preserve the historic character and design of the building. If the proposed work  
755 precludes the building's continued designation as a historic building, a variance will not be  
756 granted and the building and any repair, improvement, and rehabilitation will be subject to the  
757 requirements of the *Florida Building Code*.  
758

759 **Sec. 6-466. Functionally dependent uses.**  
760

761 A variance is authorized to be issued for the construction or substantial improvement  
762 necessary for the conduct of a functionally dependent use, as defined in this article, provided  
763 the variance meets the requirements of Section 6-464 is the minimum necessary considering  
764 the flood hazard, and all due consideration has been given to use of methods and materials that  
765 minimize flood damage during occurrence of the base flood.  
766

767 **Sec. 6-467. Considerations for issuance of variances.**  
768

769 In reviewing requests for variances, the Board of Adjustment and Appeals will consider  
770 all technical evaluations, all relevant factors, all other applicable provisions of the *Florida*  
771 *Building Code*, this article, and the following:  
772

- 773 (1) The danger that materials and debris may be swept onto other lands resulting in  
774 further injury or damage;
- 775 (2) The danger to life and property due to flooding or erosion damage;  
776
- 777 (3) The susceptibility of the proposed development, including contents, to flood  
778 damage and the effect of such damage on current and future owners;  
779
- 780 (4) The importance of the services provided by the proposed development to the  
781 community;  
782
- 783 (5) The availability of alternate locations for the proposed development that are  
784 subject to lower risk of flooding or erosion;  
785
- 786 (6) The compatibility of the proposed development with existing and anticipated  
787 development;  
788
- 789 (7) The relationship of the proposed development to the comprehensive plan and  
790 floodplain management program for the area;  
791

- 792 (8) The safety of access to the property in times of flooding for ordinary and  
793 emergency vehicles;  
794  
795 (9) The expected heights, velocity, duration, rate of rise and debris and sediment  
796 transport of the floodwaters and the effects of wave action, if applicable,  
797 expected at the site; and  
798  
799 (10) The costs of providing governmental services during and after flood conditions  
800 including maintenance and repair of public utilities and facilities such as sewer,  
801 gas, electrical and water systems, streets and bridges.  
802

803 **Sec. 6-468. Conditions for issuance of variances.**  
804

805 Variances may be issued only upon:  
806

- 807 (1) Submission by the applicant, of a showing of good and sufficient cause that the  
808 unique characteristics of the size, configuration, or topography of the site limit  
809 compliance with any provision of this article or the required elevation  
810 standards;  
811  
812 (2) Determination by the Board of Adjustment and Appeals that:  
813  
814 (a) Failure to grant the variance would result in exceptional hardship due to  
815 the physical characteristics of the land that render the lot undevelopable;  
816 increased costs to satisfy the requirements or inconvenience do not  
817 constitute hardship;  
818  
819 (b) The granting of a variance will not result in increased flood heights,  
820 additional threats to public safety, extraordinary public expense, nor  
821 create nuisances, cause fraud on or victimization of the public or conflict  
822 with existing local laws and articles; and  
823  
824 (c) The variance is the minimum necessary, considering the flood hazard,  
825 to afford relief;  
826  
827 (3) If the request is for a variance to allow construction of the lowest floor of a new  
828 building, or substantial improvement of a building, below the required  
829 elevation, a copy in the record of a written notice from the Floodplain  
830 Administrator to the applicant for the variance, specifying the difference  
831 between the base flood elevation and the proposed elevation of the lowest floor,  
832 stating that the cost of federal flood insurance will be commensurate with the  
833 increased risk resulting from the reduced floor elevation (up to amounts as high  
834 as \$25 for \$100 of insurance coverage), and stating that construction below the  
835 base flood elevation increases risks to life and property.  
836

837 **Secs. 6-469 – 6-470. Reserved.**

838

839

*Subdivision VIII. Violations*

840

841 **Sec. 6-471. Violations.**

842

843 Any development that is not within the scope of the *Florida Building Code* but that is  
844 regulated by this article that is performed without an issued permit, that is in conflict with an  
845 issued permit, or that does not fully comply with this article, will be deemed a violation of this  
846 article. A building or structure without the documentation of elevation of the lowest floor,  
847 other required design certifications, or other evidence of compliance required by this article or  
848 the *Florida Building Code* is presumed to be a violation until such time as that documentation  
849 is provided.

850

851 **Sec. 6-472. Authority.**

852

853 For development that is not within the scope of the *Florida Building Code* but that is  
854 regulated by this article and that is determined to be a violation, the Floodplain Administrator  
855 is authorized to serve notices of violation or stop work orders to owners of the property  
856 involved, to the owner's agent, or to the person or persons performing the work.

857

858 **Sec. 6-473. Unlawful continuance.**

859

860 Any person who continues any work after having been served with a notice of violation  
861 or a stop work order, except such work as that person is directed to perform to remove or  
862 remedy a violation or unsafe condition, will be subject to penalties as prescribed by law.

863

864 **Sec. 6-474 – 6-476. Reserved.**

865

866

DIVISION 2. DEFINITIONS

867

868

*Subdivision I. General*

869

870 **Sec. 6-477. Terms defined in the *Florida Building Code*.**

871

872 Where terms are not defined in this article and are defined in the *Florida Building Code*,  
873 such terms will have the meanings ascribed to them in that code.

874

875 **Sec. 6-478. Terms not defined.**

876

877 Where terms are not defined in this article or the *Florida Building Code*, such terms  
878 will have ordinarily accepted meanings such as the context implies.

879

880

881

882 **Sec. 6-479. Definitions.**

883  
884 Unless otherwise expressly stated, the following words and terms, for the purposes of  
885 this article, have the meanings shown in this section.

886  
887 Alteration of a watercourse. A dam, impoundment, channel relocation, change in  
888 channel alignment, channelization, or change in cross-sectional area of the channel or the  
889 channel capacity, or any other form of modification which may alter, impede, retard or change  
890 the direction and/or velocity of the riverine flow of water during conditions of the base flood.

891  
892 Appeal. A request for a review of the Floodplain Administrator’s interpretation of any  
893 provision of this article.

894  
895 ASCE 24. A standard titled *Flood Resistant Design and Construction* that is referenced  
896 by the *Florida Building Code*. ASCE 24 is developed and published by the American Society  
897 of Civil Engineers, Reston, VA.

898  
899 Base flood. A flood having a 1-percent chance of being equaled or exceeded in any  
900 given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to  
901 as the "100-year flood" or the “1-percent-annual chance flood.”

902  
903 Base flood elevation. The elevation of the base flood, including wave height, relative  
904 to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD)  
905 or other datum specified on the Flood Insurance Rate Map (FIRM).

906  
907 Basement. The portion of a building having its floor subgrade (below ground level) on  
908 all sides.

909  
910 Coastal high hazard area. A special flood hazard area extending from offshore to the  
911 inland limit of a primary frontal dune along an open coast and any other area subject to high  
912 velocity wave action from storms or seismic sources. Coastal high hazard areas are also  
913 referred to as “high hazard areas subject to high velocity wave action” or “V Zones” and are  
914 designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

915  
916 Conditional Letter of Map Revision (CLOMR): A formal review and comment as to  
917 whether a proposed flood protection project or other project complies with the minimum NFIP  
918 requirements for such projects with respect to delineation of special flood hazard areas. A  
919 CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study;  
920 upon submission and approval of certified as-built documentation, a Letter of Map Revision  
921 may be issued by FEMA to revise the effective FIRM.

922 Critical facility means one or more of the following:

- 923  
924 (1) Structures or facilities that commercially produce, use or store highly volatile,  
925 flammable, explosive, toxic and/or water-reactive materials that are defined as  
926 extremely hazardous substances by the Environmental Protection Agency under

927 section 302 of the Emergency Planning and Community Right-to-Know Act,  
928 Title III of the Superfund amendments and Reauthorization Act of 1986, 42,  
929 USC.;

930  
931 (2) Hospitals, nursing homes, assisted living facilities and health care facilities  
932 Groups I, II and IV;

933  
934 (3) Structures used as law enforcement stations, fire stations, governmental vehicle  
935 and equipment storage facilities, and emergency operations centers that are  
936 needed for emergency response activities before, during and after a flood  
937 incident; and

938  
939 (4) Public or private utility facilities that are vital to maintaining and restoring  
940 normal services to flooded areas before, during and after a flood incident.

941  
942 Design flood. The flood associated with the greater of the following two areas:

943  
944 (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in  
945 any year; or

946  
947 (2) Area designated as a flood hazard area on the community's flood hazard map,  
948 or otherwise legally designated.

949  
950 Design flood elevation. The elevation of the "design flood," including wave height,  
951 relative to the datum specified on the community's legally designated flood hazard map. In  
952 areas designated as Zone AO, the design flood elevation will be the elevation of the highest  
953 existing grade of the building's perimeter plus the depth number (in feet) specified on the flood  
954 hazard map. In areas designated as Zone AO where the depth number is not specified on the  
955 map, the depth number will be taken as being equal to 2 feet.

956  
957 Development. Any man-made change to improved or unimproved real estate, including  
958 but not limited to, buildings or other structures, tanks, temporary structures, temporary or  
959 permanent storage of equipment or materials, mining, dredging, filling, grading, paving,  
960 excavations, drilling operations or any other land disturbing activities.

961  
962 Encroachment. The placement of fill, excavation, buildings, permanent structures or  
963 other development into a flood hazard area which may impede or alter the flow capacity of  
964 riverine flood hazard areas.

965  
966 Existing building and existing structure. Any buildings and structures for which the  
967 "start of construction" commenced before September 19, 1984.

968  
969 Existing manufactured home park or subdivision. A manufactured home park or  
970 subdivision for which the construction of facilities for servicing the lots on which the  
971 manufactured homes are to be affixed (including, at a minimum, the installation of utilities,

972 the construction of streets, and either final site grading or the pouring of concrete pads) is  
973 completed before September 19, 1984.

974

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

979

980 *Federal Emergency Management Agency (FEMA).* The federal agency that, in addition  
981 to carrying out other functions, administers the National Flood Insurance Program.

982

983 *Flood or flooding.* A general and temporary condition of partial or complete inundation  
984 of normally dry land from:

985

986 (1) The overflow of inland or tidal waters.

987

988 (2) The unusual and rapid accumulation or runoff of surface waters from any  
989 source.

990

991 *Flood damage-resistant materials.* Any construction material capable of withstanding  
992 direct and prolonged contact with floodwaters without sustaining any damage that requires  
993 more than cosmetic repair.

994

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

996

997 (1) The area within a floodplain subject to a 1-percent or greater chance of flooding  
998 in any year.

999

1000 (2) The area designated as a flood hazard area on the community's flood hazard  
1001 map, or otherwise legally designated.

1002

1003 *Flood Insurance Rate Map (FIRM).* The official map of the community on which the  
1004 Federal Emergency Management Agency has delineated both special flood hazard areas and  
1005 the risk premium zones applicable to the community.

1006

1007 *Flood Insurance Study (FIS).* The official report provided by the Federal Emergency  
1008 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and  
1009 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting  
1010 technical data.

1011

1012 *Floodplain Administrator.* The office or position designated and charged with the  
1013 administration and enforcement of this article (may be referred to as the Floodplain Manager).

1014

1015 *Floodplain development permit or approval.* An official document or certificate issued  
1016 by the community, or other evidence of approval or concurrence, which authorizes

1017 performance of specific development activities that are located in flood hazard areas and that  
1018 are determined to be compliant with this article.

1019  
1020 *Floodway.* The channel of a river or other riverine watercourse and the adjacent land  
1021 areas that must be reserved in order to discharge the base flood without cumulatively increasing  
1022 the water surface elevation more than one (1) foot.

1023  
1024 *Floodway encroachment analysis.* An engineering analysis of the impact that a  
1025 proposed encroachment into a floodway is expected to have on the floodway boundaries and  
1026 base flood elevations; the evaluation must be prepared by a qualified Florida licensed engineer  
1027 using standard engineering methods and models.

1028  
1029 *Florida Building Code.* The family of codes adopted by the Florida Building  
1030 Commission, including: *Florida Building Code, Building; Florida Building Code,*  
1031 *Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical;*  
1032 *Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.*

1033  
1034 *Functionally dependent use.* A use which cannot perform its intended purpose unless  
1035 it is located or carried out in close proximity to water, including only docking facilities, port  
1036 facilities that are necessary for the loading and unloading of cargo or passengers, and ship  
1037 building and ship repair facilities; the term does not include long-term storage or related  
1038 manufacturing facilities.

1039  
1040 *Highest adjacent grade.* The highest natural elevation of the ground surface prior to  
1041 construction next to the proposed walls or foundation of a structure.

1042  
1043 *Historic structure.* Any structure that is determined eligible for the exception to the  
1044 flood hazard area requirements of the *Florida Building Code, Existing Building, Chapter 11*  
1045 *Historic Buildings.*

1046  
1047 *Letter of Map Amendment (LOMA).* An amendment based on technical data showing  
1048 that a property was incorrectly included in a designated special flood hazard area. A LOMA  
1049 amends the current effective Flood Insurance Rate Map and establishes that a specific property,  
1050 portion of a property, or structure is not located in a special flood hazard area.

1051  
1052 *Letter of Map Change (LOMC).* An official determination issued by FEMA that  
1053 amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters  
1054 of Map Change include:

1055  
1056 *Letter of Map Revision (LOMR).* A revision based on technical data that may show  
1057 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway  
1058 delineations, and other planimetric features.

1059  
1060 *Letter of Map Revision Based on Fill (LOMR-F).* A determination that a structure or  
1061 parcel of land has been elevated by fill above the base flood elevation and is, therefore, no

1062 longer located within the special flood hazard area. In order to qualify for this determination,  
1063 the fill must have been permitted and placed in accordance with the community's floodplain  
1064 management regulations.

1065  
1066 *Light-duty truck.* As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500  
1067 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000  
1068 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 1069  
1070 (1) Designed primarily for purposes of transportation of property or is a derivation  
1071 of such a vehicle, or  
1072  
1073 (2) Designed primarily for transportation of persons and has a capacity of more  
1074 than 12 persons; or  
1075  
1076 (3) Available with special features enabling off-street or off-highway operation and  
1077 use.

1078  
1079 *Lowest floor.* The lowest floor of the lowest enclosed area of a building or structure,  
1080 including basement, but excluding any unfinished or flood-resistant enclosure, other than a  
1081 basement, usable solely for vehicle parking, building access or limited storage provided that  
1082 such enclosure is not built so as to render the structure in violation of the non-elevation  
1083 requirements of the Florida Building Code or ASCE 24.

1084  
1085 *Manufactured home.* A structure, transportable in one or more sections, which is eight  
1086 (8) feet or more in width and greater than four hundred (400) square feet, and which is built on  
1087 a permanent, integral chassis and is designed for use with or without a permanent foundation  
1088 when attached to the required utilities. The term "manufactured home" does not include a  
1089 "recreational vehicle" or "park trailer."

1090  
1091 *Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land  
1092 divided into two or more manufactured home lots for rent or sale.

1093  
1094 *Market value.* The price at which a property will change hands between a willing buyer  
1095 and a willing seller, neither party being under compulsion to buy or sell and both having  
1096 reasonable knowledge of relevant facts. As used in this article, the term refers to the market  
1097 value of buildings and structures, excluding the land and other improvements on the parcel.  
1098 Market value may be established by a qualified independent appraiser, Actual Cash Value  
1099 (replacement cost depreciated for age and quality of construction), or tax assessment value  
1100 adjusted to approximate market value by a factor provided by the Property Appraiser.

1101  
1102 *New construction.* For the purposes of administration of this article and the flood  
1103 resistant construction requirements of the Florida Building Code, structures for which the  
1104 "start of construction" commenced on or after September 19, 1984 and includes any  
1105 subsequent improvements to such structures.

1106

1107 New manufactured home park or subdivision. A manufactured home park or  
1108 subdivision for which the construction of facilities for servicing the lots on which the  
1109 manufactured homes are to be affixed (including at a minimum, the installation of utilities, the  
1110 construction of streets, and either final site grading or the pouring of concrete pads) is  
1111 completed on or after September 19, 1984.

1112  
1113 Park trailer. A transportable unit which has a body width not exceeding fourteen (14)  
1114 feet and which is built on a single chassis and is designed to provide seasonal or temporary  
1115 living quarters when connected to utilities necessary for operation of installed fixtures and  
1116 appliances.

1117  
1118 Permanent construction. Does not include land preparation (such as clearing, grading,  
1119 or filling), the installation of streets or walkways, excavation for a basement, footings, piers,  
1120 or foundations, the erection of temporary forms or the installation of accessory buildings such  
1121 as garages or sheds not occupied as dwelling units or not part of the main buildings. For a  
1122 substantial improvement, the actual “start of construction” means the first alteration of any  
1123 wall, ceiling, floor or other structural part of a building, whether or not that alteration affects  
1124 the external dimensions of the building.

1125  
1126 Recreational vehicle. A vehicle, including a park trailer, which is: [See section 320.01,  
1127 F.S.)

- 1128  
1129 (1) Built on a single chassis;  
1130  
1131 (2) Four hundred (400) square feet or less when measured at the largest horizontal  
1132 projection;  
1133  
1134 (3) Designed to be self-propelled or permanently towable by a light-duty truck; and  
1135  
1136 (4) Designed primarily not for use as a permanent dwelling but as temporary living  
1137 quarters for recreational, camping, travel, or seasonal use.

1138  
1139 Repetitive loss means flood-related damage sustained by a structure on two separate  
1140 occasions during a ten-year period for which the cost of repairs at the time of each flood event,  
1141 on the average, equals or exceeds 25 percent of the market value of the structure before the  
1142 damage occurred.

1143  
1144 Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward  
1145 of the beach.

1146  
1147 Special flood hazard area. An area in the floodplain subject to a 1 percent or greater  
1148 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone  
1149 A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

1150

1151 Start of construction. The date of issuance of permits for new construction and  
1152 substantial improvements, provided the actual start of construction, repair, reconstruction,  
1153 rehabilitation, addition, placement, or other improvement is within 180 days of the date of the  
1154 issuance. The actual start of construction means either the first placement of permanent  
1155 construction of a building (including a manufactured home) on a site, such as the pouring of  
1156 slab or footings, the installation of piles, the construction of columns.

1157  
1158 Substantial damage. Damage of any origin sustained by a building or structure whereby  
1159 the cost of restoring the building or structure to its before-damaged condition would equal or  
1160 exceed 50 percent of the market value of the building or structure before the damage occurred.  
1161 The term also includes buildings and structures that have experienced repetitive loss.

1162  
1163 Substantial improvement. Any combination of repair, reconstruction, rehabilitation,  
1164 addition, or other improvement of a building or structure, taking place during a five-year  
1165 period, the cumulative cost of which equals or exceeds 50 percent of the market value of the  
1166 building or structure before the improvement or repair is started. For each building or structure,  
1167 the five-year period begins on the date of the first improvement or repair of the building or  
1168 structure subsequent to November 18, 1992. If the structure has incurred "substantial damage,"  
1169 any repairs are considered substantial improvement regardless of the actual repair work  
1170 performed. The term does not, however, include either:

- 1171  
1172 (1) Any project for improvement of a building required to correct existing health,  
1173 sanitary, or safety code violations identified by the building official and that are  
1174 the minimum necessary to assure safe living conditions.  
1175 (2) Any alteration of a historic structure provided the alteration will not preclude  
1176 the structure's continued designation as a historic structure.

1177  
1178 Variance. A grant of relief from the requirements of this article, or the flood resistant  
1179 construction requirements of the Florida Building Code, which permits construction in a  
1180 manner that would not otherwise be permitted by this article or the Florida Building Code.

1181  
1182 Watercourse. A river, creek, stream, channel or other topographic feature in, on,  
1183 through, or over which water flows at least periodically.

### 1184 DIVISION 3. FLOOD RESISTANT DEVELOPMENT

#### 1185 Subdivision I. Buildings and Structures

#### 1186 **Sec. 6-480. Design and construction of buildings, structures and facilities exempt from** 1187 **the Florida Building Code.**

1188  
1189 Pursuant to Section 6-435 of this article, buildings, structures, and facilities that are exempt  
1190 from the Florida Building Code, including substantial improvement or repair of substantial damage  
1191 of such buildings, structures and facilities, must be designed and constructed in accordance with  
1192 the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from  
1193 the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from  
1194 the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from

1195 the Florida Building Code that are not walled and roofed buildings must comply with the  
1196 requirements of Division 3, Subdivision VII of this article.

1197

1198

Subdivision II. Subdivisions

1199

**Sec. 6-482. Minimum requirements.**

1200

1201  
1202 Subdivision proposals, including proposals for manufactured home parks and  
1203 subdivisions, must be reviewed to determine that:

1204

1205 (1) Such proposals are consistent with the need to minimize flood damage and will  
1206 be reasonably safe from flooding;

1207

1208 (2) All public utilities and facilities such as sewer, gas, electric, communications,  
1209 and water systems are located and constructed to minimize or eliminate flood  
1210 damage; and

1211

1212 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones  
1213 AH and AO, adequate drainage paths must be provided to guide floodwaters  
1214 around and away from proposed structures.

1215

**Sec. 6-483. Standards for subdivision and other development proposals.**

1216

1217  
1218 Where any portion of proposed subdivisions, including manufactured home parks and  
1219 subdivisions, lies within a flood hazard area, the following will be required:

1220

1221 (1) Where the subdivision has more than 50 lots or is larger than 5 acres and base  
1222 flood elevations are not included on the FIRM, the base flood elevations  
1223 determined in accordance with Section 6-445(1) of this article; and

1224

1225 (2) Compliance with the site improvement and utilities requirements of Division 3,  
1226 Subdivision III of this article.

1227

Subdivision III. Site Improvements, Utilities and Limitations

1228

**Sec. 6-484. Minimum requirements.**

1229

1230  
1231 All proposed new development will be reviewed to determine that:

1232

1233  
1234 (1) Such proposals are consistent with the need to minimize flood damage and will  
1235 be reasonably safe from flooding;

1236

1237

1238

1239

- 1240 (2) All public utilities and facilities such as sewer, gas, electric, communications,  
1241 and water systems are located and constructed to minimize or eliminate flood  
1242 damage; and  
1243  
1244 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones  
1245 AH and AO, adequate drainage paths must be provided to guide floodwaters  
1246 around and away from proposed structures.  
1247

1248 **Sec. 6-485. Sanitary sewage facilities.**  
1249

1250 All new and replacement sanitary sewage facilities, private sewage treatment plants  
1251 (including all pumping stations and collector systems), and on-site waste disposal systems must  
1252 be designed in accordance with the standards for onsite sewage treatment and disposal systems  
1253 in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of  
1254 floodwaters into the facilities and discharge from the facilities into flood waters, and  
1255 impairment of the facilities and systems.  
1256

1257 **Sec. 6-486. Water supply facilities.**  
1258

1259 All new and replacement water supply facilities must be designed in accordance with  
1260 the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7  
1261 to minimize or eliminate infiltration of floodwaters into the systems.  
1262

1263 **Sec. 6-487. Limitations on sites in regulatory floodways.**  
1264

1265 No development, including but not limited to site improvements, and land disturbing  
1266 activity involving fill or regrading, may be authorized in the regulatory floodway unless the  
1267 floodway encroachment analysis required in Section 6-446(1) of this article demonstrates that  
1268 the proposed development or land disturbing activity will not result in any increase in the base  
1269 flood elevation.  
1270

1271 **Sec. 6-488. Limitations on placement of fill.**  
1272

1273 Subject to the limitations of this article, fill must be designed to be stable under  
1274 conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged  
1275 inundation, and protection against flood-related erosion and scour. In addition to these  
1276 requirements, if intended to support buildings and structures (Zone A only), fill must comply  
1277 with the requirements of the *Florida Building Code*.  
1278

1279 **Sec. 6-489. Limitations on sites in coastal high hazard areas (Zone V).**  
1280

1281 In coastal high hazard areas, alteration of sand dunes and mangrove stands will be  
1282 permitted only if such alteration is approved by the Florida Department of Environmental  
1283 Protection and only if the engineering analysis required by Section 6-446(4) of this article  
1284 demonstrates that the proposed alteration will not increase the potential for flood damage.

1285 Construction or restoration of dunes under or around elevated buildings and structures must  
1286 comply with Section 6-512 of this article.

1287

1288

Subdivision IV. Manufactured Homes

1289

**Sec. 6-490. General.**

1291

1292 All manufactured homes installed in flood hazard areas must be installed by an installer  
1293 that is licensed pursuant to section 320.8249, F.S., and must comply with the requirements of  
1294 Chapter 15C-1, F.A.C. and the requirements of this article.

1295

1296 The placement of manufactured homes or recreational vehicles is prohibited in coastal  
1297 high hazard areas (Zone V), except in an existing manufactured home or recreational vehicle  
1298 park or subdivision. A replacement manufactured home or recreational vehicle may be placed  
1299 on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided  
1300 the anchoring standards of Section 6-492 and the elevation standards of Sections 6-494 and 6-  
1301 495, as applicable, are met. New or expanded manufactured home or recreational vehicle parks  
1302 or subdivisions are prohibited until such time, if ever, that Village of Estero Plan Policy 80.1.2  
1303 is amended or repealed so as to allow such new or expanded manufactured home or recreational  
1304 vehicle development.

1305

**Sec. 6-491. Foundations.**

1307

1308 All new manufactured homes and replacement manufactured homes installed in flood  
1309 hazard areas must be installed on permanent, reinforced foundations that:

1310

1311 (1) In flood hazard areas (Zone A) other than coastal high hazard areas, are  
1312 designed in accordance with the foundation requirements of the *Florida*  
1313 *Building Code, Residential* Section R322.2 and this article. Foundations for  
1314 manufactured homes subject to Section 6-495(2) are permitted to be reinforced  
1315 piers or other foundation elements of at least equivalent strength.

1316

1317 (2) In coastal high hazard areas (Zone V), are designed in accordance with the  
1318 foundation requirements of the *Florida Building Code, Residential* Section  
1319 R322.3 and this article.

1320

**Sec. 6-492. Anchoring.**

1322

1323 All new manufactured homes and replacement manufactured homes must be installed  
1324 using methods and practices which minimize flood damage and must be securely anchored to  
1325 an adequately anchored foundation system to resist flotation, collapse or lateral movement.  
1326 Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground

1327 anchors. This anchoring requirement is in addition to applicable state and local anchoring  
1328 requirements for wind resistance.

1329

1330 **Sec. 6-493. Elevation.**

1331

1332 Manufactured homes that are placed, replaced, or substantially improved must comply  
1333 with Section 6-494 or 6-495, as applicable.

1334

1335 **Sec. 6-494. General elevation requirement.**

1336

1337 Unless subject to the requirements of Section 6-495, all manufactured homes that are  
1338 placed, replaced, or substantially improved on sites located: (a) outside of a manufactured  
1339 home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an  
1340 expansion to an existing manufactured home park or subdivision; or (d) in an existing  
1341 manufactured home park or subdivision upon which a manufactured home has incurred  
1342 "substantial damage" as the result of a flood, must be elevated such that the top or the lowest  
1343 floor is at or above the elevation required, as applicable to the flood hazard area, in the *Florida*  
1344 *Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V).

1345

1346 **Sec. 6-495. Elevation requirement for certain existing manufactured home parks and**  
1347 **subdivisions.**

1348

1349 Manufactured homes that are not subject to Section 6-494, including manufactured  
1350 homes that are placed, replaced, or substantially improved on sites located in an existing  
1351 manufactured home park or subdivision, unless on a site where substantial damage as result of  
1352 flooding has occurred, must be elevated such that either the:

1353

1354 (1) Top or the lowest floor of the manufactured home is at or above the elevation  
1355 required, as applicable to the flood hazard area, in the *Florida Building Code,*  
1356 *Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V); or

1357

1358 (2) Bottom of the frame is supported by reinforced piers or other foundation  
1359 elements of at least equivalent strength that are not less than 36 inches in height  
1360 above grade.

1361

1362 **Sec. 6-496. Enclosures.**

1363

1364 Enclosed areas below elevated manufactured homes must comply with the  
1365 requirements of the *Florida Building Code, Residential* Sections R322.2 or R322.3 for such  
1366 enclosed areas, as applicable to the flood hazard area.

1367

1368 **Sec. 6-497. Utility equipment.**

1369

1370 Utility equipment that serves manufactured homes, including electric, heating,  
1371 ventilation, plumbing, and air conditioning equipment and other service facilities, must comply

1372 with the requirements of the Florida Building Code, Residential Section R322, as applicable  
1373 to the flood hazard area.

1374  
1375 Subdivision V. Recreational Vehicles and Park Trailers

1376  
1377 **Sec. 6-498. Temporary placement.**

1378  
1379 Recreational vehicles and park trailers placed temporarily in flood hazard areas must:

- 1380  
1381 (1) Be on the site for fewer than 180 consecutive days; or  
1382  
1383 (2) Be fully licensed and ready for highway use, which means the recreational  
1384 vehicle or park model is on wheels or jacking system, is attached to the site only  
1385 by quick-disconnect type utilities and security devices, and has no permanent  
1386 attachments such as additions, rooms, stairs, decks and porches.

1387  
1388 **Sec. 6-499. Permanent placement.**

1389  
1390 Recreational vehicles and park trailers that do not meet the limitations in Section 6-498  
1391 of this article for temporary placement must meet the requirements of Division 3, Subdivision  
1392 IV of this article for manufactured homes.

1393  
1394 Subdivision VI. Tanks

1395  
1396 **Sec. 6-500. Underground tanks.**

1397  
1398 Underground tanks in flood hazard areas must be anchored to prevent flotation,  
1399 collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during  
1400 conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

1401  
1402 **Sec. 6-501. Above-ground tanks, not elevated.**

1403  
1404 Above-ground tanks that do not meet the elevation requirements of Section 6-502 of  
1405 this article must:

- 1406  
1407 (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard  
1408 areas, provided the tanks are anchored or otherwise designed and constructed  
1409 to prevent flotation, collapse or lateral movement resulting from hydrodynamic  
1410 and hydrostatic loads during conditions of the design flood, including the  
1411 effects of buoyancy assuming the tank is empty and the effects of flood-borne  
1412 debris.

- 1413  
1414 (2) Not be permitted in coastal high hazard areas (Zone V).

1415  
1416

1417 **Sec. 6-502. Above-ground tanks, elevated.**

1418

1419 Above-ground tanks in flood hazard areas must be attached to and elevated to or above  
1420 the design flood elevation on a supporting structure that is designed to prevent flotation,  
1421 collapse or lateral movement during conditions of the design flood. Tank-supporting structures  
1422 must meet the foundation requirements of the applicable flood hazard area.

1423

1424 **Sec. 6-503. Tank inlets and vents.**

1425

1426 Tank inlets, fill openings, outlets and vents must be:

1427

1428 (1) At or above the design flood elevation or fitted with covers designed to prevent  
1429 the inflow of floodwater or outflow of the contents of the tanks during  
1430 conditions of the design flood; and

1431 (2) Anchored to prevent lateral movement resulting from hydrodynamic and  
1432 hydrostatic loads, including the effects of buoyancy, during conditions of the  
1433 design flood.

1434

1435 *Subdivision VII. Other Development*

1436

1437 **Sec. 6-504. General requirements for other development.**

1438

1439 All development, including man-made changes to improved or unimproved real estate  
1440 for which specific provisions are not specified in this article or the *Florida Building Code*,  
1441 must:

1442

1443 (1) Be located and constructed to minimize flood damage;

1444

1445 (2) Meet the limitations of Section 6-487 of this article if located in a regulated  
1446 floodway;

1447

1448 (3) Be anchored to prevent flotation, collapse or lateral movement resulting from  
1449 hydrostatic loads, including the effects of buoyancy, during conditions of the  
1450 design flood;

1451

1452 (4) Be constructed of flood damage-resistant materials; and

1453

1454 (5) Have mechanical, plumbing, and electrical systems above the design flood  
1455 elevation, except that minimum electric service required to address life safety  
1456 and electric code requirements is permitted below the design flood elevation  
1457 provided it conforms to the provisions of the electrical part of building code for  
1458 wet locations.

1459

1460

1461

1462 **Sec. 6-505. Accessory structures.**

1463

1464 Accessory structures are not required to meet the elevation requirements if they meet  
1465 all of the following requirements, in addition to those set forth in Section 6-487:

1466 a. The structure is securely anchored to resist flotation, collapse, and lateral  
1467 movement;

1468 b. The building is a minimal investment and the total size of the building does not  
1469 exceed 1,000 square feet in floor area;

1470 c. The structure is used exclusively for uninhabitable parking or storage purposes;

1471 d. All electrical or heating equipment is elevated above the base flood elevation  
1472 or otherwise protected from intrusion of floodwaters; and

1473 e. For accessory structures located in coastal high-hazard areas (V zones),  
1474 breakaway walls are used below the lowest floor.

1475

1476 **Sec. 6-506. Fences in regulated floodways.**

1477

1478 Fences in regulated floodways that have the potential to block the passage of  
1479 floodwaters must meet the limitations of Section 6-487 of this article.

1480

1481 **Sec. 6-507. Retaining walls, sidewalks and driveways in regulated floodways.**

1482

1483 Retaining walls and sidewalks and driveways that involve the placement of fill in  
1484 regulated floodways must meet the limitations of Section 6-487 of this article.

1485

1486 **Sec. 6-508. Roads and watercourse crossings in regulated floodways.**

1487

1488 Roads and watercourse crossings, including roads, bridges, culverts, low-water  
1489 crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse  
1490 to the other side, that encroach into regulated floodways must meet the limitations of Section  
1491 6-487 of this article. Alteration of a watercourse that is part of a road or watercourse crossing  
1492 must meet the requirements of Section 6-446(3) of this article.

1493

1494 **Sec. 6-509. Concrete slabs used as parking pads, enclosure floors, landings, decks,**  
1495 **walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).**

1496

1497 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors,  
1498 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or  
1499 adjacent to buildings and structures provided the concrete slabs are designed and constructed  
1500 to be:

1501 (1) Structurally independent of the foundation system of the building or structure;

1502

1503 (2) Frangible and not reinforced, so as to minimize debris during flooding that is  
1504 capable of causing significant damage to any structure; and

1505

1506 (3) Have a maximum slab thickness of not more than four (4) inches.

1507 **Sec. 6-510. Decks and patios in coastal high hazard areas (Zone V).**  
1508

1509 In addition to the requirements of the Florida Building Code, in coastal high hazard  
1510 areas decks and patios must be located, designed, and constructed in compliance with the  
1511 following:

- 1512
- 1513 (1) A deck that is structurally attached to a building or structure must have the  
1514 bottom of the lowest horizontal structural member at or above the design flood  
1515 elevation and any supporting members that extend below the design flood  
1516 elevation must comply with the foundation requirements that apply to the  
1517 building or structure, which must be designed to accommodate any increased  
1518 loads resulting from the attached deck.
- 1519
- 1520 (2) A deck or patio that is located below the design flood elevation must be  
1521 structurally independent from buildings or structures and their foundation  
1522 systems, and must be designed and constructed either to remain intact and in  
1523 place during design flood conditions or to break apart into small pieces to  
1524 minimize debris during flooding that is capable of causing structural damage to  
1525 the building or structure or to adjacent buildings and structures.
- 1526
- 1527 (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or  
1528 that is constructed with more than the minimum amount of fill necessary for  
1529 site drainage must not be approved unless an analysis prepared by a qualified  
1530 registered design professional demonstrates no harmful diversion of  
1531 floodwaters or wave runup and wave reflection that would increase damage to  
1532 the building or structure or to adjacent buildings and structures.
- 1533
- 1534 (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and  
1535 that is at natural grade or on nonstructural fill material that is similar to and  
1536 compatible with local soils and is the minimum amount necessary for site  
1537 drainage may be approved without requiring analysis of the impact on diversion  
1538 of floodwaters or wave runup and wave reflection.
- 1539

1540 **Sec. 6-511. Other development in coastal high hazard areas (Zone V).**  
1541

1542 In coastal high hazard areas, development activities other than buildings and structures  
1543 may be permitted only if also authorized by the appropriate federal, state or local authority; if  
1544 located outside the footprint of, and not structurally attached to, buildings and structures; and  
1545 if analyses prepared by qualified registered design professionals demonstrate no harmful  
1546 diversion of floodwaters or wave runup and wave reflection that would increase damage to  
1547 adjacent buildings and structures. Such other development activities include but are not limited  
1548 to:

- 1549
- 1550 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control  
1551 structures;

- 1552 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless  
1553 designed and constructed to fail under flood conditions less than the design  
1554 flood or otherwise function to avoid obstruction of floodwaters; and  
1555  
1556 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C.,  
1557 as filled systems or mound systems.  
1558

1559 **Sec. 6-512. Nonstructural fill in coastal high hazard areas (Zone V).**  
1560

1561 In coastal high hazard areas:  
1562

- 1563 (1) Minor grading and the placement of minor quantities of nonstructural fill may  
1564 be permitted for landscaping and for drainage purposes under and around  
1565 buildings.  
1566  
1567 (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to  
1568 five units horizontal may be permitted only if an analysis prepared by a  
1569 qualified registered design professional demonstrates no harmful diversion of  
1570 floodwaters or wave runup and wave reflection that would increase damage to  
1571 adjacent buildings and structures.  
1572  
1573 (3) Where authorized by the Florida Department of Environmental Protection or  
1574 applicable local approval, sand dune construction and restoration of sand dunes  
1575 under or around elevated buildings are permitted without additional engineering  
1576 analysis or certification of the diversion of floodwater or wave runup and wave  
1577 reflection if the scale and location of the dune work is consistent with local  
1578 beach-dune morphology and the vertical clearance is maintained between the  
1579 top of the sand dune and the lowest horizontal structural member of the  
1580 building.  
1581

1582 **Sec. 6-513. Critical Facilities.**  
1583

1584 Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located  
1585 outside the limits of the special flood hazard area where feasible. Construction of new critical  
1586 facilities shall be permissible within the special flood hazard area if no feasible alternative site  
1587 is available. If permitted, critical facilities shall be elevated or protected to or above the base flood  
1588 elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is  
1589 higher. Flood proofing and sealing measures must be implemented to ensure that toxic substances  
1590 will not be displaced by or released into floodwaters. Access routes elevated to or above the base  
1591 flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical  
1592 facilities shall be designed to remain operable during such an event.  
1593  
1594  
1595  
1596

1597 **Sec. 6-514. Standards for areas in the B, C, and X Zones.**

1598

1599 All new buildings not located in the areas of special flood hazard established in Section  
1600 6-411(3) must have the lowest floor elevation (including basement) constructed at least 12  
1601 inches above the crown of the nearest local street unless the building official determines there  
1602 are extenuating circumstances that would preclude meeting that elevation.

1603

1604 **Secs. 6-515 – 6-520. Reserved.**

1605

1606 **ARTICLE V. RESERVED**

1607

1608 **Secs. 6-501—6-521 - 6-550. Reserved.**

1609

1610 **SECTION THREE: AMENDMENTS TO LDC CHAPTER 10**

1611

1612 The Village of Estero Land Development Code Chapter 10 is amended as follow with strike  
1613 through identifying deleted text and underline identifying new text.

1614

1615 **Chapter 10. DEVELOPMENT STANDARDS**

1616

1617 **ARTICLE I. IN GENERAL**

1618

1619 **Sec. 10-1. - Definitions and rules of construction.**

1620

1621 Base flood elevation means the elevation of the base flood, including wave height,  
1622 relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum  
1623 (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

1624

1625 **ARTICLE II. ADMINISTRATION**

1626

1627 **DIVISION 2. DEVELOPMENT ORDERS**

1628

1629 *Subdivision II. Procedures*

1630

1631 **Sec. 10-101. Applicability of requirements.**

1632

1633 (a) *Development orders.* All developments, as defined in this chapter, including  
1634 subdivisions, are required to obtain a development order prior to commencing any land  
1635 development activities or receiving any development permit, including a building permit, with  
1636 the exception of the following, which are not subject to review pursuant to this chapter except  
1637 as noted herein:

1638

1639 (1) *remains unchanged.*

1640

1641

1642 (2) Agriculture, as defined herein except as required for excavations permitted  
1643 under section 10-329 and improvements to the land subject to provisions of  
1644 Chapter 6, Article IV;  
1645

1646 *Remainder of Section is unchanged.*  
1647

### 1648 **ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS**

1649

#### 1650 **DIVISION 1. GENERALLY**

1651

#### 1652 **Sec. 10-253. - Consideration of soil conditions and flood hazards.**

1653

1654 No development plan will be approved unless the developer submits substantial and  
1655 competent evidence that all lands intended for use as development sites can be safely developed  
1656 without undue danger from flood or adverse soil or foundation conditions. The following  
1657 standards must also be adhered to, as applicable:

1658

1659 *(1) through (5) remain unchanged.*

1660

1661 (6) Land affected by Chapter 6, Article IV, pertaining to flood hazard reduction,  
1662 must show the base flood elevation expressed in NAVD 1988 datum on the site  
1663 plan and the plat.

1664

#### 1665 **SECTION 10-254. – FISCAL IMPACT STATEMENT**

1666

1667 In terms of design, plan application review, construction and inspection of buildings and  
1668 structures, the cost impact as an overall average is negligible in regard to the local technical  
1669 amendments because all development has been subject to the requirements of the local  
1670 floodplain management ordinance adopted for participation in the National Flood Insurance  
1671 Program. In terms of lower potential for flood damage, there will be continued savings and  
1672 benefits to consumers.

1673

#### 1674 **SECTION FOUR: CONFLICTS OF LAW**

1675

1676 Whenever the requirements or provisions of this Ordinance are in conflict with the  
1677 requirements or provisions of any other lawfully adopted ordinance or statute, the most  
1678 restrictive requirements will apply.

1679

#### 1680 **SECTION FIVE: SEVERABILITY**

1681

1682 It is the intent of the Village Council of the Village of Estero that if any section, subsection,  
1683 clause or provision of this ordinance is deemed invalid or unconstitutional by a court of  
1684 competent jurisdiction, such portion will become a separate provision and will not affect the  
1685 remaining provisions of this ordinance. The Village Council further declares its intent that this

1686 ordinance would have been adopted if such unconstitutional provision was not included.

1687

1688 **SECTION SIX: CODIFICATION AND SCRIVENER’S ERRORS**

1689

1690 The Village Council intends that this ordinance will be made part of the Village of Estero Land  
1691 Development Code. Sections of this ordinance can be renumbered or relettered and the word  
1692 “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to  
1693 accomplish codification, and regardless of whether this ordinance is ever codified, the  
1694 ordinance can be renumbered or relettered and typographical errors that do not affect the intent  
1695 can be corrected with the authorization of the Village Administrator or his designee, without  
1696 the need for a public hearing.

1697

1698 **SECTION SEVEN: MODIFICATION**

1699

1700 It is the intent of the Village Council that the provisions of this Ordinance may be modified as  
1701 a result of consideration that may arise during Public Hearing(s). Such modifications shall be  
1702 incorporated into the final version.

1703

1704 **SECTION EIGHT: EFFECTIVE DATE**

1705

1706 This ordinance shall take effect immediately upon its adoption. The provisions of this  
1707 ordinance will apply to all projects or applications subject to the LDC unless the development  
1708 order application for such project is complete or the zoning request is found sufficient before  
1709 the effective date.

1710

1711 **PASSED** on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015

1712

1713 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
1714 Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

1715

1716 Attest: **VILLAGE OF ESTERO, FLORIDA**

1717

1718

1719 By: \_\_\_\_\_ By: \_\_\_\_\_

1720 Kathy Hall, MMC  
1721 Village Clerk

Nicholas Batos  
Mayor

1722

1723

1724

1725 Reviewed for legal sufficiency:

1726

1727

1728 By: \_\_\_\_\_

1729 Burt Saunders, Esq.  
1730 Village Attorney

	Vote:	AYE	NAY
1731			
1732			
1733	Mayor Batos	_____	_____
1734	Vice Mayor Levitan	_____	_____
1735	Councilmember Boesch	_____	_____
1736	Councilmember Brown	_____	_____
1737	Councilmember Errington	_____	_____
1738	Councilmember Ribble	_____	_____
1739	Councilmember Wilson	_____	_____