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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 ~~(c) — 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 ~~2021612.2~~ 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

150 **DIVISION 1. ADMINISTRATION**
151

152 ***Subdivision I. Generally***
153

154 **Sec. 6-401. Scope.**
155

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

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

267
268 The provisions of this article will not be deemed to nullify any provisions of local, state
269 or federal law.

270
271 **Sec. 6-414. Abrogation and greater restrictions.**

272
273 This article supersedes any article in effect for management of development in flood
274 hazard areas. However, it is not intended to repeal or abrogate any existing articles including
275 but not limited to land development regulations, zoning resolutions, stormwater management
276 regulations, or the Florida Building Code. In the event of a conflict between this article and
277 any other article, the more restrictive will govern. This article will not impair any deed
278 restriction, covenant or easement, but any land that is subject to such interests will also be
279 governed by this article.

280
281 **Sec. 6-415. Interpretation.**

282
283 In the interpretation and application of this article, all provisions will be:

- 284
285 (1) Considered as minimum requirements;
286
287 (2) Liberaly construed in favor of the governing body; and
288
289 (3) Deemed neither to limit nor repeal any other powers granted under state
290 statutes.

291
292 **Secs. 6-416 – 6-420. Reserved.**

293
294 *Subdivision III. Duties and Powers of the Floodplain Administrator*

295
296 **Sec. 6-421. Designation.**

297
298 The Village Manager or his/her designee is designated as the Floodplain Administrator.
299 The Floodplain Administrator may delegate performance of certain duties to other employees.

300
301 **Sec. 6-422. General.**

302
303 The Floodplain Administrator is authorized and directed to administer and enforce the
304 provisions of this article. The Floodplain Administrator will have the authority to render
305 interpretations of this article consistent with the intent and purpose of this article and may
306 establish policies and procedures in order to clarify the application of its provisions. Such
307 interpretations, policies, and procedures will not have the effect of waiving requirements
308 specifically provided in this article without the granting of a variance pursuant to Division 1,
309 Subdivision VII of this article.

310

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

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

- 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.

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

660 *Subdivision VI. Inspections*

661
662 **Sec. 6-451. General.**

663
664 Development for which a floodplain development permit or approval is required will
665 be subject to inspection.

666
667 **Sec. 6-452. Development other than buildings and structures.**

668
669 The Floodplain Administrator will inspect all development to determine compliance
670 with the requirements of this article and the conditions of issued floodplain development
671 permits or approvals.

672
673 **Sec. 6-453. Buildings, structures and facilities exempt from the *Florida Building Code*.**

674
675 The Floodplain Administrator will inspect buildings, structures and facilities exempt
676 from the *Florida Building Code* to determine compliance with the requirements of this article
677 and the conditions of issued floodplain development permits or approvals.

678
679 **Sec. 6-454. Buildings, structures and facilities exempt from the *Florida Building Code*,**
680 **lowest floor inspection.**

681
682 Upon placement of the lowest floor, including basement, and prior to further vertical
683 construction, the owner of a building, structure or facility exempt from the *Florida Building*
684 *Code*, or the owner's authorized agent, must submit to the Floodplain Administrator:

- 685 (1) If a design flood elevation was used to determine the required elevation of the
686 lowest floor, the certification of elevation of the lowest floor prepared and
687 sealed by a Florida licensed professional surveyor; or
688
689 (2) If the elevation used to determine the required elevation of the lowest floor was
690 determined in accordance with Section 6-445 of this article, the documentation
691 of height of the lowest floor above highest adjacent grade, prepared by the
692 owner or the owner's authorized agent.

693
694 **Sec. 6-455. Buildings, structures and facilities exempt from the *Florida Building Code*,**
695 **final inspection.**

696
697 As part of the final inspection, the owner or owner's authorized agent must submit to
698 the Floodplain Administrator a final certification of elevation of the lowest floor or final
699 documentation of the height of the lowest floor above the highest adjacent grade; such
700 certifications and documentations must be prepared as specified in Section 6-454 of this article.

701

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

878 Where terms are not defined in this article or the *Florida Building Code*, such terms
879 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.

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
1194

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
1200 **Sec. 6-482. Minimum requirements.**

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
1216 **Sec. 6-483. Standards for subdivision and other development proposals.**

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
1228 *Subdivision III. Site Improvements, Utilities and Limitations*

1229
1230 **Sec. 6-484. Minimum requirements.**

1231
1232 All proposed new development will be reviewed to determine that:

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

- 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

1290 **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

1306 **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

1321 **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).

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

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.*

- 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 **DIVISION 1. GENERALLY**

1650 **Sec. 10-253. - Consideration of soil conditions and flood hazards.**

1651
1652 No development plan will be approved unless the developer submits substantial and
1653 competent evidence that all lands intended for use as development sites can be safely developed
1654 without undue danger from flood or adverse soil or foundation conditions. The following
1655 standards must also be adhered to, as applicable:
1656
1657

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

1665
1666 In terms of design, plan application review, construction and inspection of buildings and
1667 structures, the cost impact as an overall average is negligible in regard to the local technical
1668 amendments because all development has been subject to the requirements of the local
1669 floodplain management ordinance adopted for participation in the National Flood Insurance
1670 Program. In terms of lower potential for flood damage, there will be continued savings and
1671 benefits to consumers.
1672

1673 **SECTION FOUR: CONFLICTS OF LAW**

1674
1675 Whenever the requirements or provisions of this Ordinance are in conflict with the
1676 requirements or provisions of any other lawfully adopted ordinance or statute, the most
1677 restrictive requirements will apply.
1678

1679 **SECTION FIVE: SEVERABILITY**

1680
1681 It is the intent of the Village Council of the Village of Estero that if any section, subsection,
1682 clause or provision of this ordinance is deemed invalid or unconstitutional by a court of
1683 competent jurisdiction, such portion will become a separate provision and will not affect the
1684 remaining provisions of this ordinance. The Village Council further declares its intent that this
1685

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 21st day of October, 2015

1712

1713 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
1714 Florida this 18th day of November, 2015.

1715

1716 Attest:

VILLAGE OF ESTERO, FLORIDA

1717

1718

1719 By: Kathy Hall
1720 Kathy Hall, MMC
1721 Village Clerk

By: Nicholas Batos
Nicholas Batos
Mayor

1722

1723

1724

1725 Reviewed for legal sufficiency:

1726

1727

1728 By: Burt Saunders
1729 Burt Saunders, Esq.
1730 Village Attorney

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