

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 11

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4  
5 AN EMERGENCY ORDINANCE OF THE VILLAGE OF  
6 ESTERO, FLORIDA, REPEALING VILLAGE OF ESTERO  
7 ORDINANCE 2015-08, DECLARING AN EMERGENCY;  
8 AMENDING VILLAGE OF ESTERO LAND  
9 DEVELOPMENT CODE CHAPTERS 6 & 10 TO ADOPT  
10 FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN  
11 ADMINISTRATOR, ADOPT PROCEDURES AND  
12 CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD  
13 AREAS, AND FOR OTHER PURPOSES; ADOPT  
14 TECHNICAL AMENDMENTS TO THE FLORIDA  
15 BUILDING CODE; PROVIDE FOR CONFLICTS OF LAW,  
16 SEVERABILITY, CODIFICATION AND SCRIVENERS  
17 ERRORS, MODIFICATIONS THAT MAY ARISE FROM  
18 CONSIDERATION AT PUBLIC HEARING AND AN  
19 EFFECTIVE DATE.  
20

21 WHEREAS, the Village of Estero, Florida was incorporated on December 31, 2014  
22 and commenced operations on March 17, 2015; and  
23

24 WHEREAS, on June 17, 2015, the Village of Estero adopted Lee County's Ordinance  
25 15-09 to comply with requirements for the Village's application to the National Flood  
26 Insurance Program (NFIP); and  
27

28 WHEREAS, as an additional requirement to the NFIP application, the Federal  
29 Emergency Management Agency has requested that the Village adopt its own Floodplain  
30 Management Ordinance by September 30, 2015; and  
31

32 WHEREAS, the Village Council has declared this an emergency due to the importance  
33 of having this ordinance adopted by FEMA's deadline in order for the Village's application to  
34 the NFIP to be complete; and  
35

36 WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida  
37 Statutes, conferred upon local governments the authority to adopt regulations designed to  
38 promote the public health, safety, and general welfare of its citizenry; and  
39

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

46           **WHEREAS**, the Village Council adopted Ordinance 2015-08 on June 17, 2015,  
47 confirming its intent to continue application of the floodplain management requirements of  
48 Lee County and to meet the requirements of Title 44 Code of Federal Regulations, Sections 59  
49 and 60, necessary for participation in the National Flood Insurance Program; and  
50

51           **WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to  
52 provide a mechanism for the uniform adoption, updating, amendment, interpretation and  
53 enforcement of a state building code, called the *Florida Building Code*; and  
54

55           **WHEREAS**, section 553.73(5), Florida Statutes, allows adoption of local technical  
56 amendments to the *Florida Building Code* (FBC); and  
57

58           **WHEREAS**, the amendment of Chapters 6 & 10 of the Village of Estero Land  
59 Development Code (LDC) is necessary to achieve consistency with the National Flood  
60 Insurance Program requirements and the Florida Building Code and to protect the public  
61 health, safety and general welfare; and  
62

63           **WHEREAS**, the Village Council of the Village of Estero, Florida has determined that  
64 it is in the public interest to adopt the proposed floodplain management amendments that are  
65 coordinated with the *Florida Building Code*.  
66

67           **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
68 Florida:  
69

70           **SECTION ONE: ADOPTION OF AMENDMENTS TO FLORIDA BUILDING CODE**  
71

72           Village of Estero Land Development Code Chapter 6  
73

74                           **Chapter 6. BUILDINGS AND BUILDING REGULATIONS**  
75

76   **ARTICLE II. CODES AND STANDARDS**  
77

78   ~~DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS~~  
79

80           ~~Sec. 6-81. Variations; modification of orders.~~  
81

82           ~~(a) through (b) remain unchanged.~~  
83

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

DIVISION 3. BUILDING CODE

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

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

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

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

Amend FBC, Building Section ~~202~~~~1612.2~~ 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:

134 **1612.4.1 Elevation of Category III and IV buildings (critical facilities).**

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

145  
146 Sec. ~~6-1186-121~~ – 6-210. Reserved

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

150  
151 **ARTICLE IV. FLOOD HAZARD REDUCTION**

152  
153 **DIVISION 1. ADMINISTRATION**

154  
155 *Subdivision I. Generally*

156  
157 **Sec. 6-401. Scope.**

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

167  
168 **Sec. 6-402. Intent.**

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

- 174  
175 (1) Minimize unnecessary disruption of commerce, access and public service  
176 during times of flooding;  
177  
178 (2) Require the use of appropriate construction practices in order to prevent or

- 179 minimize future flood damage;  
180  
181 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling  
182 operations, storage of equipment or materials, and other development which  
183 may increase flood damage or erosion potential;  
184  
185 (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to  
186 minimize the impact of development on the natural and beneficial functions of  
187 the floodplain;  
188  
189 (5) Minimize damage to public and private facilities and utilities;  
190  
191 (6) Help maintain a stable tax base by providing for the sound use and development  
192 of flood hazard areas;  
193  
194 (7) Minimize the need for future expenditure of public funds for flood control  
195 projects and response to and recovery from flood events; and  
196  
197 (8) Meet the requirements of the National Flood Insurance Program for community  
198 participation as set forth in the Title 44 Code of Federal Regulations, Section  
199 59.22.  
200

201 **Sec. 6-403. Coordination with the Florida Building Code.**  
202

203 This article is intended to be administered and enforced in conjunction with the Florida  
204 Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced  
205 by the Florida Building Code.  
206

207 **Sec. 6-404. Warning.**  
208

209 The degree of flood protection required by this article and the Florida Building Code, as  
210 amended by the Village of Estero, is considered the minimum reasonable for regulatory purposes  
211 and is based on scientific and engineering considerations. Larger floods can and will occur. Flood  
212 heights may be increased by man-made or natural causes. This article does not imply that land  
213 outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas,  
214 will be free from flooding or flood damage. The flood hazard areas and base flood elevations  
215 contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the  
216 requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by  
217 the Federal Emergency Management Agency, requiring this community to revise these  
218 regulations to remain eligible for participation in the National Flood Insurance Program. No  
219 guaranty of vested use, existing use, or future use is implied or expressed by compliance with  
220 this article.  
221  
222  
223

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

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

229  
230 **Secs. 6-406 – 6-410. Reserved.**

231  
232 *Subdivision II. Applicability*

233  
234 **Sec. 6-411. General.**

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

249  
250 **Sec. 6-412. Submission of additional data to establish flood hazard areas.**

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

- 256  
257 (1) Are below the closest applicable base flood elevation, even in areas not  
258 delineated as a special flood hazard area on a FIRM, the area will be considered  
259 as flood hazard area and subject to the requirements of this article and, as  
260 applicable, the requirements of the *Florida Building Code*.
- 261  
262 (2) Are above the closest applicable base flood elevation, the area will be regulated  
263 as special flood hazard area unless the applicant obtains a Letter of Map Change  
264 that removes the area from the special flood hazard area.
- 265  
266  
267  
268

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

270  
271 The provisions of this article will not be deemed to nullify any provisions of local, state  
272 or federal law.

273  
274 **Sec. 6-414. Abrogation and greater restrictions.**

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

283  
284 **Sec. 6-415. Interpretation.**

285  
286 In the interpretation and application of this article, all provisions will be:

- 287  
288 (1) Considered as minimum requirements;  
289  
290 (2) Liberal construed in favor of the governing body; and  
291  
292 (3) Deemed neither to limit nor repeal any other powers granted under state  
293 statutes.

294  
295 **Secs. 6-416 – 6-420. Reserved.**

296  
297 Subdivision III. Duties and Powers of the Floodplain Administrator

298  
299 **Sec. 6-421. Designation.**

300  
301 The Village Manager or his/her designee is designated as the Floodplain Administrator.  
302 The Floodplain Administrator may delegate performance of certain duties to other employees.

303  
304 **Sec. 6-422. General.**

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

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

315  
316 The Floodplain Administrator, in coordination with other pertinent offices of the  
317 community, will:

- 318  
319 (1) Review applications and plans to determine whether proposed new  
320 development will be located in flood hazard areas;  
321  
322 (2) Review applications for modification of any existing development in flood  
323 hazard areas for compliance with the requirements of this article;  
324  
325 (3) Interpret flood hazard area boundaries where such interpretation is necessary to  
326 determine the exact location of boundaries; a person contesting the  
327 determination will have the opportunity to appeal the interpretation;  
328  
329 (4) Provide available flood elevation and flood hazard information;  
330  
331 (5) Determine whether additional flood hazard data will be obtained from other  
332 sources or will be developed by an applicant;  
333  
334 (6) Review applications to determine whether proposed development will be  
335 reasonably safe from flooding;  
336  
337 (7) Issue floodplain development permits or approvals for development other than  
338 buildings and structures that are subject to the *Florida Building Code*, including  
339 buildings, structures and facilities exempt from the *Florida Building Code*,  
340 when compliance with this article is demonstrated, or disapprove the same in  
341 the event of noncompliance; and  
342  
343 (8) Coordinate to assure that applications, plan reviews, and inspections for  
344 buildings and structures in flood hazard areas comply with the applicable  
345 provisions of this article.  
346

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

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

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

358 repair, the market value of the building or structure will be the market value  
359 before the damage occurred and before any repairs are made;

360

361 (2) Compare the cost to perform the improvement, the cost to repair a damaged  
362 building to its pre-damaged condition, or the combined costs of improvements  
363 and repairs, if applicable, to the market value of the building or structure;

364

365 (3) Determine and document whether the proposed work constitutes substantial  
366 improvement or repair of substantial damage; the determination requires  
367 evaluation of previous permits issued for improvements and repairs as specified  
368 in the definition of “substantial improvement” and previous permits issued for  
369 repair of flood-related damage; and

370

371 (4) Notify the applicant if it is determined that the work constitutes substantial  
372 improvement or repair of substantial damage and that compliance with the flood  
373 resistant construction requirements of the *Florida Building Code* and this article  
374 is required.

375

376 **Sec. 6-425. Modifications of the strict application of the requirements of the *Florida***  
377 ***Building Code.***

378

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

383

384 **Sec. 6-426. Notices and orders.**

385

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

388

389 **Sec. 6-427. Inspections.**

390

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

396

397 **Sec. 6-428. Other duties of the Floodplain Administrator.**  
398

399 The Floodplain Administrator will have other duties, including but not limited to:  
400

- 401 (1) Establish procedures for administering and documenting determinations of  
402 substantial improvement and substantial damage made pursuant to Section 6-  
403 424 of this article;  
404
- 405 (2) Require that applicants proposing alteration of a watercourse notify adjacent  
406 communities and the Florida Division of Emergency Management, State  
407 Floodplain Management Office, and submit copies of such notifications to the  
408 Federal Emergency Management Agency (FEMA);  
409
- 410 (3) Require applicants who submit hydrologic and hydraulic engineering analyses  
411 to support permit applications to submit to FEMA the data and information  
412 necessary to maintain the Flood Insurance Rate Maps if the analyses propose to  
413 change base flood elevations, flood hazard area boundaries, or floodway  
414 designations; such submissions will be made within 6 months of such data  
415 becoming available;  
416
- 417 (4) Review required design certifications and documentation of elevations  
418 specified by this article and the *Florida Building Code* to determine that such  
419 certifications and documentations are complete;  
420
- 421 (5) Notify the Federal Emergency Management Agency when the corporate  
422 boundaries of the Village of Estero are modified; and  
423
- 424 (6) Advise applicants for new buildings and structures, including substantial  
425 improvements, which are located in any unit of the Coastal Barrier Resources  
426 System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and  
427 the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal  
428 flood insurance is not available on such construction; areas subject to this  
429 limitation are identified on Flood Insurance Rate Maps as “Coastal Barrier  
430 Resource System Areas” and “Otherwise Protected Areas.”  
431

432 **Sec. 6-429. Floodplain management records.**  
433

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

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

447  
448 **Secs. 6-430 – 6-432. Reserved.**  
449

450 *Subdivision IV. Permits*

451  
452 **Sec. 6-433. Permits required.**  
453

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

461  
462 **Sec. 6-434. Floodplain development permits or approvals.**  
463

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

470  
471 **Sec. 6-435. Buildings, structures and facilities exempt from the *Florida Building Code*.**  
472

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

478  
479 **Sec. 6-436. Application for a permit or approval.**  
480

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

- 483  
484 (1) Identify and describe the development to be covered by the permit or approval.

- 485 (2) Describe the land on which the proposed development is to be conducted by  
486 legal description, street address or similar description that will readily identify  
487 and definitively locate the site.  
488  
489 (3) Indicate the use and occupancy for which the proposed development is  
490 intended.  
491  
492 (4) Be accompanied by a site plan or construction documents as specified in  
493 Division 1, Subdivision V of this article.  
494  
495 (5) State the valuation of the proposed work.  
496  
497 (6) Be signed by the applicant or the applicant's authorized agent.  
498  
499 (7) Give such other data and information as required by the Floodplain  
500 Administrator.  
501

502 **Sec. 6-437. Validity of permit or approval.**  
503

504 The issuance of a floodplain development permit or approval pursuant to this article  
505 must not be construed to be a permit for, or approval of, any violation of this article, the *Florida*  
506 *Building Codes*, or any other article of this community. The issuance of permits based on  
507 submitted applications, construction documents, and information will not prevent the  
508 Floodplain Administrator from requiring the correction of errors and omissions.  
509

510 **Sec. 6-438. Suspension or revocation.**  
511

512 The Floodplain Administrator is authorized to suspend or revoke a floodplain  
513 development permit or approval if the permit was issued in error, on the basis of incorrect,  
514 inaccurate or incomplete information, or in violation of this article or any other article,  
515 regulation or requirement of this community.  
516

517 **Sec. 6-439. Other permits required.**  
518

519 Floodplain development permits and building permits must include a condition that all  
520 other applicable state or federal permits be obtained before commencement of the permitted  
521 development, including but not limited to the following:  
522

- 523 (1) The South Florida Water Management District; section 373.036, F.S.  
524  
525 (2) Florida Department of Health for onsite sewage treatment and disposal systems;  
526 section 381.0065, F.S. and Chapter 64E-6, F.A.C.  
527

- 528 (3) Florida Department of Environmental Protection for activities subject to the  
529 Joint Coastal Permit; section 161.055, F.S.  
530  
531 (4) Florida Department of Environmental Protection for activities that affect  
532 wetlands and alter surface water flows, in conjunction with the U.S. Army  
533 Corps of Engineers; Section 404 of the Clean Water Act.  
534  
535 (5) Federal permits and approvals.  
536

537 **Secs. 6-440 – 6-443. Reserved.**  
538

539 *Subdivision V. Site Plans and Construction Documents*  
540

541 **Sec. 6-444. Information for development in flood hazard areas.**  
542

543 The site plan or construction documents for any development subject to the  
544 requirements of this article must be drawn to scale and must include, as applicable to the  
545 proposed development:  
546

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

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

574

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

580

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

583

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

586

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

589

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

594

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

599

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

602

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

607

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

613

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

615  
616 As applicable to the location and nature of the proposed development activity, and in  
617 addition to the requirements of this section, the applicant must have the following analyses  
618 signed and sealed by a Florida licensed engineer for submission with the site plan and  
619 construction documents:

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

650  
651 **Sec. 6-447. Submission of additional data.**

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

658 in a format required by FEMA. Submittal requirements and processing fees will be the  
659 responsibility of the applicant.

660

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

662

663 *Subdivision VI. Inspections*

664

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

666

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

669

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

671

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

675

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

677

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

681

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

684

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

688 (1) If a design flood elevation was used to determine the required elevation of the  
689 lowest floor, the certification of elevation of the lowest floor prepared and  
690 sealed by a Florida licensed professional surveyor; or

691

692 (2) If the elevation used to determine the required elevation of the lowest floor was  
693 determined in accordance with Section 6-445 of this article, the documentation  
694 of height of the lowest floor above highest adjacent grade, prepared by the  
695 owner or the owner's authorized agent.

696

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

699

700 As part of the final inspection, the owner or owner's authorized agent must submit to  
701 the Floodplain Administrator a final certification of elevation of the lowest floor or final

702 documentation of the height of the lowest floor above the highest adjacent grade; such  
703 certifications and documentations must be prepared as specified in Section 6-454 of this article.

704

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

706

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

711

712 **Secs. 6-457 – 6-460. Reserved.**

713

714 *Subdivision VII. Variances and Appeals*

715

716 **Sec. 6-461. General.**

717

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

724

725 **Sec. 6-462. Appeals.**

726

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

731

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

733

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

740

741 **Sec. 6-464. Restrictions in floodways.**

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

746  
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  
776 (2) The danger to life and property due to flooding or erosion damage;  
777  
778 (3) The susceptibility of the proposed development, including contents, to flood  
779 damage and the effect of such damage on current and future owners;  
780  
781 (4) The importance of the services provided by the proposed development to the  
782 community;  
783  
784 (5) The availability of alternate locations for the proposed development that are  
785 subject to lower risk of flooding or erosion;

- 786 (6) The compatibility of the proposed development with existing and anticipated  
787 development;  
788  
789 (7) The relationship of the proposed development to the comprehensive plan and  
790 floodplain management program for the area;  
791  
792 (8) The safety of access to the property in times of flooding for ordinary and  
793 emergency vehicles;  
794  
795 (9) The expected heights, velocity, duration, rate of rise and debris and sediment  
796 transport of the floodwaters and the effects of wave action, if applicable,  
797 expected at the site; and  
798  
799 (10) The costs of providing governmental services during and after flood conditions  
800 including maintenance and repair of public utilities and facilities such as sewer,  
801 gas, electrical and water systems, streets and bridges.  
802

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

805 Variances may be issued only upon:  
806

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

831 between the base flood elevation and the proposed elevation of the lowest floor,  
832 stating that the cost of federal flood insurance will be commensurate with the  
833 increased risk resulting from the reduced floor elevation (up to amounts as high  
834 as \$25 for \$100 of insurance coverage), and stating that construction below the  
835 base flood elevation increases risks to life and property.

836  
837 **Secs. 6-469 – 6-470. Reserved.**

838

839 Subdivision VIII. Violations

840

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

842

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

850

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

852

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

857

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

859

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

863

864 **Sec. 6-474 – 6-476. Reserved.**

865

866 DIVISION 2. DEFINITIONS

867

868 Subdivision I. General

869

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

871

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

874

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

876  
877 Where terms are not defined in this article or the *Florida Building Code*, such terms  
878 will have ordinarily accepted meanings such as the context implies.

879  
880 **Sec. 6-479. Definitions.**

881  
882 Unless otherwise expressly stated, the following words and terms, for the purposes of  
883 this article, have the meanings shown in this section.

884  
885 *Alteration of a watercourse.* A dam, impoundment, channel relocation, change in  
886 channel alignment, channelization, or change in cross-sectional area of the channel or the  
887 channel capacity, or any other form of modification which may alter, impede, retard or change  
888 the direction and/or velocity of the riverine flow of water during conditions of the base flood.

889  
890 *Appeal.* A request for a review of the Floodplain Administrator’s interpretation of any  
891 provision of this article.

892  
893 *ASCE 24.* A standard titled *Flood Resistant Design and Construction* that is referenced  
894 by the *Florida Building Code*. ASCE 24 is developed and published by the American Society  
895 of Civil Engineers, Reston, VA.

896  
897 *Base flood.* A flood having a 1-percent chance of being equaled or exceeded in any  
898 given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to  
899 as the "100-year flood" or the "1-percent-annual chance flood."

900  
901 *Base flood elevation.* The elevation of the base flood, including wave height, relative  
902 to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD)  
903 or other datum specified on the Flood Insurance Rate Map (FIRM).

904  
905 *Basement.* The portion of a building having its floor subgrade (below ground level) on  
906 all sides.

907  
908 *Coastal high hazard area.* A special flood hazard area extending from offshore to the  
909 inland limit of a primary frontal dune along an open coast and any other area subject to high  
910 velocity wave action from storms or seismic sources. Coastal high hazard areas are also  
911 referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are  
912 designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

913  
914 *Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to  
915 whether a proposed flood protection project or other project complies with the minimum NFIP  
916 requirements for such projects with respect to delineation of special flood hazard areas. A  
917 CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study;  
918 upon submission and approval of certified as-built documentation, a Letter of Map Revision  
919 may be issued by FEMA to revise the effective FIRM.

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963

Critical facility means one or more of the following:

- (1) Structures or facilities that commercially produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials that are defined as extremely hazardous substances by the Environmental Protection Agency under section 302 of the Emergency Planning and Community Right-to-Know Act, Title III of the Superfund amendments and Reauthorization Act of 1986, 42, USC.;
- (2) Hospitals, nursing homes, assisted living facilities and health care facilities Groups I, II and IV;
- (3) Structures used as law enforcement stations, fire stations, governmental vehicle and equipment storage facilities, and emergency operations centers that are needed for emergency response activities before, during and after a flood incident; and
- (4) Public or private utility facilities that are vital to maintaining and restoring normal services to flooded areas before, during and after a flood incident.

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

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

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

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

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

964 Existing building and existing structure. Any buildings and structures for which the  
965 “start of construction” commenced before September 19, 1984.

966  
967 Existing manufactured home park or subdivision. A manufactured home park or  
968 subdivision for which the construction of facilities for servicing the lots on which the  
969 manufactured homes are to be affixed (including, at a minimum, the installation of utilities,  
970 the construction of streets, and either final site grading or the pouring of concrete pads) is  
971 completed before September 19, 1984.

972  
973 Expansion to an existing manufactured home park or subdivision. The preparation of  
974 additional sites by the construction of facilities for servicing the lots on which the  
975 manufactured homes are to be affixed (including the installation of utilities, the construction  
976 of streets, and either final site grading or the pouring of concrete pads).

977  
978 Federal Emergency Management Agency (FEMA). The federal agency that, in addition  
979 to carrying out other functions, administers the National Flood Insurance Program.

980  
981 Flood or flooding. A general and temporary condition of partial or complete inundation  
982 of normally dry land from:

- 983  
984 (1) The overflow of inland or tidal waters.  
985  
986 (2) The unusual and rapid accumulation or runoff of surface waters from any  
987 source.

988  
989 Flood damage-resistant materials. Any construction material capable of withstanding  
990 direct and prolonged contact with floodwaters without sustaining any damage that requires  
991 more than cosmetic repair.

992  
993 Flood hazard area. The greater of the following two areas:

- 994  
995 (1) The area within a floodplain subject to a 1-percent or greater chance of flooding  
996 in any year.  
997  
998 (2) The area designated as a flood hazard area on the community’s flood hazard  
999 map, or otherwise legally designated.

1000  
1001 Flood Insurance Rate Map (FIRM). The official map of the community on which the  
1002 Federal Emergency Management Agency has delineated both special flood hazard areas and  
1003 the risk premium zones applicable to the community.

1004  
1005 Flood Insurance Study (FIS). The official report provided by the Federal Emergency  
1006 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and

1007 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting  
1008 technical data.

1009  
1010 Floodplain Administrator. The office or position designated and charged with the  
1011 administration and enforcement of this article (may be referred to as the Floodplain Manager).

1012  
1013 Floodplain development permit or approval. An official document or certificate issued  
1014 by the community, or other evidence of approval or concurrence, which authorizes  
1015 performance of specific development activities that are located in flood hazard areas and that  
1016 are determined to be compliant with this article.

1017  
1018 Floodway. The channel of a river or other riverine watercourse and the adjacent land  
1019 areas that must be reserved in order to discharge the base flood without cumulatively increasing  
1020 the water surface elevation more than one (1) foot.

1021  
1022 Floodway encroachment analysis. An engineering analysis of the impact that a  
1023 proposed encroachment into a floodway is expected to have on the floodway boundaries and  
1024 base flood elevations; the evaluation must be prepared by a qualified Florida licensed engineer  
1025 using standard engineering methods and models.

1026  
1027 Florida Building Code. The family of codes adopted by the Florida Building  
1028 Commission, including: Florida Building Code, Building; Florida Building Code,  
1029 Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical;  
1030 Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

1031  
1032 Functionally dependent use. A use which cannot perform its intended purpose unless  
1033 it is located or carried out in close proximity to water, including only docking facilities, port  
1034 facilities that are necessary for the loading and unloading of cargo or passengers, and ship  
1035 building and ship repair facilities; the term does not include long-term storage or related  
1036 manufacturing facilities.

1037  
1038 Highest adjacent grade. The highest natural elevation of the ground surface prior to  
1039 construction next to the proposed walls or foundation of a structure.

1040  
1041 Historic structure. Any structure that is determined eligible for the exception to the  
1042 flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11  
1043 Historic Buildings.

1044  
1045 Letter of Map Amendment (LOMA). An amendment based on technical data showing  
1046 that a property was incorrectly included in a designated special flood hazard area. A LOMA  
1047 amends the current effective Flood Insurance Rate Map and establishes that a specific property,  
1048 portion of a property, or structure is not located in a special flood hazard area.

1049

1050 Letter of Map Change (LOMC). An official determination issued by FEMA that  
1051 amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters  
1052 of Map Change include:

1053  
1054 Letter of Map Revision (LOMR). A revision based on technical data that may show  
1055 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway  
1056 delineations, and other planimetric features.

1057  
1058 Letter of Map Revision Based on Fill (LOMR-F). A determination that a structure or  
1059 parcel of land has been elevated by fill above the base flood elevation and is, therefore, no  
1060 longer located within the special flood hazard area. In order to qualify for this determination,  
1061 the fill must have been permitted and placed in accordance with the community's floodplain  
1062 management regulations.

1063  
1064 Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500  
1065 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000  
1066 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 1067
- 1068 (1) Designed primarily for purposes of transportation of property or is a derivation  
1069 of such a vehicle, or
  - 1070
  - 1071 (2) Designed primarily for transportation of persons and has a capacity of more  
1072 than 12 persons; or
  - 1073
  - 1074 (3) Available with special features enabling off-street or off-highway operation and  
1075 use.
  - 1076

1077 Lowest floor. The lowest floor of the lowest enclosed area of a building or structure,  
1078 including basement, but excluding any unfinished or flood-resistant enclosure, other than a  
1079 basement, usable solely for vehicle parking, building access or limited storage provided that  
1080 such enclosure is not built so as to render the structure in violation of the non-elevation  
1081 requirements of the *Florida Building Code* or ASCE 24.

1082  
1083 Manufactured home. A structure, transportable in one or more sections, which is eight  
1084 (8) feet or more in width and greater than four hundred (400) square feet, and which is built on  
1085 a permanent, integral chassis and is designed for use with or without a permanent foundation  
1086 when attached to the required utilities. The term "manufactured home" does not include a  
1087 "recreational vehicle" or "park trailer."

1088  
1089 Manufactured home park or subdivision. A parcel (or contiguous parcels) of land  
1090 divided into two or more manufactured home lots for rent or sale.

1091  
1092 Market value. The price at which a property will change hands between a willing buyer  
1093 and a willing seller, neither party being under compulsion to buy or sell and both having

1094 reasonable knowledge of relevant facts. As used in this article, the term refers to the market  
1095 value of buildings and structures, excluding the land and other improvements on the parcel.  
1096 Market value may be established by a qualified independent appraiser, Actual Cash Value  
1097 (replacement cost depreciated for age and quality of construction), or tax assessment value  
1098 adjusted to approximate market value by a factor provided by the Property Appraiser.

1099  
1100 *New construction.* For the purposes of administration of this article and the flood  
1101 resistant construction requirements of the *Florida Building Code*, structures for which the  
1102 “start of construction” commenced on or after September 19, 1984 and includes any  
1103 subsequent improvements to such structures.

1104  
1105 *New manufactured home park or subdivision.* A manufactured home park or  
1106 subdivision for which the construction of facilities for servicing the lots on which the  
1107 manufactured homes are to be affixed (including at a minimum, the installation of utilities, the  
1108 construction of streets, and either final site grading or the pouring of concrete pads) is  
1109 completed on or after September 19, 1984.

1110  
1111 *Park trailer.* A transportable unit which has a body width not exceeding fourteen (14)  
1112 feet and which is built on a single chassis and is designed to provide seasonal or temporary  
1113 living quarters when connected to utilities necessary for operation of installed fixtures and  
1114 appliances.

1115  
1116 *Permanent construction.* Does not include land preparation (such as clearing, grading,  
1117 or filling), the installation of streets or walkways, excavation for a basement, footings, piers,  
1118 or foundations, the erection of temporary forms or the installation of accessory buildings such  
1119 as garages or sheds not occupied as dwelling units or not part of the main buildings. For a  
1120 substantial improvement, the actual “start of construction” means the first alteration of any  
1121 wall, ceiling, floor or other structural part of a building, whether or not that alteration affects  
1122 the external dimensions of the building.

1123  
1124 *Recreational vehicle.* A vehicle, including a park trailer, which is: [See section 320.01,  
1125 F.S.)

- 1126  
1127 (1) Built on a single chassis;  
1128  
1129 (2) Four hundred (400) square feet or less when measured at the largest horizontal  
1130 projection;  
1131  
1132 (3) Designed to be self-propelled or permanently towable by a light-duty truck; and  
1133  
1134 (4) Designed primarily not for use as a permanent dwelling but as temporary living  
1135 quarters for recreational, camping, travel, or seasonal use.  
1136

1137 Repetitive loss means flood-related damage sustained by a structure on two separate  
1138 occasions during a ten-year period for which the cost of repairs at the time of each flood event,  
1139 on the average, equals or exceeds 25 percent of the market value of the structure before the  
1140 damage occurred.

1141  
1142 Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward  
1143 of the beach.

1144  
1145 Special flood hazard area. An area in the floodplain subject to a 1 percent or greater  
1146 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone  
1147 A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

1148  
1149 Start of construction. The date of issuance of permits for new construction and  
1150 substantial improvements, provided the actual start of construction, repair, reconstruction,  
1151 rehabilitation, addition, placement, or other improvement is within 180 days of the date of the  
1152 issuance. The actual start of construction means either the first placement of permanent  
1153 construction of a building (including a manufactured home) on a site, such as the pouring of  
1154 slab or footings, the installation of piles, the construction of columns.

1155  
1156 Substantial damage. Damage of any origin sustained by a building or structure whereby  
1157 the cost of restoring the building or structure to its before-damaged condition would equal or  
1158 exceed 50 percent of the market value of the building or structure before the damage occurred.  
1159 The term also includes buildings and structures that have experienced repetitive loss.

1160  
1161 Substantial improvement. Any combination of repair, reconstruction, rehabilitation,  
1162 addition, or other improvement of a building or structure, taking place during a five-year  
1163 period, the cumulative cost of which equals or exceeds 50 percent of the market value of the  
1164 building or structure before the improvement or repair is started. For each building or structure,  
1165 the five-year period begins on the date of the first improvement or repair of the building or  
1166 structure subsequent to November 18, 1992. If the structure has incurred "substantial damage,"  
1167 any repairs are considered substantial improvement regardless of the actual repair work  
1168 performed. The term does not, however, include either:

1169  
1170 (1) Any project for improvement of a building required to correct existing health,  
1171 sanitary, or safety code violations identified by the building official and that are  
1172 the minimum necessary to assure safe living conditions.

1173 (2) Any alteration of a historic structure provided the alteration will not preclude  
1174 the structure's continued designation as a historic structure.

1175  
1176 Variance. A grant of relief from the requirements of this article, or the flood resistant  
1177 construction requirements of the Florida Building Code, which permits construction in a  
1178 manner that would not otherwise be permitted by this article or the Florida Building Code.

1179  
1180 Watercourse. A river, creek, stream, channel or other topographic feature in, on,  
1181 through, or over which water flows at least periodically.

1182 DIVISION 3. FLOOD RESISTANT DEVELOPMENT

1183  
1184 Subdivision I. Buildings and Structures

1185  
1186 **Sec. 6-480. Design and construction of buildings, structures and facilities exempt from**  
1187 **the Florida Building Code.**

1188  
1189 Pursuant to Section 6-435 of this article, buildings, structures, and facilities that are exempt  
1190 from the Florida Building Code, including substantial improvement or repair of substantial damage  
1191 of such buildings, structures and facilities, must be designed and constructed in accordance with  
1192 the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from  
1193 the Florida Building Code that are not walled and roofed buildings must comply with the  
1194 requirements of Division 3, Subdivision VII of this article.

1195  
1196 Subdivision II. Subdivisions

1197  
1198 **Sec. 6-482. Minimum requirements.**

1199  
1200 Subdivision proposals, including proposals for manufactured home parks and  
1201 subdivisions, must be reviewed to determine that:

- 1202  
1203 (1) Such proposals are consistent with the need to minimize flood damage and will  
1204 be reasonably safe from flooding;  
1205  
1206 (2) All public utilities and facilities such as sewer, gas, electric, communications,  
1207 and water systems are located and constructed to minimize or eliminate flood  
1208 damage; and  
1209  
1210 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones  
1211 AH and AO, adequate drainage paths must be provided to guide floodwaters  
1212 around and away from proposed structures.

1213  
1214 **Sec. 6-483. Standards for subdivision and other development proposals.**

1215  
1216 Where any portion of proposed subdivisions, including manufactured home parks and  
1217 subdivisions, lies within a flood hazard area, the following will be required:

- 1218  
1219 (1) Where the subdivision has more than 50 lots or is larger than 5 acres and base  
1220 flood elevations are not included on the FIRM, the base flood elevations  
1221 determined in accordance with Section 6-445(1) of this article; and  
1222  
1223 (2) Compliance with the site improvement and utilities requirements of Division 3,  
1224 Subdivision III of this article.  
1225 (3)

1226 Subdivision III. Site Improvements, Utilities and Limitations

1227  
1228 **Sec. 6-484. Minimum requirements.**

1229  
1230 All proposed new development will be reviewed to determine that:

- 1231
- 1232 (1) Such proposals are consistent with the need to minimize flood damage and will
  - 1233 be reasonably safe from flooding;
  - 1234 (2) All public utilities and facilities such as sewer, gas, electric, communications,
  - 1235 and water systems are located and constructed to minimize or eliminate flood
  - 1236 damage; and
  - 1237
  - 1238 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones
  - 1239 AH and AO, adequate drainage paths must be provided to guide floodwaters
  - 1240 around and away from proposed structures.
  - 1241

1242 **Sec. 6-485. Sanitary sewage facilities.**

1243  
1244 All new and replacement sanitary sewage facilities, private sewage treatment plants

1245 (including all pumping stations and collector systems), and on-site waste disposal systems must

1246 be designed in accordance with the standards for onsite sewage treatment and disposal systems

1247 in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of

1248 floodwaters into the facilities and discharge from the facilities into flood waters, and

1249 impairment of the facilities and systems.

1250  
1251 **Sec. 6-486. Water supply facilities.**

1252  
1253 All new and replacement water supply facilities must be designed in accordance with

1254 the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7

1255 to minimize or eliminate infiltration of floodwaters into the systems.

1256  
1257 **Sec. 6-487. Limitations on sites in regulatory floodways.**

1258  
1259 No development, including but not limited to site improvements, and land disturbing

1260 activity involving fill or regrading, may be authorized in the regulatory floodway unless the

1261 floodway encroachment analysis required in Section 6-446(1) of this article demonstrates that

1262 the proposed development or land disturbing activity will not result in any increase in the base

1263 flood elevation.

1264  
1265 **Sec. 6-488. Limitations on placement of fill.**

1266  
1267 Subject to the limitations of this article, fill must be designed to be stable under

1268 conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged

1269 inundation, and protection against flood-related erosion and scour. In addition to these

1270 requirements, if intended to support buildings and structures (Zone A only), fill must comply  
1271 with the requirements of the *Florida Building Code*.

1272  
1273 **Sec. 6-489. Limitations on sites in coastal high hazard areas (Zone V).**  
1274

1275 In coastal high hazard areas, alteration of sand dunes and mangrove stands will be  
1276 permitted only if such alteration is approved by the Florida Department of Environmental  
1277 Protection and only if the engineering analysis required by Section 6-446(4) of this article  
1278 demonstrates that the proposed alteration will not increase the potential for flood damage.  
1279 Construction or restoration of dunes under or around elevated buildings and structures must  
1280 comply with Section 6-512 of this article.

1281  
1282 *Subdivision IV. Manufactured Homes*  
1283

1284 **Sec. 6-490. General.**  
1285

1286 All manufactured homes installed in flood hazard areas must be installed by an installer  
1287 that is licensed pursuant to section 320.8249, F.S., and must comply with the requirements of  
1288 Chapter 15C-1, F.A.C. and the requirements of this article.  
1289

1290 The placement of manufactured homes or recreational vehicles is prohibited in coastal  
1291 high hazard areas (Zone V), except in an existing manufactured home or recreational vehicle  
1292 park or subdivision. A replacement manufactured home or recreational vehicle may be placed  
1293 on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided  
1294 the anchoring standards of Section 6-492 and the elevation standards of Sections 6-494 and 6-  
1295 495, as applicable, are met. New or expanded manufactured home or recreational vehicle parks  
1296 or subdivisions are prohibited until such time, if ever, that Lee Plan Policy 80.1.2 is amended  
1297 or repealed so as to allow such new or expanded manufactured home or recreational vehicle  
1298 development.  
1299

1300 **Sec. 6-491. Foundations.**  
1301

1302 All new manufactured homes and replacement manufactured homes installed in flood  
1303 hazard areas must be installed on permanent, reinforced foundations that:  
1304

- 1305 (1) In flood hazard areas (Zone A) other than coastal high hazard areas, are  
1306 designed in accordance with the foundation requirements of the *Florida*  
1307 *Building Code, Residential* Section R322.2 and this article. Foundations for  
1308 manufactured homes subject to 304.4.2 are permitted to be reinforced piers or  
1309 other foundation elements of at least equivalent strength.  
1310  
1311 (2) In coastal high hazard areas (Zone V), are designed in accordance with the  
1312 foundation requirements of the *Florida Building Code, Residential* Section  
1313 R322.3 and this article.  
1314

1315 **Sec. 6-492. Anchoring.**

1316

1317 All new manufactured homes and replacement manufactured homes must be installed  
1318 using methods and practices which minimize flood damage and must be securely anchored to  
1319 an adequately anchored foundation system to resist flotation, collapse or lateral movement.  
1320 Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground  
1321 anchors. This anchoring requirement is in addition to applicable state and local anchoring  
1322 requirements for wind resistance.

1323

1324 **Sec. 6-493. Elevation.**

1325

1326 Manufactured homes that are placed, replaced, or substantially improved must comply  
1327 with Section 6-494 or 6-495, as applicable.

1328

1329 **Sec. 6-494. General elevation requirement.**

1330

1331 Unless subject to the requirements of Section 6-495, all manufactured homes that are  
1332 placed, replaced, or substantially improved on sites located: (a) outside of a manufactured  
1333 home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an  
1334 expansion to an existing manufactured home park or subdivision; or (d) in an existing  
1335 manufactured home park or subdivision upon which a manufactured home has incurred  
1336 "substantial damage" as the result of a flood, must be elevated such that the top or the lowest  
1337 floor is at or above the elevation required, as applicable to the flood hazard area, in the *Florida*  
1338 *Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V).

1339

1340 **Sec. 6-495. Elevation requirement for certain existing manufactured home parks and**  
1341 **subdivisions.**

1342

1343 Manufactured homes that are not subject to Section 6-494, including manufactured  
1344 homes that are placed, replaced, or substantially improved on sites located in an existing  
1345 manufactured home park or subdivision, unless on a site where substantial damage as result of  
1346 flooding has occurred, must be elevated such that either the:

1347

1348 (1) Top or the lowest floor of the manufactured home is at or above the elevation  
1349 required, as applicable to the flood hazard area, in the *Florida Building Code,*  
1350 *Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V); or

1351

1352 (2) Bottom of the frame is supported by reinforced piers or other foundation  
1353 elements of at least equivalent strength that are not less than 36 inches in height  
1354 above grade.

1355

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

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

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

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, must comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

*Subdivision V. Recreational Vehicles and Park Trailers*

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

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

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

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

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

*Subdivision VI. Tanks*

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

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

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

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

- 1405 (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard  
1406 areas, provided the tanks are anchored or otherwise designed and constructed  
1407 to prevent flotation, collapse or lateral movement resulting from hydrodynamic  
1408 and hydrostatic loads during conditions of the design flood, including the  
1409 effects of buoyancy assuming the tank is empty and the effects of flood-borne  
1410 debris.  
1411  
1412 (2) Not be permitted in coastal high hazard areas (Zone V).  
1413

1414 **Sec. 6-502. Above-ground tanks, elevated.**  
1415

1416 Above-ground tanks in flood hazard areas must be attached to and elevated to or above  
1417 the design flood elevation on a supporting structure that is designed to prevent flotation,  
1418 collapse or lateral movement during conditions of the design flood. Tank-supporting structures  
1419 must meet the foundation requirements of the applicable flood hazard area.  
1420

1421 **Sec. 6-503. Tank inlets and vents.**  
1422

1423 Tank inlets, fill openings, outlets and vents must be:  
1424

- 1425 (1) At or above the design flood elevation or fitted with covers designed to prevent  
1426 the inflow of floodwater or outflow of the contents of the tanks during  
1427 conditions of the design flood; and  
1428 (2) Anchored to prevent lateral movement resulting from hydrodynamic and  
1429 hydrostatic loads, including the effects of buoyancy, during conditions of the  
1430 design flood.  
1431

1432 *Subdivision VII. Other Development*  
1433

1434 **Sec. 6-504. General requirements for other development.**  
1435

1436 All development, including man-made changes to improved or unimproved real estate  
1437 for which specific provisions are not specified in this article or the *Florida Building Code,*  
1438 must:  
1439

- 1440 (1) Be located and constructed to minimize flood damage;  
1441  
1442 (2) Meet the limitations of Section 6-487 of this article if located in a regulated  
1443 floodway;  
1444  
1445 (3) Be anchored to prevent flotation, collapse or lateral movement resulting from  
1446 hydrostatic loads, including the effects of buoyancy, during conditions of the  
1447 design flood;  
1448  
1449 (4) Be constructed of flood damage-resistant materials; and

1450 (5) Have mechanical, plumbing, and electrical systems above the design flood  
1451 elevation, except that minimum electric service required to address life safety  
1452 and electric code requirements is permitted below the design flood elevation  
1453 provided it conforms to the provisions of the electrical part of building code for  
1454 wet locations.  
1455

1456 **Sec. 6-505. Accessory structures.**

1457  
1458 Accessory structures are not required to meet the elevation requirements if they meet  
1459 all of the following requirements, in addition to those set forth in Section 6-487:

- 1460 a. The structure is securely anchored to resist flotation, collapse, and lateral  
1461 movement;  
1462 b. The building is a minimal investment and the total size of the building does not  
1463 exceed 1,000 square feet in floor area;  
1464 c. The structure is used exclusively for uninhabitable parking or storage purposes;  
1465 d. All electrical or heating equipment is elevated above the base flood elevation  
1466 or otherwise protected from intrusion of floodwaters; and  
1467 e. For accessory structures located in coastal high-hazard areas (V zones),  
1468 breakaway walls are used below the lowest floor.  
1469

1470 **Sec. 6-506. Fences in regulated floodways.**

1471  
1472 Fences in regulated floodways that have the potential to block the passage of  
1473 floodwaters must meet the limitations of Section 6-487 of this article.  
1474

1475 **Sec. 6-507. Retaining walls, sidewalks and driveways in regulated floodways.**

1476  
1477 Retaining walls and sidewalks and driveways that involve the placement of fill in  
1478 regulated floodways must meet the limitations of Section 6-487 of this article.  
1479

1480 **Sec. 6-508. Roads and watercourse crossings in regulated floodways.**

1481  
1482 Roads and watercourse crossings, including roads, bridges, culverts, low-water  
1483 crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse  
1484 to the other side, that encroach into regulated floodways must meet the limitations of Section  
1485 6-487 of this article. Alteration of a watercourse that is part of a road or watercourse crossing  
1486 must meet the requirements of Section 6-446(3) of this article.  
1487

1488 **Sec. 6-509. Concrete slabs used as parking pads, enclosure floors, landings, decks,**  
1489 **walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).**  
1490

1491 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors,  
1492 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or  
1493 adjacent to buildings and structures provided the concrete slabs are designed and constructed  
1494 to be:

- 1495 (1) Structurally independent of the foundation system of the building or structure;  
1496  
1497 (2) Frangible and not reinforced, so as to minimize debris during flooding that is  
1498 capable of causing significant damage to any structure; and  
1499  
1500 (3) Have a maximum slab thickness of not more than four (4) inches.  
1501

1502 **Sec. 6-510. Decks and patios in coastal high hazard areas (Zone V).**  
1503

1504 In addition to the requirements of the *Florida Building Code*, in coastal high hazard  
1505 areas decks and patios must be located, designed, and constructed in compliance with the  
1506 following:  
1507

- 1508 (1) A deck that is structurally attached to a building or structure must have the  
1509 bottom of the lowest horizontal structural member at or above the design flood  
1510 elevation and any supporting members that extend below the design flood  
1511 elevation must comply with the foundation requirements that apply to the  
1512 building or structure, which must be designed to accommodate any increased  
1513 loads resulting from the attached deck.  
1514  
1515 (2) A deck or patio that is located below the design flood elevation must be  
1516 structurally independent from buildings or structures and their foundation  
1517 systems, and must be designed and constructed either to remain intact and in  
1518 place during design flood conditions or to break apart into small pieces to  
1519 minimize debris during flooding that is capable of causing structural damage to  
1520 the building or structure or to adjacent buildings and structures.  
1521  
1522 (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or  
1523 that is constructed with more than the minimum amount of fill necessary for  
1524 site drainage must not be approved unless an analysis prepared by a qualified  
1525 registered design professional demonstrates no harmful diversion of  
1526 floodwaters or wave runup and wave reflection that would increase damage to  
1527 the building or structure or to adjacent buildings and structures.  
1528  
1529 (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and  
1530 that is at natural grade or on nonstructural fill material that is similar to and  
1531 compatible with local soils and is the minimum amount necessary for site  
1532 drainage may be approved without requiring analysis of the impact on diversion  
1533 of floodwaters or wave runup and wave reflection.  
1534

1535 **Sec. 6-511. Other development in coastal high hazard areas (Zone V).**  
1536

1537 In coastal high hazard areas, development activities other than buildings and structures  
1538 may be permitted only if also authorized by the appropriate federal, state or local authority; if  
1539 located outside the footprint of, and not structurally attached to, buildings and structures; and

1540 if analyses prepared by qualified registered design professionals demonstrate no harmful  
1541 diversion of floodwaters or wave runup and wave reflection that would increase damage to  
1542 adjacent buildings and structures. Such other development activities include but are not limited  
1543 to:

- 1544
- 1545 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control  
1546 structures;
  - 1547
  - 1548 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless  
1549 designed and constructed to fail under flood conditions less than the design  
1550 flood or otherwise function to avoid obstruction of floodwaters; and
  - 1551
  - 1552 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C.,  
1553 as filled systems or mound systems.
  - 1554

1555 **Sec. 6-512. Nonstructural fill in coastal high hazard areas (Zone V).**

1556

1557 In coastal high hazard areas:

1558

- 1559 (1) Minor grading and the placement of minor quantities of nonstructural fill may  
1560 be permitted for landscaping and for drainage purposes under and around  
1561 buildings.
- 1562
- 1563 (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to  
1564 five units horizontal may be permitted only if an analysis prepared by a  
1565 qualified registered design professional demonstrates no harmful diversion of  
1566 floodwaters or wave runup and wave reflection that would increase damage to  
1567 adjacent buildings and structures.
- 1568
- 1569 (3) Where authorized by the Florida Department of Environmental Protection or  
1570 applicable local approval, sand dune construction and restoration of sand dunes  
1571 under or around elevated buildings are permitted without additional engineering  
1572 analysis or certification of the diversion of floodwater or wave runup and wave  
1573 reflection if the scale and location of the dune work is consistent with local  
1574 beach-dune morphology and the vertical clearance is maintained between the  
1575 top of the sand dune and the lowest horizontal structural member of the  
1576 building.
- 1577

1578 **Sec. 6-513. Critical Facilities.**

1579

1580 Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located  
1581 outside the limits of the special flood hazard area where feasible. Construction of new critical  
1582 facilities shall be permissible within the special flood hazard area if no feasible alternative site  
1583 is available. If permitted, critical facilities shall be elevated or protected to or above the base flood  
1584 elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is

1585 higher. Flood proofing and sealing measures must be implemented to ensure that toxic substances  
1586 will not be displaced by or released into floodwaters. Access routes elevated to or above the base  
1587 flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical  
1588 facilities shall be designed to remain operable during such an event.

1589  
1590 **Sec. 6-514. Standards for areas in the B, C, and X Zones.**

1591  
1592 All new buildings not located in the areas of special flood hazard established in Section  
1593 6-411(3) must have the lowest floor elevation (including basement) constructed at least 12  
1594 inches above the crown of the nearest local street unless the building official determines there  
1595 are extenuating circumstances that would preclude meeting that elevation.

1596  
1597 **Secs. 6-515 – 6-520. Reserved.**

1598  
1599 **ARTICLE V. RESERVED**

1600  
1601 **Secs. 6-501—6-521 - 6-550. Reserved.**

1602  
1603 **SECTION THREE: AMENDMENTS TO LDC CHAPTER 10**

1604  
1605 The Village of Estero Land Development Code Chapter 10 is amended as follow with strike  
1606 through identifying deleted text and underline identifying new text.

1607  
1608 **Chapter 10. DEVELOPMENT STANDARDS**

1609  
1610 **ARTICLE I. IN GENERAL**

1611  
1612 **Sec. 10-1. - Definitions and rules of construction.**

1613  
1614 Base flood elevation means the elevation of the base flood, including wave height,  
1615 relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum  
1616 (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

1617  
1618 **ARTICLE II. ADMINISTRATION**

1619  
1620 **DIVISION 2. DEVELOPMENT ORDERS**

1621  
1622 *Subdivision II. Procedures*

1623  
1624 **Sec. 10-101. Applicability of requirements.**

1625  
1626 (a) *Development orders.* All developments, as defined in this chapter, including  
1627 subdivisions, are required to obtain a development order prior to commencing any land  
1628 development activities or receiving any development permit, including a building permit, with

1629 the exception of the following, which are not subject to review pursuant to this chapter except  
1630 as noted herein:

1631

1632 (1) *remains unchanged.*

1633

1634 (2) Agriculture, as defined herein except as required for excavations permitted  
1635 under section 10-329 and improvements to the land subject to provisions of  
1636 Chapter 6, Article IV;

1637

1638 *Remainder of Section is unchanged.*

1639

1640 **ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS**

1641

1642 **DIVISION 1. GENERALLY**

1643

1644 **Sec. 10-253. - Consideration of soil conditions and flood hazards.**

1645

1646 No development plan will be approved unless the developer submits substantial and  
1647 competent evidence that all lands intended for use as development sites can be safely developed  
1648 without undue danger from flood or adverse soil or foundation conditions. The following  
1649 standards must also be adhered to, as applicable:

1650

1651 (1) *through (5) remain unchanged.*

1652

1653 (6) Land affected by Chapter 6, Article IV, pertaining to flood hazard reduction,  
1654 must show the base flood elevation expressed in NAVD 1988 datum on the site  
1655 plan and the plat.

1656

1657 **SECTION 10-254. – FISCAL IMPACT STATEMENT**

1658

1659 In terms of design, plan application review, construction and inspection of buildings and  
1660 structures, the cost impact as an overall average is negligible in regard to the local technical  
1661 amendments because all development has been subject to the requirements of the local  
1662 floodplain management ordinance adopted for participation in the National Flood Insurance  
1663 Program. In terms of lower potential for flood damage, there will be continued savings and  
1664 benefits to consumers.

1665

1666 **SECTION FOUR: CONFLICTS OF LAW**

1667

1668 Whenever the requirements or provisions of this Ordinance are in conflict with the  
1669 requirements or provisions of any other lawfully adopted ordinance or statute, the most  
1670 restrictive requirements will apply.

1671

1672

1673 **SECTION FIVE: SEVERABILITY**

1674

1675 It is the intent of the Village Council of the Village of Estero that if any section, subsection,  
1676 clause or provision of this ordinance is deemed invalid or unconstitutional by a court of  
1677 competent jurisdiction, such portion will become a separate provision and will not affect the  
1678 remaining provisions of this ordinance. The Village Council further declares its intent that this  
1679 ordinance would have been adopted if such unconstitutional provision was not included.

1680

1681 **SECTION SIX: CODIFICATION AND SCRIVENER’S ERRORS**

1682

1683 The Village Council intends that this ordinance will be made part of the Village of Estero Land  
1684 Development Code. Sections of this ordinance can be renumbered or relettered and the word  
1685 “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to  
1686 accomplish codification, and regardless of whether this ordinance is ever codified, the  
1687 ordinance can be renumbered or relettered and typographical errors that do not affect the intent  
1688 can be corrected with the authorization of the Village Administrator or his designee, without  
1689 the need for a public hearing.

1690

1691 **SECTION SEVEN: MODIFICATION**

1692

1693 It is the intent of the Village Council that the provisions of this Ordinance may be modified as  
1694 a result of consideration that may arise during Public Hearing(s). Such modifications shall be  
1695 incorporated into the final version.

1696

1697 **SECTION EIGHT: EFFECTIVE DATE**

1698

1699 This ordinance shall take effect immediately upon its adoption. The provisions of this  
1700 ordinance will apply to all projects or applications subject to the LDC unless the development  
1701 order application for such project is complete or the zoning request is found sufficient before  
1702 the effective date.

1703

1704 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this 23<sup>rd</sup> day  
1705 of September, 2015.

1706

1707 Attest:

**VILLAGE OF ESTERO, FLORIDA**

1708

1709

1710 By: Kathy Hall  
1711 Kathy Hall, MMC  
1712 Village Clerk

By: Nicholas Batos  
Nicholas Batos  
Mayor

1713

1714

1715

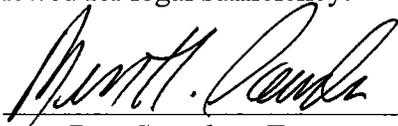
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1718 Reviewed for legal sufficiency:

1719

1720

1721 By: 

1722 Burt Saunders, Esq.

1723 Village Attorney

1724

1725

1726 Vote: AYE NAY

1727

1728 Mayor Batos

1729 Vice Mayor Levitan

1730 Councilmember Boesch

1731 Councilmember Brown

1732 Councilmember Errington

1733 Councilmember Ribble

1734 Councilmember Wilson



**FEMA**

OCT 05 2015

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable Nick Batos  
Mayor, Village of Estero  
21500 Three Oaks Parkway  
Estero, Florida 33928

VILLAGE OF ESTERO, FL  
RECEIVED

OCT 08 2015

Dear Mayor Batos:

I am happy to announce that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) has approved the Village of Estero's application to participate in the National Flood Insurance Program (NFIP). In accordance with Section 1336 of the National Flood Insurance Act of 1968, the Village of Estero is eligible to participate in the Regular Phase of the NFIP effective on September 30, 2015. Flood insurance is now available to local property owners and may be purchased from any insurance agent or broker licensed to do business in the State where the insurable property is located.

I am enclosing a copy of the news release announcing the Village of Estero's eligibility to participate in the NFIP. I hope it assists you in your efforts to publicize the availability of this important coverage. The Village of Estero's property owners will want to know about this opportunity to obtain insurance protection against losses from future flooding. The buildings and contents coverage is now available to building owners and tenants.

There is a 30-day waiting period before a newly purchased flood insurance policy takes effect or for any additional coverage or endorsement that may increase policy limits. The waiting period ends and the policy takes effect at 12:01 a.m. on the 30th calendar day after the insurance policy application date and payment of premium.

There are 10 exceptions to the 30-day waiting period. However, I am only explaining the two most frequently used exceptions in this letter. The two most frequently used exceptions are: (1) when the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan, there is no waiting period and coverage is effective immediately; and (2) when the purchase of flood insurance is related to a revision or update of a Flood Hazard Boundary Map or Flood Insurance Rate Map (FIRM), there is a one-day waiting period. Flood insurance coverage takes effect at 12:01 a.m. on the day after the coverage is purchased for a structure located in a Special Flood Hazard Area (SFHA), an area subject to inundation by the base (1-percent-annual-chance) flood, on the revised flood map, which was not previously located in an SFHA prior to the revision. This exception is limited to a 13-month period and begins on the date the revised map is issued. The information on the remaining eight exceptions is contained in the enclosed NFIP "Policy Issuance 5-98" dated October 1, 1998.

The FIRM, which shows the Base Flood Elevations (BFEs) established for the Village of Estero, became effective on August 28, 2008. This FIRM date indicates the effective date for the authorization of the sale of first and second layer flood insurance coverage at actuarial rates for all new construction and substantial improvements to existing structures within the Village of Estero. The first layer coverage on

The Honorable Nick Batos

OCT 05 2015

Page 2

structures built prior to September 19, 1984, will be available at subsidized rates unless improvements are made to the structure.

Please be aware that the increase or decrease of flood insurance costs for a structure is based on the location of the structure's first floor and its relationship to the BFEs for the Village of Estero. In addition, on the effective FIRM date, the FIRM supersedes all previous maps for the purpose of determining whether individual properties are located inside or outside the SFHA. After the effective FIRM date, new construction will be charged actuarial rates, which may be higher, if the structure is not built in compliance with the NFIP floodplain management requirements.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in SFHAs. This financial assistance includes certain federally guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other similarly described assistance from FEMA and other agencies.

In addition, all loans individuals obtain from Federally regulated, supervised, or insured lending institutions that are secured by improved real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on the building. However, purchasing and maintaining flood insurance coverage on a voluntary basis is frequently recommended for properties located outside SFHAs.

If you need additional assistance or information, I recommend you contact Steve Martin, CFM, the NFIP State Coordinator, by telephone at (850) 922-5269, in writing at the Florida Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, or by electronic mail at [steve.martin@em.myflorida.com](mailto:steve.martin@em.myflorida.com). The FEMA Regional staff in Atlanta, Georgia, is also available to assist you. You may contact the Regional staff by telephone at (770) 220-5200 or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region IV, at 3003 Chamblee Tucker Road, Atlanta, Georgia 30341.

Sincerely,



Bret Gates, Acting Chief  
Floodplain Management Branch  
Federal Insurance and Mitigation Administration

Enclosures

cc: Gracia Szczech, Regional Administrator, FEMA Region IV  
Steve Martin, CFM, NFIP State Coordinator, Florida Division of Emergency Management  
Peter G. Lombardi, Interim Village Manager, Village of Estero

## SAMPLE NEWS RELEASE

### FEDERAL FLOOD INSURANCE NOW AVAILABLE IN THE VILLAGE OF ESTERO, FLORIDA

Washington, D.C. – The Village of Estero has joined over 21,000 communities nationwide that are allowed to purchase federally backed flood insurance. This availability follows the community's adoption and enforcement of ordinances to reduce flood losses and acceptance by the National Flood Insurance Program (NFIP).

The Village of Estero is now a participant in the NFIP effective on September 30, 2015. Residents of the Village of Estero will be able to purchase flood insurance up to the limits under the Regular Phase of the program. However, there is a 30-day waiting period before flood insurance coverage goes into effect. For single-family dwellings, the building coverage limit is \$250,000, and the contents coverage limit is \$100,000. Renters can also protect their belongings by purchasing contents coverage. For commercial properties, the building and contents coverage limits are both \$500,000.

Lenders must require borrowers whose properties are located in a designated flood hazard area to purchase flood insurance as a condition of receiving a federally backed mortgage loan in accordance with the Federal Disaster Protection Act of 1973.

The NFIP is implemented through the Federal Emergency Management Agency. There are over 5.5 million flood insurance policies in more than 21,000 participating communities nationwide.

# Policy Issuance 5-98

Subject: 30-Day Waiting Period  
Effective Date: October 1, 1998

This Policy Issuance updates the Federal Insurance Administration's interpretations of the applicability of the 30-day waiting period to various mortgage lending and insurance underwriting situations in Policy Issuance 8-95 (December 5, 1995). This Policy Issuance supercedes Policy Issuance 8-95 and provides answers to additional questions regarding the 30-day waiting period from Write Your Own companies and insurance agents. These interpretations are intended to serve the Congressional intent for the imposition of the 30-day waiting period for the purchase of flood insurance to prevent abuse (i.e., property owners would purchase insurance only when a flood was imminent) and to facilitate lender compliance with the mandatory purchase of flood insurance.

## Policy Decisions

1. The 30-day waiting period will not apply when there is an existing insurance policy and an additional amount of flood insurance is required in connection with the making, increasing, extension, or renewal of a loan, such as a second mortgage, home equity loan, or refinancing. The increased amount of flood coverage will be effective as of the time of the loan closing, provided the increased amount of coverage is applied for and the presentment of additional premium is made at or prior to the loan closing.

Explanation: This interpretation is consistent with a basic objective of the National Flood Insurance Reform Act of 1994 (NFIRA), namely, to facilitate lender compliance with the statutory requirements for flood insurance. The 30-day waiting period was established to prevent abuse by insureds from increasing coverage when flooding was imminent. The exemptions to the waiting period on the other hand were for loan closing situations and to facilitate lender compliance with the flood insurance purchase requirements. [Note: This policy interpretation has been retained from Policy Issuance 8-95 (December 5, 1995) and has not changed.]

2. The 30-day waiting period will not apply when an additional amount of insurance is required as a result of a map revision. The increased amount of coverage will be effective 12:01 a.m. on the first calendar day after the date the increased amount of coverage is applied for and the presentment of additional premium is made.

Explanation: This interpretation is also consistent with a basic objective of the NFIRA to facilitate lender compliance with the statutory requirements for flood insurance. The purchase of additional flood insurance is to comply with the statutory requirement for flood insurance in an amount equal to the outstanding principal balance of the loan for a property owner who was prudent enough to buy voluntarily flood insurance but now must increase the amount to comply with statutory requirements for flood insurance resulting from a Federal Emergency Management Agency map change. [Note: This policy interpretation has been retained from Policy Issuance 8-95 (December 5, 1995) and has not changed.]

3. The 30-day waiting period will not apply when flood insurance is required as a result of a lender determining that a loan which does not have flood insurance coverage should be protected by flood insurance as required by Section 102(e) of the Flood Disaster Protection Act of 1973, as amended by NFIRA, because the building securing a loan is located in a Special Flood Hazard Area. The coverage will be effective upon completion of an application and the presentment of payment of premium.

Explanation: The interpretation is consistent with the purpose of the NFIRA to ensure compliance with the statutory requirements for flood insurance protection for property the subject of Federal or federally-related financial assistance even when the discovery is made by lender that flood insurance is required after the loan has closed. It is immaterial whether the lender's discovery of the need for flood insurance results from a scheduled mortgage loan portfolio review or a review of an individual loan file. [Note: This interpretation has been modified from that contained in Policy Issuance 8-95 to now provide that an exemption from the 30-day waiting period applies only to loans in Special Flood Hazard Areas, i.e., those loans for which the statute requires flood insurance.]

4. The 30-day waiting period does not apply when an additional amount of insurance is requested at renewal time that is no more than the amount of increase recommended by the insurer on the renewal bill to keep pace with inflation. The increased amount of coverage will be effective at 12:01 a.m. on the date of policy renewal provided the premium for the increased coverage is received before the expiration of the grace period. The 30-day waiting period applies to any additional amount of insurance requested at renewal time that is higher than any amount of increase offered on the renewal bill provided by the insurer. The beginning of the waiting period is determined by the normal rules. In the event that the insurer is unable to determine the application date and the presentment of premium, the insurer must use the premium receipt date in establishing the effective date for the increased coverage.

Explanation: To permit an insured to increase flood coverage to the amount recommended by the insurer as a safeguard against inflation without the 30-day waiting period is consistent with insurance industry practices and does not create a loophole for the kind of abuse Congress specifically wanted to prohibit with the statutory 30-day waiting period. To apply the 30-day waiting period in situations when a policyholder wants to significantly increase the amount of insurance beyond the amount recommended by the insurer to keep pace with inflation is in keeping with Congressional intent. [Note: This policy interpretation has been modified from that contained in Policy Issuance 8-95 to now provide that the 30-day waiting period applies to any additional amount of insurance requested at renewal time that is higher than any amount of increase offered on the renewal bill provided by the insurer.]

5. The waiting period does not apply to a renewal offer to the insured for the next higher limits available under PRP.

Explanation: This interpretation is consistent with other interpretations in this Issuance that exempt from the 30-day waiting period modest increases in coverage that are comparable to the inflation adjustment recommended by insurers at renewal.

6. The 30-day waiting period does not apply when an insured decides to rewrite the existing policy at the time of renewal from Standard to a Preferred Risk Policy (PRP), provided that the selected PRP coverage limit amount is no higher than the next highest PRP amount above that which was carried on the Standard policy using the highest of building and contents coverage. In those cases where the Standard policy has only one kind of coverage, either building or contents only, the 30-day waiting period applies.

In addition, if the structure is no longer eligible under the PRP or the insured decides to rewrite the existing PRP at renewal time to a Standard policy, the 30-day waiting period does not apply provided the coverage limit amount is no more than the previous PRP coverage amount or the next highest PRP amount above that.

Explanation: The change in coverage that results from converting a Standard Policy to a PRP or from converting a PRP to a Standard Policy with the limitations set forth above results in only a modest increase of flood insurance coverage--roughly equal to the amount of increase in No. 4 above.

7. Unless the contents are part of the security for a loan, the 30-day waiting period applies to the purchase of only contents coverage by a condominium unit owner at the time of the loan, i.e., where building coverage is not being purchased by the unit owner.

Explanation: Since the mandatory purchase of flood insurance applies only to property--real improved and/or any personal property--which is securing a loan, then a condominium unit owner who exercises his or her own option to buy insurance and is not responding to a lender's mandatory purchase decision is subject to the 30-day waiting period. This interpretation is consistent with other situations where an exemption to the 30-day waiting period applies only in situations to facilitate lender compliance with NFIRA.

8. Provided that the application and premium are received before an anniversary date, the 30-day waiting period does not apply to a cancel/rewrite of a 3-year policy at an anniversary date to obtain Increased Cost of Compliance (ICC) coverage.

Explanation: ICC coverage became effective for all new or renewal policies with effective dates on and after June 1, 1997. Those policyholders with 3-year policies without being able to cancel and rewrite in order to obtain ICC coverage would be delayed unnecessarily from obtaining coverage that Congress mandated under the NFIRA.

9. The insurer may rely on an agent's representation on the application that the loan exception applies unless there is a loss during the first 30 days of the policy period. In that case, the insurer must obtain documentation of the loan transaction, such as settlement papers, before adjusting the loss.

Explanation: It would be inconsistent with the intent of Congress for the NFIP to impose burdensome and time-consuming documentation requirements for the agent during the application process, in the case of loan transactions which Congress specifically wanted to exempt from the 30-day waiting period. Requiring documentation if a loss occurs during the first 30 days, however, assures that there will be no abuse of the rule.

10. The 30-day waiting period does not apply to a reduction of the deductible effective as of the renewal date.

Explanation: The amounts involved are comparable to the modest inflation adjustments recommended by the insurer at renewal.

In order to provide a reasonable period of time for the insurers to comply with the new Policy Decisions (5 through 10), the effective date for Policy Decisions 5 through 10 is October 1, 1998.