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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2022 - 13

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING LAND DEVELOPMENT CODE SECTION 7-3 "FLOOD HAZARD REDUCTION STANDARDS" TO UPDATE THE EFFECTIVE FLOOD INSURANCE STUDY APPLICABLE TO THE VILLAGE, AMEND THE PROCESS FOR DETERMINING SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATIONS, UPDATE REFERENCE TO THE FLORIDA BUILDING CODE HISTORIC BUILDINGS CHAPTER, SPECIFY ELEVATION OF AND FOUNDATIONS FOR MANUFACTURED HOMES IN FLOOD HAZARD AREAS, PROVIDE STANDARDS FOR NON-ELEVATED ACCESSORY STRUCTURES IN FLOOD AREAS, AND AMEND DEFINITIONS; CLARIFYING AND REENACTING THE REPEAL OF ORDINANCE 2015-16; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125 – County Government or Chapter 166 – Municipalities, 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 Village of Estero participates in the National Flood Insurance Program and participates in the NFIP's Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class 6, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

WHEREAS, to satisfy the prerequisite and for the Village of Estero to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

47 **WHEREAS**, the Village Council has determined it appropriate to modify requirements for
48 accessory structures to be consistent with the FEMA Policy to allow issuance of permits for non-
49 elevated wet floodproofed accessory structures that are not larger than the sizes specified in the
50 FEMA Policy; and
51

52 **WHEREAS**, the Village Council determined that it is in the public interest to amend the
53 floodplain management regulations to better protect manufactured homes and to continue
54 participating in the Community Rating System at the current class rating; and
55

56 **WHEREAS**, The Village Council determined it appropriate to repeal local amendments
57 to the definition of Substantial Improvement, which restores the definition in the Florida Building
58 Code; and
59

60 **WHEREAS**, the Village wishes to clarify that the adoption of the Village Land
61 Development Code by Ordinance 2020-10, specifically Section 1-902 adopting the Florida
62 Building Code as codified in Chapter 553, Florida Statutes, was intended to repeal earlier building
63 code regulations adopted by Ordinance 2015-16, and to clarify any doubt that Ordinance 2015-16
64 is no longer in effect.
65

66 **NOW THEREFORE, BE IT ENACTED BY THE VILLAGE COUNCIL OF THE**
67 **VILLAGE OF ESTERO, FLORIDA, THAT:**
68

69 **Section 1. Amendments to Section 7-3 Flood Hazard Reduction Standards.**
70

71 Section 7-3 “Flood Hazard Reduction Standards” of the Village Land Development Code
72 is hereby amended by the following amendments.
73

74 **SECTION 7-3. FLOOD HAZARD REDUCTION STANDARDS**
75

76 **7-301. Administration.**
77

78 **A. General.**
79

80 1. *Scope.* This section applies to all development that is wholly within or partially
81 within any flood hazard area or special flood hazard area (see Sec. 7-303, Definitions),
82 including but not limited to the subdivision of land; filling, grading, and other site
83 improvements and utility installations; construction, alteration, remodeling, enlargement,
84 improvement, replacement, repair, relocation or demolition of buildings, structures, and
85 facilities that are exempt from the Florida Building Code; placement, installation, or
86 replacement of manufactured homes and manufactured buildings; installation or
87 replacement of tanks; placement of recreational vehicles; installation of swimming pools;
88 and any other development.
89

90 2. *Purpose and Intent.* The purpose and intent of this section and the flood load and
91 flood resistant construction requirements of the Florida Building Code are to establish
92 minimum requirements to safeguard the public health, safety, and general welfare, and to

minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;
- B. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- E. Minimize damage to public and private facilities and utilities;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- H. Meet the requirements of the National Flood Insurance Program for community participation as set forth in 44 CFR 59.22.

3. *Coordination with Florida Building Code.* This section is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

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

5. *Disclaimer of Liability.* This section will not create liability on the part of the Village of Estero or by any officer or employee of the Village for any flood damage that results from reliance on this section or any administrative decision lawfully made under it.

B. Applicability.

1. *General.*

A. Where there is a conflict between a general requirement and a specific requirement, the specific requirement will be applicable.

B. This section applies to all flood hazard areas within the Village of Estero, as established in subsection C below.

C. The Flood Insurance Study for Lee County, Florida and Incorporated Areas, effective November 17, 2022, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this section and will serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Village Department of Community Development.

2. *Submission of Additional Data to Establish Flood Hazard Area.* To establish flood hazard areas and base flood elevations, in accordance with Sec. 7-301.E, Site Plans and Construction Documents, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area will be considered as a flood hazard area and subject to the requirements of this section and, as applicable, the requirements of the Florida Building Code.

B. Are above the closest applicable base flood elevation, the area will be regulated as a special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

3. *Other Laws.* The provisions of this section will not be deemed to nullify any provisions of local, state, or federal law.

4. *Abrogation and Greater Restrictions.* This section supersedes any regulations in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing regulations 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 section and any other regulations, the more restrictive will govern. This section will not impair any deed restriction, covenant, or easement, but any land that is subject to such interests will also be governed by this section.

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

C. Duties and Powers of the Floodplain Administrator.

1. *Designation.* The Village Manager is designated as the Floodplain Administrator and may delegate another person to serve in this capacity. The Floodplain Administrator may delegate performance of certain duties to other employees.

2. *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this section. The Floodplain Administrator will have the authority to render interpretations of this section consistent with the intent and purpose of this section 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 section without the granting of a variance pursuant to Sec. 7-301.G, Variances and Appeals.

3. *Applications and Permits.* The Floodplain Administrator, in coordination with other pertinent offices of the community, will:

- A. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- B. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this section;
- C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination will have the opportunity to appeal the interpretation;
- D. Provide available flood elevation and flood hazard information;
- E. Determine whether additional flood hazard data will be obtained from other sources or will be developed by an applicant;

- 231 F. Review applications to determine whether proposed development will be
232 reasonably safe from flooding;
233
234 G. Issue floodplain development permits or approvals for development other
235 than buildings and structures that are subject to the Florida Building Code,
236 including buildings, structures and facilities exempt from the Florida
237 Building Code, when compliance with this section is demonstrated, or
238 disapprove the same in the event of noncompliance; and
239
240 H. Coordinate to assure that applications, plan reviews, and inspections for
241 buildings and structures in flood hazard areas comply with the applicable
242 provisions of this section.
243

244 4. *Substantial Improvement and Substantial Damage Determinations.* For
245 applications for building permits to improve buildings and structures, including alterations,
246 movement, enlargement, replacement, repair, change of occupancy, additions,
247 rehabilitations, renovations, substantial improvements, repairs of substantial damage, and
248 any other improvement of or work on such buildings and structures, the Floodplain
249 Administrator shall:
250

- 251 A. Estimate the market value or require the applicant to obtain an appraisal of
252 the market value prepared by a qualified independent appraiser, of the
253 building or structure before the start of construction of the proposed work;
254 in the case of repair, the market value of the building or structure will be the
255 market value before the damage occurred and before any repairs are made;
256
257 B. Compare the cost to perform the improvement, the cost to repair a damaged
258 building to its pre-damaged condition, or the combined costs of
259 improvements and repairs, if applicable, to the market value of the building
260 or structure;
261
262 C. Determine and document whether the proposed work constitutes substantial
263 improvement or repair of substantial damage; the determination requires
264 evaluation of previous permits issued for repair of flood-related damage;
265 and
266
267 D. Notify the applicant if it is determined that the work constitutes substantial
268 improvement or repair of substantial damage and that compliance with the
269 flood resistant construction requirements of the Florida Building Code and
270 this section is required.
271

272 5. *Modifications of the Strict Application of the Requirements of the Florida Building*
273 *Code.* The Floodplain Administrator will review requests submitted to the Building
274 Official that seek approval to modify the strict application of the flood load and flood
275 resistant construction requirements of the Florida Building Code to determine whether such

requests require the granting of a variance in accordance with Sec. 7-301.G, Variances and Appeals.

6. *Notices and Orders.* The Floodplain Administrator will coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this section.

7. *Inspections.* The Floodplain Administrator will make the required inspections as specified in Sec. 7-301.F, Inspections, for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator will inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

8. *Other Duties of the Floodplain Administrator.* The Floodplain Administrator will have other duties, including but not limited to:

- A. Establishing procedures for administering and documenting determinations of substantial improvement and substantial damage in accordance with Sec. 7-301.C.4, Substantial Improvement and Substantial Damage Determinations;
- B. Requiring that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- C. Requiring applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions will be made within six months of such data becoming available;
- D. Reviewing required design certifications and documentation of elevations specified by this section and the Florida Building Code to determine that such certifications and documentations are complete;
- E. Notifying FEMA when the corporate boundaries of the Village are modified; and
- F. Advising applicants for new buildings and structures, including substantial improvements, which are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas

subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

9. *Floodplain Management Records.* Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator will maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this section and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this section; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken in accordance with this section and the flood resistant construction requirements of the Florida Building Code. These records are available for public inspection at the Village Hall.

D. Permits.

1. *Permits Required.* Any owner or owner's authorized agent also referred to as "applicant" who intends to undertake any development activity within the scope of this section, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator and obtain the required permits and approvals. No such permit or approval will be issued until compliance with the requirements of this section and all other applicable codes and regulations has been satisfied.

2. *Floodplain Development Permits or Approvals.* Floodplain development permits or approvals will be issued in accordance with this section for any development activities not subject to the requirements of the Florida Building Code including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

3. *Buildings, Structures, and Facilities Exempt from the Florida Building Code.* In accordance with the requirements of federal regulation for participation in the National Flood Insurance Program (44 CFR Secs. 59 and 60), floodplain development permits or approvals will be required for buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this section.

365 4. *Application for a Permit or Approval.* To obtain a floodplain development permit
366 or approval the applicant shall first file an application in writing on a form furnished by the
367 Village. The information provided shall:

- 368
- 369 A. Identify and describe the development to be covered by the permit or
370 approval.
- 371
- 372 B. Describe the land on which the proposed development is to be conducted
373 by legal description, street address or similar description that will readily
374 identify and definitively locate the site.
- 375
- 376 C. Indicate the use and occupancy for which the proposed development is
377 intended.
- 378
- 379 D. Be accompanied by a site plan or construction documents as specified in
380 Sec. 7-301.E, Site Plans and Construction Documents.
- 381
- 382 E. State the valuation of the proposed work.
- 383
- 384 F. Be signed by the applicant or the applicant's authorized agent.
- 385
- 386 G. Give such other data and information as required by the Floodplain
387 Administrator.
- 388

389 5. *Validity of Permit or Approval.* The issuance of a floodplain development permit
390 or approval in accordance with this section shall not be construed to be a permit for, or
391 approval of, any violation of this section, the Florida Building Codes, or any other Village
392 regulations. The issuance of permits based on submitted applications, construction
393 documents, and information will not prevent the Floodplain Administrator from requiring
394 the correction of errors and omissions.

395

396 6. *Suspension or Revocation.* The Floodplain Administrator is authorized to suspend
397 or revoke a floodplain development permit or approval if the permit was issued in error;
398 on the basis of incorrect, inaccurate, or incomplete information; or in violation of this
399 section or any other section, regulation, or requirement of the Village.

400

401 7. *Other Permits Required.* Floodplain development permits and building permits
402 shall include a condition that all other applicable state or federal permits be obtained before
403 commencement of the permitted development, including but not limited to the following:

404

- 405 A. SFWMD; F.S. § 373.036.
- 406
- 407 B. Florida Department of Health for onsite sewage treatment and disposal
408 systems; F.S. § 381.0065 and Ch. 64E-6, F.A.C.
- 409
- 410 C. FDEP for activities subject to the Joint Coastal Permit; F.S. § 161.055.

411 D. FDEP for activities that affect wetlands and alter surface water flows, in
412 conjunction with the U.S. Army Corps of Engineers; Sec. 404 of the Clean
413 Water Act.

414
415 E. Federal permits and approvals.
416

417 **E. Site Plans and Construction Documents.**
418

419 1. *Information for Development in Flood Hazard Areas.*
420

421 A. The site plan or construction documents for any development subject to the
422 requirements of this section shall be drawn to scale and include, as
423 applicable to the proposed development:
424

425 1. Delineation of flood hazard areas, floodway boundaries and flood
426 zone(s), base flood elevation(s), and ground elevations if necessary
427 for review of the proposed development.
428

429 2. Where base flood elevations, or floodway data are not included on
430 the FIRM or in the Flood Insurance Study, they shall be established
431 in accordance with Sec. 7-301.E.2.B or Sec. 7-301.E.2.C.
432

433 3. Where the parcel on which the proposed development will take
434 place will have more than 50 lots or is larger than five acres and the
435 base flood elevations are not included on the FIRM or in the Flood
436 Insurance Study, such elevations shall be established in accordance
437 with Sec. 7-301.E.2.A.
438

439 4. Location of the proposed activity and proposed structures, and
440 locations of existing buildings and structures; in coastal high hazard
441 areas, new buildings shall be located landward of the reach of mean
442 high tide.
443

444 5. Location, extent, amount, and proposed final grades of any filling,
445 grading, or excavation.
446

447 6. If the placement of fill is proposed, the amount, type, and source of
448 fill material; compaction specifications; a description of the
449 intended purpose of the fill areas; and evidence that the proposed fill
450 areas are the minimum necessary to achieve the intended purpose.
451

452 7. Extent of any proposed alteration of mangrove stands, provided such
453 alteration is approved by FDEP.
454

455 8. Existing and proposed alignment of any proposed alteration of a
456 watercourse.

457 9. Estimated labor and material costs.

- 458
- 459 B. The Floodplain Administrator is authorized to waive the submission of site
- 460 plans, construction documents, and other data that are required by this
- 461 section but that are not required to be prepared by a registered design
- 462 professional if it is found that the nature of the proposed development is
- 463 such that the review of such submissions is not necessary to ascertain
- 464 compliance with this section.
- 465

466 2. *Information in Flood Hazard Areas without Base Flood Elevations (Approximate*

467 *Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation

468 data have not been provided, the Floodplain Administrator shall:

469

- 470 A. Require the applicant to include base flood elevation data prepared in
- 471 accordance with currently accepted engineering practices.
- 472

- 473 B. Obtain, review, and provide to applicants base flood elevation and floodway
- 474 data available from a federal or state agency or other source or require the
- 475 applicant to obtain and use base flood elevation and floodway data available
- 476 from a federal or state agency or other source.
- 477

- 478 C. Where base flood elevation and floodway data are not available from
- 479 another source, where the available data are deemed by the Floodplain
- 480 Administrator to not reasonably reflect flooding conditions, or where the
- 481 available data are known to be scientifically or technically incorrect or
- 482 otherwise inadequate:
- 483

- 484 1. Require the applicant to include base flood elevation data prepared
- 485 in accordance with currently accepted engineering practices; or
- 486

- 487 2. Specify that the base flood elevation is two feet above the highest
- 488 adjacent grade at the location of the development, provided there is
- 489 no evidence indicating flood depths have been or may be greater
- 490 than two feet.
- 491

- 492 D. Where the base flood elevation data are to be used to support a Letter of
- 493 Map Change from FEMA, advise the applicant that the analyses shall be
- 494 prepared by a Florida licensed engineer in a format required by FEMA, and
- 495 that it shall be the responsibility of the applicant to satisfy the submittal
- 496 requirements and pay the processing fees.
- 497

498 3. *Additional Analyses and Certifications.* As applicable to the location and nature of

499 the proposed development activity, and in addition to the requirements of this section, the

500 applicant shall have the following analyses signed and sealed by a Florida licensed engineer

501 for submission with the site plan and construction documents:

- 502 A. For development activities proposed to be located in a regulatory floodway,
503 a floodway encroachment analysis that demonstrates that the encroachment
504 of the proposed development will not cause any increase in base flood
505 elevations; where the applicant proposes to undertake development
506 activities that do increase base flood elevations, the applicant shall submit
507 such analysis to FEMA as specified in Sec. 7-301.E.4, Submission of
508 Additional Data, and shall submit the Conditional Letter of Map Revision,
509 if issued by FEMA, with the site plan and construction documents.
510
- 511 B. For development activities proposed to be located in a riverine flood hazard
512 area for which base flood elevations are included in the Flood Insurance
513 Study or on the FIRM and floodways have not been designated, hydrologic
514 and hydraulic analyses that demonstrate that the cumulative effect of the
515 proposed development, when combined with all other existing and
516 anticipated flood hazard area encroachments, will not increase the base
517 flood elevation more than one foot at any point within the community. This
518 requirement does not apply in isolated flood hazard areas not connected to
519 a riverine flood hazard area or in flood hazard areas identified as Zone AO
520 or Zone AH.
521
- 522 C. For alteration of a watercourse, an engineering analysis prepared in
523 accordance with standard engineering practices which demonstrates that the
524 flood-carrying capacity of the altered or relocated portion of the
525 watercourse will not be decreased, and certification that the altered
526 watercourse shall be maintained in a manner which preserves the channel's
527 flood-carrying capacity; the applicant shall submit the analysis to FEMA as
528 specified in Sec. 7-301.E.4, Submission of Additional Data.
529
- 530 D. For activities that propose to alter mangrove stands in coastal high hazard
531 areas (Zone V), an engineering analysis that demonstrates that the proposed
532 alteration will not increase the potential for flood damage.
533

534 4. *Submission of Additional Data.* When additional hydrologic, hydraulic or other
535 engineering data, studies, and additional analyses are submitted to support an application,
536 the applicant has the right to seek a Letter of Map Change from FEMA to change the base
537 flood elevations, change floodway boundaries, or change boundaries of flood hazard areas
538 shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall
539 be prepared by a Florida licensed engineer in a format required by FEMA. Submittal
540 requirements and processing fees will be the responsibility of the applicant.
541

542 **F. Inspections.**
543

- 544 1. *General.* Development for which a floodplain development permit or approval is
545 required will be subject to inspection.
546

2. *Development Other than Buildings or Structures.* The Floodplain Administrator will inspect all development to determine compliance with the requirements of this section and the conditions of approval of a floodplain development permit.

3. *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 section and the conditions of approval of a floodplain development permit.

4. *Building 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, shall submit to the Floodplain Administrator:

A. 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

B. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Sec. 7-301.E.2, Information in Flood Hazard Areas without Base Flood Elevations (Approximate Zone A), the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

5. *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 shall 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 shall be prepared as specified in Sec. 7-301.F.4, Building Structures and Facilities Exempt from the Florida Building Code, Lowest Floor Inspection.

6. *Manufactured Homes.* The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this section and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

G. Variances and Appeals.

1. *General.* The Planning, Zoning and Design Board ("PZDB"), acting as the Board of Adjustment and Appeals pursuant to Section 553.73(5), F.S., shall hear and decide on requests for appeals and requests for variances from the strict application of this section. This section does not apply to Sec. 3109 of the Florida Building Code, Building.

2. *Appeals.* The PZDB shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this section. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by state law.

3. *Limitations on Authority to Grant Variances.* The PZDB will base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Sec. 7-301.G.7, Considerations for Issuance of Variances, the conditions of issuance set forth in Sec. 7-301.G.8, Conditions for Issuance of Variances, and the comments and recommendations of the Building Official. The PZDB has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section.

4. *Restrictions in Floodways.* A variance will not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Sec. 7-301.E.3, Additional Analyses and Certifications.

5. *Historic Buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance will not be granted and the building and any repair, improvement, and rehabilitation will be subject to the requirements of the Florida Building Code.

6. *Functionally Dependent Uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this section, provided the variance meets the requirements of Sec. 7-301.G.4, Restrictions in Floodways is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

7. *Considerations for Issuance of Variances.* In reviewing requests for variances, the PZDB will consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this section, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

- 639 D. The importance of the services provided by the proposed development to
640 the community;
- 641
- 642 E. The availability of alternate locations for the proposed development that are
643 subject to lower risk of flooding or erosion;
- 644
- 645 F. The compatibility of the proposed development with existing and
646 anticipated development;
- 647
- 648 G. The relationship of the proposed development to the comprehensive plan
649 and floodplain management program for the area;
- 650
- 651 H. The safety of access to the property in times of flooding for ordinary and
652 emergency vehicles;
- 653
- 654 I. The expected heights, velocity, duration, rate of rise and debris and
655 sediment transport of the floodwaters and the effects of wave action, if
656 applicable expected at the site; and
- 657
- 658 J. The costs of providing governmental services during and after flood
659 conditions including maintenance and repair of public utilities and facilities
660 such as sewer, gas, electrical and water systems, streets and bridges.
- 661
- 662 8. *Conditions for Issuance of Variances.* Variances may be issued only upon:
- 663
- 664 A. Submission by the applicant of a showing of good and sufficient cause that
665 the unique characteristics of the size, configuration, or topography of the
666 site limit compliance with any provision of this section or the required
667 elevation standards;
- 668
- 669 B. Determination by the PZDB that:
- 670
- 671 1. Failure to grant the variance would result in exceptional hardship
672 due to the physical characteristics of the land that render the lot
673 undevelopable; increased costs to satisfy the requirements or
674 inconvenience do not constitute hardship;
- 675
- 676 2. The granting of a variance will not result in increased flood heights,
677 additional threats to public safety, extraordinary public expense, nor
678 create nuisances, cause fraud on or victimization of the public or
679 conflict with existing local laws and regulations; and
- 680
- 681 3. The variance is the minimum necessary, considering the flood
682 hazard, to afford relief;
- 683

C. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

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

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

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

7-302. Flood Resistant Development.

A. Buildings and Structures.

1. *Building and Structures Exempt from Florida Building Code.* In accordance with Sec. 7-301.D.3, Buildings, Structures, and Facilities Exempt from the Florida Building Code, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Sec. 7-302.G, Other Development.

2. Amend the definitions of "substantial damage" in the Florida Building Code, Building Section 202, and Florida Building Code, Existing Building Section 202 and repeal

the amendment to the definition of “substantial improvement” to restore to the definition in the Building Code, as follows:

SUBSTANTIAL DAMAGE. For the purposes of determining compliance with the flood provisions of this Code, damage of any origin sustained by a structure whereby the cost of restoring the structure to is before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes buildings and structures that have experienced repetitive loss.

B. Subdivisions.

1. *Minimum Requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

2. *Standards for Subdivision and Other Development Proposals.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- A. Where the subdivision is greater than 50 lots or five acres and base flood elevations are not included on the FIRM, base flood elevations determined in accordance with Sec. 7-301.E.2.A; and
- B. Compliance with the site improvement and utilities requirements of Sec. 7-302.C, Site Improvements, Utilities and Limitations.

C. Site Improvements, Utilities and Limitations.

1. *Minimum Requirements.* All proposed new development will be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

774 B. All public utilities and facilities such as sewer, gas, electric,
775 communications, and water systems are located and constructed to
776 minimize or eliminate flood damage; and
777

778 C. Adequate drainage is provided to reduce exposure to flood hazards; in
779 Zones AH and AO, adequate drainage paths shall be provided to guide
780 floodwaters around and away from proposed structures.
781

782 2. *Sanitary Sewage Facilities.* All new and replacement sanitary sewage facilities,
783 private sewage treatment plants (including all pumping stations and collector systems), and
784 on-site waste disposal systems shall be designed in accordance with the standards for onsite
785 sewage treatment and disposal systems in Ch. 64E-6, F.A.C. and ASCE 24 Ch. 7 to
786 minimize or eliminate infiltration of floodwaters into the facilities and discharge from the
787 facilities into floodwaters, and impairment of the facilities and systems.
788

789 3. *Water Supply Facilities.* All new and replacement water supply facilities shall be
790 designed in accordance with the water well construction standards in Ch. 62-532.500,
791 F.A.C. and ASCE 24 Ch. 7 to minimize or eliminate infiltration of floodwaters into the
792 systems.
793

794 4. *Limitations on Sites in Regulatory Floodways.* No development, including but not
795 limited to site improvements, and land disturbing activity involving fill or regrading, may
796 be authorized in the regulatory floodway unless the floodway encroachment analysis
797 required in Sec. 7-301.E.3.A, demonstrates that the proposed development or land
798 disturbing activity will not result in any increase in the base flood elevation.
799

800 5. *Limitations on Placement of Fill.* Subject to the limitations of this section, fill shall
801 be designed to be stable under conditions of flooding, including rapid rise and rapid
802 drawdown of floodwaters, prolonged inundation, and protection against flood-related
803 erosion and scour. In addition to these requirements, if intended to support buildings and
804 structures (Zone A only), fill shall comply with the requirements of the Florida Building
805 Code.
806

807 6. *Limitations on Sites in Coastal High Hazard Areas (Zone V).* In coastal high hazard
808 areas, alteration of mangrove stands will be permitted only if such alteration is approved
809 by the FDEP and only if the engineering analysis required by Sec. 7-301.E.3.D
810 demonstrates that the proposed alteration will not increase the potential for flood damage.
811

812 **D. Manufactured Homes.**
813

814 1. *General.*
815

816 A. All manufactured homes installed in flood hazard areas shall be installed by
817 an installer that is licensed in accordance with F.S. § 320.8249, and shall
818 comply with the requirements of Ch. 15C-1, F.A.C. and the requirements of
819 this section.

820 B. The placement of manufactured homes or recreational vehicles is prohibited
821 in coastal high hazard areas (Zone V), except in an existing manufactured
822 home or recreational vehicle park or subdivision. A replacement
823 manufactured home or recreational vehicle may be placed on a lot in an
824 existing manufactured home or recreational vehicle park or subdivision,
825 provided the anchoring standards of Sec. 7-302.D.3, Anchoring, and the
826 elevation standards of Sec. 7-302.D.4, Elevation, are met. New or expanded
827 manufactured home or recreational vehicle parks or subdivisions are
828 prohibited until such time, if ever, that Village of Estero Plan Policy 80.1.2
829 is amended or repealed so as to allow such new or expanded manufactured
830 home or recreational vehicle development.
831

832 2. *Foundations.* All new manufactured homes and replacement manufactured homes
833 installed in flood *hazard* areas shall be installed on permanent, reinforced foundations that:
834

835 A. In flood hazard areas (Zone A) other than coastal high hazard areas, are
836 designed in accordance with the foundation requirements of the Florida
837 Building Code, Residential Section R322.2 and this section.
838

839 B. In coastal high hazard areas (Zone V), are designed in accordance with the
840 foundation requirements of the Florida Building Code, Residential Section
841 R322.3 and this section.
842

843 3. *Anchoring.* All new manufactured homes and replacement manufactured homes
844 shall be installed using methods and practices which minimize flood damage and shall be
845 securely anchored to an adequately anchored foundation system to resist flotation, collapse,
846 or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-
847 top or frame ties to ground anchors. This anchoring requirement is in addition to applicable
848 state and local anchoring requirements for wind resistance.
849

850 4. *Elevation.* All manufactured homes that are placed, replaced, or substantially
851 improved in flood hazard areas shall be elevated such that the bottom of the frame is at or
852 above the elevation required, as applicable to the flood hazard area, in the Florida Building
853 Code, *Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A
854 Zone).
855

856 5. *Enclosures.* Enclosed areas *below* elevated manufactured homes shall comply with
857 the requirements of the Florida Building Code, Residential Sections R322.2 or R322.3, for
858 such enclosed areas, as applicable to the flood hazard area.
859

860 6. *Utility Equipment.* Utility equipment that serves manufactured homes, including
861 electric, heating, ventilation, *plumbing*, and air conditioning equipment and other service
862 facilities, shall comply with the requirements of the Florida Building Code, Residential
863 Section R322, as applicable to the flood hazard area.
864
865

E. **Recreational Vehicles and Park Trailers.**

1. *Temporary Placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

A. Be on the site for fewer than 180 consecutive days; or

B. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and porches.

2. *Permanent Placement.* Recreational vehicles and park trailers that do not meet the limitations in Sec. 7-302.E.1, Temporary Placement, shall meet the requirements of Sec. 7-302.D, Manufactured Homes.

F. **Tanks.**

1. *Underground Tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

2. *Above-Ground Tanks, Not Elevated.* Above-ground tanks that do not meet the elevation requirements of Sec. 7-302.F.3, Above Ground Tanks, Elevated, shall:

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

B. Not be permitted in coastal high hazard areas (Zone V).

3. *Above Ground Tanks, Elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

4. *Tank Inlets and Vents.* Tank inlets, fill openings, outlets, and vents shall be:

A. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

- 912 B. Anchored to prevent lateral movement resulting from hydrodynamic and
913 hydrostatic loads, including the effects of buoyancy, during conditions of
914 the design flood.

915 **G. Other Development.**

916
917 1. *General Requirements for Other Developments.* All development, including man-
918 made changes to improved or unimproved real estate for which specific provisions are not
919 specified in this section or the Florida Building Code, shall:

- 920
921 A. Be located and constructed to minimize flood damage;
922
923 B. Meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory
924 Floodways, if located in a regulated floodway;
925
926 C. Be anchored to prevent flotation, collapse, or lateral movement resulting
927 from hydrostatic loads, including the effects of buoyancy, during conditions
928 of the design flood;
929
930 D. Be constructed of flood damage-resistant materials; and
931
932 E. Have mechanical, plumbing, and electrical systems above the design flood
933 elevation, except that minimum electric service required to address life
934 safety and electric code requirements is permitted below the design flood
935 elevation provided it conforms to the provisions of the electrical part of the
936 Building Code for wet locations.

937
938 2. *Non-elevated Accessory Structures.* Accessory structures are permitted below
939 elevations required by the Florida Building Code provided the accessory structures are used
940 only for parking or storage and:

- 941
942 A. If located in special flood hazard areas (Zone A/AE) other than coastal high
943 hazard areas, are one-story and not larger than 600 sq. ft. and have flood
944 openings in accordance with Section R322.2 of the Florida Building Code,
945 Residential.
946
947 B. If located in coastal high hazard areas (Zone V/VE), are not located below
948 elevated buildings and are not larger than 100 sq. ft.
949
950 C. Are anchored to resist flotation, collapse or lateral movement resulting
951 from flood loads.
952
953 D. Have flood damage-resistant materials used below the base flood elevation
954 plus one (1) foot.
955
956 E. Have mechanical, plumbing and electrical systems, including plumbing
957 fixtures, elevated to or above the base flood elevation plus one (1) foot.

3. *Fences in Regulated Floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters shall meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways.

4. *Retaining Walls, Sidewalks and Driveways in Regulated Floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways.

5. *Roads and Watercourse Crossings in Regulated Floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Sec. 7-301.E.3, Additional Analyses and Certifications.

6. *Concrete Slabs Used as Parking Pads, Enclosure Floors, Landings, Decks, Walkways, Patios, and Similar Nonstructural Uses in Coastal High Hazard Areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and structures, provided the concrete slabs are designed and constructed to be:

- A. Structurally independent of the foundation system of the building or structure;
- B. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- C. Have a maximum slab thickness of not more than four inches.

7. *Decks and Patios in Coastal High Hazard Areas (Zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas, decks and patios shall be located, designed, and constructed in compliance with the following:

- A. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- B. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed either to remain intact and in

place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure, or to adjacent buildings and structures.

C. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

D. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

8. *Other Development in Coastal High Hazard Areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures may be permitted only if it is also authorized by the appropriate federal, state, or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

A. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

B. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

C. On-site sewage treatment and disposal systems defined in Rule 64E-6.002, F.A.C., as filled systems or mound systems.

9. *Nonstructural Fill in Coastal High Hazard Areas (Zone V).* In coastal high hazard areas:

A. Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings.

B. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal may be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion

of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

10. *Critical Facilities.* Critical facilities shall be located outside the limits of the special flood hazard area where feasible. Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. If permitted, critical facilities shall be elevated or protected to or above the base flood elevation, plus two feet, or the 500-year (0.2 percent chance) flood elevation, whichever is higher. Flood proofing and sealing measures shall be implemented to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the base flood elevation shall be provided to all critical facilities, to the maximum extent practicable. Critical facilities shall be designed to remain operable during such an event.

11. *Standards for Areas in the B, C, and X Zones.* All new buildings not located in the areas of special flood hazard established in Sec. 7-301.B.1.C, shall have the lowest floor elevation (including basement) constructed at least 12 inches above the crown of the nearest local street, unless the Building Official determines there are extenuating circumstances that would preclude meeting that elevation.

7-303. Definitions.

A. General.

1. *Terms Defined in the Florida Building Code.* Where terms are not defined in this section and are defined in the Florida Building Code, such terms will have the meanings ascribed to them in that code.

2. *Terms Not Defined.* Where terms are not defined in this section or the Florida Building Code, such terms will have ordinarily accepted meanings such as the context implies.

B. Definitions. Unless otherwise expressly stated, the following words and terms, for the purposes of this section only, have the meanings shown in this subsection.

Accessory Structure means a structure on the same parcel of property as a principal structure and the use of which is limited to parking and storage incidental to the use of the principal structure.

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

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this section.

1095 *ASCE 24* means a standard titled Flood Resistant Design and Construction that is
1096 referenced by the Florida Building Code. ASCE 24 is developed and published by the American
1097 Society of Civil Engineers, Reston, VA.
1098

1099 *Base Flood* means a flood having a one percent chance of being equaled or exceeded in
1100 any given year. [Also defined in Florida Building Code, B, Section 1612.2.] The base flood is
1101 commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."
1102

1103 *Base Flood Elevation* means the elevation of the base flood, including wave height, relative
1104 to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or
1105 other datum specified on the Flood Insurance Rate Map (FIRM).
1106

1107 *Basement* means the portion of a building having its floor subgrade (below ground level)
1108 on all sides.
1109

1110 *Coastal High Hazard Area* means a special flood hazard area extending from offshore to
1111 the inland limit of a primary frontal dune along an open coast and any other area subject to high
1112 velocity wave action from storms or seismic sources.
1113

1114 *Conditional Letter of Map Revision (CLOMR)* means a formal review and comment as to
1115 whether a proposed flood protection project or other project complies with the minimum NFIP
1116 requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR
1117 does not revise the effective FIRM or Flood Insurance Study; upon submission and approval of
1118 certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the
1119 effective FIRM.
1120

1121 *Critical Facility* means one or more of the following:
1122

1123 1. Structures or facilities that commercially produce, use, or store highly volatile,
1124 flammable, explosive, toxic and/or water-reactive materials that are defined as extremely
1125 hazardous substances by the EPA under Sec. 302 of the Emergency Planning and
1126 Community Right-to-Know Act, Title III of the Superfund Amendments and
1127 Reauthorization Act of 1986, 42 USC;
1128

1129 2. Nursing homes, hospitals, and social service homes;
1130

1131 3. Structures used as law enforcement stations, fire stations, governmental vehicle and
1132 equipment storage facilities, and emergency operations centers that are needed for
1133 emergency response activities before, during, and after a flood incident; and
1134

1135 4. Public or private utility facilities that are vital to maintaining and restoring normal
1136 services to flooded areas before, during, and after a flood incident.
1137

1138 *Design Flood* means the flood associated with the greater of the following two areas:
1139

1. Area with a floodplain subject to a one percent or greater chance of flooding in any year; or

2. Area designated as a flood hazard area on the FIRM or otherwise legally designated.

Design Flood Elevation means the elevation of the "design flood," including wave height, relative to the datum specified on the FIRM. In areas designated as Zone AO, the design flood elevation will be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the FIRM. In areas designated as Zone AO where the depth number is not specified on the map, the depth number will be taken as being equal to two feet.

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

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

Existing Building and Existing Structure means any buildings and structures for which the "start of construction" commenced before September 19, 1984.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 19, 1984.

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

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Flood Hazard Area means the greater of the following two areas:

1. The area within a floodplain subject to a one percent or greater chance of flooding in any year.

2. The area designated as a flood hazard area on the FIRM or otherwise legally designated.

Flood Insurance Rate Map (FIRM) means the official map of the Village on which FEMA has delineated both special flood hazard areas and the risk premium zones applicable to the Village.

Flood Insurance Study (FIS) means the official report provided by FEMA that contains the FIRM, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data.

Floodplain Administrator means the office or position designated and charged with the administration and enforcement of this section (may be referred to as the Floodplain Manager). The Village Manager serves as the Floodplain Manager in accordance with this section.

Floodplain Development Permit or Approval means an official document or certificate issued by the Floodplain Administrator, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this section.

Floodway means the channel of a river or other riverine watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway Encroachment Analysis means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations. The evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code means the family of codes adopted by the Florida Building Commission, including the Florida Building Code, Building; the Florida Building Code, Residential; the Florida Building Code, Existing Building; the Florida Building Code, Mechanical; the Florida Building Code, Plumbing; the Florida Building Code, Fuel Gas.

Functionally Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

1231 *Historic Structure* means any structure that is determined eligible for the exception to the
1232 flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 11:
1233 Historic Buildings.
1234

1235 *Letter of Map Amendment (LOMA)* means an amendment based on technical data showing
1236 that a property was incorrectly included in a designated special flood hazard area. A LOMA
1237 amends the current effective FIRM and establishes that a specific property, portion of a property,
1238 or structure is not located in a special flood hazard area.
1239

1240 *Letter of Map Change (LOMC)* means an official determination issued by FEMA that
1241 amends or revises the FIRM or FIS. The LOMCs include Letter of Map Amendment (LOMA),
1242 Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), and
1243 Conditional Letter of Map Revision (CLOMR).
1244

1245 *Letter of Map Revision (LOMR)* means a revision based on technical data that may show
1246 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway
1247 delineations, and other planimetric features.
1248

1249 *Letter of Map Revision Based on Fill (LOMR-F)* means a determination that a structure or
1250 parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer
1251 located within the special flood hazard area. In order to qualify for this determination, the fill shall
1252 have been permitted and placed in accordance with this section.
1253

1254 *Light-Duty Truck* means as defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500
1255 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or
1256 less and which has a basic vehicle frontal area of 45 square feet or less, which is:
1257

- 1258 1. Designed primarily for purposes of transportation of property or is a derivation of
1259 such a vehicle;
- 1260 2. Designed primarily for transportation of persons and has a capacity of more than
1261 12 persons; or
- 1262 3. Available with special features enabling off-street or off-highway operation and
1263 use.
1264 1265 1266

1267 *Lowest Floor* means the lowest floor of the lowest enclosed area of a building or structure,
1268 including basement, but excluding any unfinished or flood-resistant enclosure, other than a
1269 basement, usable solely for vehicle parking, building access or limited storage provided that such
1270 enclosure is not built to render the structure in violation of the non-elevation requirements of the
1271 Florida Building Code or ASCE 24.
1272

1273 *Manufactured Home* means a structure, transportable in one or more sections, which is
1274 eight feet or more in width and greater than 400 square feet, and which is built on a permanent,
1275 integral chassis and is designed for use with or without a permanent foundation when attached to

the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer".

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value means the value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New Construction means for the purposes of this section and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after September 19, 1984 and includes any subsequent improvements to such structures.

Park Trailer means a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

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

Recreational Vehicle means a vehicle, including a park trailer, which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

1321 *Special Flood Hazard Area* means an area in the floodplain subject to a one percent or
1322 greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as
1323 Zone A, AO, AI-A30, AE, A99, AH, VI-V30, VE or V.
1324

1325 *Start of Construction.* The date of issuance of permits for new construction and substantial
1326 improvements, provided the actual start of construction, repair, reconstruction, rehabilitation,
1327 addition, placement, or other improvement is within 180 days of the date of the issuance. The
1328 actual start of construction means either the first placement of permanent construction of a building
1329 (including a manufactured home) on a site, such as the pouring of slab or footings, the installation
1330 of piles, the construction of columns.
1331

1332 *Substantial Damage* means damage sustained by a building or structure whereby the cost
1333 of restoring the building or structure to its before-damaged condition would equal or exceed 50
1334 percent of the market value of the building or structure before the damage occurred. The term also
1335 includes buildings and structures that have experienced repetitive loss.
1336

1337 *Substantial Improvement* means any combination of repair, reconstruction, rehabilitation,
1338 alteration, addition, or other improvement of a building or structure, the cost of which equals or
1339 exceeds 50 percent of the market value of the building or structure before the improvement or
1340 repair is started. If the structure has incurred "substantial damage," any repairs are considered
1341 substantial improvement regardless of the actual repair work performed. The term does not include
1342 either:
1343

- 1344 1. Any project for improvement of a building required to correct existing health,
1345 sanitary, or safety code violations identified by the Building Official and that are the
1346 minimum necessary to assure safe living conditions.
1347
- 1348 2. Any alteration of a historic structure provided the alteration will not preclude the
1349 structure's continued designation as a historic structure.
1350

1351 *Variance* means a grant of relief from the requirements of this section, or the flood resistant
1352 construction requirements of the Florida Building Code, which permits construction in a manner
1353 that would not otherwise be permitted by this section or the Florida Building Code.
1354

1355 *Watercourse* means a river, creek, stream, channel, or other topographic feature in, on,
1356 through, or over which water flows at least periodically.
1357

1358 **Section 2. Repeal of Ordinance 2015-16.**

1359

1360 The Village Council hereby confirms that the adoption of the Land Development Code by
1361 Ordinance 2020-10, specifically Section 1-902 adopting the Florida Building Code as codified in
1362 Chapter 553, Florida Statutes, was intended to repeal earlier building code regulations adopted by
1363 Ordinance 2015-16, and that to eliminate any doubt declares that Ordinance 2015-16 is no longer
1364 in effect.
1365
1366

Section 3. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 4. Conflicts.

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Village or any of its officials and in conflict with this ordinance are hereby repealed to the extent inconsistent herewith.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

PASSED on first reading this 19th day of October, 2022.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 16th day of November, 2022.

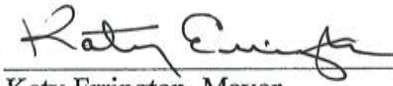
Attest:

VILLAGE OF ESTERO, FLORIDA

By:

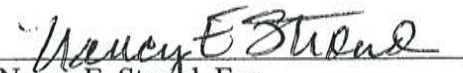

Carol Sacco, Village Clerk

By:


Katy Errington, Mayor

Reviewed for legal sufficiency:

By:


Nancy E. Stroud, Esq.
Village Land Use Attorney

Vote:

AYE

NAY

Mayor Errington

X

Vice Mayor McLain

X

Councilmember Ribble

X

Councilmember Fiesel

X

Councilmember Boesch

X

Councilmember Ward

X

Councilmember Wilson

X
