

DEVELOPMENT REVIEW COMMITTEE

Monday, February 28, 2012

AGENDA

The Monroe County Development Review Committee will conduct a meeting on Tuesday, February 28, 2012, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

DRC MEMBERS:

Townsley Schwab, Senior Director of Planning and Environmental Resources
Mike Roberts, Sr. Administrator, Environmental Resources
Joe Haberman, Planning & Development Review Manager
DOT Representative
Steve Zavalney, Captain, Fire Prevention
Public Works Department Representative

STAFF MEMBERS

Christine Hurley, Growth Management Division Director
Jerry Smith, Assistant Building Official
Mitch Harvey, Comprehensive Plan Manager
Mayte Santamaria, Assistant Planning Director
Rey Ortiz, Planner
Mary Wingate, Senior Floodplain Coordinator
Brian Corcoran, Senior Floodplain Coordinator
Gail Creech, Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL

MEETING

NEW ITEMS:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO CHAPTER 122 FLOODPLAIN REGULATIONS, CLARIFYING AND DELETING CERTAIN PROVISIONS; CREATING SECTION 122-7 FLOODPLAIN CERTIFICATE OF COMPLIANCE PROGRAM; PROVIDING FOR SEVERABILITY; DIRECTING THE DIRECTOR OF PLANNING TO FORWARD A COPY TO THE FLORIDA STATE LAND PLANNING AGENCY; PROVIDING FOR FILING WITH THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-023)

[2012-023 SR DRC 2.28.12.PDF](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN AMENDMENT TO

CHAPTER 122 FLOODPLAIN REGULATIONS, CREATING SECTION 122-10 PROVIDING FOR INCLUSION OF UNITED STATES FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND UNITED STATES FISH AND WILDLIFE SERVICE (FWS) REQUIREMENTS IN FINAL PERMIT DETERMINATIONS; PROVIDING FOR SEVERABILITY; DIRECTING THE DIRECTOR OF PLANNING TO FORWARD A COPY TO THE FLORIDA STATE LAND PLANNING AGENCY; PROVIDING FOR FILING WITH THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-024)

[2012-024 SR DRC 02.28.12.pdf](#)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-27 AND 138-54 PRECLUDING THE GRANTING OF ADMINISTRATIVE RELIEF IN THE FORM OF THE ISSUANCE OF A BUILDING PERMIT FOR LANDS WITHIN THE FLORIDA FOREVER TARGETED ACQUISITION OR TIER I LANDS AREAS UNLESS, AFTER 60 DAYS FROM THE RECEIPT OF A COMPLETE APPLICATION FOR ADMINISTRATIVE RELIEF, IT HAS BEEN DETERMINED THE PARCEL CANNOT BE PURCHASED FOR CONSERVATION PURPOSES BY ANY COUNTY, STATE OR FEDERAL AGENCY OR ANY PRIVATE ENTITY; PROVIDING FOR NOTIFICATION OF ADMINISTRATIVE RELIEF REQUESTS TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMISSION TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

(File 2011-068)

[2011-068 SR DRC 02.28.11.pdf](#)

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-121, AIR INSTALLATION COMPATIBLE USE ZONES OVERLAY (AICUZ), TO REVISE THE REGULATIONS PERTAINING TO MILITARY AIRPORTS AND THE REFERENCED AICUZ MAP FIGURES, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-025)

[2012-025 SR DRC 02.28.12.PDF](#)

ADJOURNMENT

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".



MEMORANDUM
MONROE COUNTY BUILDING DEPARTMENT
We strive to be caring, professional and fair

To: Development Review Committee

FROM: Jerry Smith, Building Official

Through: Christine Hurley, Growth Management Division Director

Date: February 2, 2012

Subject: *Proposed Ordinance to the Board of County Commissioners to Chapter 122 – Floodplain Management*

Meeting: February 28, 2012

1
2 **I REQUEST**

3
4 The Growth Management Division is proposing an amendment to the text of Chapter 122, of
5 the Monroe County Code, which concerns the Floodplain Ordinance; specifically replacing a
6 long standing program where property owners were required to obtain an inspection of their
7 downstairs enclosure if they applied for a building permit to ensure there were no illegal
8 downstairs improvements below base flood elevation with a new program: Certificate of
9 Compliance.

10
11
12 **II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:**

13
14 Monroe County currently has three primary floodplain compliance programs to assure illegal
15 post-FIRM enclosures of structures below base flood elevation are remedied as follows:

- 16 1. Pilot Inspection Program – whereby insured residents are required to obtain an inspection
17 of their downstairs enclosures for continuance of flood insurance
18 2. Inspection upon request for building permit
19 3. Inspection upon sale

20
21 These three programs resulted from an April 16, 2003 resolution by the Monroe County Board of
22 County Commissioners that included a remedial plan (attached). The remedial plan has been
23 implemented through the County Code of Ordinances.

24
25 In 2011, the State of Florida Legislature passed Chapter 2011-82 Laws of Florida (House Bill
26 407) (attached), which prohibits the County from requiring an inspection of other areas not the
27 subject of a building permit. This pre-emptive legislation prevents Monroe County from
28 inspecting downstairs enclosures upon application for a building permit if the downstairs
29 enclosure is not directly impacted by the proposed work.
30

1 Under Section 6-107 of the Monroe County Code, which was adopted as part of performance
2 under the remedial plan, the process for inspection upon building permit is as follows:
3

- 4 1. Homeowner asks for building permit and must submit property record card with
5 application.
- 6 2. Staff reviews property record card to determine if living area exists in downstairs,
7 then writes letter to property owner notifying them of need for inspection.
- 8 3. Property owner calls for inspection.
- 9 4. Perform inspection.
- 10 5. If not in compliance with floodplain management ordinances, owners are notified of
11 required remedies.
- 12 6. If permit that was applied for originally was for something irrelevant to the
13 downstairs enclosures (e.g. roof, fence, etc.), permit is issued after inspection of
14 downstairs area.
- 15 7. If not in compliance, and no remedy is made for downstairs enclosure in time period
16 given (3-6 months depending upon severity of violation (plumbing/electric requires
17 permitting so longer time period given), violation is referred to Code Enforcement.
- 18 8. Code Enforcement sends Notice of Violation (explaining violation, suggested
19 solutions, and who to contact to remedy) and sets hearing before Special Magistrate.
- 20 9. Special Magistrate hears case
 - 21 a. If there is a finding that property is not in compliance:
 - 22 i. Gives new compliance date
 - 23 ii. Sets fines starting day after compliance date
 - 24 iii. Property owner has 30 days to initiate appeal process
 - 25 b. If there is a finding that property is in compliance case is dismissed.

26
27 The above process will be unenforceable due to Chapter 2011-82 Laws of Florida.
28 FEMA has indicated that under HB407, Monroe County has until July 1, 2012 to adopt
29 an ordinance that will provide for an alternative to Monroe County Code Sec. 6-107.
30 This replacement program must be approved by FEMA. The following proposal was
31 offered to FEMA and it request elimination of Monroe County Code Sec. 6-107. A new
32 resolution 440-2011, was adopted by the Board of County Commission on December 14,
33 2011 that became the County's new Implementation Plan, per FEMA's requirements, for
34 continuing participation in the NFIP.
35

36 37 III REVIEW

38 39 40 41 **Proposed Certificate of Compliance Program to replace Inspection on Building** 42 **Permit Program:** 43

44 The County is seeking to obtain definitive data from the Monroe County Property
45 Appraiser which will identify all single family residences which contain enclosures that
46 are identified as living area on the ground floor. Once this data is captured, our technical

1 staff will deduct all the parcels that have already received inspections via the pilot
2 program or other programs, and been made compliant.
3

4 The remaining property owners will be notified that an inspection will be required in
5 order to verify compliance with the Monroe County Floodplain Ordinance.
6

7 Once the owners obtain this inspection, and are compliant, they will receive a Certificate
8 of Compliance. This is a proactive opportunity for property owners to receive evidence
9 that they have a compliant structure which will create a positive market condition. If
10 owners have a non-compliant structure, they will be notified of all the required
11 corrections to the enclosure to become compliant with the permit authorizing the
12 construction, OR the violation will be forwarded to the Code Compliance Department for
13 prosecution.
14

15 Finally, once a property is compliant, the County will provide a non-conversion
16 agreement (with a corresponding drawing attached) to be signed by the property owner
17 and recorded by the county in the County land records so buyers of properties understand
18 what has been approved for areas below base flood elevation.
19

20 This non-conversion agreement will provide protection to future buyers through title
21 work. Every two years an updated potential ground floor enclosure list will be
22 reviewed, and any changes to the Property Record that indicate illegal construction below
23 base flood elevation will go through the inspection process outlined above again.
24

25 The County may also consider obtaining a list of all properties that have transferred ownership
26 and any such property that failed to obtain the required inspection will be contacted for
27 inspection.
28

29 In addition, all new construction that contains any type of below base flood elevation enclosure
30 will be required to record a "Notice of Non-Conversion" to the property, which should alleviate
31 this problem in the future.
32

33 Section 122-7 of the attached ordinance outlines this new program.
34

35 Additional changes that have been made, consistent with FEMA rules and guidelines) in the
36 floodplain regulation (chapter 122) include:
37

- 38 1. Refined definition of limited storage.
- 39 2. Refined definition of market value
- 40 3. Refined definition of substantial damage.
- 41 4. Refined definition of substantial improvement.
- 42 5. Clarification of date County implemented maximum size of downstairs
43 enclosure to be 299 square feet (4/12/04)
- 44 6. Clarified how vented garage doors work.
- 45 7. Clarified accessory structure storage items and eliminated value of
46 accessory structure.

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- 8. Clarified variance procedures.
- 9. Clarified purpose and process for inspection of residential structure upon real estate "sale" by:
 - a. Requiring any illegal improvements to be revealed prior to a new buyer taking title.
 - b. Clarifying when inspection is due.
 - c. Clarifying how either buyer or seller is prosecuted for not obtaining an inspection.
 - d. Eliminating holding up a building permit, waiting on an inspection of an enclosure (HB407).

IV RECOMMENDATION

Staff recommends that the Board of County Commissioners amend the Monroe County Code as stated in the text of this staff report.

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Chapter 122 - FLOODPLAIN MANAGEMENT

Chapter 122 - FLOODPLAIN MANAGEMENT ^[60]

⁽⁶⁰⁾ **State Law reference**— Provisions to regulate areas subject to seasonal and periodic flooding required, F.S. § 163.3202(2)(d).

Sec. 122-1. - Purpose and intent.

Sec. 122-2. - General provisions.

Sec. 122-3. - Permit requirements.

Sec. 122-4. - Standards for issuance of building permits in areas of special flood hazard.

Sec. 122-5. - Variances to the floodplain management requirements.

Sec. 122-6. - Required inspections of residential structures.

Sec. 122-1. - Purpose and intent.

(a) It is the purpose of the floodplain management provisions to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development that may increase erosion or flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (6) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (7) To minimize prolonged business interruptions;
- (8) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;

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(9) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such manner as to minimize future flood blight areas; and

(10) To ensure that potential home buyers are notified that the property is in a floodplain area.

(b) The board of county commissioners deem it in the best interest of its citizens that prudent measures be taken to minimize the potential public and private loss due to flooding. It is the intent of the board of county commissioners that the county at all times be eligible for, and receive, the benefit of participation in the National Flood Insurance Program. It is therefore the intent of the board that the provisions of this chapter be strictly adhered to in all areas of special flood hazard within the jurisdiction of the unincorporated areas of the county.

(Code 1979, § 9.5-315; Ord. No. 33-1986, § 9-601; Ord. No. 14-1988, § 2(1); Ord. No. 15-1989, § 2(1); Ord. No. 39-2000, § 3)

Sec. 122-2. - General provisions.

(a) Applicability. Except as provided for the elevated portion of a nonconforming residential structure by section 122-4(a)(10), no structure or manufactured home hereafter shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter in addition to other applicable regulations of this chapter.

(b) Adoption of maps. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study and Wave Height Analysis for Monroe County, Florida, Unincorporated Areas, ~~dated October 17, 1989, or the most current official maps approved by FEMA, with accompanying maps and other supporting data, and any revisions thereof, are adopted by reference and declared to be a part of this chapter, and shall be kept on file, available to the public, in the offices of the county planning development~~Building Department.

(c) Rules for interpreting flood hazard issues. The boundaries of the flood hazard areas shown on the official flood insurance rate maps may be determined by scaling distances. Required interpretations of those maps for precise locations of such boundaries shall be made by the floodplain administrator, in consultation with the building official. In interpreting other provisions of this chapter, the building official shall be guided by the current edition of FEMA's 44 CFR, and FEMA's interpretive letters, policy statements and technical bulletins as adopted by resolution from time to time by the board of county commissioners. Additionally, the building official shall also obtain, review and reasonably use any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, and other developments meet the criteria required in the appropriate flood zone.

(Code 1979, § 9.5-316.1; Ord. No. 39-2000, § 4; Ord. No. 037-2003, § 1)

Sec. 122-3. - Permit requirements.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any change or modification in construction type, materials, or occupancy.

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Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Enclosure means that portion of an elevated building below the lowest elevated floor that is either partially or fully shut in by rigid walls and used solely for limited storage, parking or entryways. Enclosures shall not be constructed, equipped or used for habitational purposes.

Existing construction means structures for which the start of construction commenced before the effective date of the floodplain management regulations adopted by the community January 1, 1975. Existing construction is also known as pre-FIRM structures.

Existing manufactured home park means a manufactured home park or subdivision for which the construction of facilities for servicing the lots, the construction of the streets, and either final site grading or the pouring of concrete pads is completed before the effective date of the floodplain management regulations adopted by the community January 1, 1975, and in which, at the time of application, there are no site built residences or the park or subdivision is limited to manufactured homes by this chapter.

Finishing materials means anything beyond basic wall construction pursuant to FEMA Technical Bulletin 2-0893, which is normally associated with habitable space. Finishing materials include, but are not limited to, ceiling mold, trim, baseboards, decorative finish work, wainscoting, and textured woods.

Limited storage means the storage of items not subject to damage by water or exposure to the elements such as lawn mowers, rakes, wheelbarrows and similar outdoor equipment. Limited storage does not apply to household items, indoor furniture, personal property, tools or other equipment vulnerable to damage by floodwaters.

that which is incidental and accessory to the principal use of the structure. For example, if the structure is a residence, storage should be limited to items such as lawn and garden equipment, snow tires, and other low damage items which will not suffer flood damage or can be conveniently moved to the elevated part of the building. Flood insurance coverage for enclosures below the Base Flood Elevation (BFE) is very limited.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Market value means the county property appraiser's depreciated value of the structure plus 20 percent. A cost approach appraisal for determination of market value submitted by the applicant may be used if the county building official considers such cost approach appraisal consistent with local construction costs. Where a cost approach appraisal is not accepted by the staff because it appears to be inconsistent with local construction costs an applicant may request review by an independent third party appraiser duly

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authorized by the county. The cost of independent review shall be borne by the applicant. The reviewing appraiser shall determine if the appraisal value cost approach reasonably reflects an appropriate value of the structure. The independent appraiser's determination shall be in writing. Professionals preparing a cost approach appraisal shall be required to possess certifications as state certified residential appraisers for appraising one to four family residential properties and state certified general appraisers for all other properties including commercial and multi-residential. ~~Copies of all certified appraisals shall be forwarded to the office of the county property appraiser.~~

New construction means those structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community that is January 1, 1975. New construction is also known as post-FIRM structures.

Nonconforming means a structure, improvement or other development, which is not fully compliant with the terms of this chapter.

Pure manufactured home park means a manufactured home park that at the time of application has no site-built residences or a park or subdivision which is limited to manufactured homes only by this chapter.

Recreational vehicle means a vehicle that is:

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

Start of construction means (for other than new construction or substantial improvements under the Coastal Barrier Resources Act) the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. For substantial improvements the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not the alteration affects the external dimensions of the building.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. All structures that are determined to be substantially damaged are automatically considered to be substantial improvements, regardless of the actual repair work performed. If the cost necessary to fully repair the structure to its before damage condition is equal to or greater than 50% of the structure's market value before damages, then the structure must be elevated (or floodproofed if it is non-residential) to or above the Base Flood Elevation (BFE), and meet other applicable NFIP requirements. Items that should not be counted toward the cost to repair include plans, specifications, survey costs, permit fees, and other items which are separate from or incidental to the repair. This includes demolition or emergency repairs, and improvements to items outside the building, such as the driveway, septic systems, wells, fencing, landscaping and detached structures.

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The cost of repairs required to remedy health, safety, and sanitary code deficiencies can be deducted from the overall cost of an improvement, but only if:

1. an appropriate regulatory official such as a building official, code enforcement officer, fire marshal, or health officer was informed about and knows the extent of the code related deficiencies, and
2. the deficiency was in existence prior to the damage event or improvement and will not be triggered solely by the fact that the structure is being improved or repaired.

In addition, for any repair required to meet health, sanitary, and safety codes, only the minimum necessary to assure safe living conditions should be deducted, including those improvements required by Chapter 11, 2012 Florida Accessibility Code. Costs of repairs that are in excess of the minimum necessary for continued occupancy or use will be counted toward the cost of the overall improvement. ~~means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Damage of any origin includes, but is not limited to, demolition in preparation for improvements, deterioration due to lack of maintenance and repair and exposure to the elements and damage by acts of God.~~

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alterations of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Floodplain management requirements for new construction apply to substantial improvements. Increased Cost of Compliance (ICC) coverage does not apply to substantial improvements unless a structure is substantially damaged due to flooding.

Supplemental Information for Substantial Improvement

The basic types of improvements are rehabilitations or reconstructions that do not increase square footage, and lateral or vertical additions that do increase square footage.

Rehabilitation or reconstruction would be a partial or complete "gutting" and replacement of internal workings and may or may not include structural changes. If this action is substantial, i.e., over 50 percent of the structure's market value, it is considered new construction, and the entire building must be elevated to or above the Base Flood Elevation (BFE) (or floodproofed if the building is non-residential). The insurance will be actuarial insurance and the structure will be considered Post-FIRM; i.e., subsidized insurance will no longer be available. Rehabilitations, like additions and repair of damage, represent investment and reinvestment in flood hazard areas, that if not protected, are at serious risk of

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flooding.

~~For a lateral addition, if the substantial improvement is to add a room or rooms outside the footprint of the existing building, only the addition is required to be elevated to or above the BFE, i.e.; the existing building does not have to be elevated. Actuarial insurance rates will not apply to the addition, and the entire structure will retain its Pre-FIRM subsidized rate. Vertical additions would require that the entire structure be elevated to or above the BFE. Even though the improvement itself is entirely above the BFE, it is dependent on the walls and foundation of the existing building for structural support. The entire structure must be insured at actuarial rates, the Pre-FIRM subsidized rates are no longer available. means any repair, reconstruction, rehabilitation, addition, or other improvement the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. The term does not include either:~~

~~(1) Any project for improvement to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by local code enforcement officials and which are the minimum necessary to ensure safe conditions; or~~

~~(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. Substantial improvements only apply to structures whose initial construction began prior to January 1, 1975, (pre-FIRM) or structures rendered noncompliant to the elevation requirements because of a change in flood insurance rate maps (FIRMs).~~

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(b) Except for work specifically exempted under chapter 6, the building official shall require building permits for all proposed construction or other improvements within areas of special flood hazard. In addition to the standard requirements for a building permit, an application for a building permit for construction or improvements within areas of special flood hazard shall contain the information and certifications set forth in a form provided by the ~~director of planning~~ Building Official.

(c) All building foundations shall rest directly on natural rock, on concrete piling driven to rock or on friction piling (concrete or wood) and shall be anchored to such rock support by holes, 16 inches in minimum diameter, augured into such rock a minimum depth of three feet and reinforced by a minimum of four #5 vertical rods extending up into the piers above a minimum of 18 inches and tied to the vertical steel of the pier. Wooden pilings shall be locked into 16-inch auger foundations by at least a #5 rebar extending through the piling and three to five inches beyond.

(d) The permit holder shall provide a floor elevation after the lowest floor is completed or, in instances where the structure is subject to the regulations applicable to coastal high-hazard areas, after placement of the lowest horizontal structural members of the lowest floor. Floodproofing certification shall be provided prior to a certificate of occupancy or prior to final inspection.

(e) Within 21 calendar days of establishment of the lowest floor elevation, or upon placement of the lowest horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor or the lowest portion of the lowest horizontal structural members of the lowest floor, whichever is applicable, as built in relation to mean sea level. Such certification shall be prepared by or under the

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direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is used for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day period and prior to submission of the certification shall be at the permit holder's risk. The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be causes to issue a stop-work order for the project.

(f) The degree of flood protection required in this chapter is reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Code 1979, § 9.5-316.2; Ord. No. 39-2000, § 4; Ord. No. 037-2003, § 1)

Sec. 122-4. - Standards for issuance of building permits in areas of special flood hazard.

(a) Generally. No building permit for proposed construction within an area of special flood hazard shall be granted, by the Building Official or the Floodplain administrator, unless the proposed construction is in compliance with the standards set forth in this chapter. In all areas of special flood hazard, the following standards apply:

- (1) All new construction and substantial improvements shall be adequately anchored by pilings or columns to prevent flotation, collapse or lateral movement of the structure.
- (2) All applications deemed substantial or nonsubstantial must be approved by the floodplain administrator, director of growth management, or the building official/director.
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) All new or replacement water supply systems shall be designed and constructed by methods and practices that minimize flood damage.
- (6) All new or replacement sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters. Joints between sewer drain components shall be sealed with caulking, plastic or rubber gaskets, and all manhole covers shall be sealed in a similar manner.
- (7) On-site waste disposal systems shall be located and constructed to minimize or eliminate damage to them and contamination from them during flooding.

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(8) Any alteration, repair, reconstruction or improvement to a structure that already is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter.

(9) Nonconforming uses and construction below elevated post-FIRM buildings shall not be expanded or improved or repaired from damages of any origin and no building permit shall be issued for any improvements to below base flood enclosures, other than for demolition or a permit to remedy a life safety hazard, unless the structure is brought into compliance with this chapter.

(10) The elevated portion of any nonconforming structure may be extended, expanded, or structurally altered upon meeting the following conditions:

- a. The improvement is not substantial as defined in ~~section 101-1~~ this chapter.
- b. Prior to approval and issuance of the building permit for construction of the proposed improvement, ~~the growth management division~~ county staff shall complete an inspection of the below base flood enclosed area to document the extent of any nonconformity; and
- c. If the structure is located within a V-zone, prior to the issuance of a building permit, the permit applicant shall submit a professional engineer's or registered architect's sealed certification that the improvements to the nonconforming structure do not subject the elevated portion of the structure to increased flood risk or structural damage.

(11) No manmade alteration of sand dunes, dune ridge, mangrove stands or wetlands shall be allowed which would increase potential flood damage.

(12) All new construction shall be located landward of the reach of mean high tides.

(13) ~~All agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of lots within areas of special flood hazard shall carry the following flood hazard warning prominently displayed on the document:~~

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FLOOD HAZARD WARNING

This property may be subject to flooding. You should contact the county growth management division and obtain the latest information regarding flood elevations and restrictions on development before making use of this property.

(b) Additional standards. In all areas of special flood hazard where base flood elevation data has been provided the following provisions are required:

(1) Residential construction.

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- a. New construction or substantial improvement of any residential structure shall have the lowest floor for zones A1-30, AE and AH or bottom of the lowest supporting member for zones V1-30, VE or V elevated at or above the base flood elevation level.
- b. Electrical and mechanical equipment servicing an elevated structure must be elevated at or above the required base flood elevation. Elevators may be placed below the base flood elevation, if the mechanical and electrical equipment serving the elevator is designed, certified and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- c. Sewer and storm drainage systems, which extend below the base flood elevation, shall be provided with automatic backflow prevention valves or devices installed at the point where the line passes an exterior wall or slab.
- d. Except as noted in subsection (b)(7) of this section, the space below the lowest floor of an elevated structure shall be used exclusively for parking of vehicles, elevators, limited storage or building access purposes. Such spaces may be enclosed under the following conditions:
 1. Only a maximum of 299 square feet of the space shall be enclosed with opaque materials. Any remaining portion of an enclosed area of more than 299 square feet shall only be enclosed with screen or lattice. This limitation shall not apply to parking of aircraft beneath residential buildings abutting airport districts. Areas of 300 square feet or more, enclosed with opaque materials, existing on April 12, 2004, the effective date of the ordinance from which this section is derived shall be deemed conforming as to the provisions of this subsection (b)(1)d.1.; however, such enclosures shall not be expanded or substantially improved unless they are brought into compliance with this chapter.
 2. Walls of any enclosed area must be designed and constructed in a manner to prevent flotation, collapse and lateral movement of the structure.
 3. The walls of any enclosed area below the base flood elevation in zones ~~AE1-30, AH and AE~~ on the community FIRM shall be provided with openings such as vents, louvers or automatic valves which permit the level of floodwaters within the enclosed area to match the rising and falling of floodwaters on the outside of the structure. A minimum of two openings located on separate walls shall be provided having a minimum total net area of one square inch for each square foot of enclosed area, where the enclosed area is calculated by outside dimensions. A vented garage door may be used in lieu of venting one wall opening. Openings shall be situated such that the bottom of each opening is no higher than one foot above finished grade.
 4. Interior walls, ceilings and floors in enclosures of 299 square feet or less may be finished with a class 4 or 5 exterior finish, regardless of whether this is specified in the permit or not, in accordance with FEMA Technical Bulletin ~~2-0893~~. Technical Bulletin ~~2-0893~~ limits the finish to basic wall ceiling and floor construction. This is meant to exclude the use of materials and finishes normally associated with living areas constructed above base flood elevation from those areas of the enclosure located below

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the base flood elevation.

5. The interior portion of an enclosed area below an elevated building may not be partitioned except that garages may be separated from storage and entryway. In the event an existing enclosure is enlarged, the walls between the existing enclosure and the additional enclosure must be deleted. Enclosed areas below an elevated building and laterally attached enclosed areas below base flood elevation must be void of utilities that would service the enclosure and cannot be temperature controlled.

6. Necessary electrical switches for required lighting circuits may be located below the base flood elevation, provided they are of the outdoor water-resistant variety on a separate ground-fault protection circuit breaker and do not exceed the minimum number required by law. Except for one GFI, electrical receptacles shall not be located below the base flood elevation.

7. Walls constructed entirely of wood lattice work or screen mesh shall be considered as satisfying the requirements of subsections (b)(1)d.2., (b)(1)d.3., and (b)(5)a. of this section.

8. The area enclosed below the base flood elevation shall not be used for human habitation.

9. Except as noted in subsections (b)(1)b. and (b)(1)d.6. of this section or required by an applicable code no electrical, mechanical or plumbing may be located below the base flood elevation.

(2) Nonresidential construction.

a. New construction or substantial improvements of any commercial, industrial or other nonresidential structures within zones A1-30, AE and AH on the community's flood insurance rate map (FIRM) shall have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and/or review structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions contained herein. A record of such floodproofing certification which shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be provided to the building department. Wet floodproofing is not acceptable. New construction or cumulative substantial improvements of any commercial, industrial or other nonresidential structures within zones V1-30, VE or V shall have the lowest floor, including the basement, elevated to or above the base flood elevation.

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b. Enclosed areas below an elevated structure at grade elevation for nonresidential, commercial or industrial uses shall be permitted for limited storage or parking purposes, provided that they are anchored to prevent flotation, collapse or lateral movement of the structure and do not exceed 300 square feet of enclosed area and are in accordance with the requirements of subsection (b)(5)g. of this section for V zones or subsections (b)(1)d.1—(b)(1)d.9. of this section for A zones. Plans for such structure shall be submitted to the building official for approval prior to construction.

(3) Accessory structures.

a. Residential accessory structures.

1. Any prefabricated light metal structure, which meets the following criteria, may be permitted in A or V zones if:

(i) The enclosed area is 150 square feet or less;

~~(ii) The fair market value is \$500.00 or less;~~

(iii) The use is limited to ~~storage accessory to a residence~~ limited storage; and

(iii~~v~~) The structure is properly anchored.

2. Accessory light metal structures which exceed the 150 square feet of enclosed space threshold or concrete or wood accessory structures built on site regardless of size or value may be permitted if they meet all of the criteria outlined in subsection (b)(1)d. of this section or for V zones the criteria set forth in subsection (b)(5)g. of this section.

b. Nonresidential accessory structures.

1. All nonresidential accessory structures, or enclosed areas, which meet the following criteria, may be permitted if:

(i) The enclosed area is 300 square feet or less;

(ii) The use is restricted to limited storage and parking only;

(iii) They meet the breakaway wall standards outlined in subsection (b)(5)a. of this section for V zones or the venting requirements outlined in subsection (b)(1)d.3. of this section for A zones;

(iv) They meet the other requirements as outlined in subsection (b)(1)d. of this section; and

(v) The structures are properly anchored.

2. Accessory structures in an A zone that exceed the 300 square feet of enclosed space threshold may be permitted if they meet the floodproofing criteria outlined in subsection (b)(2)a. of this section. Accessory structures in a V zone that exceed the 300 square feet

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of enclosed space threshold, are strictly prohibited.

(4) Manufactured homes.

- a. Effective June 1, 1977, no manufactured home not already in place shall be placed within areas of special flood hazard except in an existing manufactured home park or subdivision, as hereafter defined. In the event that the Federal Emergency Management Agency eliminates the existing manufactured home park or subdivision requirement of 44 CFR 60.3(c)(12), then no manufactured home may be placed below the base flood elevation.
- b. A manufactured home that is to be placed on a qualified lot may be placed at an elevation below base flood elevation, provided that:
 1. The lot on which the manufactured home is to be placed is located in an existing manufactured home park or subdivision and is contiguous to and surrounded by manufactured homes not at base flood elevation.
 2. The manufactured homes that are placed or substantially improved (for other than substantial damage due to a flood) on sites in existing manufactured home parks or subdivision in flood hazard areas shall be elevated so that the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above the grade at the site. A lower foundation system could be used if the top of the finished floor of the manufactured home or the bottom of the beam (for V zones) would be at or above the base flood elevation using such foundation.
 3. All other foundations requiring elevation of the structure in order to meet the floodplain standards must comply with section 122-3(b), the provisions of subsection (b)(5) of this section or chapter 18 of the Florida Building Code whichever is applicable.
- c. No solid walled additions may be added to a manufactured home unless the addition is constructed under HUD (Department of Housing and Urban Development) standards and contains a HUD seal or the addition is elevated to or above the base flood elevation. Solid walled additions elevated to or above the base flood elevation must be constructed with fourth wall construction, ~~or~~ and certified by an engineer or architect licensed by the state.
- d. Screen rooms, open decks and porches may be added to a manufactured home provided the addition is structurally independent and constructed with fourth wall construction.
- e. All manufactured homes and state approved manufactured offices or construction trailers for temporary use shall be anchored to resist flotation, collapse and lateral movement by providing over-the-top and frame ties to ground anchors as provided for in F.A.C. ch. 15C.
- f. An existing manufactured home that is damaged or otherwise in need of repair, reconstruction, improvement, or replacement the value of which meets or exceeds 50 percent of the value of the manufactured home without the repair, reconstruction, improvement or replacement shall not be repaired, reconstructed, improved or replaced except by a manufactured home which meets the most recent standards promulgated by the Department of Housing and Urban Development in 24 CFR 3280.308(C)(2) and, in addition, meets the

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standards set forth in subsections (b)(4)b., (b)(4)c., and (b)(4)d. of this section, as applicable. For the purposes of determining the value of any replacement manufactured homes under this section, the purchase price, as expressed in an invoice from an arms length transaction, in a form acceptable to the building official, or using market value, as determined in section 122-3(f), whichever is greater, shall control.

g. A manufactured home may be altered or modified by engineering standards more stringent than originally required if the manufactured home is elevated to or above the required base flood elevation.

(5) Coastal high-hazard areas (V zones). Within the areas of special flood hazard are areas designated as coastal high-hazard areas, which have special flood hazards associated with wave wash. The following provisions shall apply in these areas:

a. New construction or substantial improvements within zones V1-30, VE or V shall be elevated so that the bottom of the lowest horizontal supporting member (excluding pilings or columns) is located at or above the base flood elevation level, with the space below the lowest supporting member open or constructed with breakaway walls so as not to impede the flow of floodwaters. Breakaway walls may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with the provisions of subsections (b)(5)g., (b)(5)h. and (b)(5)i. of this section.

b. New construction or substantial improvements shall be securely anchored on pilings, columns or shear walls.

c. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by American Society of Civil Engineers (ASCE) Standard number 7. Where shear wall construction is used, the following conditions shall also apply:

1. Shear walls shall be placed parallel to the predominant flow direction of floodwaters and spaced to provide adequate floodwater conveyance beneath the elevated floor;

2. Shear walls shall be constructed using reinforced concrete; and

3. Except for the placement of the parallel load-bearing walls, the space between the shear walls below the elevated floor shall remain free of obstruction or contain only breakaway wall construction.

d. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with the accepted standards of practice for meeting the provisions of subsections (b)(5)a., (b)(5)b. and (b)(5)c. of this section.

e. There shall be no fill used as structural support.

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f. Nonstructural fill shall not be placed in a V zone except with an approved hydrological analysis.

g. If any space below the base flood elevation level is to be enclosed, such enclosed areas shall not be used for human habitation and must meet the provisions of subsections (b)(1)d.1., (b)(1)d.4.—(b)(1)d.9. and (b)(5)a. of this section.

h. Prior to construction, plans for any structure that will have enclosed space below the base flood elevation level shall be submitted to the building official or his designee for approval.

i. Walls and partitions other than parallel shear walls shall be allowed below the base flood elevation, provided they are not part of the structural support of the building and are designed to break away under the impact of abnormally high tides or wind-driven water without damage to the structural integrity of the building on which they are to be used, and provided that a design load limit of not less than ten and no more than 20 pounds per square foot shall be used as the safe load design for breakaway walls.

j. Compliance with the provisions contained in subsection (b)(5)i. of this section shall be certified by a registered professional engineer or architect.

k. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the base flood elevation level except as provided for in subsections (b)(5)g. and (b)(5)i. of this section.

l. No manmade alteration of mangroves or beach berm system shall be permitted which will increase the potential for flood damage.

(6) Basement construction. No basement shall be constructed in the county until such time as a variance is granted to the county under the terms of 44 CFR 60.6(b).

(7) Enclosures below base flood elevation. No enclosure below the base flood elevation shall be constructed or equipped for such uses as a kitchen, dining room, family room, recreation room, office, bedroom, bathroom or workshop. This prohibition does not apply to new improvements that are not substantial to post FIRM structures rendered noncompliant by amendments to the flood insurance rate map as long as the improvement is at the same elevation the structure was originally built to; ground level structures whose initial construction began prior to January 1, 1975; and those structures that are listed on the National Register of Historic Places, the Florida Inventory of Historic Places or any inventory of local historic places.

(8) Below base flood elevation variance. In no event shall a below base flood elevation variance be necessary for improvements to an existing structure whose initial construction began prior to December 31, 1974, or to a legally placed manufactured home when the improvements are not substantial.

(9) Recreational vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE, V-130, V and VE on the community's FIRM either:

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- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or
- b. Meet the permit requirements of subsection (b)(4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or internal jacking system, designed to be self propelled or permanently towable by a light duty truck, is attached to the site only by quick disconnect type utilities and security devices, and has no permanent attached additions.

(Code 1979, § 9.5-317; Ord. No. 33-1986, § 9-603; Ord. No. 14-1988, § 2(3); Ord. No. 15-1989, § 2(3); Ord. No. 15-1990, § 2; Ord. No. 2-1994, § 1; Ord. No. 39-2000, § 5; Ord. No. 037-2003, § 2; Ord. No. 005-2004, § 1; Ord. No. 025-2004, § 1)

Sec. 122-5. - Variances to the floodplain management requirements.

(a) Generally. Where, owing to special conditions, a literal enforcement of the floodplain management provisions of the plan would result in exceptional hardship unique to that property or proposed project, the board of county commissioners may grant variances from the terms of those provisions as will not be contrary to the public interest, will be in harmony with the general purpose and intent of this chapter, and will be the minimum variance that will allow reasonable use of the property.

(b) Procedures.

(1) An application for a variance from the provisions of this chapter for development in an area of special flood hazard shall be filed with the building official ~~in a form provided by the director of planning~~ at the time of application for a building permit.

(2) Within ten days of receipt of a complete application for a variance from the terms of the floodplain management provisions of this chapter, the building official shall ~~forward the application to the director of planning~~, review the application, and submit a report and recommendation to the board of county commissioners.

~~(3) The director of planning, or his designee, also shall review the application for a variance and submit a report and recommendation to the board of county commissioners within five days after receipt from the building official.~~

(4) The board of county commissioners shall review the application and the reports and recommendations of the building official ~~and director of planning~~ and consider granting the variance in accordance with the conditions set forth in this section.

(c) Conditions.

(1) Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and only upon all of the following conditions:

- a. A showing of good and sufficient cause;
- b. A determination that failure to grant the variance would result in exceptional hardship to

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the applicant;

c. A determination that the granting of a variance will not result in increased flood heights; result in additional threats to public safety; result in extraordinary public expense; create nuisance; cause fraud on or victimization of the public; or conflict with other provisions of this chapter or this Code; and

d. Specific written findings linked to the criteria below.

(2) The following factors shall be relevant in the granting of a variance:

a. Physical characteristics of construction;

b. Whether it is possible to use the property by a conforming method of construction;

c. The possibility that materials may be swept onto other lands to the injury of others;

d. The danger to life and property due to flooding or erosion damage;

e. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;

f. The importance to the community of the services provided by the proposed facility;

g. The necessity to the facility of a water-dependent location, where applicable;

h. The availability of alternate locations less subject to flooding;

i. The compatibility of the proposed use with existing and anticipated development;

j. The relationship of the proposed use to the comprehensive plan, land development regulations and the floodplain management program for that area;

k. The safety of access to the property for ordinary and emergency vehicles in times of flood;

l. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

m. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(3) When the board of county commissioners shall consider the property of granting a variance as permitted by this chapter, the following factors shall not be considered relevant:

a. The physical disabilities or handicaps and health of the applicant or members of his family;

b. The domestic difficulties of the applicant or members of his family;

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c. The financial difficulty of the applicant in complying with the floodplain management provisions of this chapter; or

d. The elevation of surrounding structures.

(4) Any applicant to whom a variance is granted shall be given written notice by the board of county commissioners specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(5) All variances issued shall require that an affidavit be prepared, and recorded with the clerk of the circuit court, which shows that the proposed construction will be located in a floodprone area, the number of feet that the lowest floor of the proposed structure will be below the base flood level, and that actuarial flood insurance rates increase as the flood elevation decreases.

(6) The building official shall maintain records of all variance actions and annually report any variances to the Federal Emergency Management Agency.

(Code 1979, § 9.5-318; Ord. No. 39-2000, § 6)

Sec. 122-6. - Required inspections of residential structures.

(a) Applicability. Prior to the transfer of ownership of any property occupied by an elevated residential structure with a below base flood enclosed area defined as "new construction" (i.e., construction commenced on or after January 1, 1975) under this chapter, a county approved inspection of the below base flood enclosure shall be conducted. The required inspection shall be conducted no earlier than 180 days prior to the transfer of the property. The intent of this inspection, which is strictly limited to the below base flood enclosure, is to identify for county records and purchasers any ~~nonconformities-illegal structures with this chapter~~ built not in compliance with floodplain regulations and to disclose these nonconformities to the new property owner.

(b) Inspections. The inspection required under this section may be conducted either by an inspector from the growth management division or by an inspector approved by the growth management division. Fees for inspections conducted by the growth management division shall be in accordance with the schedule established by resolution of the board of county commissioners for inspections conducted under the county's flood insurance inspection and compliance program.

(c) Inspection procedures and forms. All inspections required under this section shall be done in accordance with procedures and recorded on county forms approved by the growth management director.

(d) Private inspectors approval. Non-county inspectors from an approved list maintained by the growth management division may be retained by property owners to complete the inspections required by this section. These inspectors shall be approved by the growth management division director and shall be required to take an inspection training session conducted by the growth management division to ensure all inspectors fully understand county inspection and reporting requirements. All inspections conducted and inspection reports prepared by non-county inspectors are subject to review by the growth management division. Inspection reports that are found to be incomplete, inaccurate, or contain errors

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and omissions, may result in the inspector being removed from the approved list of inspectors by the growth management director.

(e) Inspection submittal requirements. The original of the inspection report, signed by the county inspector or county approved inspector, shall be submitted to the Building Department. ~~included in all agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of a property with an elevated residential structure subject to the inspection requirements of this section. A copy of this inspection report shall be filed with the growth management division within ten days prior to of the transfer of property.~~

(f) Failure to comply with inspection submittal requirements. Should the inspection report required by this section not be filed with the growth management division, the property owner (whether seller or buyer) will be in violation of this section and prosecuted under the provisions of Chapter 8. ~~no permit shall be issued for any improvements to the structure and the property it occupies until such an inspection report is submitted, unless the permit is required to remedy a life safety hazard. In addition, violations of this section may be addressed through code enforcement proceedings as provided for under chapter 8-~~

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(Code 1979, § 9.5-319; Ord. No. 037-2003, § 3)

Sec. 122-7. Floodplain Certificate of Compliance Program.

(a) Generally. Any property owner which has obtained an inspection of their downstairs enclosure or structure below base flood elevation through either:

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- a. FEMA Insurance Inspection Program; or
- b. Inspection at time of sale; or
- c. Voluntary Inspection.

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is eligible to obtain a Certificate of Compliance. The structure must have been found in compliance with the Monroe County Floodplain regulations by Monroe County staff and prior to obtaining the certificate, must record a non-conversion agreement in the Monroe County land records on a form to be provided by the County. Properties that have received their inspections in the past, may receive a certificate of compliance; however, a re-inspection (with no fee) is necessary to assure compliance has been maintained and the owner must also record the non-conversion agreement, which shall be recorded in land records.

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(b) Outreach. The County will mail written notices to property owners, every two years, with downstairs living areas as follows:

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- a. The County will obtain data from the Monroe County Property Appraiser Office which will identify all single family residences which contain enclosures that are identified as living area on the ground floor. Once this data is captured, technical staff will deduct all the parcels that have already received inspections via the FEMA Insurance Inspection Pilot Program, transfer of ownership program, or the previously applicable inspection on

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building permit program, and been made compliant.

b. The remaining property owners will be notified via regular mail that in order to receive a certificate of compliance, an inspection is required of any below base floor elevation structures, to verify compliance with the Monroe County Floodplain regulations. Owners will also be notified that non-compliant structures may be subject to Code Compliance proceedings.

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c. If owners seek and obtain a certificate inspection, and are compliant, they will receive a Certificate of Compliance as outlined in this Section. This is a proactive opportunity for property owners to receive evidence that they have a compliant structure which should, long term, create a positive market condition. If an owner has a non-compliant structure, they will be notified of all the required corrections to the enclosure to become compliant and that permits are required to authorize construction.

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(c) Inspections. Inspections may be conducted for a Certificate of Compliance according to this chapter for FEMA Insurance Inspection Program or for Inspection of Residential Structures prior to transfer of ownership found in Section 122-6.

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(d) Complaint Structures. The County will provide a Certificate of Compliance to property owners with compliant structures after property owners sign and record a non-conversion agreement (with a corresponding drawing demonstrating the permitted improvements allowed below base flood elevation attached to the agreement). The non-conversion agreement shall be recorded by the county in the Monroe County land records so future buyers of properties understand what has been approved for areas below base flood elevation. Property owners shall pay recording fees.

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(e) Non-Compliant Structures. The County Building Official shall refer any non-compliant structures to the Code Compliance Department for enforcement through appropriate processes.

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(f) New Construction. New construction that contains any type of below base flood elevation enclosure, will be required to record a "Notice of Non-Conversion" in the Monroe County land records indicating the square footage permitted to be constructed below base flood elevations, with a corresponding drawing demonstrating the permitted improvements permitted, prior to receiving a certificate of occupancy.

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ENROLLED
CS/HB 407

2011 Legislature

1 A bill to be entitled
2 An act relating to residential building permits; amending
3 s. 553.79, F.S.; prohibiting local enforcing agencies and
4 building code officials or entities from requiring certain
5 inspections of buildings, structures, or real property as
6 a condition of issuance of certain residential building
7 permits; providing for application; providing for
8 conditional repeal; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (17) is added to section 553.79,
13 Florida Statutes, to read:

14 553.79 Permits; applications; issuance; inspections.—

15 (17) (a) A local enforcing agency, and any local building
16 code administrator, inspector, or other official or entity, may
17 not require as a condition of issuance of a one- or two-family
18 residential building permit the inspection of any portion of a
19 building, structure, or real property that is not directly
20 impacted by the construction, erection, alteration,
21 modification, repair, or demolition of the building, structure,
22 or real property for which the permit is sought.

23 (b) This subsection does not apply to a building permit
24 sought for:

25 1. A substantial improvement as defined in s. 161.54 or as
26 defined in the Florida Building Code.

27 2. A change of occupancy as defined in the Florida
28 Building Code.

ENROLLED
CS/HB 407

2011 Legislature

29 3. A conversion from residential to nonresidential or
30 mixed use pursuant to s. 553.507(2)(a) or as defined in the
31 Florida Building Code.

32 4. An historic building as defined in the Florida Building
33 Code.

34 (c) This subsection does not prohibit a local enforcing
35 agency, or any local building code administrator, inspector, or
36 other official or entity, from:

37 1. Citing any violation inadvertently observed in plain
38 view during the ordinary course of an inspection conducted in
39 accordance with the prohibition in paragraph (a).

40 2. Inspecting a physically nonadjacent portion of a
41 building, structure, or real property that is directly impacted
42 by the construction, erection, alteration, modification, repair,
43 or demolition of the building, structure, or real property for
44 which the permit is sought in accordance with the prohibition in
45 paragraph (a).

46 3. Inspecting any portion of a building, structure, or
47 real property for which the owner or other person having control
48 of the building, structure, or real property has voluntarily
49 consented to the inspection of that portion of the building,
50 structure, or real property in accordance with the prohibition
51 in paragraph (a).

52 4. Inspecting any portion of a building, structure, or
53 real property pursuant to an inspection warrant issued in
54 accordance with ss. 933.20-933.30.

55 (d) This subsection is repealed upon receipt by the
56 Secretary of State of the written certification by the chair of

ENROLLED

CS/HB 407

2011 Legislature

57 | the Florida Building Commission that the commission has adopted
58 | an amendment to the Florida Building Code which substantially
59 | incorporates this subsection, including the prohibition in
60 | paragraph (a), as part of the code and such amendment has taken
61 | effect.

62 | Section 2. This act shall take effect July 1, 2012.

County of Monroe
Growth Management Division

Office of the Director
2798 Overseas Highway
Suite #400
Marathon, FL 33050
Voice: (305) 289-2517
FAX: (305) 289-2854



Board of County Commissioners
Mayor Heather Carruthers, Dist. 3
Mayor Pro Tem David Rice, Dist. 4
Kim Wigington, Dist. 1
George Neugeat, Dist. 2
Sylvia Murphy, Dist. 5

We strive to be caring, professional and fair

August 16, 2011

Mr. Brad G. Loar, CFM, Director
Mitigation Division
Federal Emergency Management Agency
Department of Homeland Security, Region IV
3003 Chamblee Tucker Road
Atlanta, GA 30341

Dear Mr. Loar:

As you know, Monroe County has three primary floodplain compliance programs to assure illegal post-FIRM enclosures of structures below base flood elevation are remedied as follows:

1. Pilot Inspection Program -- whereby insured residents are required to obtain an inspection of their downstairs enclosures for continuance of flood insurance
2. Inspection upon request for building permit
3. Inspection upon sale

These three programs resulted from an April 16, 2003 resolution by the Monroe County Board of County Commissioners that included a remedial plan (attached). The remedial plan has been implemented through the County Code of Ordinances.

In 2011, the State of Florida Legislature passed Chapter 2011-82 Laws of Florida (House Bill 407) (attached), which prohibits the County from requiring an inspection of other areas not the subject of a building permit. This pre-emptive legislation prevents Monroe County from inspecting downstairs enclosures upon application for a building permit if the downstairs enclosure is not directly impacted by the proposed work.

Under Section 6-107 of the Monroe County Code, which was adopted as part of performance under the remedial plan, the process for inspection upon building permit is as follows:

1. Homeowner asks for building permit and must submit property record card with application.
2. Staff reviews property record card to determine if living area exists in downstairs, then writes letter to property owner notifying them of need for inspection.

3. Property owner calls for inspection.
4. Perform inspection.
5. If not in compliance with floodplain management ordinances, owners are notified of required remedies.
6. If permit that was applied for originally was for something irrelevant to the downstairs enclosures (e.g. roof, fence, etc.), permit is issued after inspection of downstairs area.
7. If not in compliance, and no remedy is made for downstairs enclosure in time period given (3-6 months depending upon severity of violation (plumbing/electric requires permitting so longer time period given), violation is referred to Code Enforcement.
8. Code Enforcement sends Notice of Violation (explaining violation, suggested solutions, and who to contact to remedy) and sets hearing before Special Magistrate.
9. Special Magistrate hears case
 - a. If there is a finding that property is not in compliance:
 - i. Gives new compliance date
 - ii. Sets fines starting day after compliance date
 - iii. Property owner has 30 days to initiate appeal process
 - b. If there is a finding that property is in compliance case is dismissed.

The above process will be unenforceable due to Chapter 2011-82 Laws of Florida. You indicated to County staff and at least one of our Commissioners that under HB407, Monroe County has until July 1, 2012 to adopt an ordinance that will provide for an alternative to Monroe County Code Sec. 6-107. You have indicated this must be approved by FEMA. The following proposal is offered to modify Monroe County Code Sec. 6-107, which includes the Implementation Plan, per FEMA's requirements, for continuing participation in the NFIP.

The Monroe County Board of County Commission did discuss this alternative proposal, and I am requesting written confirmation that FEMA considers this alternative adequate prior to our embarking on developing ordinances and processing them through a public hearing process.

Proposed Certificate of Compliance Program to replace Inspection on Building Permit Program:

The County is seeking to obtain definitive data from the Monroe County Property Appraiser which will identify all single family residences which contain enclosures that are identified as living area on the ground floor. Once this data is captured, our technical staff will deduct all the parcels that have already received inspections via the pilot program or other programs, and been made compliant.

The remaining property owners will be notified that an inspection will be required in order to verify compliance with the Monroe County Floodplain Ordinance.

Once the owners obtain this inspection, and are compliant, they will receive a Certificate of Compliance. This is a proactive opportunity for property owners to receive evidence that they have a compliant structure which will create a positive market condition. If owners have a non-compliant structure, they will be notified of all the required corrections to the enclosure to become compliant with the permit authorizing the construction, OR the violation will be forwarded to the Code Compliance Department for prosecution.

Finally, once a property is compliant, the County will provide a non-conversion agreement (with a corresponding drawing attached) to be signed by the property owner and recorded by the county in the County land records so buyers of properties understand what has been approved for areas below base flood elevation.

This non-conversion agreement will provide protection to future buyers through title work. Every two years an updated potential ground floor enclosure list will be reviewed, and any changes to the Property Record that indicate illegal construction below base flood elevation will go through the inspection process outlined above again.

The County may also consider obtaining a list of all properties that have transferred ownership and any such property that failed to obtain the required inspection will be contacted for inspection.

In addition, all new construction that contains any type of below base flood elevation enclosure will be required to record a "Notice of Non-Conversion" to the property, which should alleviate this problem in the future.

I am attaching:

1. An underline/strikethrough of a proposed amended Resolution that includes a Remedial Plan amendment, originally approved to alleviate Monroe County being on probation or suspension from the National Flood Insurance Program (NFIP).
2. A clean version of the proposed amended Resolution that includes a Remedial Plan amendment, originally approved to alleviate Monroe County being on probation or suspension from the National Flood Insurance Program (NFIP).

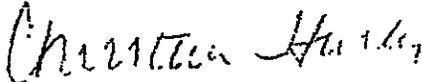
We are seeking written confirmation that FEMA considers these changes to the Remedial Plan acceptable as well. This is the same program County staff discussed with FEMA representatives in Washington DC. Susan Wilson was included in that meeting, by telephone.

Monroe County staff is willing to travel to Atlanta to discuss this alternative proposal in person if FEMA officials feel this is necessary, prior to sending written verification that this alternative is acceptable.

Please let us know if this program meets with your approval.

Sincerely,

MONROE COUNTY



Christine Hurley, AICP
Growth Management Division Director

Enclosures
CH/mt



**FEMA
RECEIVED**

October 14, 2011

OCT 21 2011

Ms. Christine Hurley, AICP
Growth Management Division Director
2798 Overseas Highway, Suite 400
Marathon, Florida 33050

GROWTH MANAGEMENT DIVISION *not*

Dear Ms. Hurley:

This letter is in response to your proposal, dated August 16, 2011, to outline how Monroe County will continue to comply with the ongoing pilot inspection procedure and the National Flood Insurance Program (NFIP) regulations, and with the recent passage of the State of Florida House Bill 407, which prohibits the County from requiring an inspection of other areas that are not the subject of the building permit. This new legislation prohibits the County from inspecting lower level enclosures upon application for a building permit if the enclosure is not directly impacted by the proposed work. To maintain County's continued eligibility in the NFIP, you proposed two alternatives to the inspection programs the County currently conducts: 1) the Inspection on Transfer Program; and 2) the Certificate of Compliance Program.

The Inspection on Transfer Program is intended to provide an opportunity to record and monitor properties with lower level enclosures that have not received a County compliance inspection prior to the sale or transfer of the property. You stated that this inspection is not intended to be used to identify or prosecute any other unpermitted improvements that are not subject to the floodplain regulations, and that structures would not have to be brought into compliance prior to the transfer. This approach is an effective part of a compliance program; however, we would recommend strengthening this process to include closer monitoring; or, attaching a compliance agreement that the buyer would sign as a condition of sale or transfer. Of particular concern is that once these properties are transferred, Monroe County would have limited opportunities to gain compliance until the property was transferred or sold again, or was substantially damaged or improved.

Despite passage of Florida House Bill 407, according to Title 44 of the Code of Federal Regulations, Section 59.30 (44 CFR §59.30), insurers will continue to send a notice to the flood insurance policyholder that an inspection report may be required for new or renewed flood insurance policies. By participating in the NFIP and the pilot inspection program, Monroe County has the responsibility to enforce the provisions in their flood damage prevention ordinance to bring insured and non-insured buildings with noncompliant lower level enclosures below the "lowest floor" into compliance. FEMA supports and encourages the County to require a compliance inspection of lower level enclosures in the event of the sale or transfer of real property.

The Certificate of Compliance Program will apply to all structures in Special Flood Hazard Areas that have habitable areas below the lowest floor, but exclude those which received inspections through the pilot inspection procedure. We concur with your assessment that the Certificate of Compliance Program will foster a positive real estate market condition, and will assure future buyers that the structure is compliant. Additionally, sellers, real estate agents, and other property owners, would be more likely to request inspections and correct violations to alleviate any future obstacles to transferring the property. This approach has been highly successful in assisting other NFIP communities gain compliance related to limitations on residential inspections and we strongly support this direction. We also support recording with the County a "Notice of Non-Conversion" to new construction and to structures that are brought into compliance. FEMA supports the Certificate of Compliance Program as a method for Monroe County to fulfill its obligations according to 44 CFR §59.30 to bring uninsured structures into compliance.

Should you or your staff have any questions or need further clarification on the Monroe County inspection program, please contact Prasad Inmula of our Mitigation staff at (770) 220-8841 or at prasad.inmula@dhs.gov.

Sincerely,



Brad G. Loar, CFM
Director
Mitigation Division

County of Monroe
Growth Management Division

Building Department

2798 Overseas Highway
Suite #300
Marathon, FL 33050
Voice: (305) 289-2501
FAX: (305) 289-2515



Board of County Commissioners

Mayor David Rice, Dist 4
Mayor Pro Tem Kim Wigington, Dist. 1
George Neugent, Dist 2
Heather Carruthers, Dist 3
Sylvia Murphy, Dist 5

We strive to be caring, professional and fair

1/25/12

FEMA US Dept. of Homeland Security
Region IV
3003 Chamblee Tucker Rd.
Atlanta, GA 30341

RE: December 29, 2011 letter requesting Monroe County extend Pilot Program

Dear Mr. Loar:

We are in receipt of your letter referenced above and attached herein. While we know you have made a finding that Monroe County has not made significant progress towards completion of the program, as discussed on the phone, we have continuously conducted all of the activities under the Pilot Program. We continue to do so at this time.

Monroe County has inspected and continues to inspect ALL below base flood elevation enclosures requested by property owners, upon their submission of the Flood Inspection Permit Application. Inspections have not been deferred, cancelled, or refused in the 10 years the program has been in effect. Monroe County performs inspections when a policy owner submits an application for the inspection. Property owners are directed to do this by their insurance carriers, after Monroe County notifies the carriers (via the FEMA database) that an inspection is required.

As of this date, Monroe County has performed 2689 initial inspections. Of that number, 2393 are in compliance. There are an additional 579 that are either waiting for the initial inspection OR are in the process of being made compliant, either through Code Enforcement, or within the one-year grace period allowed by the Final Rule, or under a 1316 declaration. There are approximately 2714 properties remaining that were submitted to carriers for an inspection but have not obtained a permit for the inspection. This

outstanding number of properties (2714) is puzzling to the County because Monroe County completed the required submission of all properties through the NFIP database in November 2010. As of this date (14 months later), all the notices for inspections SHOULD have been sent from the Carriers (WYO) companies to the policyholders at least 6 months prior to the renewal date of each policy. Failure to submit an inspection report to the WYO Company is supposed to render the policy un-renewable. If all the uninspected properties that were submitted from 2002 thru 2010 were non-renewed for no inspection, then the program would be complete, yet it seems there are over 2700 such policies still in force.

In essence, it is not the County that can remedy this situation, as we have no authority over the Carriers (WYO). We have put together several examples of random checks of addresses and policies below. It appears there is an issue with the oversight of the program from the NFIP Bureau and Statistical Agent and WYO levels. Several years ago, Monroe County Floodplain Administrator notified your office about this problem, but it appears there has been no resolve. Examples of this issue are:

-
- Policy # 0131426399 was submitted to the B&SA for an inspection by Monroe County on 4/9/08 yet there is a current policy in force for the same property, policy #1150271540.
 - Policy # 051688080F was submitted for an inspection by Monroe County on 9/6/05. The insurance company failed to send a notice to the insured until 2/7/08 requiring the inspection. Policy stayed in forced and the owners didn't obtain an inspection until 9/29/10.
 - Policy #7700067415 was submitted by Monroe County 4/1/05 for an inspection, yet there is a policy in force right now #7700067415, and no inspection has been performed.
 - Policy # 7700228649 was submitted by Monroe County on 4/8/04. No inspection has been performed but there is an active policy in force #8702746577
 - Policy # 9902665508 was submitted by Monroe County on 2/3/10 yet there is a current policy in force #1150656038, expiring 1/14/12, almost 2 years after the submission by Monroe County.
 - Policy 7700251006 submitted by Monroe County on 5/3/07 yet there was a policy in force up to 10/29/2011 without any inspection.

These are just a few examples; however, obviously, there are over 2700 properties that have not requested an inspection and correspondingly FEMA shouldn't be issuing a renewal to their flood insurance.

Another issue that may be contributing to this problem, is issuance of "Good Faith Letters". Monroe County has issued 4 good faith letters since the program started in March of 2002. However, through the years, county staff have noticed that the website indicates that Good Faith Letters are being issued on a regular basis. We were under the impression that only the Community could issue a Good Faith Letter, if the Community was unable to perform the inspection in the prescribed time frame. A few examples:

- Policy # 0152519701 was submitted by the County for an inspection in 2002. Two separate policies on the website show a good faith letter was accepted (not issued by Monroe County) on two separate occasions for the same property under policy 7700502279 in 2003 and again under policy # 9902757989 in 2006.
- ~~Another example of an improperly issued Good Faith Letter is the address 56 Mutiny Place in Key Largo. This property was submitted for the inspection by Monroe County on 8/8/02. No inspection was performed but the website shows a good faith letter issued (not by us) on 6/26/03 under policy 01710009703 and a second Good Faith Letter issued (not by us) on 7/8/05 under policy 8702343372. This policy # doesn't expire until 3/30/2012 yet was submitted to the B & SA almost 10 years ago. How is this the County's fault if the insurers continue to bind coverage?~~

In the Federal Register, page 39734, it clearly states that failure to submit an inspection report means policy owners CANNOT reapply for coverage under the NFIP until they obtain and submit an inspection report.

A third problem, though not as severe, but applicable, is the fact that properties that HAVE obtained the inspection and have been found compliant are being notified again that they need to submit a flood inspection report. On page 39738 of the Federal Register it states that "we expect that the notice that an inspection is required will be sent to the policyholder generally **once** during the timeframe established for implementing the inspection procedure." In other words, once found compliant, unless the COMMUNITY requests another notice be sent to an insured, that property should be removed from the list of parcels requiring notice for an inspection. It just muddies the waters if compliant properties are getting notified for an inspection after compliance has been achieved. Recently, our Director of Monroe County Growth Management Division emailed Prasad about this issue and received a response back indicating he expected inspections to be

done upon renewal. It is not our understanding that the pilot program requires re-inspection. I have attached this email so you can review it.

Since Monroe County submitted the last properties 14 months ago, ALL properties should have received their notice OR been non-renewed. The County does not know how many of the 2714 properties still have policies in force, but we believe it to be several hundred at least. The examples above show that the system has flaws that have nothing to do with Monroe County.

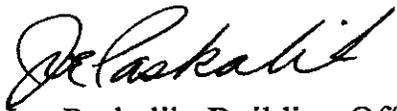
As stated previously, we have completed all of the activities under the pilot program and we continue to inspect properties as they are requested of us.

We respectfully request that FEMA address these non-performance issues with either the remaining policy owners or on the insurance companies who are required to notify policy holders of the required inspections.

Finally, as discussed by phone, we would have no County actions we can propose to remedy this issue, since we have performed our obligations under the Pilot Program. Please advise us on whether we still need to provide a report on how to remedy this situation.

I wanted to let you know I am retiring as of 1/27/12 and Jerry Smith, Assistant Building Official will become Acting Building Official as of 1/30/12. Please copy him on all correspondence from this point forward. Jerry's phone number is: 305 453-8729.

Sincerely,



Joe Paskalik, Building Official
Floodplain Administrator

CC:

Mayor Rice

County Commissioners

Roman Gastesi, County Administrator

Christine Hurley, Growth Management Division Director

Jerry Smith, Assistant Building Official

Mary Wingate, Floodplain Coordinator

Brian Corcoran, Floodplain Coordinator

Wingate-Mary

From: Hurley-Christine
Sent: Tuesday, January 24, 2012 2:52 PM
To: Wingate-Mary; Smith-Jerry; Paskalik-Joe; Corcoran-Brian
Subject: FW: MONROE COUNTY Question about Pilot Program

Print this email for attachment to the letter. Christine

OK - MW

From: Inmula, Prasad [<mailto:Prasad.Inmula@fema.dhs.gov>]
Sent: Friday, December 16, 2011 12:25 PM
To: Hurley-Christine; 'Inmula, Prasad'
Cc: Loar, Brad; Wilson, Susan
Subject: RE: MONROE COUNTY Question about Pilot Program

Good afternoon, Christine,

My apologies for the delay in responding to your e-mail (below) due to the more pressing ESA- and Florida Building Code-related issues. Yes, the Pilot Inspection Procedure requires apply for both new and renewed flood insurance policies to require an inspection before a subsequent policy renewal. I have copied the provision from 44 CFR, § 59.30 here for your information.

"(5) SFIP endorsement. In the communities that undertake the pilot inspection procedure, all new and renewed flood insurance policies that become effective on and after the date that we and the community establish for the start of the inspection procedure will contain an endorsement to the Standard Flood Insurance Policy that an inspection may be necessary before a subsequent policy renewal [see Part 61, Appendices A(4), (5), and (6)]."

Please let us know if you need anything further. Thanks very much and have a wonderful weekend!

Best regards,

Prasad

Prasad Inmula, Ph.D., PE, CFM
DHS | FEMA | Region IV
Atlanta, Georgia
(770) 220-8841

From: Hurley-Christine [<mailto:Hurley-Christine@MonroeCounty-FL.Gov>]
Sent: Wednesday, November 30, 2011 6:09 PM
To: 'Inmula, Prasad'
Cc: Wingate-Mary; Paskalik-Joe; Corcoran-Brian; Granger-Lisa; Shillinger-Bob
Subject: FW: MONROE COUNTY Question about Pilot Program

Prasad: Thank you for your letter (attached). I have cut and pasted a portion of the letter below. I just want to make sure I understand something. This portion indicates "insurers will continue to send a notice to the flood insurance policyholder that an inspection report may be required for new or renewed flood insurance policies. When you say "new" flood insurance policies, do you mean insurers are sending letters to new policy seekers? I know we have sent all of our letters to flood insurers from the FEMA data base.

Despite passage of Florida House Bill 407, according to Title 44 of the Code of Federal Regulations, Section 59.30 (44 CFR §59.30), insurers will continue to send a notice to the flood insurance policyholder that an inspection report may be required for new or renewed flood insurance policies. By participating in the NFIP and the pilot inspection program, Monroe

Thank you,

Christine Hurley, AICP
Monroe County
Growth Management Division Director
(305) 289-2517



FEMA

Substantial Improvement

NFIP Policy Index

- Definition/Description
- NFIP Requirement
- Other Applicable NFIP Regulations
- Guidance
- Related Keywords
- Special Topic Resources
- Supplemental Information for Substantial Improvement

Definition/Description

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alterations of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Floodplain management requirements for new construction apply to substantial improvements. Increased Cost of Compliance (ICC) coverage does not apply to substantial improvements unless a structure is substantially damaged due to flooding.

NFIP Requirement

- 59.1 - Definition
- 60.3 - Flood plain management criteria for flood-prone areas
 - (b) (5) - Elevation Certificate
 - (c) (3) - A Zone Nonresidential Buildings
 - (c) (4) - Zone A Nonresidential Buildings
 - (c) (5) - Openings
 - (c) (6) - Zone A Manufactured Homes
 - (c) (7) - Zone AO Residential Buildings
 - (c) (8) - Zone AO Nonresidential Buildings
 - (e) (2) - Elevation Certificate, Zone V
 - (e) (4) - Zone V Buildings

- (e) (5) - Zone V, Free of Obstruction
- (e) (8) - Zone V Manufactured Homes

Other Applicable NFIP Regulations

- 60.3 - Flood plain management criteria for flood-prone areas
 - (c) (10) - Cumulative Effects of Development
 - (d) (3) - Floodway Encroachment

Guidance

IS-9 Managing Floodplain Development Through The National Flood Insurance Program (NFIP) (pages 8-4 to 8-16) (PDF 8MB, TXT 1MB) (entire document)

Related Keywords

- Addition
- Historic Structure
- Increased Cost of Compliance (ICC)
- Substantial Damage
- Elevation

Special Topic Resources

- Managing Floodplain Development (IS-9)
 - Calculating Substantial Improvements 8-5 to 8-8
 - Examples 8-20 to 8-21
 - Code Violations 8-26 to 8-27
 - Examples 8-9 to 8-16
 - Exceptions 8-25 to 8-27
 - Types of Projects Affected 8-4
- Openings in Foundation Walls and Walls of Enclosures (Technical Bulletin 1)
 - Foundation Wall Openings p. 2

Supplemental Information for Substantial Improvement

The basic types of improvements are rehabilitations or reconstructions that do not increase square footage, and lateral or vertical additions that do increase square footage.

Rehabilitation or reconstruction would be a partial or complete "gutting" and replacement of internal workings and may or may not include structural changes. If this action is substantial, i.e., over 50 percent of the structure's market value, it is considered new construction, and the entire building must be elevated to or above the Base Flood Elevation (BFE) (or floodproofed if the building is non-

residential). The insurance will be actuarial insurance and the structure will be considered Post-FIRM; i.e., subsidized insurance will no longer be available. Rehabilitations, like additions and repair of damage, represent investment and reinvestment in flood hazard areas, that if not protected, are at serious risk of flooding.

For a lateral addition, if the substantial improvement is to add a room or rooms outside the footprint of the existing building, only the addition is required to be elevated to or above the BFE, i.e.; the existing building does not have to be elevated. Actuarial insurance rates will not apply to the addition, and the entire structure will retain its Pre-FIRM subsidized rate. Vertical additions would require that the entire structure be elevated to or above the BFE. Even though the improvement itself is entirely above the BFE, it is dependent on the walls and foundation of the existing building for structural support. The entire structure must be insured at actuarial rates, the Pre-FIRM subsidized rates are no longer available.



FEMA

Substantial Damage

NFIP Policy Index

- Definition/Description
- NFIP Requirement
- Guidance
- Related Keywords
- Special Topic Resources
- Supplemental Information for Substantial Damage

Definition/Description

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. All structures that are determined to be substantially damaged are automatically considered to be substantial improvements, regardless of the actual repair work performed. If the cost necessary to fully repair the structure to its before damage condition is equal to or greater than 50% of the structure's market value before damages, then the structure must be elevated (or floodproofed if it is non-residential) to or above the Base Flood Elevation (BFE), and meet other applicable NFIP requirements.

NFIP Requirement

- 59.1 - Definition
- 60.3 - (c) (6) (iv) - Existing Manufactured Home Parks

Guidance

- IS-9 Managing Floodplain Development Through The National Flood Insurance Program (NFIP) (pages 8-18 to 8-21) (PDF 8MB, TXT 1MB) (entire document)
- Answers to Questions About Substantially Damaged Buildings (FEMA 213)
- Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)
- Substantial Damage Estimator (FEMA P-784 CD)

Related Keywords

- Elevation
- Increased Cost of Compliance (ICC)

- Substantial Improvement

Special Topic Resources

- Managing Floodplain Development (IS-9)
 - Calculating Substantial Damage 8-7
 - Examples 8-9 to 8-16
 - Calculating Substantial Damage 8-18
 - Examples 8-20 to 8-21
 - Exceptions 8-25 to 8-26
 - Foundation Wall Openings 8-25 to 8-27
- Openings in Foundation Walls and Walls of Enclosures (Technical Bulletin 1) p. 2

Supplemental Information for Substantial Damage

Items that should not be counted toward the cost to repair include plans, specifications, survey costs, permit fees, and other items which are separate from or incidental to the repair. This includes demolition or emergency repairs, and improvements to items outside the building, such as the driveway, septic systems, wells, fencing, landscaping and detached structures.

The cost of repairs required to remedy health, safety, and sanitary code deficiencies can be deducted from the overall cost of an improvement, but only if:

1. an appropriate regulatory official such as a building official, code enforcement officer, fire marshal, or health officer was informed about and knows the extent of the code related deficiencies, and
2. the deficiency was in existence prior to the damage event or improvement and will not be triggered solely by the fact that the structure is being improved or repaired.

In addition, for any repair required to meet health, sanitary, and safety codes, only the minimum necessary to assure safe living conditions should be deducted. Costs of repairs that are in excess of the minimum necessary for continued occupancy or use will be counted toward the cost of the overall improvement.

Manufactured Homes:

Manufactured homes placed on sites or pads where manufactured homes have incurred substantial damage due to flooding in an existing manufactured home park or subdivision must be elevated to or above the BFE.

A manufactured home that was not substantially damaged but is adjacent to a home that was substantially damaged is not required to be elevated. If a flooded manufactured home in an existing manufactured home park or subdivision is not substantially damaged, but is replaced with a new manufactured home or is substantially improved, the owner has the option of elevating to the BFE or using a 36-inch foundation.



Flood Damage-Resistant Materials Requirements

for Buildings Located in Special Flood Hazard Areas in
accordance with the National Flood Insurance Program

Technical Bulletin 2 / August 2008



FEMA

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Revision to Table 2 footnote (*) made in October 2010.

Comments on the Technical Bulletins should be directed to:

Department of Homeland Security
FEMA Federal Insurance and Mitigation Administration
500 C Street, SW.
Washington, D.C. 20472

Technical Bulletin 2-08 replaces Technical Bulletin 2-93, *Flood-Resistant Materials Requirements for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.*

Introduction

Protecting buildings that are constructed in special flood hazard areas (SFHAs) from damage caused by flood forces is an important objective of the National Flood Insurance Program (NFIP). In support of this objective, the NFIP regulations include minimum building design criteria that apply to new construction, repair of substantially damaged buildings, and substantial improvement of existing buildings in SFHAs. The base flood is used to delineate SFHAs on Flood Insurance Rate Maps (FIRMs) prepared by the NFIP. The base flood is the flood that has a 1-percent chance of being equaled or exceeded in any given year (commonly called the "100-year" flood). Certain terms used in this Technical Bulletin are defined in the Glossary.

The NFIP regulations require the use of construction materials that are resistant to flood damage. The lowest floor of a residential building must be elevated to or above the base flood elevation (BFE), while the lowest floor of a non-residential building must be elevated to or above the BFE or dry floodproofed to the BFE.

All construction below the BFE is susceptible to flooding and must consist of flood damage-resistant building materials. The purpose of this Technical Bulletin is to provide current guidance on what constitute "materials resistant to flood damage" and how and when these materials must be used to improve a building's ability to withstand flooding.

Table 1 describes five classes of materials ranging from those that are highly resistant to floodwater damage, to those that have no resistance to flooding. Materials are broadly described as structural materials and finish materials based on how they are used in normal construction practices. Table 2 lists materials by generic names, and notes whether the materials are acceptable or unacceptable for use below the BFE. All building materials are in some way fastened or connected to the structure. Fasteners and connectors, as described in this Technical Bulletin, also must be resistant to flood damage.

A brief description of the process used to identify or determine whether the materials listed are flood damage-resistant is provided, followed by some simplified examples with diagrams to illustrate the use of these materials below the BFE. Three additional circumstances where flood damage-resistant materials are used or recommended are described: accessory structures, limited use of wet floodproofing, and buildings outside of SFHAs.

Questions about use of flood damage-resistant materials should be directed to the appropriate local official, NFIP State Coordinating Office, or one of the Federal Emergency Management Agency's (FEMA's) Regional Offices.

Under the NFIP, the "lowest floor" is the floor of the lowest enclosed area of a building. An unfinished or flood-resistant enclosure that is used solely for parking of vehicles, building access, or storage is not the lowest floor, provided the enclosure is built in compliance with applicable requirements.

As used by the NFIP, an "enclosure" is an area that is enclosed on all sides by walls.

The NFIP defines a "basement" as any area that is below-grade on all sides. The regulations do not allow basements to extend below the BFE.

NFIP Regulations

The NFIP regulations for flood damage-resistant materials are codified in Title 44 of the Code of Federal Regulations, in Section 60.3(a) (3), which states that a community shall:

“Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone area, all new construction and substantial improvements shall... (ii) be constructed with materials resistant to flood damage...”

Proposals for substantial improvement of existing buildings in SFHAs, and proposals to repair those that have sustained substantial damage, must comply with the requirements for new construction. As part of issuing permits, community officials must review such proposals to determine whether they comply with the requirements, including the use of flood damage-resistant materials. Refer to the “Classification of Flood Damage-Resistant Materials” section of this Technical Bulletin for additional details. Further information on substantial improvement and substantial damage is found in *Answers to Questions About Substantially Damaged Buildings* (FEMA 213).

The NFIP Technical Bulletins provide guidance on the minimum requirements of the NFIP regulations. Community or State requirements that exceed those of the NFIP take precedence. Design professionals should contact the community to determine whether more restrictive provisions apply to the building or site in question. All other applicable requirements of the State or local building codes must also be met for buildings in all flood hazard areas.

Required Use of Flood Damage-Resistant Materials

Flood Damage-Resistant Material

“Flood [damage]-resistant material” is defined by the NFIP as “any building product [material, component or system] capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage.” The term “prolonged contact” means at least 72 hours, and the term “significant damage” means any damage requiring more than cosmetic repair. “Cosmetic repair” includes cleaning, sanitizing, and resurfacing (e.g., sanding, repair of joints, repainting) of the material. The cost of cosmetic repair should also be less than the cost of replacement of affected materials and systems. In addition to these requirements, individual materials that are considered flood damage-resistant must not cause degradation of adjacent materials or the systems of which the material is a part.

The *International Building Code* (IBC), by reference to ASCE 24 *Flood Resistant Design and Construction*, and the *International Residential Code* (IRC), require the use of flood damage-resistant materials.

All building materials below the BFE must be flood damage-resistant, regardless of the expected or historic flood duration. For example, buildings in coastal areas that experience relatively short-duration flooding (generally, flooding with a duration of less than 24 hours) must be constructed with flood damage-resistant materials below the BFE. As noted in Table 2, **only Class 4 and Class 5 materials are acceptable for areas below the BFE in buildings in SFHAs.**

In some instances, materials that are not flood damage-resistant materials, such as wiring for fire alarms and emergency lighting, are allowed below the BFE if specifically required to address life safety and electric code requirements for building access and storage areas.

How Flood Damage-Resistant Materials Affect Flood Insurance Rates

Careful attention to compliance with the NFIP regulations for flood damage-resistant materials is important during design, plan review, construction, and inspection. Compliance influences both the building's vulnerability to flood damage and the cost of NFIP flood insurance. Flood insurance will not pay a claim for finish materials located in basements or in enclosed areas below the lowest floor of elevated buildings, even if such materials are considered to be flood damage-resistant. NFIP claims for damage below the BFE are limited to utilities and equipment, such as furnaces and water heaters.

Classification of Flood Damage-Resistant Materials

The information in this Technical Bulletin was initially developed based on information in the U.S. Army Corps of Engineers' *Flood Proofing Regulations* (1995), and has been updated based on additional information from FEMA-funded studies and reports, technical experts, and industry and trade groups. Table 1 classifies building materials according to their ability to resist flood damage.

Table 1. Class Descriptions of Materials

Class	Class Description
5	Highly resistant to floodwater ¹ damage, including damage caused by moving water. ² These materials can survive wetting and drying and may be successfully cleaned after a flood to render them free of most harmful pollutants. ³ Materials in this class are permitted for partially enclosed or outside uses with essentially unmitigated flood exposure.
4	Resistant to floodwater ¹ damage from wetting and drying, but less durable when exposed to moving water. ² These materials can survive wetting and drying and may be successfully cleaned after a flood to render them free of most harmful pollutants. ³ Materials in this class may be exposed to and/or submerged in floodwaters in interior spaces and do not require special waterproofing protection.
3	Resistant to clean water ⁴ damage, but not floodwater damage. Materials in this class may be submerged in clean water during periods of flooding. These materials can survive wetting and drying, but may not be able to be successfully cleaned after floods to render them free of most ³ harmful pollutants.
2	Not resistant to clean water ⁴ damage. Materials in this class are used in predominantly dry spaces that may be subject to occasional water vapor and/or slight seepage. These materials cannot survive the wetting and drying associated with floods.
1	Not resistant to clean water ⁴ damage or moisture damage. Materials in this class are used in spaces with conditions of complete dryness. These materials cannot survive the wetting and drying associated with floods.

Notes:

1. Floodwater is assumed to be considered "black" water; black water contains pollutants such as sewage, chemicals, heavy metals, or other toxic substances that are potentially hazardous to humans.
2. Moving water is defined as water moving at low velocities of 5 feet per second (fps) or less. Water moving at velocities greater than 5 fps may cause structural damage to building materials.
3. Some materials can be successfully cleaned of most of the pollutants typically found in floodwater. However, some individual pollutants such as heating oil can be extremely difficult to remove from uncoated concrete. These materials are flood damage-resistant except when exposed to individual pollutants that cannot be successfully cleaned.
4. Clean water includes potable water as well as "gray" water; gray water is wastewater collected from normal uses (laundry, bathing, food preparation, etc.).

MODIFIED FROM: USACE 1995 *Flood Proofing Regulations*

Table 2 lists structural materials and finish materials commonly used in construction of floors, walls, and ceilings. For the purpose of this Technical Bulletin, structural materials and finish materials are defined as follows:

- **Structural materials** include all elements necessary to provide structural support, rigidity, and integrity to a building or building component. Structural materials include floor slabs, beams, subfloors, framing, and structural building components such as trusses, wall panels, I-joists and headers, and interior/exterior sheathing.

- **Finish materials** include all coverings, finishes, and elements that do not provide structural support or rigidity to a building or building component. Finish materials include floor coverings, wall and ceiling surface treatments, insulation, cabinets, doors, partitions, and windows.

Notes Regarding Classification of Materials

The classifications in Table 2 are based on the best information available at the time of publication. However, flood damage-resistance is determined by factors that may be a function of the specific application and by the characteristics of the floodwaters. Each situation requires sound judgment and knowledge of probable contaminants in local floodwaters to select materials that are required to resist flood damage. For materials and products that are listed in Table 2, manufacturers' use and installation instructions must be followed to ensure maximum performance. Masonry and wood products used below the BFE must comply with the applicable standards published by the American Society for Testing and Materials (ASTM), the American Concrete Institute (ACI), the Truss Plate Institute (TPI), the American Forest & Paper Association (AF&PA), and other appropriate organizations.

1. **Materials Not Listed:** Table 2 does not list all available structural materials and finish materials. For materials and products not listed, manufacturers' literature (i.e., specifications, materials safety data sheets, test reports) should be evaluated to determine if the product meets flood damage-resistance requirements. Materials and products that are not listed in Table 2 may be used if accepted by the local official. Acceptance should be based on sufficient evidence, provided by the applicant, that the materials proposed to be used below the BFE will resist flood damage without requiring more than cosmetic repair and cleaning.
2. **Unacceptable Materials:** Class 1, 2, and 3 materials are unacceptable for below-BFE applications for one or more of the following reasons:
 - Normal adhesives specified for above-grade use are water soluble or are not resistant to alkali or acid in water, including groundwater seepage and vapor.
 - The materials contain wood or paper products, or other materials that dissolve or deteriorate, lose structural integrity, or are adversely affected by water.
 - Sheet-type floor coverings (linoleum, rubber tile) or wall coverings (wallpaper) restrict drying of the materials they cover.
 - Materials are dimensionally unstable.
 - Materials absorb or retain excessive water after submergence.
3. **Impact of Material Combinations:** In some cases, the combination of acceptable structural and finish materials can negatively impact the classification of individual materials. This is illustrated by the following examples:

- Vinyl tile with chemical-set adhesives is an acceptable finish flooring material when placed on a concrete structural floor. However, when the same vinyl tile is applied over a plywood structural floor, it is no longer considered acceptable because the vinyl tile must be removed to allow the plywood to dry.
 - Polyester-epoxy or oil-based paints are acceptable wall finishes when applied to a concrete structural wall. However, when the same paint is applied to a wood wall, it is no longer considered acceptable. Recent FEMA-supported studies by Oak Ridge National Laboratory have found that low-permeability paint can inhibit drying of the wood wall.
4. **Impact of Long-Duration Exposure and/or Contaminants:** The classifications of materials listed in Table 2 do not take into account the effects of long-duration exposure to floodwaters or contaminants carried by floodwaters. This is illustrated by the following examples:
- Following Hurricane Katrina, FEMA deployed a Mitigation Assessment Team (MAT) to examine how building materials performed after long-duration exposure (2 to 3 weeks) to floodwaters (FEMA 549). The field survey revealed that some materials absorbed floodborne biological and chemical contaminants. However, it is not known at this time if a shorter duration flood event would have significantly altered the absorption rates of those contaminants.
 - Building owners, design professionals, and local officials should consider potential exposure to floodborne contaminants when selecting flood damage-resistant materials. For example, Table 2 lists cast-in-place concrete, concrete block, and solid structural wood (2x4s, etc.), as acceptable flood damage-resistant materials. However, experience has shown that buildings with those materials can be rendered unacceptable for habitation after being subjected to floodwaters with significant quantities of petroleum-based products such as home heating oil. Commonly used cleaning and remediation practices do not reduce the "off-gassing" of volatile hydrocarbons from embedded oil residues to acceptable levels that are established by the U.S. Environmental Protection Agency. Other materials, when exposed to these types of contaminants, may also not perform acceptably as flood damage-resistant materials.

Table 2. Types, Uses, and Classifications of Materials

Types of Building Materials	Uses of Building Materials		Classes of Building Materials				
	Floors	Walls/ Ceilings	Acceptable		Unacceptable		
			5	4	3	2	1
Structural Materials (floor slabs, beams, subfloors, framing, and interior/exterior sheathing):							
Asbestos-cement board		■	■				
Brick							
Face or glazed		■	■				
Common (clay)		■		■			
Cast stone (in waterproof mortar)		■	■				
Cement board/fiber-cement board		■	■				
Cement/latex, formed-in-place	■			■			
Clay tile, structural glazed		■	■				
Concrete, precast or cast-in-place	■	■	■				
Concrete block ¹		■	■				
Gypsum products							
Paper-faced gypsum board		■			■		
Non-paper-faced gypsum board		■		■			
Greenboard		■				■	
Keene's cement or plaster		■			■		
Plaster, otherwise, including acoustical		■				■	
Sheathing panels, exterior grade		■			■		
Water-resistant, fiber-reinforced gypsum exterior sheathing		■		■			
Hardboard (high-density fiberboard)							
Tempered, enamel or plastic coated		■				■	
All other types		■					■
Mineral fiberboard		■					■
Oriented-strand board (OSB)							
Exterior grade	■	■				■	
Edge swell-resistant OSB	■	■				■	
All other types	■	■					■
Particle board	■						■
Plywood							
Marine grade	■	■	■				
Preservative-treated, alkaline copper quaternary (ACQ) or copper azole (C-A)	■	■		■			

Table 2. Types, Uses, and Classifications of Materials (continued)

Types of Building Materials	Uses of Building Materials		Classes of Building Materials				
	Floors	Walls/ Ceilings	Acceptable		Unacceptable		
			5	4	3	2	1
Structural Materials (floor slabs, beams, subfloors, framing, and interior/exterior sheathing)							
Preservative-treated, Borate ²	■	■	■				
Exterior grade/Exposure1 (WBP – weather and boil proof)	■	■		■			
All other types	■	■					■
Recycled plastic lumber (RPL)							
Commingled, with 80-90% polyethylene (PE)	■		■				
Fiber-reinforced, with glass fiber strands	■		■				
High-density polyethylene (HDPE), up to 95%	■		■				
Wood-filled, with 50% sawdust or wood fiber	■				■		
Stone							
Natural or artificial non-absorbent solid or veneer, waterproof grout	■	■	■				
All other applications		■				■	
Structural Building Components							
Floor trusses, wood, solid (2x4s), decay-resistant or preservative-treated	■	■		■			
Floor trusses, steel ³	■		■				
Headers and beams, solid (2x4s) or plywood, exterior grade or preservative-treated		■		■			
Headers and beams, OSB, exterior grade or edge-swell resistant		■				■	
Headers and beams, steel ³		■	■				
I-joists	■					■	
Wall panels, plywood, exterior grade or preservative-treated		■		■			
Wall panels, OSB, exterior grade or edge-swell resistant		■				■	
Wall panels, steel ³		■		■			

Table 2. Types, Uses, and Classifications of Materials (continued)

Types of Building Materials	Uses of Building Materials		Classes of Building Materials				
	Floors	Walls/ Ceilings	Acceptable		Unacceptable		
			5	4	3	2	1
Structural Materials (floor slabs, beams, subfloors, framing, and interior/exterior sheathing)							
Wood							
Solid, standard, structural (2x4s)		■		■			
Solid, standard, finish/trim		■			■		
Solid, decay-resistant ⁴	■	■	■				
Solid, preservative-treated, ACQ or C-A		■		■			
Solid, preservative-treated, Borate ²		■		■			
Finish Materials (floor coverings, wall and ceiling finishes, insulation, cabinets, doors, partitions, and windows)							
Asphalt tile⁵							
With asphaltic adhesives	■				■		
All other types	■						■
Cabinets, built-in							
Wood		■				■	
Particle board		■					■
Metal ³		■		■			
Carpeting	■						■
Ceramic and porcelain tile							
With mortar set	■	■		■			
With organic adhesives	■	■				■	
Concrete tile, with mortar set	■		■				
Corkboard		■				■	
Doors							
Wood, hollow		■				■	
Wood, lightweight panel construction		■				■	
Wood, solid		■				■	
Metal, hollow ³		■		■			
Metal, wood core ³		■		■			
Metal, foam-filled core ³		■		■			
Fiberglass, wood core		■		■			
Epoxy, formed-in-place	■		■				

Table 2. Types, Uses, and Classifications of Materials (continued)

Types of Building Materials	Uses of Building Materials		Classes of Building Materials				
	Floors	Walls/ Ceilings	Acceptable		Unacceptable		
			5	4	3	2	1
Finish Materials (floor coverings, wall and ceiling finishes, insulation, cabinets, doors, partitions, and windows)							
Glass (sheets, colored tiles, panels)		■		■			
Glass blocks		■	■				
Insulation							
Sprayed polyurethane foam (SPUF) or closed-cell plastic foams	■	■	■				
Inorganic – fiberglass, mineral wool: batts, blankets, or blown	■	■			■		
All other types (cellulose, cotton, open-cell plastic foams, etc.)	■	■				■	
Linoleum	■						■
Magnesite (magnesium oxychloride)	■						■
Mastic felt-base floor covering	■						■
Mastic flooring, formed-in-place	■		■				
Metals, non-ferrous (aluminum, copper, or zinc tiles)		■			■		
Metals							
Non-ferrous (aluminum, copper, or zinc tiles)		■			■		
Metals, ferrous ³		■		■			
Paint							
Polyester-epoxy and other oil-based waterproof types		■		■			
Latex		■		■			
Partitions, folding							
Wood		■				■	
Metal ³		■		■			
Fabric-covered		■					■
Partitions, stationary (free-standing)							
Wood frame		■		■			
Metal ³		■		■			
Glass, unreinforced		■		■			
Glass, reinforced		■		■			
Gypsum, solid or block		■					■

Table 2. Types, Uses, and Classifications of Materials (continued)

Types of Building Materials	Uses of Building Materials		Classes of Building Materials				
	Floors	Walls/ Ceilings	Acceptable		Unacceptable		
			5	4	3	2	1
Finish Materials (floor coverings, wall and ceiling finishes, insulation, cabinets, doors, partitions, and windows)							
Polyurethane, formed-in-place	■		■				
Polyvinyl acetate (PVA) emulsion cement	■						■
Rubber							
Moldings and trim with epoxy polyamide adhesive or latex-hydraulic cement		■		■			
All other applications		■					■
Rubber sheets or tiles⁵							
With chemical-set adhesives ⁶	■		■				
All other applications	■						■
Silicone floor, formed-in-place	■		■				
Steel (panels, trim, tile)							
With waterproof adhesives ⁹		■	■				
With non-waterproof adhesives		■				■	
Terrazo	■			■			
Vinyl asbestos tile (semi-flexible vinyl)⁵							
With asphaltic adhesives	■		■				
All other applications	■						■
Vinyl sheets or tiles (coated on cork or wood product backings)	■						■
Vinyl sheets or tiles (homogeneous)⁵							
With chemical-set adhesives ⁶	■			■			
All other applications	■						■
Wall coverings							
Paper, burlap, cloth types		■					■
Vinyl, plastic, wall paper		■					■
Wood floor coverings							
Wood (solid)	■						■
Engineered wood flooring	■					■	
Plastic laminate flooring	■					■	
Wood composition blocks, laid in cement mortar	■					■	
Wood composition blocks, dipped and laid in hot pitch or bitumen	■					■	

Notes*:

- 1 Unfilled concrete block cells can create a reservoir that can hold water following a flood, which can make the blocks difficult or impossible to clean if the floodwaters are contaminated.
- 2 Borate preservative-treated wood meets the NFIP requirements for flood damage-resistance; however, the borate can leach out of the wood if the material is continuously exposed to standing or moving water.
- 3 Not recommended in areas subject to salt-water flooding.
- 4 Examples of decay-resistant lumber include heart wood of redwood, cedar, and black locust. Refer to Section 2302 of the International Building Code® (IBC®) and Section R202 of the International Residential Code® (IRC®) for guidance.
- 5 Using normally specified suspended flooring (i.e., above-grade) adhesives, including sulfite liquor (Ilgln or "Inoleum paste"), rubber/asphaltic dispersions, or "alcohol" type resinous adhesives (culmar, oleoresin).
- 6 Examples include epoxy-polyamide adhesives or latex-hydraulic cement.

* In addition to the requirements of TB 2 for flood damage resistance, building materials must also comply with any additional requirements of applicable building codes. For example, for wood products such as solid 2x4s and plywood, applicable building code requirements typically include protection against decay and termites and will specify use of preservative-treated or decay-resistant wood for certain applications. Applications that require preservative-treated or decay-resistant species include wood in contact with the ground, wood exposed to weather, wood on exterior foundation walls, or wood members close to the exposed ground. In some cases, applicable building code requirements (such as those in ASCE 24-05 and IRC 2006) do not reflect updated guidance in TB 2 and specify that all wood used below the design flood elevation be preservative-treated or naturally decay-resistant regardless of proximity to ground or exposure to weather. (Revision made in October 2010)

Fasteners and Connectors

The term "fasteners" typically refers to nails, screws, bolts, and anchors. The term "connectors" typically refers to manufactured devices used to connect two or more building components. Joist hangers, post bases, hurricane ties and clips, and mud-sill anchors are examples of connectors. Fasteners and connectors are materials and thus must be made of flood damage-resistant materials in order to comply with the NFIP requirements.

Table 2 does not specifically address fasteners and connectors. However, it is clear that the performance of buildings that are exposed to flooding is, at least in part, a function of the fasteners and connectors used to put the components together.

When preservative-treated woods are used, particular attention is required for fasteners and connectors because some treatments are more corrosive than others, which could shorten the service life of the fasteners and connectors. For example, alkaline copper quaternary (ACQ) treatments are more corrosive than traditional acid copper chromate (ACC) treatments. If corrosion occurs, buildings are less likely to withstand flood loads and other loads. Fasteners and connectors made of stainless steel, hot-dipped zinc-coated galvanized steel, silicon bronze, or copper are recommended for use with preservative-treated wood.

This Technical Bulletin, consistent with ASCE 24 and the International Code Series, recommends that stainless steel or hot-dip galvanized fasteners and connectors be used below the BFE in both inland (noncorrosive) and coastal (corrosive) areas. In coastal environments where airborne salts contribute to corrosion, it is recommended that corrosion-resistant fasteners and connectors be used throughout the building where they may be exposed. For

Specifications for fasteners and connectors used in buildings in SFHAs are in ASCE 24, a standard referenced by the IBC. Chapter 23 of the IBC has specific requirements for connections and fasteners used with wood, including preservative-treated wood. Similar specifications are in Chapter 3 of the IRC.

additional guidance, see Technical Bulletin 8, *Corrosion Protection for Metal Connectors in Coastal Areas*. Also see TPI/WTCA *Guidelines for Use of Alternative Preservative Treatments with Metal Connector Plates* for further guidance on metal plate connected wood trusses manufactured with preservative treated lumber (<http://www.sbcindustry.com/images/PTWGuidelines.pdf>).

Construction Examples

Buildings in Zones A, AE, A1-A30, AR, AO, and AH

Figure 1 illustrates a solid foundation wall (crawlspace) elevated to meet the minimum requirement that the lowest floor be at the BFE. Figure 2 illustrates framed walls that may be used for enclosures below the BFE that are used for parking of vehicles, building access, and storage.

To maximize allowable use of enclosures below the BFE, it is a common practice to extend the foundation a full story, even though that puts the lowest floor well above the BFE. In such cases, while the NFIP requirement is that flood damage-resistant materials be used only below the BFE, it is strongly recommended that such materials be used for all construction below the lowest floor. This will reduce flood damage to the enclosed area in the event flooding exceeds the BFE. For additional guidance on enclosures in A zones, see Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures Below Elevated Buildings in Special Flood Hazard Areas*.

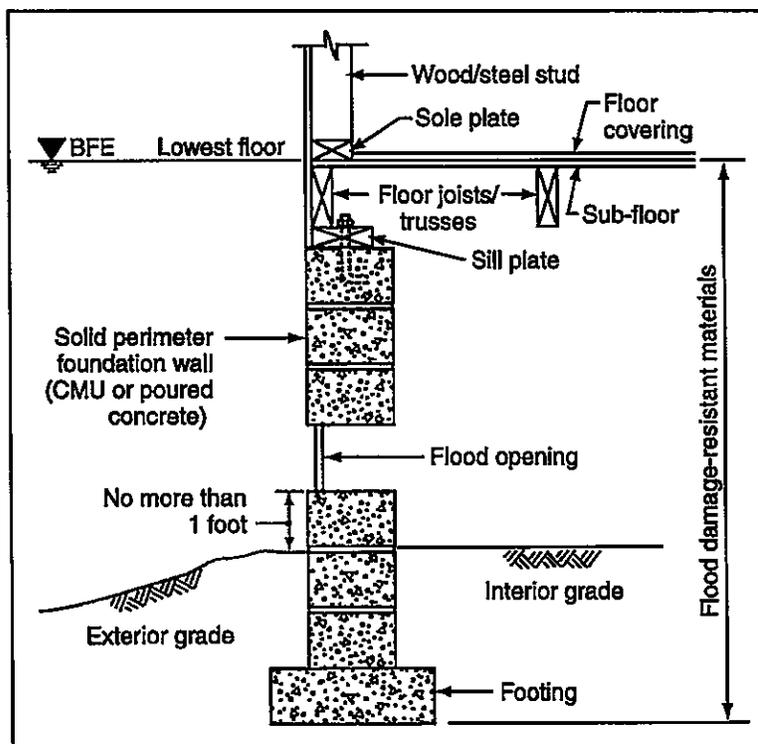


Figure 1. Building elevated on solid foundation walls meeting the minimum NFIP requirements for Zones A, AE, A1-A30, AR, AO, and AH

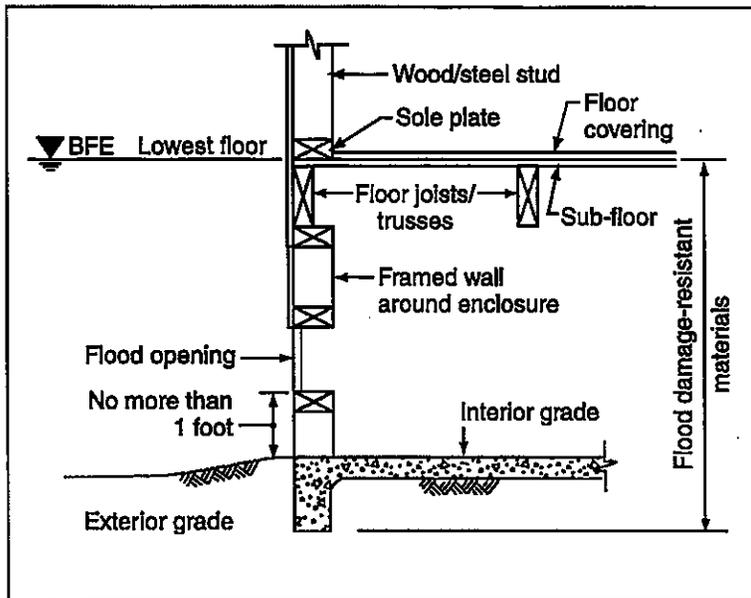


Figure 2. Framed enclosure under building elevated in accordance with NFIP requirements for Zones A, AE, A1-A30, AO, and AH

Buildings in Zones V, VE, and V1-V30

The NFIP regulations require that the bottom of the lowest horizontal structural member of the lowest floor (usually the floor beam or girder) of buildings in Zones V, VE, and V1-V30 be at or above the BFE. Therefore, all materials below the bottom of those members must be flood damage-resistant materials. This requirement applies to lattice work and screening, and also to materials used to construct breakaway walls that enclose areas below the lowest floor. Depending on the design parameters selected, breakaway walls may remain in place during low-level floods and must be flood damage-resistant so that they can be readily cleaned and not deteriorate over time due to wetting. Figure 3 illustrates the requirement. For additional guidance on breakaway walls used to enclose areas under buildings in V zones, see Technical Bulletin 9, *Design and Construction Guidance for Breakaway Walls Below Elevated Coastal Buildings*.

Additional Uses of Flood Damage-Resistant Materials

Accessory Structures

Accessory structures may be allowed in SFHAs provided they are located, installed, and constructed in ways that comply with NFIP requirements. Some communities allow accessory structures that are limited to the uses specified for enclosures below the BFE: parking of vehicles and storage. As with other buildings, accessory structures below the BFE are required to be constructed with flood damage-resistant materials. In addition, accessory structures must be anchored to resist flotation, collapse, and lateral movement and comply with other requirements based on the flood zone. For additional information and requirements, contact the appropriate community permitting office.

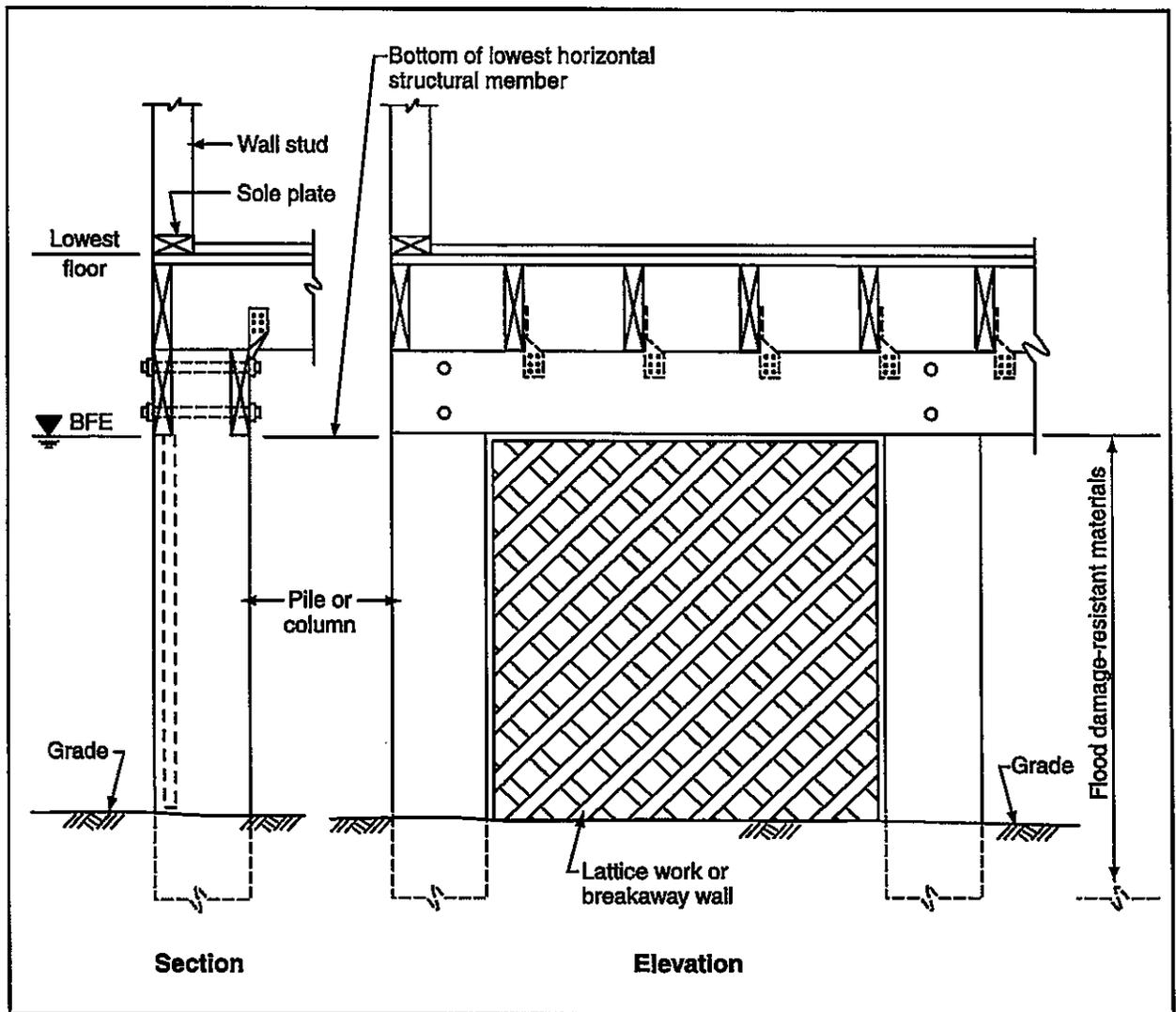


Figure 3. Flood damage-resistant building material requirements for buildings elevated in accordance with NFIP requirements for Zones V, VE, and V1-V30

Wet Floodproofing

Wet floodproofing is a method to reduce damage that typically involves three elements: allowing floodwaters to enter and exit to minimize structural damage, using flood damage-resistant materials, and elevating utility service and equipment. When a building is retrofitted to be wet floodproofed, non-flood damage-resistant materials that are below the BFE should be removed and replaced with flood damage-resistant materials. This will reduce the costs of repair and facilitate faster recovery.

Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings (or dry floodproofing of nonresidential buildings in A zones). The exception is accessory structures, as noted on the previous page. Wet floodproofing may also be used to voluntarily retrofit buildings that are older than the date of the community's first FIRM (commonly referred to as "pre-FIRM"), provided the requirement to

bring such buildings into compliance is not triggered (called “substantial improvement”). Figure 4 illustrates some suggested retrofitting of interior walls in a pre-FIRM building. However, please note that the techniques illustrated in Figure 4 cannot be used to bring a substantially damaged or substantially improved building into compliance with the NFIP. For additional information on wet floodproofing, see Technical Bulletin 7, *Wet Floodproofing Requirements*.

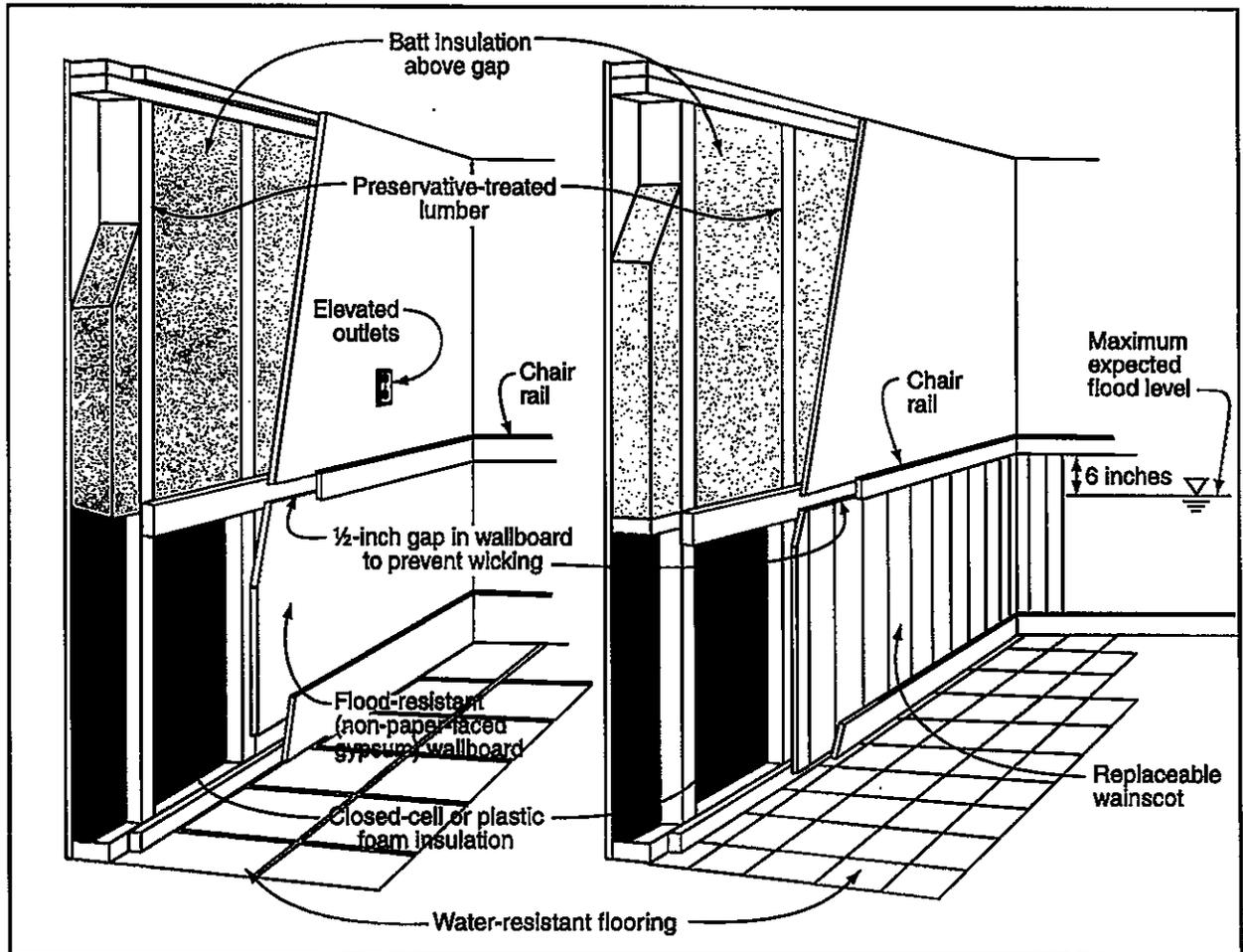


Figure 4. Partial wet floodproofing technique using flood damage-resistant materials for finished wall construction.

Buildings Outside of SFHAs

FEMA reports that up to 25 percent of NFIP flood insurance claims are paid on buildings that are outside of the mapped SFHA. This occurs for many reasons, including out-of-date maps and local drainage problems. In areas known to be prone to flooding that are not subject to the NFIP requirements, it is recommended that flood damage-resistant materials be used for construction of new buildings and for repair or renovation of existing buildings. Figure 4 illustrates some options.

The NFIP

The U.S. Congress established the NFIP with the passage of the National Flood Insurance Act of 1968. The NFIP is a Federal program enabling property owners in participating communities to purchase insurance as protection against flood losses, in exchange for State and community floodplain management regulations that reduce future flood damages. Participation in the NFIP is based on an agreement between communities and the Federal Government. If a community adopts and enforces adequate floodplain management regulations, FEMA will make flood insurance available within the community.

Title 44 of the U.S. Code of Federal Regulations contains the NFIP criteria for floodplain management, including design and construction standards for new and substantially improved buildings located in SFHAs identified on the NFIP's FIRMs. FEMA encourages communities to adopt floodplain management regulations that exceed the NFIP criteria. As an insurance alternative to disaster assistance, the NFIP reduces the escalating costs of repairing damage to buildings and their contents caused by floods.

NFIP Technical Bulletins

This is one of a series of Technical Bulletins that FEMA has produced to provide guidance concerning the building performance requirements of the NFIP. These requirements are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins are intended for use by State and local officials responsible for interpreting and enforcing the requirements in their floodplain management regulations and building codes, and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically, as necessary. The bulletins do not create regulations; rather, they provide specific guidance for complying with the requirements of existing NFIP regulations. Users of the Technical Bulletins who need additional guidance should contact their NFIP State Coordinator or the appropriate FEMA regional office. *The User's Guide to Technical Bulletins* (<http://www.fema.gov/pdf/fima/guide01.pdf>) lists the bulletins issued to date.

Ordering Technical Bulletins

The quickest and easiest way to acquire copies of FEMA's Technical Bulletins is to download them from the FEMA website (<http://www.fema.gov/plan/prevent/floodplain/techbul.shtm>).

Technical Bulletins also may be ordered free of charge from the FEMA Distribution Center by calling 1-800-480-2520, or by faxing a request to 1-240-699-0525, Monday through Friday between 8 a.m. and 5 p.m. EST. Please provide the FEMA publication number, title, and quantity of each publication requested, along with your name, address, zip code, and daytime telephone number. Written requests may be submitted by email to: FEMA-Publications-Warehouse@dhs.gov

Further Information

The following publications provide further information concerning the use of flood damage-resistant materials.

Algan, H. and Wendt, R. 2005. *Pre-Standard Development for the Testing of Flood-Damage-Resistant Residential Envelope Systems, Comparison of Field and Laboratory Results - Summary Report*, Oak Ridge National Laboratory, June 2005.

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American Society of Civil Engineers, Structural Engineering Institute. 2005. *Flood Resistant Design and Construction*, ASCE/SEI 24-05.

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Brick Institute of America, n.d. *Technical Notes for Brick Construction*, Brick Institute of America, McLean, Virginia.

California Integrated Waste Management Board. 2004. "Recycled Plastic Lumber," California Integrated Waste Management Board, web page, last updated June 22, 2004 (<http://www.ciwmb.ca.gov/Plastic/Recycled/Lumber>).

Department of Energy. 2005. *Energy-Efficient Flood-Damage-Resistant Home Reconstruction*, (http://www.ornl.gov/sci/res_buildings/FEMA-attachments/Flood_damage-reconstruction.pdf).

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FEMA. 1993. *Wet Floodproofing Requirements*, Technical Bulletin 7-93, FIA-TB-7.

FEMA. 1996. *Corrosion Protection for Metal Connectors in Coastal Areas*, Technical Bulletin 8-96, FIA-TB-8.

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FEMA. 2005. *Home Builder's Guide to Coastal Construction: Technical Fact Sheet Series*, FEMA 499.

FEMA. 2006. *Mitigation Assessment Team Report: Hurricane Katrina in the Gulf Coast*, FEMA 549.

FEMA. 2007. *National Flood Insurance Program: Flood Insurance Manual*, Revised October 2007.

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Simpson Strong-Tie. 2008. *Technical Bulletin: Preservative-Treated Wood*, Simpson Strong-Tie TPTWOOD08-R, July 2008 (<http://www.strongtie.com/ftp/bulletins/TPTWOOD08-R.pdf>).

TPI/WTCA. 2004. *TPI/WTCA Guidelines for Use of Alternative Preservative Treatments with Metal Connector Plates*, updated June 4, 2007, (<http://www.sbcindustry.com/images/PTWGuidelines.pdf>).

U.S. Army Corps of Engineers. 1984. *Flood Proofing Systems and Techniques*, U.S. Army Corps of Engineers, December 1984.

U.S. Army Corps of Engineers. 1995. *Flood Proofing Regulations*, Chapters 9 and 10, U.S. Army Corps of Engineers, EP 1165-2-314.

Wood Truss Council of America (WTCA). 2005. *The Load Guide: Guide to Good Practice for Specifying and Applying Loads to Structural Building Components*, (<http://www.sbcindustry.com/loads.php>).

World Floor Covering Association (WFCA). n.d., Anaheim, California (<http://www.wfca.org/index.html>).

Glossary

Accessory structure — A structure that is on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure.

Base flood — The flood having a 1-percent chance of being equaled or exceeded in any given year, commonly referred to as the "100-year flood." The base flood is the national standard used by the NFIP and all Federal agencies for the purposes of requiring the purchase of flood insurance and regulating new development.

Base flood elevation (BFE) — The height of the base (1-percent annual chance or 100-year) flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929, or the North American Vertical Datum of 1988.

Basement — Any area of a building having its floor subgrade (below ground level) on all sides.

Enclosure or enclosed area — Areas created by a crawlspace or solid walls that fully enclose areas below the BFE.

Federal Emergency Management Agency (FEMA) — The Federal agency that, in addition to carrying out other activities, administers the National Flood Insurance Program.

Federal Insurance and Mitigation Administration (FIMA) — The component of FEMA directly responsible for administering the flood hazard identification and floodplain management aspects of the NFIP.

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

Floodprone area — Any land area susceptible to being inundated by floodwater from any source.

Lowest floor — The lowest floor of the lowest enclosed area of a building, including a basement. Any NFIP-compliant unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access, or storage (in an area other than a basement) is not considered a building's lowest floor, provided the enclosure does not render the structure in violation of the applicable design requirements of the NFIP.

Registered Design Professional — An individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the State or jurisdiction in which the project is to be constructed.

Special Flood Hazard Area (SFHA) — An area delineated on a FIRM as being subject to inundation by the base flood and designated as Zone A, AE, A1-A30, AR, AO, AH, A99, V, VE, or V1-V30.

Substantial damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Structures that are determined to be substantially damaged are considered to be substantial improvements, regardless of the actual repair work performed.

Substantial improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure (or smaller percentage if established by the community) before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed.

INSTRUCTIONS AND NOTES

Model Code-Companion Floodplain Management Ordinance and Model Local Code Amendments For Communities with Inland (Zone A) and Coastal High Hazard Areas (Zone V)

TECHNICAL SUPPORT: 800-595-0724 or FLordinance@gmail.com

Please include your community's name in your message.

For the first time, the 2010 Florida Building Code (FBC) retains the flood provisions from the model International Code Series that forms the basis of the FBC. For background and more information on this transition, refer to the *Frequently Asked Questions* prepared by the Florida DEM State Floodplain Office and the Florida Building Commission posted under Local Ordinance and Building Code Resources at <http://www.floridadisaster.org/Mitigation/SFMP/Index.htm>. Excerpts of the flood provisions of the 2010 FBC can be downloaded from the same webpage.

Changes to local floodplain management regulations and local administrative and local technical amendments to the FBC are necessary to properly coordinate with the FBC. The DEM is not revising the previous model FPM ordinance that most communities used years ago to develop their local FPM regulations. Rather, a completely new model ordinance that is coordinated with the FBC, while also satisfying the requirements of the National Flood Insurance Program (NFIP), has been developed to repeal and replace existing regulations. A crosswalk that demonstrates consistency with the NFIP will be posted at the link shown above. Also at that link is a summary of duties and responsibilities that communities agree to when they decide to participate in the NFIP.

The 2010 FBC is effective March 15, 2012, which makes it necessary for communities to expeditiously consider and take action to adopt the new model ordinance and code amendments.

This document contains instructions and explanatory notes for both the model floodplain management ordinance and the model code amendments. The notes are keyed to the sections of the model ordinance and sections of the local code amendments. These notes are not intended to explain every provision, but to highlight those that clarify, those that are new to floodplain management (FPM) regulations, and those that are coordinated with the local code amendments.

The following are important aspects of the new model ordinance and local code amendments:

1. The new FPM model is written in regulatory language, eliminating permissive and unenforceable language.
2. The new FPM model is coordinated with the FBC. The FBC contains requirements for buildings and structures; the FPM model contains other requirements necessary for consistency with the NFIP. In order to fulfill community commitments to the NFIP, the FPM model requires buildings and structures that are exempt from the FBC and development other than buildings to comply with requirements for flood hazard areas.
3. The model FPM ordinance and local code amendments are prepared in one package, for simultaneous adoption, including repeal of existing flood damage prevention regulations.

4. The model FPM ordinance and local code amendments distinguish between duties of the Building Official and duties of the Floodplain Administrator. Section 553.73(5), F.S. (shown below), allows assignment of “the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government.” The new model and local code amendments are set up so that the Building Official retains the duty to enforce the flood provisions of the FBC, while the Floodplain Administrator handles virtually all other duties.
5. As written, the Building Official and the Floodplain Administrator are responsible for different aspects required to fulfill a community’s commitment and responsibilities to the NFIP and those duties are coordinated. In many Florida communities both functions are fulfilled by the same office or person. However, when enforcing the FBC, that person is acting as the Building Official, and when enforcing the floodplain management ordinance, that person is acting as the Floodplain Administrator. The fact that two titles are used should not be cause for confusion (i.e., one person can wear two hats).
6. The model FPM ordinance includes specific requirements for development other than buildings that may appear to be “new,” but that are based on the overall performance expectation of the NFIP for any development, including activities other than buildings. The specific requirements come from ASCE 24 and FEMA guidance. The specificity is intended to help both the local official and the applicant understand what constitutes flood damage resistance for such activities.
7. The basic FPM model ordinance does not include the common “higher standards” that many Florida communities have adopted. However, instructions and sample language to adopt those higher standards are being prepared for the two most common higher standards: additional elevation above the minimum required (freeboard) and cumulative substantial improvement. Assistance will be provided to any community that elects to adopt other higher standards or otherwise modify the model. Examples of higher standard include the following:
 - a. Additional elevation above minimum (freeboard): the code already includes some added height, through reference to ASCE 24.
 - b. Cumulative Substantial Improvement
 - c. MFH: prohibit new in (a) floodways and Zone V; (b) floodways; (c) Zone V
 - d. MFH: eliminate option to elevate new units and certain replacement units in existing subdivision/parks without meeting full elevation requirements
 - e. Enclosures: (a) prohibit; (b) limit size; (c) require Nonconversion agreement/deed restriction
 - f. Accessory structures: (a) require full elevation; (b) limit size even in Zone A; (c) require Nonconversion agreement/deed restriction
 - g. Floodway, prohibit encroachment
 - h. Compensatory storage, require for fill in SFHA
 - i. Zone V: require location further landward than the reach of mean high tide
 - j. Subdivision: require buildable residential lots outside of floodway
 - k. Repetitive Loss (to qualify for ICC)
 - l. Coastal A Zone: regulate like Zone V
 - m. Critical and essential facilities: several options could be considered, including (a) don’t allow; (b) require higher level of protection than in ASCE 24 (which is already pretty high)

Inter-Local Agreements: Many Florida communities have an inter-local agreement or arrangement under which one community (typically a county) agrees to enforce FPM requirements within another community's jurisdiction. Pursuant to section 163.01, F.S., this agreement should be in writing. DEM encourages both communities to get together to review the model ordinance and code amendments. If the two communities have different requirements complications can arise. An efficient way to avoid having different requirements is for both communities to adopt ordinances that are exactly the same and the same code amendments. DEM has developed a model local inter-local agreement for floodplain management which can be modified easily to include enforcement of the building code. Download the model agreement at the webpage noted above.

553.73, Florida Statutes

(5) Notwithstanding subsection (4), counties and municipalities may adopt by ordinance an administrative or technical amendment to the Florida Building Code relating to flood resistance in order to implement the National Flood Insurance Program or incentives. Specifically, an administrative amendment may assign the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government and adopt procedures for variances and exceptions from flood-related code provisions other than provisions for structures seaward of the coastal construction control line consistent with the requirements in 44 C.F.R. s. 60.6. A technical amendment is authorized to the extent it is more stringent than the code. A technical amendment is not subject to the requirements of subsection (4) and may not be rendered void when the code is updated if the amendment is adopted for the purpose of participating in the Community Rating System promulgated pursuant to 42 U.S.C. s. 4022, the amendment had already been adopted by local ordinance prior to July 1, 2010, or the amendment requires a design flood elevation above the base flood elevation. Any amendment adopted pursuant to this subsection shall be transmitted to the commission within 30 days after being adopted.

Instructions and General Notes:

Please read the complete model ordinance and code amendments, following along with the notes below that are keyed to the same sections. You will find it useful to download the flood excerpts from the FBC, so that you understand how the proposed local code amendments will function within the context of the code. We encourage the floodplain manager and the building official to get together to do this review.

The provisions of the model ordinance are organized as follows:

- **Section 2** contains the complete FPM regulations that are coordinated with the FBC. The regulations are organized to match the organization of the code, with administrative provisions in Chapter 1, definitions in Chapter 2, and technical provisions in Chapter 3
- **Section 3** contains local administrative amendments to the FBC, Building Chapter 1 and definitions to add to Chapter 2. Note that several of the proposed sections are intended to coordinate with BOAF's Model Administrative Code. (BOAF's model developed for the 2010 FBC is not yet available; section numbers should be verified.)
- **Section 4** contains local technical amendments to the FBC, Building.
- **Section 5** contains local technical amendments to the FBC, Existing Building.
- **Section 6** contains local technical amendments to the FBC, Residential.

Step One. The first step is to determine which flood zones are identified on your community's Flood Insurance Rate Maps. If your FIRM has zones that start with the letter "A" and zones that start with the letter "V," these notes and the model identified for "Zones_A-V" are the correct documents. Please check your FIRMs first, and call Technical Support if you need help making this determination.

Step Two. The next step is to begin to complete the community-specific information to be inserted where noted in **{bracketed bold}**:

1. **{name of community}** is the legal name of the county, city, village, or town
2. **{community's governing body}** is the city commission, board of county commissioners, town council, etc.
3. **{title of FIS}** title of the current, effective Flood Insurance Study that includes the community
4. **{date of FIS}** date of current, effective FIS
5. **{name}** of applicable Water Management District
6. **{Building Official or the Floodplain Administrator}** at these locations, the identified function can be performed by either the Building Official or the Floodplain Administrator; select the official designated responsible for each function.
7. **{body designated to hear variances}** see note for Sec. 107.1.
8. **{date the community's first floodplain management ordinance was adopted}** and **{date of regular program entry}**. Note that these may or may not be the same date. You should research to determine the date the first ordinance was adopted. If that date is not available, the data of entry into the NFIP's regular program will be provided by Technical Support.

Step Three. Carefully consider any modifications you may wish to make to the model ordinance and code amendments. Remember that most provisions in the model are written to satisfy NFIP requirements, which means we must be very careful when making changes. Please contact Technical Support if you have questions or would like a preliminary review of changes you're considering.

Step Four. Please have Technical Support review your tailored ordinance before you get too far along in your adoption process. This is especially important if you propose to modify, delete, or add any of the provisions. Final review and approval by DEM and FEMA will be much easier if Technical Support has reviewed it first.

Step Five. Upon adoption and execution, send Technical Assistance a digital copy of the adopted ordinance, with all signatures. At that time, DEM will transmit it to FEMA for concurrence and to complete the process.

Recommended Forms:

Some states and communities have developed forms that facilitate administration by communities, and help applicants understand and meet the requirements. DEM will make these forms available at a later date.

1. SI/SD Sample Notice for Property Owners, Contractors, and Design Professionals (from FEMA P-758). FEMA's sample is based on the NFIP minimum requirements (i.e., it does not show cumulative SI/SD). Florida communities that use a similar packet should ensure their materials are consistent with this sample. There is no need to reference this packet in local regulations. The DEM encourages the use of this packet to facilitate administration of the SI/SD requirements.
2. V Zone Design Certificate. The NFIP and FBC both require that a registered professional engineer or architect develop or review the structural design, specifications and plans for buildings in Zone V to certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the requirements. The DEM encourages use of this form, which also makes it easier to retain the documentation in the community's permanent records.
3. Agreement to Submit an Elevation Certificate. The applicant signs this form to agree to have an Elevation Certificate prepared and submitted twice, which is consistent with the FBC. *[see "Higher Standards" for language to include requirement to use this form in the FPM ordinance]*
4. Declaration of Land Restriction (Nonconversion Agreement). The applicant signs this form to acknowledge the use limitations for accessory structures and enclosures below elevated buildings and to agree to not block/modify/cover flood openings, to not alter breakaway walls, to not convert the enclosures without a permit; to acknowledge that any alteration constitutes a violation, and to agree to record the declaration on the deed. *[see "Higher Standards" for language to include requirement to use this form in the FPM ordinance]*

Communities that are in the NFIP Community Rating System are required to use the NFIP Elevation Certificate. The FBC does not specify use of the NFIP Elevation Certificate, which means documentation of as-built lowest floor elevations may be submitted in a different format. However, use of the Elevation Certificate is recommended because the NFIP requires an Elevation Certificate to write a flood insurance policy. The current effective Elevation Certificate is online at <http://www.fema.gov/library/viewRecord.do?id=1383> and the NFIP Floodproofing Certificate is online at <http://www.fema.gov/library/viewRecord.do?id=1600>.

Tech Topics: [DEM plans to post Tech Topics online; the following notes refer to existing Tech Topics that are accessible at www.ffma.net.]

Explanatory Notes for Model Floodplain Management Ordinance

FPM ORDINANCE SECTION	GUIDANCE NOTES
Section 101 Administration, General	
101.1 Title	
101.2 Scope.	<p>The definition of “development” is very broad. Communities that participate in the NFIP agree to regulate all development. Enforcing the FBC and the model ordinance fulfills the requirements.</p> <p>Note that the scope of this ordinance <u>includes</u> buildings and structures that are exempt from the FBC. Exemption from the building code, even by state law, is not accepted by the NFIP as justification to not regulate such buildings for the purpose of compliance with floodplain management requirements. What it does mean is that a mechanism other than a building permit must be in place. This ordinance establishes that mechanism, by requiring compliance with ASCE 24 and by issuance of a floodplain development permit or approval. “Approval” may be satisfied by review of applications for other permits/approvals, such as grading permits, subdivision requests. .</p>
101.3 Intent	
101.4 Coordination with the FBC	This is an explicit acknowledgement that the ordinance and the FBC are intended to be enforced together.
101.5 Warning	A statement to this effect has always been part of local floodplain management regulations.
101.6 Disclaimer of Liability	A statement to this effect has always been part of local floodplain management regulations.
Section 102 Applicability	
102.1 General.	If a community elects to enforce a “more restrictive” provision that affects the design and construction of buildings within the scope of the FBC, that provision must be adopted as a local code amendment. Communities should review section 553.73(5), F.S., to determine whether any such code amendments are not subject to section 553.73(4) – in which case they may not be rendered void when the code is updated. Local technical code amendments that qualify are those adopted for the purpose of participating in the CRS, those that were already adopted prior to July 1, 2010, and those that require additional height above the BFE.
102.2 Areas to which this ordinance applies	
102.3 Basis for establishing flood hazard areas.	<ul style="list-style-type: none"> • Insert the title and date of the FIS. When a “countywide” map is available, the FIS and FIRMs include the unincorporated areas of the county and incorporated areas (e.g., “___ County, Florida and Incorporated Areas”). For municipalities, reference to the countywide FIS and FIRMs means only the FIRMs (or portions of FIRMs) that show the area within the boundaries of their municipalities. • Communities may adopt a flood hazard map other than the FIRM provided that map shows flood hazard areas that are larger than the SFHA. A revised FIRM map that adjusts for datum change would require re-adoption, and is not intended to be covered by this provision. Any community that uses another map needs to modify this

FPM ORDINANCE SECTION	GUIDANCE NOTES
	<p>section, even if the other flood hazard map is for only a portion of the community (e.g., for only one watershed or a part of a waterway).</p> <ul style="list-style-type: none"> Communities that annex area outside the municipal boundaries shown on the current FIRM must notify FEMA (see Section 103.8(6)). Annexation may prompt a requirement to adopt a FIRM for the annexed area, if that area is not already shown on a panel adopted by the community.
<p>102.3.1 Submission of additional data to establish flood hazard areas.</p>	<p>This provision recognizes that topography developed by a licensed professional surveyor for site plans or available from community GIS layers, for example, may be at a finer scale (and thus more accurate) than the base maps used by FEMA to draw the boundary of special flood hazard areas. The best available data should be used, including the best available topographic data, and where there are discrepancies, the SFHA delineation on the best topography should be used.</p> <p>Especially with older FIRMs that were developed using topographic maps with a large contour interval, land that is lower than the BFE may not be shown as in the SFHA. This provision requires use of the best available information (in this case better topography) to delineate the SFHA boundary. There may be some liability if communities know, based on site plans prepared using better data, that areas are not delineated on the FIRM but are subject to flooding, and yet do not regulate such areas.</p> <p>Note also that some land that is higher than the BFE may be shown on the FIRM as in the SFHA (within the shaded dark grey area). Communities are required to regulate the SFHA shown on the FIRMs until and unless FEMA issues an amendment or revision to the map (see the definition of "Letter of Map Change").</p>
<p>102.4 Other laws.</p>	
<p>102.5 Abrogation and greater restrictions.</p>	
<p>102.6 Interpretation.</p>	
<p>Section 103 Duties and Powers of the Floodplain Administrator</p>	
<p>103.1 Designation.</p>	<p>Communities designate an official deemed appropriate to enforce the ordinance. The Floodplain Administrator may be the building official or another position. Sec. 553.73(5), F.S., authorizes designation of an official other than the building official to be responsible for the enforcement of part or all of the flood provisions of the FBC. Delegation of authority is standard, especially in departments where staff perform functions under the authority of the designated manager. This authority also allows reviews by other departments where those departments already review or approve certain activities. For example, grading plans may be approved by a public works department; subdivision requests typically are approved by the planning department. Regardless of which department or person performs the work, the Floodplain Administrator has overall responsibility.</p> <p>Some sections in the model refer to both the Building Official and the Floodplain Administrator. As explained in the introduction above, both titles should be retained even if the Building Official is also designated as</p>

FPM ORDINANCE SECTION	GUIDANCE NOTES
	the Floodplain Administrator.
103.2 General.	
103.3 Applications and permits.	<p>This section recognizes that communities may have more than one office or department involved in the review of applications for development in flood hazard areas. The responsibilities listed appear in most existing local regulations.</p> <p>#7, insert the name of the applicable water management district. At a minimum, the community has a responsibility to inform applicants that permits from other authorities may be required.</p> <p>The NFIP regulations do not explicitly require communities to perform specific functions after floods. Suggested language that can be added to this section is available in Higher Standards. The intent is to draw attention to the need to communicate with the public and owners of damaged buildings, especially after events that damage large numbers of buildings. Governing bodies should be aware of the need to plan for such events, rather than expect that all building owners are aware of the requirement to obtain permits for repairs (in both the building code and the floodplain management regulations). See packet of sample forms for an up-to-date version of an SI/SD handout used by many Florida communities (based on FEMA's review of several the packets used by Florida communities, those packets are not consistent with the requirements).</p>
103.4 Determinations for existing buildings and structures.	<p>These responsibilities are not new, but most existing local regulations do not include this level of detail. As written, this duty is coordinated with the Building Official and a similar code amendment is found at BL104.12.2 (which is a proposed code amendment in Section 3 of the model ordinance package). This duty could be assigned entirely to the Floodplain Administrator.</p> <p>#1, see the definition of "market value." Note that this item allows the community to use adjusted assessed value or to require submission of an appraisal. If an applicant disputes use of adjusted appraised value, this language then requires the submittal of a market appraisal. Communities that want to always require appraisals may modify this language to remove reference to other methods.</p> <p>#4, an important responsibility is to notify the applicant/owner if the work is determined to be SI or SD. Note that this language changes if the community elects to enforce cumulative SI/SD (see Higher Standards).</p> <p>See packet of sample forms for an up-to-date version of an SI/SD handout used by many Florida communities (based on FEMA's review of several the packets used by Florida communities, those packets are not consistent with the requirements).</p> <p>Tech Topic: Guidance for Additions in SFHAs</p>
103.5 Modifications of the strict application of the requirements of the <i>Florida Building Code</i> .	This section is added because the BOAF Model Administrative Chapter contains a provision that allows the building official to grant such modifications. See companion code amendment at BL104.10.1; if that

FPM ORDINANCE SECTION	GUIDANCE NOTES
	code amendment is not adopted, this ordinance provision is not necessary.
103.6 Coordination of Notices and orders	
103.7 Inspections.	This section has more detail than previous model ordinances. However, the commitment to regulate development in flood hazard areas has an implied commitment to inspect all development, including unpermitted development. While the FBC language does not explicitly require a separate "floodplain" inspection, the purpose of all inspections is to determine compliance.
103.8 Other duties of the Floodplain Administrator.	<p>#1 follows the FEMA recommendation to establish procedures for SI/SD to provide uniformity, especially to identify the primary method to establish market value (see FEMA P-758). Communities that could experience widespread flood damage are encouraged to review the Desk Reference and decide in advance how various aspects of dealing with the aftermath will be handled, such as estimating costs and market values.</p> <p>#2 satisfies the NFIP requirements for notifications, but does not obviate the need to obtain any other Federal or State permits that may be required for applications to alter watercourses.</p> <p>#3 applies when the applicant elects to have engineering done to show different boundaries or BFEs, in which case the community can only use the new data if it is approved by FEMA. This is not equivalent to Sec. 102.3.1 which applies in SFHAs without BFEs, in which case the additional data are submitted for unnumbered zones to determine the BFE of the existing SFHA, not to redelineate the SFHA or to refute the BFE.</p> <p>#4 requires the Floodplain Administrator to determine if design certifications and documentation of elevations are complete (e.g., that appropriate fields of the Elevation Certificate are completed by the surveyor).</p> <p>#6 although this item is optional, it is important because owners may not realize that NFIP flood insurance is not available on new buildings and SI/SD buildings located in CBRS areas.</p> <p>The NFIP regulations do not explicitly require communities to perform outreach and data collection after floods. Suggested language is available in Higher Standards. The intent is to facilitate both proper enforcement and to increase the likelihood that affected property owners will obtain permits. It is important to assist owners with documentation to demonstrate that proposed repairs are compliant refers to documentation required when NFIP-insured buildings sustain substantial damage, which means the owner is eligible for a claim to help pay for the Increased Cost of Compliance.</p>
103.9 Floodplain management records	<p>Communities make a commitment to the NFIP to retain certain documents in permanent records and to make those records available for public inspection. This commitment overrides any other provision of law that allows disposal of public records after a certain period of time.</p> <p>Tech Topic: Tips on Record Retention for NFIP Communities</p>
Section 104 Permits	
104.1 Permits required	

FPM ORDINANCE SECTION	GUIDANCE NOTES
104.2 Floodplain development permits or approvals.	Floodplain development permits or approvals are required for development other than buildings that are within the scope of the FBC. Rather than issue a separate floodplain development permit, applications for other permits/approvals may be reviewed and approved for compliance. This section also permits communities to decide whether to issue both a building permit and a separate floodplain development permit/approval for the same activity.
104.2.1 Buildings, structures and facilities exempt from the <i>Florida Building Code</i> .	See comment for Sec. 101.2. To fulfill the commitment to the NFIP to regulate all development, this section recaptures buildings and structures that are exempt from the FBC. This is accomplished by requiring such buildings to be designed and constructed in accordance with ASCE 24. Floodplain Administrators are expected to consult with the Building Official because compliance with ASCE 24 is equivalent to compliance with the flood provisions of the FBC (seeking consultation is not equivalent to asking the building official to issue a permit). The reference to "any further exemptions provided by law" comes from the FBC and is included here to capture any future exemptions which may be passed by the legislature.
104.3 Application for a permit or approval.	
104.4 Validity of permit or approval.	
104.5 Expiration.	
104.6 Suspension or revocation	
Section 105 Site Plans and Construction Document	
105.1 Information for development in flood hazard areas.	<p>As stated in the text below the list in Sec. 105.1, the requirement to have plans drawn to scale may be waived provided the submitted plans and drawings provide sufficient information for evaluation of the proposed project. Greater precision is appropriate if the flood hazard area does not cover an entire lot, if a portion of the lot is in a floodway, or if a parcel is affected by more than one BFE or more than one flood zone.</p> <p># 6 is intended to minimize the placement of fill in flood hazard areas, especially fill that is not intended to support buildings. Because of adverse impacts on flooding, flood hazard areas should not be used to dispose of excess fill. In addition, applicants who intend to fill an area and then seek a map change to "remove" the area from the mapped SFHA should do so as part of the permit which requires proper compaction, not as a subsequent action.</p> <p># 8 is not intended to imply that alteration of sand dunes or mangrove stands is permissible, only that if such activities are allowed by DEP, the flood-damage impacts must be considered pursuant to this ordinance.</p> <p>#9 requires delineation of any change channel (see Sec. 105.3 #3 for other requirements for such proposals).</p> <p>Note that under some circumstances, certain required submissions may be waived. The Floodplain Administrator should not waive any requirement that is needed to review a proposal for compliance. For example, this provision would allow sketches for activities that don't need scaled plans prepared by a registered design professional, such as adding a deck, an</p>

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	addition, interior-only improvements, or building an accessory structure.
105.2 Information in flood hazard areas without base flood elevations (approximate Zone A).	<p>This provision clarifies that if base flood elevation data are not available from other sources, the Floodplain Administrator may require the applicant to develop data using acceptable methods. The building code gives the code official the same authority.</p> <p>#1 allows use of data from other sources, including the community itself, such as information from nearby permits, local drainage studies, or documentation of past flooding.</p> <p>#2, the Floodplain Administrator can exercise discretion as to whether to require the analyses in this item rather than default to #3.</p> <p>#3 is consistent with NFIP guidance that assumes the flooding is shallow in approximate Zone A (sometimes called "unnumbered Zone A"). For example, if an area is known to flood frequently to a depth of 2 ft, it is reasonable to assume that flooding will be deeper during more severe (less frequent) events. This may be removed communities that elect to require determinations by an engineer.</p> <p>Note that Section 302.2 requires development of base flood elevation data for subdivision proposals and development proposals containing at least 50 lots or at least 5 acres if the FIRM does not show BFEs.</p>
105.3 Additional analyses and certifications.	<p>#1: floodways are areas where obstructions may divert flow or increase BFEs. FEMA delineates floodways for many waterways by using computer models to estimate the impacts on flood elevations associated with potential development in floodway fringe areas. The floodway boundary is drawn when the computer model determines the fringe development would cause the water surface elevation to go up no more than 1 foot.</p> <p>#2 addresses situations where SFHAs are shown <u>with</u> BFEs but <u>without</u> floodways. The potential impact of encroachments has not been evaluated and the NFIP regulations require that a comparable floodway delineation analysis be performed when applications are submitted. This requirement is found in NFIP regulations at 44 CFR 60.3(c)(10). Communities should contact DEM for guidance.</p>
105.4 Submission of additional data.	FEMA requires applicants for LOMCs to obtain the community's acknowledgement of the submission.
Section 106 Inspections	
106.1 General.	
106.1.1 Development other than buildings and structures.	An important part of fulfilling responsibilities to the NFIP is to inspect permitted development, including development other than buildings and structures.
106.1.2 Buildings and structures.	Sec. 533.73(5), F.S., allows the Floodplain Administrator to be designated to inspect buildings and structures within the scope of the FBC.
106.1.3 Buildings and structures exempt from the FBC, lowest floor inspection.	This section is coordinated with FBC, B Section 110.3 (under "Building," items 1.1 and 5.1). One inspection is required by the building code upon placement of the lowest floor and prior to further vertical construction, at which time the permittee is required to submit elevation documentation (use of the NFIP Elevation Certificate is recommended).
106.1.4 Buildings and structures exempt from the FBC, final	This section and the FBC also require the final certification of elevations as part of the final inspection. Having the Elevation Certificate in hand

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inspection.	allows the inspector to verify compliance and have the data necessary to determine if mechanical and electrical equipment and flood openings are compliant.
106.1.5 Manufactured homes.	This section identifies the Floodplain Administrator to perform inspection of manufactured homes because the requirements for installation in flood hazard areas are included in Section 304. This is necessary because MFH are not within the scope of the FBC.
Section 107 Variances and Appeals	
107.1 General.	<p>Variances are official permission to undertake an activity that is otherwise prohibited or not approvable under the regulations or building code. Documentation for each variance considered shall be retained in permanent records (see. Section 103.9). A pattern and practice of issuing variances may prompt scrutiny by FEMA and DEM. It is inappropriate to use variances to resolve violations or to attempt to solve problems discovered after construction is completed.</p> <p>The 2010 FBC does not create a board of appeals; the BOAF Admin Code does establish a board of appeals. Florida communities designate a variety of bodies to hear variances: planning and zoning board, board of appeals and adjustments, board of adjustment, city commission, city council, or board of zoning appeals.</p> <p>Sec. 553.73(5) explicitly states that variances to the flood provisions of the FBC shall not extend to the provisions for structures seaward of the CCCL.</p>
107.2 Appeals	
107.3 Limitations on authority to grant variances.	The limitation on variances to the coastal construction control line requirements in FBC is specified in Sec. 553.73(5), F.S.
107.3.1 Restrictions in floodways.	
107.4 Historic buildings.	A determination that a historic building will not preclude its continued designation as a historic building should be based on documentation provided by a qualified authority, preferably the authority that determined the building is a historic building that meets the criteria for the exception to FBC, EB Section 1101.3.
107.5 Functionally dependent uses.	This section is consistent with NFIP regulations at 44 CFR 60.3(7). Although it allows variances for functionally dependent uses (see definitions), which would allow them below BFE, it does not allow such uses to entirely disregard methods to minimize flood damage.
107.6 Considerations for issuance of variances.	Documentation to support issuance of variances should include technical evaluations, relevant factors, and should address each of the considerations listed.
107.7 Conditions for issuance of variances.	<p>Documentation to support issuance of variances should include documentation of each of conditions listed. For FEMA Guidance on variances, see FEMA P-758 (Section 5.6.7).</p> <p>#3 is not required by the NFIP, but is recommended to inform future owners of the variance.</p>
Section 108 Violations	
108.1 Violations.	
108.2 Authority.	

FPM ORDINANCE SECTION	GUIDANCE NOTES
108.3 Unlawful continuance.	
Section 202 Definitions	
Several terms are noted as being defined in the FBC, B. They are repeated in this ordinance because they are used in provisions that apply to development that is not within the scope of the FBC.	
Alteration of a watercourse	The requirement for alteration of a watercourse applies to riverie (nontidal) waterways (see Section 105.3(3)).
Appeal	
ASCE 24.	The FBC, B refers to ASCE 24, which contains the detailed, specific requirements for buildings and structures in flood hazard areas. The FBC, R requires homes in floodways to comply with ASCE 24 and allows ASCE 24 as an alternative in Zone V. See "Highlights of ASCE 24" on FEMA Building Science Webpage -- "Building Code Resources" http://www.fema.gov/rebuild/buildingscience/index.shtm
Base flood.	
Base flood elevation.	
Basement.	The NFIP definition of "Basement" is consistent with the building code definition in Sec. 1612.2 (the FBC, B also defines "basement" in Sec. 502.1). In addition, this definition is consistent with its usage in the FBC, R provisions that apply in flood hazard areas (see R322.1.5, R322.2.1 and R322.3.2).
Building Official.	
Building permit.	
Coastal construction control line.	
Coastal high hazard area.	The FBC, B uses the term "flood hazard areas subject to high velocity wave action" to refer to "coastal high hazard areas;" the FBC, R uses the term "coastal high hazard area."
Design flood.	The design flood is either the base flood or another flood based on other criteria. A community may choose to prepare and adopt flood hazard maps that show flood hazard areas that are not on maps prepared by FEMA. These may be areas that FEMA did not study or areas that were studied with different criteria. For example, as a general rule, FEMA is concerned primarily with flooding sources that have a drainage area of 1 square mile or more. For another example, some communities elect to prepare flood hazard maps based on the assumption that the upland watershed is built out to existing zoning, often called "ultimate development,," and sometimes the "flood of record" is the basis for regulation.
Design flood elevation.	In Zone AO, this definition specifies use of the depth number or 2 ft. If the community elects to add additional height elsewhere (freeboard), consideration should be given to specifying the minimum depth number should be at least 3 feet.
Development.	
Encroachment.	
Existing building and existing structure.	See note above regarding the adoption date of the community's first floodplain management ordinance. The common NFIP label for "existing buildings" is pre-FIRM (built before the FIRM), and the comparable label for "new construction" is post-FIRM (built after the FIRM). Now that many Florida communities have been in the NFIP for 20-30 years, it is somewhat awkward to refer to buildings that old as "new."

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	Although there is a difference in the wording of this definition and the FBC definition, there is no practical difference. The NFIP considers any building built after the specified date to be "new construction" and expects communities to ensure that any work performed on such new construction/existing buildings will not alter or modify any aspect of that building that was required for compliance with the floodplain management requirements in effect when it was built. This same concept is in the codes.
Existing manufactured home park or subdivision.	See Higher Standards if the community elects to treat all MFH the same.
Expansion to an existing manufactured home park or subdivision.	See Higher Standards if the community elects to treat all MFH the same.
Federal Emergency Management Agency (FEMA).	
Flood or flooding	
Flood damage-resistant materials.	
Flood hazard area.	This term refers to (1) the mapped Special Flood Hazard Area shown on FIRMs, and (2) a larger area if the community adopts another map or legally designates an area.
Flood Insurance Rate Map (FIRM).	Revised FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM). The term "Flood Insurance Rate Map (FIRM)" refers to flood hazard data provided by FEMA, regardless of whether the data are shown on printed products or in digital format. DEM will help communities that have Flood Boundary and Floodway Maps to modify the model to appropriately reference that map.
Flood Insurance Study (FIS).	Most Florida communities have an FIS; those that do not should contact DEM for guidance to modify the model ordinance.
Floodplain Administrator.	
Floodplain development permit or approval.	If approval is signaled as part of another form of permit or approval, the community should keep a record of that approval. Some Florida communities use a stamp that allows the Floodplain Administrator to indicate and date concurrence.
Floodway.	
Floodway encroachment analysis	
<i>Florida Building Code.</i>	The Florida Building Code (FBC) is a family of codes. FBC, B is the building code; FBC, R is the residential code; FBC, EB is the existing building code; the family also includes mechanical, plumbing, and fuel gas codes. The FBC includes flood provisions that FEMA has determined to be consistent with the NFIP requirements for buildings and structures; see especially Sec. 1612 (building), R322 (residential), and FBC, EB. The term "building code" is used to refer to all of the codes.
Functionally dependent use.	
Highest adjacent grade.	
Historic structure.	

FPM ORDINANCE SECTION	GUIDANCE NOTES
Letter of Map Change (LOMC)	
Light-duty truck	
Lowest floor.	
Manufactured home.	This definition is modified to incorporate the NFIP definition and phrasing from the definition in 15C-1.0101, F.A.C. Units that are called "park trailers" (also defined in 15C-1.0101), or "park models" or "HUD RVs" are treated as recreational vehicles.
Manufactured home park or subdivision.	
Market value.	The alternatives to establish market value are described in <i>Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)</i> . Communities should decide which method to use and apply it consistently. If a method other than a professional appraisal is selected as the standard method, applicants can be given the option to provide an appraisal. Communities that elect to always require the applicant to provide a professional appraisal may modify this definition. Documentation of the factor provided by the Property Appraiser should be kept with permit records and should be verified annually.
New construction.	See note above regarding the adoption date of the community's first floodplain management ordinance.
New manufactured home park or subdivision.	See note above regarding the adoption date of the community's first floodplain management ordinance.
Nonresidential.	This term is used in Section 105.5 where it refers to buildings and portions of buildings that are permitted to be dry floodproofed.
Park trailer.	This definition is found in 15C-1.0101, F.A.C.
Recreational vehicle.	"Park trailers" is added to the NFIP definition; these units are treated as RVs and, just like RVs, if they do not conform to the requirements for RVs, then they shall be treated as manufactured housing units.
Sand dunes.	
Special flood hazard area.	
Start of construction.	
Substantial damage.	For guidance, see <i>Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)</i> .
Substantial improvement.	For guidance, see <i>Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)</i> .
Variance.	
Watercourse.	
Section 301 Buildings and Structures	
301.1 [Buildings and Structures] Design and construction of buildings and structures exempt from the FBC.	See Section 104.2.1 and 106.2 & .3. Walled and roofed buildings are required to comply with ASCE 24; non-building structures are required to comply with Section 307, which has general performance expectations (e.g., anchored to prevent flotation/debris).
301.2 Buildings and structures seaward of the coastal construction control line.	DEM and the Florida Building Commission has identified a collaborative initiative for the coming year to resolve the inconsistencies between CCCL and Zone V requirements in the next code cycle. Until the inconsistencies are resolved in the FBC, building officials have to do it on a case-by-case basis; in doing so, the more restrictive of the two sets of requirements must be enforced.
Section 302 Subdivisions	

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302.1 Minimum requirements.	
302.2 Subdivision plats.	
Section 303 Site Improvements, Utilities and Limitations	
303.1 Minimum requirements.	Although these requirements are the same as Section 302.1, here they apply to developments other than subdivisions.
303.2 Sanitary sewage facilities.	
303.3 Water supply facilities.	
303.4 Limitations on sites in floodways.	This is a key provision that is referenced in several other sections. The requirement that development be prohibited in floodways unless an analysis demonstrates the encroachment will not increase base flood elevations.
303.5 Limitations on placement of fill.	Fill may be placed to support buildings or for other purposes. These provisions for fill placed to elevate buildings come from ASCE 24, a standard that is referenced in the building code. The building code also includes requirements in 1803.5.8 and R401 (fill soils) and R506 (concrete floors on ground). The ASTM Standard D-698 <i>Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort</i> may be referenced.
303.6 Limitations on sites in coastal high hazard areas (Zone V).	
Section 304 Manufactured Homes	
304.1 General.	
304.2 Foundations.	See <i>Protecting Manufactured Homes from Floods and Other Hazards</i> (FEMA P-85) http://www.fema.gov/library/viewRecord.do?id=1577 . FEMA P-85 includes a number of pre-engineered foundation solutions that take into account both flood loads and wind loads.
304.3 Anchoring.	
304.4 Elevation.	FEMA has revised its manufactured home installation guidance document to refer to the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam) as the reference level. DEM will request that Department of Highway Safety and Motor Vehicles update the rule at 15C-1, F.A.C., to refer to FEMA P-85 (revised in 2009).
304.4.1 General elevation requirement.	
304.4.2 Elevation requirement for certain existing manufactured home parks and subdivisions.	Communities that do not want to allow certain replacement MFH to be installed below the BFE should see Higher Standards.
304.5 Enclosures.	
304.6 Utility equipment.	
Section 305 Recreational Vehicles and Park Trailers	
305.1 Temporary placement.	
305.2 Permanent placement.	
Section 306 Tanks	
This section is consistent with FEMA-proposed clarifications to the next edition of ASCE 24.	
306.1 Underground tanks.	The NFIP definition of "development" is broad, and includes tanks. Floodplain management regulations have always covered tanks. This

FPM ORDINANCE SECTION	GUIDANCE NOTES
	model includes specific provisions so that neither the applicant nor the local official has to figure out what is necessary to comply with the general performance expectation.
306.2 Above-ground tanks, not elevated.	
306.3 Above-ground tanks, elevated	
306.4 Tank inlets and vents.	
Section 307 Other Development This section is consistent with FEMA-proposed clarifications to the next edition of ASCE 24.	
307.1 General requirements for other development.	The NFIP definition of "development" is broad and includes the "other development" listed in this section. This model includes specific provisions so that neither the applicant nor the local official has to figure out what is necessary to comply with the general performance expectation. FEMA Technical Bulletin #5 includes both general guidance and specific guidance for some types of development in coastal high hazard areas (Zone V).
307.2 Fences in regulated floodways.	
307.3 Retaining walls, sidewalks and driveways in regulated floodways.	
307.4 Roads and watercourse crossings in regulated floodways.	
307.5 Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses (Zone V).	
307.6 Decks and patios in coastal high hazard areas (Zone V).	
307.7 Other development in coastal high hazard areas (Zone V).	
307.8 Nonstructural fill in coastal high hazard areas (Zone V).	The description of the uses and "minor" quantities of fill are the same as specified in the residential code. Although a specific volume is not defined, the nature and purposes for which minor grading and quantities of fill may be used are sufficient to place bounds on proposals. The placement of fill (and structures such as retaining walls) can deflect waves and divert flood flows which may damage buildings.

Explanatory Notes for Model Local Code Amendments

LOCAL CODE AMENDMENTS BL = FBC BL local amendment EBL = FBC EB local amendment RL = FBC RL local amendment	EXPLANATORY NOTES
Local Amendments to the Florida Building Code, Building	
BL101.5 Warning	A statement to this effect has always been part of local floodplain management regulations.
BL102.1.2 Flood hazard areas (buildings exempt from FBC)	See notes for FPM ordinance Section 104.2.1 To fulfill the commitment to the NFIP to regulate all development, this section recaptures buildings and structures that are exempt from the FBC. This is accomplished by requiring such buildings to be designed and constructed in accordance with ASCE 24. Floodplain Administrators are expected to consult with the Building Official because compliance with ASCE 24 is equivalent to compliance with the flood provisions of the FBC.
BL102.2.2	Add new #7. This requires all foundations for residential buildings or structures moved into or within a community to comply with the flood requirements of the new location.
BL102.7 Relocation of manufactured buildings.	Add new #3 so that foundations for relocated manufactured buildings are required to comply with the flood requirements of the new location.
BL104.1.2 Assignment of duties related to flood hazard areas.	Section 55.3.73(5) allows assignment of the duty to enforce all or portions of flood-related code provisions to an agency other than the building department.
BL104.7.1 Department records for flood hazard areas.	Communities make a commitment to the NFIP to retain certain documents in permanent records and to make those records available for public inspection. The Floodplain Administrator has the responsibility to maintain records. This commitment overrides any other provision of law that allows disposal of public records after a certain period of time. Tech Topic: Tips on Record Retention for NFIP Communities
BL104.10.1 Modifications of the strict application of the requirements of the <i>Florida Building Code</i> .	This section is added because the BOAF Model Administrative Chapter contains a provision that allows the building official to approve modifications. If the community does not adopt that local administrative provision this section is not needed; and see Ordinance 103.5, which would also not be needed.
BL104.12.1 Coordination with the Floodplain Administrator.	Application and review of the flood provisions in the FBC is straightforward once the flood hazard information is known (flood zone, flood elevation, etc.).
BL104.12.2 Determinations for existing buildings and structures in flood hazard areas.	See notes for FPM ordinance Section 103.4. These responsibilities are not new, but most local regulations do not include this level of detail. As written, this duty is coordinated with the Floodplain Administrator and a similar provision is found 103.4 of the local floodplain management ordinance. This duty could be assigned entirely to the Floodplain Administrator. An important responsibility is to notify the applicant/owner, even if the result of the determination is that proposed work is not SI or SD. See packet of sample forms for an up-to-date version of an SI/SD handout

LOCAL CODE AMENDMENTS BL = FBC, B local amendment EBL = FBC, EB local amendment RL = FBC, R local amendment	EXPLANATORY NOTES
	<p>used by many Florida communities (based on FEMA's review of several the packets used by Florida communities, those packets are not consistent with the requirements).</p> <p>Tech Topic: Guidance for Additions in SFHAs <i>[need to review and revise for consistency with EB]</i></p>
BL107.2.5.1 Information for buildings and structures in flood hazard areas.	<p>See notes for FPM ordinance Section 105.1.</p> <p>The listed information is necessary to determine which requirements apply (ASCE 24 contains the detailed requirements).</p> <p>#3 identification of multiple zones or multiple flood elevations on a site is important because the code requires buildings affected by more than one zone to meet the requirements of the more restrictive zone.</p> <p>#4 Surveyed elevation of the natural ground can be shown on the site plan or by submission of an NFIP Elevation Certificate (marked "based on construction drawings"), which is online at http://www.fema.gov/library/viewRecord.do?id=1383.</p> <p>Note that the FBC requires documentation for buildings in flood hazard areas to be included with construction documents:</p> <ul style="list-style-type: none"> • FBC, B Section 1612.5(1.2) and FBC, R R322.2.2(2.2) require engineered flood openings to be certified by a registered design professional. This requirement may be satisfied by submission of an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc. For more guidance, see Technical Bulletin #1, <i>Openings in Foundation Walls and Walls of Enclosures Below Elevated Buildings</i>. • FBC, B Section 1612.5(1.3) requires a certification of designs for floodproofing. • FBC, B Section 1612.5(2.2) and (2.4) and FBC, R R322.3.3.6 require certification of designs and some breakaway walls in Zone V. DEM recommends use of a V Zone Design Certificate.
BL107.2.5.2 Additional information for existing buildings and structures in flood hazard areas.	<p>This provision details the information that is needed to evaluate whether proposed work on existing buildings (and manufactured homes) constitutes substantial improvement and, if the application is for a horizontal addition, a description of the addition that is necessary to determine whether the base (existing) building will be required to be brought into compliance.</p> <p>#2 this information is necessary to enforce the requirements in FBC, EB.</p> <p>See FEMA P-758, <i>Substantial Improvement/Substantial Damage Desk Reference</i>.</p>
BL107.6.1 Building permits issued on the basis of an affidavit.	<p>Despite the submission of an affidavit authorized by B107.6, the building official must review plans for compliance with the flood provisions and issue permits and perform inspections to ensure compliance with the flood provisions. Under the NFIP, the community is responsible for ensuring compliance.</p>
BL108.2.1 [Temporary	<p>Under the NFIP, the definition of development is broad and includes</p>

LOCAL CODE AMENDMENTS BL = FBC, B local amendment EBL = FBC, EB local amendment RL = FBC, R local amendment	EXPLANATORY NOTES
Structures and Temporary Storage] Flood hazard areas.	temporary buildings, temporary storage, and temporarily placed tanks.
BL 117.1 [Variances] Flood hazard areas.	For consistency with the NFIP, Section 553.73(5) authorizes adoption of procedures for variances; the specific procedures are in the FPM ordinance. Variances are official permission to undertake an activity that is otherwise prohibited or not approvable under the regulations or building code.
BL117.2 Coastal construction control line.	The limitation on variances to the coastal construction control line requirements in FBC is specified in Sec. 553.73(5), F.S.
BL202 Floodplain Administrator.	
BL202 Floodplain development permit or approval.	
BL202 Market value.	<p>See notes for FPM ordinance definition.</p> <p>The alternatives to establish market value are described in <i>Substantial Improvement/Substantial Damage Desk Reference (FEMA P-758)</i>. Communities should decide which method to use and apply it consistently. If a method other than a professional appraisal is selected as the standard method, applicants can be given the option to provide an appraisal. Communities that elect to always require the applicant to provide a professional appraisal may modify this definition. Documentation of the factor provided by the Property Appraiser should be kept with permit records and should be verified annually.</p>
BL202 Variance.	See notes for BL117.
BL1612.2 Local floodplain management ordinance	<p>Specifies the community's citation for the floodplain management regulations, which makes it very clear where users should check for applicability.</p> <p>Communities may decide that the generic reference to "local floodplain management ordinance" is clear that it refers to such ordinance in the jurisdiction in which the code is being enforced. In that case, no amendment to this definition is necessary.</p>
BL1612.3 Establishment of flood hazard areas.	<p>See notes for FPM ordinance Section 102.3.</p> <p>Insert the title and date of the FIS. When a "countywide" map is available, the FIS and FIRMs include the unincorporated areas of the county and incorporated areas (e.g., "___ County, Florida and Incorporated Areas"). For towns, reference to the countywide FIS and FIRMs means only the FIRMs (or portions of FIRMs) that show the area within the boundaries of the towns.</p>
BL1612.4.1 Temporary structures and temporary uses.	Section 108.2 of the FBC, B requires temporary structures and uses to conform to the structural strength requirements of the code (and other requirements), without indicating how that should be accomplished. This provision specifies the expectations for temporary structures and uses in flood hazard areas.
BL1612.4.2 Utility and Miscellaneous Group U.	Section 312 of the FBC, B includes a list of structures in this use group; the list is not limited. Free standing restrooms (such as those in parks) and outdoor kitchens and bars are included in Utility and Miscellaneous Group U. Tech Topic: Guidance for Pools and Outdoor Kitchens in SFHAs

LOCAL CODE AMENDMENTS BL = FBC, B local amendment EBL = FBC, EB local amendment RL = FBC, R local amendment	EXPLANATORY NOTES
	<p>The intent is that Utility and Miscellaneous Group U structures are resistant to flood damage, but those that are not walled and roofed buildings are not required to be elevated. However, they must still be designed and constructed using methods that reduce damage, thus the requirement to be anchored, use flood damage-resistant materials, have elevated or protected utilities.</p>
BL1612.4.3 Public and private swimming pools.	<p>The NFIP definition of "development" is broad, and includes swimming pools. The FBC, R includes provisions for swimming pools in flood hazard areas in R322.2.4 (Zone A) and R322.3.2 (Zone V). These requirements for FBC, B are consistent with FEMA guidance and proposals for the next edition of ASCE 24.</p> <p>Tech Topic: Guidance for Pools and Outdoor Kitchens in SFHAs</p>
BL1612.4.3.1 Structures associated with swimming pools.	<p>Pools that are surrounded by buildings must either have the pool decks above the DFE, or the buildings must be dry floodproofing (allowed only in Zones A). NOTE: this is pending confirmation from FEMA National.</p>
BL1612.4.3.2 Swimming pools under elevated buildings.	<p>Pools under elevated buildings cannot be surrounded by walls that create enclosures; enclosures are permitted only for parking, building access and storage.</p>
Local Amendments to the Florida Building Code, Existing Building	
EBL202 Local floodplain management ordinance	<p>See notes for BL1612.2.</p>
Local Amendments to the Florida Building Code, Residential	
RL Table R301.2(1) Basis for establishing flood hazard areas.	<p>See notes for BL1612.3 and insert the same information inserted in 1612.3.</p>
RL322.1.12 Accessory Structures.	<p>The FBC, Residential defines accessory structures and requires such structures to comply with the code. The NFIP allows certain detached accessory structures to be below the DFE if they are limited in use to parking (i.e., garages) and storage. This section is included to make it clear that accessory structures shall comply with the flood requirements, except for garages that comply with R309.3, which allows garage floors to be below DFE.</p> <p>#2: FEMA encourages communities with Zone V to specify a size limit and dollar value to, in part, discourage large accessory structures that may be modified for uses other than those specifically allowed (parking of vehicles and storage). This provision allows specification of a size limit; FEMA's recommendation is to limit accessory structures to those that are "small" (100 sq ft or less, which allows small pre-manufactured sheds). See Technical Bulletin 5, <i>Free-of-Obstruction Requirements for Buildings Located in Coastal High Hazard Areas</i>.</p>

HIGHLIGHTS OF ASCE 24-05 *Flood Resistant Design and Construction*

ASCE 24 is a referenced standard in the *International Building Code*[®]. Any building or structure that falls within the scope of the IBC that is proposed in a flood hazard area is to be designed in accordance with ASCE 24. The *International Residential Code*[®] requires that dwellings in floodways be designed in accordance with ASCE 24, and the 2009 edition of the IRC will include an alternative that allows communities to require homes in V zones to be designed in accordance with ASCE 24. Purchase a copy of ASCE 24 at www.asce.org.



ASCE 24 tells the designer the minimum requirements and expected performance for the design and construction of buildings and structures in flood hazard areas. It is not a restatement of all of the NFIP regulations, but offers additional specificity, some additional requirements, and some limitations. Buildings designed according to ASCE 24 are better able to resist flood loads and flood damage.

Highlights of ASCE 24 that complement the NFIP minimum requirements include:

Building Performance

- Freeboard is required as a function of the nature of occupancy and the flood zone (see table below). Dwellings and most other buildings have 1-foot of freeboard; certain essential facilities have 2-3 feet; only agricultural facilities, temporary facilities and minor storage facilities are allowed to have their lowest floors at the BFE.
- Flood loads and other loads are those specified in ASCE 7.
- Performance of foundations exposed to flood loads and load combinations is specified; soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered.
- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour; structural fill compaction is specified or an engineering report is required, side slopes are required to be no steeper than 1:1.5.
- Specifications for slabs-on-grade are listed depending on the purpose and location of the slabs.
- Two alternatives are specified for flood openings to allow for the automatic entry and exit of floodwaters in below-BFE enclosures: nonengineered openings which do not require certification (1 sq in per sq ft of enclosed area) and engineered openings which must be certified by a registered design professional.
- Stairs and ramps shall be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage.
- In V Zones and Coastal A Zones:
 - . Structures shall be supported on piles, columns or shear walls.
 - . Foundation depth shall take into account erosion and scour.

- . Specifications are provided for pile foundations, attachments to piles, different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
- . Specifications are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, pile caps, connections, splicing, and mixed and multiple types of piles).
- . Specifications are provided for footings, mats, rafts, and slabs-on-grade; grade beams; bracing; and shear walls.
- . Walls designed to breakaway shall not produce debris that is capable of damaging structures (breakaway walls in Coastal A Zones require openings).
- . Mechanical, heating, ventilation, and air conditioning elements shall be located on the landward side of structures.
- . Erosion control structures (bulkheads, seawalls, revetments) shall not be attached to buildings or focus or increase flood forces or erosion impacts on structures.
- . Decks, concrete pads, and patios shall be structurally independent of buildings and constructed to break away without producing damaging debris.
- . Pools shall be elevated, designed to breakaway without producing damaging debris, or sited to remain in the ground without obstructing flow that causes damage.
- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings are:
 - . Not permitted in V Zones, Coastal A Zones, where flood velocities exceed 5 ft/sec, where conformance with certain human intervention limits cannot be achieved.
 - . Required to have at least one exit door above the design flood elevation.
 - . Allowed where warning time is a minimum of 12 hours unless a community warning system provides a minimum warning time sufficient to accomplish certain activities related to dry floodproofing.
 - . Required to have a flood emergency plan, posted in at least two conspicuous locations, that addresses specified elements and actions.

Flood-Damage Resistant Materials

- Flood-damage resistant materials shall be used below the lowest floor elevations, including freeboard (see table below).
- Requires structural steel exposed to salt water, salt spray, or other corrosive agents to be hot-dipped galvanized after fabrication; other metal components shall be stainless steel or hot-dipped galvanized.

Utilities and Service Equipment

- Utilities and attendant equipment that is elevated shall not be located below the lowest floor elevations, including freeboard (see table below).
- Fuel supply lines shall be equipped with float operated automatic shut-off valves.

- Tanks that are below the design flood elevation and that are attached to or beneath buildings shall be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation shall be equipped with controls that prevent the cab from descending into floodwaters.

Siting Considerations

- Structures shall not be built in:
 - . Areas subject to flash flooding (floodwaters rise to 3' or more above banks in less than 2 hours).
 - . Erosion-prone areas (determined by analyses) unless protected.
 - . High velocity flow areas (faster than 10 ft/sec) unless protected.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels) shall not have adverse effects on, or conflict with, maintenance and repairs of those protective works.
- In-ground and above-ground pools shall be designed to withstand flood loads and load combinations; pools that are structurally connected to structures are to be designed to function as a continuation of foundations.

Content from ASCE 24-05 and ASCE 7-05 used with permission from ASCE.

See next page for description of Categories →

		Category I	Category II	Category III	Category IV
Elevation of Lowest Floor (A Zone: Table 2-1)	All A Zones not identified as Coastal A Zones: elevation of lowest floor	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
Elevation of Bottom of Lowest Horizontal Structural Member (V Zone: Table 4-1)	All V Zones and Coastal A Zones: where the lowest horizontal structural member is parallel to direction of wave approach	DFE	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher
	All V Zones and Coastal A Zones: where the lowest horizontal structural member is perpendicular to direction of wave approach	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table 5-1)	All A Zones not identified as Coastal A Zones	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
	All V Zones and Coastal A Zones: where the lowest horizontal structural member is parallel to direction of wave approach	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
	All V Zones and Coastal A Zones: where the lowest horizontal structural member is perpendicular to direction of wave approach	DFE	BFE +2 ft or DFE, whichever is higher	BFE +3 ft or DFE, whichever is higher	BFE +3 ft or DFE, whichever is higher
Minimum Elevation of Utilities and Equipment (Table 7-1)	All A Zones not identified as Coastal A Zones	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
	All V Zones and Coastal A Zones: where the lowest horizontal structural member is parallel to direction of wave approach	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
	All V Zones and Coastal A Zones: where the lowest horizontal structural member is perpendicular to direction of wave approach	DFE	BFE +2 ft or DFE, whichever is higher	BFE +3 ft or DFE, whichever is higher	BFE +3 ft or DFE, whichever is higher
Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (Table 6-1)	All A Zones not identified as Coastal A Zones: elevation to which dry floodproofing extends	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher
	All V Zones and Coastal A Zones: dry floodproofing not allowed	Not permitted	Not permitted	Not permitted	Not permitted

**TABLE 1-1. Classification of Structures for Flood-Resistant Design and Construction
(Classification same as ASCE 7, Ref. [1])**

Nature of Occupancy	Category
<p>Structures that represent a low hazard to human life in the event of failure including, but not limited to:</p> <ul style="list-style-type: none"> ▪ Agricultural facilities^a ▪ Certain temporary facilities ▪ Minor storage facilities^b 	I
<p>All structures except those listed in Categories I, III and IV</p>	II
<p>Structures that represent a substantial hazard to human life in the event of failure including, but not limited to:</p> <ul style="list-style-type: none"> ▪ Buildings and other structures where more than 300 people congregate in one area ▪ Buildings and other structures with day-care facilities with capacity greater than 150 ▪ Buildings and other structures with elementary school or secondary school facilities with capacity greater than 250 ▪ Buildings and other structures with a capacity greater than 500 for colleges or adult education facilities ▪ Health care facilities with a capacity of 50 or more resident patients but not having surgery or emergency treatment facilities ▪ Jails and detention facilities ▪ Power generating stations and other public utility facilities not included in Category IV <p>Buildings and other structures not included in Category IV (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing sufficient quantities of hazardous materials considered to be dangerous to the public if released.</p> <p>Buildings and other structures containing hazardous materials shall be eligible for classification as Category II structures if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in Section 1.5.2^c that a release of the hazardous material does not pose a threat to the public.</p>	III
<p>Structures designated as essential facilities including but not limited to</p> <ul style="list-style-type: none"> ▪ Hospitals and other health-care facilities having surgery or emergency treatment facilities ▪ Fire, rescue, ambulance, and police stations and emergency vehicle garages ▪ Designated earthquake, hurricane, or other emergency shelters ▪ Designated emergency preparedness, communication, and operation centers and other facilities required for emergency response ▪ Power generating stations and other public utility facilities required in an emergency ▪ Ancillary structures (including, but not limited to, communication towers, fuel storage tanks, cooling towers, electrical substation structures, fire water storage tanks or other structures housing or supporting water, or other fire-suppression material or equipment) required for operation of Category IV structures during an emergency ▪ Aviation control towers, air traffic control centers, and emergency aircraft hangars ▪ Water storage facilities and pump structures required to maintain water pressure for fire suppression ▪ Buildings and other structures having critical national defense functions <p>Buildings and other structures (including but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing extremely hazardous materials where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction.</p> <p>Buildings and other structures containing extremely hazardous materials shall be eligible for classification as Category II structures if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in Section 1.5.2^c that the extremely hazardous material does not pose a threat to the public. This reduced classification shall not be permitted if the buildings or structures also function as essential facilities</p>	IV

^aCertain agricultural structures may be exempt from some of the provisions of this Standard – see section C.4.3.

^bFor the purposes of this standard, minor storage facilities do not include commercial storage facilities.

^cSection 1.5.2 reference is made to ASCE Standard 7-05, not this standard.



FEMA

Storage

NFIP Policy Index

- Definition/Description
- NFIP Requirement
- Guidance
- Related Keywords

Definition/Description

All new construction and substantial improvements must have any fully enclosed area below the lowest floor useable solely for storage, parking or access. The type of storage permitted in an enclosed lower area should be limited to that which is incidental and accessory to the principal use of the structure. For example, if the structure is a residence, storage should be limited to items such as lawn and garden equipment, snow tires, and other low damage items which will not suffer flood damage or can be conveniently moved to the elevated part of the building. Flood insurance coverage for enclosures below the Base Flood Elevation (BFE) is very limited.

NFIP Requirement

- 59.1 - Definition of Lowest Floor
- 60.3 - Flood plain management criteria for flood-prone areas
 - (c) (5) Openings Requirement in A Zones
 - (e)(5) Free of Obstruction Requirement

Guidance

- IS-9 Managing Floodplain Development Through The National Flood Insurance Program (NFIP) (page 5-35) (PDF 8MB, TXT 1MB) (entire document)
- Free-Of-Obstruction Requirements For (Technical Bulletin 5) (2008)

Related Keywords

- Enclosure

- The owner of a poorly insulated building proposes to rehabilitate it for a new occupant. Although the building does not conform to the current code for energy efficiency, the costs of adding insulation and other energy efficiency work must be included because the lack of adequate insulation is not a health and safety violation.
- An owner proposes to improve a building and has applied for a permit. The owner presents the building official with evidence of termite damage. Termite damage is discovered in the floor joints and the joists are unable to safely support loads required by current code. The building official verifies that it constitutes a violation and cites it as a safety code violation. The minimum cost to correct this violation may be excluded if the violation was cited. If other building components have sustained termite damage that is not a safety code violation, such as damage to non-bearing wall studs and wall trim, the cost to address the damage must be included.
- A restaurant's plumbing system is failing and bathroom fixtures are inoperable. The condition is cited as a violation of the sanitary code. The owner proposes not only to correct the violation but make other improvements, including adding a second bathroom. The costs to correct the failing plumbing system and replace its fixtures may be excluded. The costs of the other improvements, including the second bathroom, must be included.
- In the course of inspecting an abandoned building, the code official cites several conditions as violations that must be corrected before the building can be reoccupied. The building is subsequently purchased and the new owner applies for a permit to not only address the violations, but also to rehabilitate the building. Only the costs to correct the cited violations that are explicitly related to health, sanitary, and safety code requirements may be excluded. All other costs associated with the rehabilitation must be included in the cost of improvements.
- The owner of a home has been notified that the home is not safe to occupy because of violations of the electrical code provisions. Rather than perform only the required repairs, the owner decides to completely renovate the home and submits an application that shows all renovation costs, while excluding the costs associated with all of the electrical work (including replacing all wiring and fixtures, installing more outlets, upgrading the panel board, etc.). The plan reviewer should catch this discrepancy. The only costs that may be excluded are those that are necessary to correct the violation – which means the costs associated with the code violation must be determined before they can be excluded from the SI/SD determination. All other costs associated with the upgrade of the electrical work must be included.

4.5 Determining Market Value

For purposes of making SI/SD determinations, local officials need to determine the “market value” of structures in question. When work is an improvement, the market value is the building’s market value “before the ‘start of construction’ of the improvement.” When work is repair of substantial damage, the market value is the building’s market value “before the damage occurred.” If buildings have not been maintained and have deteriorated over time, then the market value is determined as of the date of the application for the permit to improve or repair the building.

The NFIP regulations do not define “market value.” Generally, market value can be explained as the amount an owner would be willing but not obliged to accept, and that a buyer would be willing but not compelled to pay. The term may be defined by State statutes that pertain to zoning, property taxation, or real estate transactions.

Before reviewing options to determine the market value of a structure, it is important to note two basic NFIP requirements:

- Market value must always be based on the condition of the structure before the improvement is undertaken or before the damage occurred.
- Only the market value of the structure is pertinent. The value of the land and site improvements (landscaping, driveway, detached accessory structures, etc.) and the value of the use and occupancy (business income) are not included. Any value associated with the location of the property should be attributed to the land, not the building.

Many communities require the permit applicant to obtain an appraisal of market value from a qualified professional who is licensed to perform appraisals in the State or community where the property is located (Section 4.5.1). In addition, three other methods to estimate market value are covered in this section:

- Assessed value developed for property tax assessment purposes, adjusted to approximate market value (Section 4.5.2)
- Estimates of a structure’s actual cash value, including depreciation (Section 4.5.3)
- “Qualified estimates” based on the professional judgment of a local official (Section 4.5.4)

Figure 4-3 illustrates the steps local officials need to take in order to determine market values. Additional guidance on estimating market value following disasters is provided in Chapter 7.

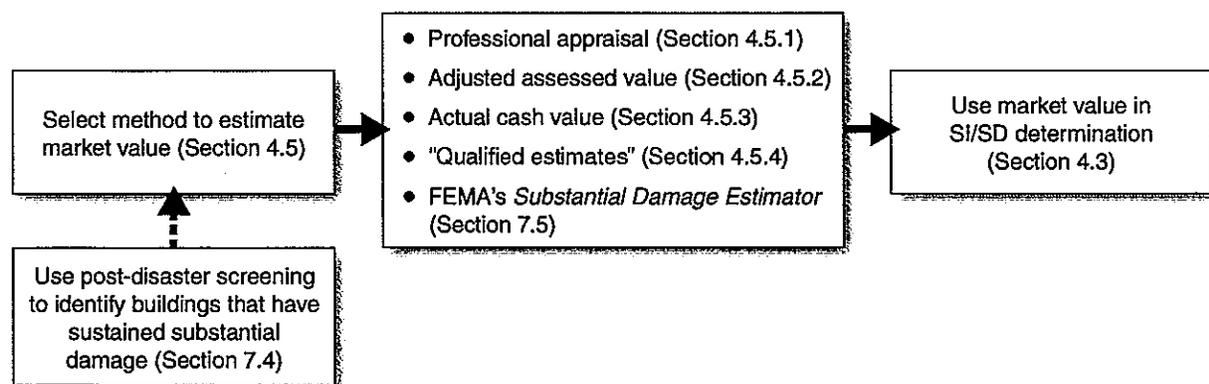


Figure 4-3. Determine the market value (overview)



FEMA

Accessory Structures

NFIP Policy Index

- Definition/Description
- NFIP Requirement
- Other Applicable NFIP Regulations
- Guidance
- Related Keywords
- Special Topic Resources
- Supplemental Information for Accessory Structures

Definition/Description

Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings. NFIP regulations for new construction generally apply to new and substantially improved accessory structures.

NFIP Requirement

- 59.1 - Definition
- 60.3 - Flood plain management criteria for flood-prone areas
 - (a) (3) - Reasonably Safe From Flooding
 - (c) (3) - A Zone Nonresidential Buildings
 - (c) (5) - Openings

Other Applicable NFIP Regulations

- 60.3 - Flood plain management criteria for flood-prone areas
 - (c) (8) - Zone AO Nonresidential Buildings
 - (c) (10) - Cumulative Effects of Development
 - (d) (3) - Floodway Encroachment
 - (e) (4) - V Zone Structures

Guidance

- IS-9 Managing Floodplain Development Through The National Flood Insurance Program (NFIP) (pages 5-41, 5-42) (PDF 8MB, TXT 1MB) (Entire Document)
- Technical Bulletin 7, Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas (FIA-TB-7)

Related Keywords

Anchoring
Appurtenant Structure
Development
Elevation
Garages
Lowest Floor
Permit for Floodplain Development
Substantial Improvement
Variance

Special Topic Resources

- Flood Resistant Materials
- Floodproofing
- V Zone Construction

Supplemental Information for Accessory Structures

Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. These accessory structures must be low value and not be used for human habitation. They must also meet the following requirements:

- 1: Accessory structures shall be designed to have low flood damage potential.
2. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
3. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
4. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.
5. Accessory structures shall have openings as required under 60.3(c)(5).
6. Floodway encroachment provision of 60.3 (d) (3) must be met.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Michael Roberts, CEP; PWS; Sr. Administrator/Environmental Resources

Date: February 24, 2012

Subject: AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN AMENDMENT TO CHAPTER 122 FLOODPLAIN REGULATIONS, CREATING SECTION 122-10 INCLUSION OF UNITED STATES FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND UNITED STATES FISH AND WILDLIFE SERVICE (FWS) REQUIREMENTS IN FINAL PERMIT DETERMINATIONS; PROVIDING FOR SEVERABILITY; DIRECTING THE DIRECTOR OF PLANNING TO FORWARD A COPY TO THE FLORIDA STATE LAND PLANNING AGENCY; PROVIDING FOR FILING WITH THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

Meeting: February 28, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of the Monroe County Floodplain Ordinance by adding §122-10 of the Monroe County Code
6 (MCC) in order to revise the regulations pertaining to the review of applications for
7 floodplain development permits to address the April 2010 U.S. Fish & Wildlife Services
8 Biological Opinion and the Reasonable & Prudent Alternatives (RPA's) related to the
9 Federal Emergency Management Agency's (FEMA) administration of the National Flood
10 Insurance Program in Monroe County.
11

12 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:
13

14 In 1997 the Service completed a Biological Opinion (BO) for the effects of the NFIP on
15 Federally protected species in the Florida Keys. The 1997 BO found the NFIP jeopardized
16 nine species in the Keys and then in 2003 the Service re-initiated consultation and amended
17 the 1997 BO and concluded that the effect of the NFIP would result in jeopardy on eight of
18 10 species evaluated in the BO. Then, a second amended complaint in 2003 was filed by the
19 plaintiffs against FEMA and the Service pursuant to the Endangered Species Act and the
20 Administrative Procedures Act. The plaintiffs won a Summary Judgement and on March 29,
21 2005 the United States District Court, Southern District of Florida (Court) issued an Order
22 ruling the Service and FEMA violated the Endangered Species Act and the Administrative
23 Procedures Act.
24

1 On September 9, 2005, the Court granted the plaintiffs' motion for an injunction against
2 FEMA issuing flood insurance on any new residential or commercial developments in
3 suitable habitats of federally listed species in the Keys. The Court also ordered the Service to
4 submit a new BO by August 9, 2006. The Service issued a new BO on August 8, 2006. On
5 April 1, 2008, FEMA and the Service filed an appeal with the United States Court of Appeals
6 for the Eleventh Circuit arguing that section 7(a)(2) of the Act did not apply to FEMA's
7 provision of flood insurance and that FEMA had fully complied with the Court's March 29,
8 2005, ruling. On February 26, 2009, the Court ordered the Service to submit a new BO by
9 March 31, 2010 and on March 28, 2010, the Court granted a 30 day extension of this
10 deadline. On April 1, 2009, the United States Court of Appeals for the Eleventh Circuit
11 affirmed the judgment of the District Court. On April 30, 2010, the Service published the
12 revised BO for FEMA's administration of the NFIP in Monroe County.
13

14 The BO contains Reasonable and Prudent Alternatives (RPA's) that require Monroe County
15 and other participating communities in the Florida Keys to revise their Flood Damage
16 Prevention Ordinance(s) to reference and use an updated real estate list (referenced in RPA
17 paragraph 1) within 120 days of acceptance of this BO by the Court. Then, on December 3,
18 2010 the Court filed a Settlement Agreement between the Plaintiffs and the Federal
19 Defendants in which the Federal Defendants agreed to notify the Court and the parties when
20 Monroe County and the other "participating communities" in the Florida Keys have: 1)
21 revised their Flood Damage Prevention Ordinance(s); and 2) implemented procedures to
22 reference and use the updated real estate list and Species Focus Area Maps (referenced in
23 reasonable and prudent alternative ("RPA") paragraph 1) in compliance with paragraphs 2, 3,
24 4, and 5 of the RPA.
25

26 On November 12, 2010 the Board of County Commissioners held a public workshop to
27 discuss the RPA's and directed the County Attorney to intervene in Court and directed the
28 County Administrator to task the lobbyists with this issue.
29

30 On February 16, 2011 the BOCC directed the County Attorney to file an appeal in the
31 matter of Florida Key Deer, National Wildlife Federation, et. Al. v. FEMA and USFWS.
32

33 On March 16, 2011, the BOCC authorized the County Attorney to file a motion for a Stay
34 and to obtain the services of Hogan Lovells to assist the County in the appeal process.
35

36 On December 2, 2011, FEMA notified Monroe County that if the County decides not to
37 implement the RPA's then Monroe County will be placed on probation.
38

39 To prevent the County from being placed on probation under the NFIP, the County staff is
40 recommending the Board of County Commissioners adopt Floodplain Regulations that
41 require property owners within suitable habitat of the 9 species in the BO, to consult with
42 FWS prior to the County accepting permit applications. The County is also requiring the
43 property owners to agree to the conditions placed on the property by FWS before any
44 property owner within the Focus Area can be permitted to apply for a Development Permit
45 within the County.
46

1 III REVIEW
2

3 The Growth Management Division, the County Attorney and the County’s outside Counsel
4 have been working closely with FEMA and the USFWS following the BOCC meeting of
5 March 16, 2011 to reach agreement on the implementation of the RPA’s and the language for
6 the required Ordinances.
7

8 FEMA provided a draft of items for adoption to Monroe County on June 15, 2011 and
9 provided further recommendations via e-mail on October 3, 2011 (Appendix I). These
10 Ordinance recommendations were developed by FEMA to meet the requirements of the
11 RPA’s and would require the County to make permit determinations based on the Species
12 Assessment Guides (SAGs), and in the event the impact limits of Table 18 were exceeded,
13 ultimately deny a building permit. The FWS provided draft SAG’s that would require
14 Monroe County to review each floodplain development permit application to determine if the
15 parcel was on the list of RE #s that are within the species focus areas or buffers, and to
16 confirm this by reviewing the Species Focus Area Maps provided by FEMA. If the parcel is
17 on the list, then Monroe County staff evaluates the application in accordance with the SAGs
18 and make the permit determination. In the event that the proposed development results in a
19 “may affect” determination, then the applicant is required to consult directly with the
20 USFWS, otherwise, Monroe County is authorized by the RPA’s to issue the building permit.
21

22 The Growth Management Division asserts that the responsibility of determining the potential
23 effects of proposed development on the covered species lies with the USFWS and not with
24 Monroe County.
25

26 Therefore, staff recommends the following addition to Section 122 Floodplain Mangement:
27

28 Sec. 122-10. Inclusion of United States Federal Emergency Management Agency
29 (FEMA) and United States Fish and Wildlife Service (FWS) Requirements in Final
30 Permit Determinations
31

32 (a) Purpose and intent. It is the purpose of Section 122-10 to implement regulations
33 that will assure, consistent with the 10th Amendment to the U.S. Constitution, state and
34 County regulations, proper record retention, coordination, and notification of FEMA and
35 FWS regarding permit applications filed with or issued by Monroe County, inclusive of
36 FEMA/FWS requirements agreed to by the applicant.
37

38 (b) Lands to which this Section apply. FEMA and FWS have provided the Species
39 Focus Area Maps (SFAMs) mailed to Monroe County and dated XX, 2011, and a listing
40 of real estate numbers of parcels (RE list) mailed to Monroe County and dated XX, 2011,
41 that are within the SFAMs and that have been identified by FWS. The FWS and FEMA
42 identified properties are hereby declared to be a part of these regulations. The SFAMs
43 and RE list are on file at the Monroe County Clerk’s office and the Monroe County
44 Growth Management Division Office.
45

1 (c) Rules for interpreting SFAMs. The boundaries of the flood hazard areas shown on
2 the FEMA SFAMs may be determined by scaling distances. Required interpretations of
3 those maps for precise locations of such boundaries shall be made by the County
4 Planning Director or his/her designee, in consultation with the building official.
5

6 (d) Administration of Development Approval in Species Focus Areas.
7

8 a. SFA Review Required. For parcels or lots shown within the SFAMs in
9 which an application for development permit has been made, if the SFAM
10 indicates the parcel or lot contains only unsuitable habitat for any of the following
11 species: Key Largo Cotton Mouse, Key Largo woodrat, Key tree-cactus, Lower
12 Keys marsh rabbit, Eastern indigo snake, Key deer, Schaus swallowtail butterfly,
13 silver rice rat, and Stock Island tree snail, and the parcel or lot is not listed on the
14 RE list, the Planning Director or his/her designee shall provide for a notation in
15 the development application permit files that indicates:

- 16 i. The name of the official that made the determination;
- 17
- 18 ii. The date of the determination;
- 19
- 20 iii. The date of the SFAM and RE list used to make the determination.
21

22 Once the determination has been made that a parcel or lot contains unsuitable habitat,
23 action may be taken on the permit application by Monroe County staff.
24

25 b. FWS Approval . For parcels or lots shown within the SFAMs in which an
26 application for development permit has been made, if the SFAM indicates the
27 parcel or lot contains suitable habitat for any of the following species: Key Largo
28 Cotton Mouse, Key Largo woodrat, Key tree-cactus, Lower Keys marsh rabbit,
29 Eastern indigo snake, Key deer, Schaus swallowtail butterfly, silver rice rat,
30 and/or Stock Island tree snail, and the parcel or lot is listed on the RE list, the
31 Planning Director or his/her designee shall require property owners to apply to
32 FWS for any FWS required approval or FWS building conditions prior to issuing
33 any development approval and shall require the following:
34

- 35 i. Property owners shall request FWS review prior to applying for
36 any Monroe County permit for new development.
37
- 38 ii. Once the property owner has received from the FWS a letter
39 stating the results of the FWS review, the letter shall be submitted to the
40 County, accompanied by a County form for a Monroe County Permit.
41
- 42 iii. Based on the requirements contained in the FWS letter, the County
43 shall require the owner of the property to sign a form acknowledging
44 agreement to the FWS conditions and the County shall maintain the
45 acknowledgement form in the permit file.
46

1 iv. The County shall, based on the acknowledgement form from the
2 property owner, incorporate the FWS letter conditions into any final
3 Monroe County development permit.

4
5 v. If the property owner does not agree to the FWS conditions, the
6 County shall not accept the application for development permit.

7
8 c. Enforcement. Violation of this section, including any development
9 constructed not in accordance with the owner acknowledged FWS conditions, are
10 hereby deemed to be violations of the County Code and may be enforced as
11 follows:

12
13 i. The County may utilize the administrative enforcement procedures
14 set forth in Chapter 8, Monroe County Code of Ordinances;

15
16 ii. The County's Growth Management Director may make a formal
17 complaint to the U.S. FWS Office of Law Enforcement;

18
19 iii. The County may file an action in a court of competent jurisdiction
20 seeking damages as well as injunctive and/or equitable relief; and/or

21
22 iv. Knowing violations of this section may be prosecuted in the same
23 manner as misdemeanors are prosecuted in the name of the State in a court
24 having jurisdiction of misdemeanors by the prosecuting attorney thereof
25 and upon conviction shall be punished by a fine not to exceed \$500 and/or
26 imprisonment in the county jail not to exceed 60 days. Each day a
27 violation exists shall constitute a separate offense.

28
29 Section 2. Severability language to be inserted

30
31 Section 3. Effective date language to be inserted

32
33 IV RECOMMENDATION

34
35 Staff has found that the proposed text amendment would be consistent with the provisions of
36 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
37 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
38 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
39 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
40 additional detail or comprehensiveness; or 6. Data updates.

41
42 Specifically, staff has found that the proposed text amendments are necessary due to new
43 issues associated with FEMA's administration of the NFIP.

44
45 Staff recommends that the Board of County Commissioners amend the Monroe County Code
46 as stated in the text of this staff report.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Mitchell N. Harvey, AICP, Comprehensive Planning Manager

Date: February 22, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-27 AND 138-54 PRECLUDING THE GRANTING OF ADMINISTRATIVE RELIEF IN THE FORM OF THE ISSUANCE OF A BUILDING PERMIT FOR LANDS WITHIN THE FLORIDA FOREVER TARGETED ACQUISITION OR TIER I LANDS AREAS UNLESS, AFTER 60 DAYS FROM THE RECEIPT OF A COMPLETE APPLICATION FOR ADMINISTRATIVE RELIEF, IT HAS BEEN DETERMINED THE PARCEL CANNOT BE PURCHASED FOR CONSERVATION PURPOSES BY ANY COUNTY, STATE OR FEDERAL AGENCY OR ANY PRIVATE ENTITY; AND THE COUNTY SHALL ROUTINELY NOTIFY DEPARTMENT OF ENVIRONMENTAL PROTECTION OF UPCOMING ADMINISTRATIVE RELIEF REQUESTS AT LEAST 6 MONTHS PRIOR TO THE DEADLINE FOR ADMINISTRATIVE RELIEF; AMENDING PROCEDURES AND DELETING OBSOLETE PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMISSION TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: February 28, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing an amendment to the text
5 of Monroe County Code (MCC) §138-27 and 138-54 to preclude the granting of
6 administrative relief in the form of the issuance of a building permit for lands within the
7 Florida Forever targeted acquisition or Tier I lands areas unless, after 60 days from the
8 receipt of a complete application for administrative relief, it has been determined the parcel
9 cannot be purchased for conservation purposes by any county, state or federal agency or any
10 private entity. The County shall also routinely notify the Florida Department of

1 Environmental Protection of upcoming administrative relief requests at least 6 months prior
2 to the deadline for administrative relief.
3

4 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION 5

6 Draft Rule 28-20.140, F.A.C., included a Work Program task requiring Monroe County to
7 “adopt a comprehensive plan policy to require that administrative relief in the form of the
8 issuance of a building permit is not allowed for lands within the Florida Forever targeted
9 acquisition or Tier I lands areas unless, after 60 days from the receipt of a complete
10 application for administrative relief, it has been determined the parcel will not be purchased
11 for conservation purposes by any county, state or federal agency or any private entity. The
12 County shall routinely notify Department of Environmental Protection of upcoming
13 administrative relief requests at least 6 months prior to the deadline for administrative relief.”
14

15 Pursuant to Draft Rule 28-20.140, F.A.C., the Monroe County Year 2010 Comprehensive
16 Plan was amended by the Board of County Commissioners to create Policy 101.6.6. The
17 following Policy 101.6.6 was adopted by the BOCC on October 22, 2009, which became
18 effective on December 31, 2009, pursuant to a Florida Department of Community Affairs
19 Notice of Intent to find Monroe County Comprehensive Plan Amendment 09-2 In-
20 Compliance, Docket No. 09-2-NOI-4401-(A)-(I), dated December 10, 2009.
21

22 *Policy 101.6.6: Monroe County shall preclude the granting of administrative relief in*
23 *the form of the issuance of a building permit for lands within the Florida Forever*
24 *targeted acquisition or Tier I lands areas unless, after 60 days from the receipt of a*
25 *complete application for administrative relief, it has been determined the parcel*
26 *cannot be purchased for conservation purposes by any county, state or federal*
27 *agency or any private entity. The County shall routinely notify Department of*
28 *Environmental Protection of upcoming administrative relief requests at least 6*
29 *months prior to the deadline for administrative relief.*
30

31 Rule 28-20.140, F.A.C. was subsequently revised and approved by the Florida
32 Administration Commission, adopted by the Florida Legislature on April 1, 2011, and
33 became effective on July 1, 2011. Rule 28-20.140(5)(a)8, F.A.C. includes a Work Program
34 task which states:
35

36 *By July 1, 2012, Monroe County shall adopt Land Development Regulations to*
37 *require that administrative relief in the form of the issuance of a building permit is*
38 *not allowed for lands within the Florida Forever targeted acquisition areas or Tier I*
39 *lands unless, after 60 days from the receipt of a complete application for*
40 *administrative relief, it has been determined the parcel will not be purchased by any*
41 *county, state, federal or any private entity. The County shall develop a mechanism to*
42 *routinely notify the Department of Environmental Protection of upcoming*
43 *administrative relief requests at least 6 months prior to the deadline for*
44 *administrative relief.*
45

1 Rule 28-20.140, F.A.C. implements Section 380.0552(4) of the Florida Statutes. The Rule
2 requires Monroe County to report annually to the Administration Commission describing its
3 progress in completing the remaining work program tasks, including the task described
4 above. If Work Program tasks are not completed, the Administration Commission may
5 recommend that the unit cap for residential development be reduced by 20 percent for the
6 following ROGO year.

7
8 The proposed amendment to the Monroe County Land Development Code implements Rule
9 28-20.140(5)(a)8, F.A.C., within the timeframe specified by the Rule, and Comprehensive
10 Plan Policy 101.6.6. The amendment is intended to implement the Carrying Capacity Report
11 (as specified in the Rule) and provide another opportunity to coordinate and evaluate lands
12 with sensitive habitat and targeted for acquisition.

13 14 III REVIEW

15
16 The following proposed amendment to Monroe County Code Sections 138-27 and 138-54
17 will serve as the corresponding Land Development Code which implements Policy 101.6.6 of
18 the Monroe County 2010 Comprehensive Plan and Rule 28-20-140(5)(a)8, F.A.C. Staff
19 recommends the following changes (Deletions are ~~stricken through~~ and additions are
20 underlined. Text to remain the same is black):

21 22 **Sec. 138-27. Administrative Relief (ROGO).**

23 (a) Eligibility. An applicant for an allocation award is eligible for administrative relief if:

- 24 (1) The application complies with all requirements of the dwelling unit allocation
25 system;
26 (2) The application was considered in the first 16 consecutive quarterly allocation
27 periods; and
28 (3) The applicant has not received an allocation award.

29
30 (b) Notification of eligibility. Within 30 days of the finalization of evaluation rankings by
31 the planning commission, any applicant determined to be eligible for administrative relief
32 pursuant to subsection (a) of this section shall be notified of the applicant's eligibility for
33 administrative relief by certified mail, return receipt requested.

34
35 (c) Application. An application for administrative relief shall be made on a form prescribed
36 by the ~~director of~~ planning director and may be filed with the planning and environmental
37 resources department no earlier than the conclusion of the 16th quarterly allocation period
38 and no later than 180 days following the close of the 16th quarterly allocation period.

39
40 (d) Monroe County shall preclude the granting of administrative relief in the form of the
41 issuance of a building permit for lands within the Florida Forever targeted acquisition or
42 Tier I lands areas unless, after 60 days from the receipt of a complete application for
43 administrative relief, it has been determined the parcel cannot be purchased for
44 conservation purposes by any county, state or federal agency or any private entity. The
45 County shall routinely notify State of Department of Environmental Protection of

1 upcoming administrative relief requests at least 6 months prior to the deadline for
2 administrative relief.

3
4 ~~(d)~~ (e) Forwarding application to board of county commissioners. Upon the filing of an
5 application for administrative relief, the director of planning shall forward to the board all
6 relevant files and records relating to the subject applications. Failure to file an application
7 shall constitute a waiver of any rights under this section to assert that the subject property
8 has been taken by the county without payment of just compensation as a result of the
9 dwelling unit allocation system.

10
11 ~~(e)~~ (f) Public hearing. Upon receipt of an application for administrative relief, the board
12 shall notice and hold a public hearing at which the applicant will be given an opportunity to
13 be heard. The board may review the relevant applications and applicable evaluation
14 ranking, taking testimony from county staff and others as may be necessary and hear
15 testimony and review documentary evidence submitted by the applicant.

16
17 ~~(f)~~ (g) Board's of county commissioner's action. At the conclusion of the public hearing,
18 the board of county commissioners may take any or a combination of the following actions:

19 (1) Offer to purchase the property at its fair market value as its preferred action if the
20 property is located within:

- 21 a. A designated tier I area;
22 b. A designated tier II area (Big Pine Key and No Name Key);
23 c. A designated tier III-A area (special protection area); or
24 d. A designated tier III area on a nonwaterfront lot suitable for affordable
25 housing.

26 (2) Grant the applicant an allocation award for all or a number of dwelling units
27 requested in the next succeeding quarterly allocation period or extended pro rata over
28 several succeeding quarterly allocation periods as the preferred action for buildable
29 properties not meeting any of the criteria in subsection (f)(1) of this section.

30 (3) Suggest or provide such other relief as may be necessary and appropriate.

31
32 ~~(g)~~ (h) Limits on administrative allocations per quarter. The number of allocations that
33 may be awarded under administrative relief in any one quarter shall be no more than 50
34 percent of the total available market rate allocations available in a quarter for that subarea.
35 Any allocations in excess of 50 percent shall be extended into the succeeding quarter or
36 quarters until the number of such allocations is 50 percent or less of the total number of
37 market rate allocations available to be awarded.

38
39 **Sec. 138-54. Administrative Relief (NROGO).**

40
41 (a) Eligibility. An applicant is eligible for administrative relief under the provisions of this
42 section if all the following criteria are met:

- 43 (1) The applicant has complied with all requirements of the nonresidential permit
44 allocation system;
45 (2) The subject application has not been withdrawn; and
46 (3) The subject application has been considered in the first four consecutive
47 annual allocation periods and has failed to receive an allocation award.

1
2 (b) Application. An application for administrative relief shall be made on a form prescribed
3 by the ~~director of~~ planning director and may be filed with the planning and environmental
4 resources department no earlier than the conclusion of the fourth allocation period and no
5 later than 120 days following the close of the fourth annual allocation period.
6

7 (c) Waiver of rights. Failure to file an application shall constitute a waiver of any rights
8 under this section to assert that the subject property has been taken by the county without
9 payment of just compensation as a result of the nonresidential floor area allocation system.
10

11 (d) Monroe County shall preclude the granting of administrative relief in the form of the
12 issuance of a building permit for lands within the Florida Forever targeted acquisition or
13 Tier I lands areas unless, after 60 days from the receipt of a complete application for
14 administrative relief, it has been determined the parcel cannot be purchased for
15 conservation purposes by any county, state or federal agency or any private entity. The
16 County shall routinely notify State of Florida Department of Environmental Protection of
17 upcoming administrative relief requests at least 6 months prior to the deadline for
18 administrative relief.
19

20 ~~(d)~~ (e) Processing and review by planning director. Upon the filing of an application for
21 administrative relief, the director of planning shall prepare a written report with
22 recommendation and forward the report to the board of county commissioners along with
23 all relevant files and records relating to the subject application. The planning director shall
24 advertise and schedule a public hearing for consideration of the application by the board of
25 county commissioners.
26

27 ~~(e)~~ (f) Public hearing. At a public hearing, the board of county commissioners may review
28 the relevant application and application evaluation ranking, taking testimony from county
29 staff and others as may be necessary and review documentary evidence submitted by the
30 applicant.
31

32 ~~(f)~~ (g) Board of county commissioners action. At the conclusion of the public hearing, the
33 board of county commissioners may take any or a combination of the following actions:

- 34 (1) Offer to purchase the property at fair market value as the preferred action if the
35 property is location within:
36 a. A designated tier I area;
37 b. A designated tier II area (Big Pine Key and No Name Key);
38 c. A designated tier III-A area (special protection area); or
39 d. A designated tier III area on a nonwaterfront lot suitable for affordable
40 housing.
41 (2) Grant the applicant an allocation award for all or part of the nonresidential floor area
42 requested in the next allocation award as the preferred option for buildable properties not
43 meeting the criteria in subsection (f)(1) of this section.
44 (3) Suggest such other relief as may be necessary and appropriate.
45
46

1 IV RECOMMENDATION

2
3 Staff has found that the proposed text amendment is consistent with the provisions of MCC
4 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
5 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
6 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
7 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
8 additional detail or comprehensiveness; or 6. Data updates.
9

10
11 Staff has found that the proposed text amendments are necessary due to new issues (§102-
12 158(d)(5)(b)4.) resulting from the adoption of Rule 28-20.140, F.A.C., which established the
13 new Monroe County Work Program to implement and further the Florida Keys Area of
14 Critical State Concern designation (Section 380, F.S.).
15

16 Staff recommends that the Board of County Commissioners amend the Monroe County Code
17 as stated in the text of the staff report.
18

19 V EXHIBITS

- 20
21 A. BOCC Ordinance No, 034-2009
22 B. Notice of Intent for Amendment 09-02
23 C. Rule 28-20.140, Florida Administrative Code
24 D. Draft BOCC Ordinance to Amend the Monroe County Code



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Planning & Development Review Manager

Date: February 17, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-121, AIR INSTALLATION COMPATIBLE USE ZONES OVERLAY (AICUZ), TO REVISE THE REGULATIONS PERTAINING TO MILITARY AIRPORTS AND THE REFERENCED AICUZ MAP FIGURES, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: February 28, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §130-121 of the Monroe County Code (MCC) in order to revise the regulations pertaining
6 to military airports by removing the "1977" AICUZ map and matrix, which are provided as
7 figures, and those regulations associated with the "1977" AICUZ map.
8

9 II RELEVANT PRIOR COUNTY ACTIONS:
10

11 On February 15, 1977, the Department of the Navy approved the AICUZ plan for Naval Air
12 Station Key West (NAS-KW).
13

14 On July 5, 1989 the BOCC adopted Ordinance #019-1989 establishing the AICUZ
15 requirements in MCC §9.5-252.
16

17 On July 15, 2003, the BOCC adopted Ordinance #031-2003, which established MCC §9.5-
18 258 (later renumbered to MCC §9.5-260 and then to MCC §130-121) to specify restrictions
19 on private property adjacent to Naval Air Station Key West (NAS-KW) within an overlay
20 district section, as opposed to within MCC §9.5-252 which pertained to the Airport (A) Land
21 Use District.
22

23 At their December 14, 2011 meeting, the BOCC passed Resolution #441-2011 to transmit a
24 Comprehensive Plan text amendment to the State of Florida Department of Economic

1 Opportunity (DEO) addressing the compatibility of lands adjacent to or closely proximate to
2 military installations (find attached).
3

4 At their December 14, 2011 meeting, the BOCC passed Resolution #442-2011 to transmit a
5 Future Land Use Map (FLUM) amendment to the DEO creating an overlay to the FLUM
6 series that established a military installation area of impact (find attached).
7

8 III REVIEW

9

10 If the text amendment provided in Resolution #441-2011 and the FLUM overlay provided in
11 Resolution #442-2011 are ultimately approved, the Land Development Code must be updated
12 to be consistent with the superseding Comprehensive Plan.
13

14 The regulations within MCC §130-121 that pertain to the previously adopted (by reference)
15 “1977” AICUZ map and matrix, which are provided as figures, would become obsolete upon
16 approval of the aforementioned Comprehensive Plan amendments. Although the
17 amendments set forth in Resolutions #441-2011 and # 442-2011 have only been transmitted
18 to DEO and are yet to be adopted, staff has opted to begin the process of amending the Land
19 Development Code so that the Land Development Code amendments may be adopted at the
20 same BOCC meeting as the Comprehensive Plan amendments.
21

22 Therefore, staff recommends the following changes (Deletions are ~~stricken-through~~ and
23 additions are underlined. Text to remain the same is in black):
24

25 **Sec. 130-121. Air installation compatible use zones overlay (AICUZ).**

26

27 (a) *Generally*. This district provides classifications of property for existing or future
28 military airports and regulates uses around, adjacent, and in the approach zones of
29 military airports in order to:

- 30 (1) Establish the control of obstructions and construction of structures affecting
31 navigable airspace in accordance with criteria delineated in volume XI, part 77 in
32 Federal Aviation Regulations, Florida Department of Transportation regulations,
33 and this section; and
34 (2) Protect military airports against encroachment, to implement appropriate noise
35 abatement strategies, and regulate development and reduce public exposure of
36 community activities, which are not compatible with military airport operations.
37

38 ~~(b) *Restrictions for military airports*. Privately owned property adjacent to the Naval Air
39 Station, Boca Chica, also known as NAS Key West, shall be developed in accordance
40 with the map prepared by the U.S. Navy known as figure A or as updated by the U.S.
41 Navy. This map was prepared in conjunction with the United States Navy's Air
42 Installation Compatible Use Zone Study (AICUZ). A true copy of figure A is attached
43 hereto and made a part of this subsection.~~

- 44 ~~(1) The land use objectives set forth in figure A and the accompanying land use
45 objectives matrix set forth in figure B were determined by evaluating the airport
46 operations at NAS Key West, in terms of composite noise rating (CNR) zones and~~

1 accident potential zones (APZ). A copy of figure B is attached hereto and made a
2 part of this subsection.

- 3 ~~(2) The land use objective shown in figure A and figure B shall be used in~~
4 ~~determining the allowable land uses for the various AICUZ. Each land use~~
5 ~~category was evaluated in terms of compatibility for each land use in terms of~~
6 ~~density of population, density of structures, explosion hazards, air pollution height~~
7 ~~obstructions, accident potential zones, and composite noise rating zones. The~~
8 ~~evaluation resulted in ratings of:~~
9 ~~a. No new development;~~
10 ~~b. Restricted new development; and~~
11 ~~e. No restrictions.~~
12 ~~(3) Land use categories were rated as "restricted new development" if any activity~~
13 ~~within the category were classified as incompatible. The various AICUZ are~~
14 ~~coded as follows:~~
15 ~~a. A: Accident potential zone A (APZ-A), the most critical accident potential~~
16 ~~zone;~~
17 ~~b. B3: Accident potential zone B (APZ-B), the area that has an identifiable~~
18 ~~accident potential but less than APZ-A, high noise impact, CNR zone 3;~~
19 ~~e. B2: Accident potential zone B (APZ-B) the area has an identifiable accident~~
20 ~~potential but less than APZ-A, moderate noise impact, CNR zone 2;~~
21 ~~d. C3: Accident potential zone C (APZ-C), the area that is less critical than APZ-~~
22 ~~B but still may possess potential for accidents; high noise impact, CNR zone~~
23 ~~3;~~
24 ~~e. C2: Accident potential zone C, moderate noise impact, CNR zone 2;~~
25 ~~f. C1: Accident potential zone C, low noise impact, CNR zone 1;~~
26 ~~g. C3: No accident potential zone; high noise impact, CNR zone 3; and~~
27 ~~h. C2: No accident potential zone, moderate noise impact, CNR zone 2.~~

28 29 IV RECOMMENDATION

30
31 Staff has found that the proposed text amendment would be consistent with the provisions of
32 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
33 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
34 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
35 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
36 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
37 the proposed text amendments are necessary due to new issues and a recognition of a need
38 for additional detail or comprehensiveness.

39
40 Staff recommends that the Board of County Commissioners amend the Monroe County Code
41 as stated in the text of this staff report.



MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 441 - 2011

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADDRESSING THE COMPATIBILITY OF LANDS ADJACENT TO OR CLOSELY PROXIMATE TO MILITARY INSTALLATIONS IN THE FUTURE LAND USE ELEMENT IN THE 2010 MONROE COUNTY COMPREHENSIVE PLAN BY CREATING GOAL 108, OBJECTIVE 108.1, POLICY 108.1.1, POLICY 108.1.2, POLICY 108.1.3, POLICY 108.1.4., POLICY 108.1.5, POLICY 108.1.6, POLICY 108.1.7, OBJECTIVE 108.2, POLICY 108.2.1, POLICY 108.2.2, POLICY 108.2.3, POLICY 108.2.4, POLICY 108.2.5, POLICY 108.2.6, POLICY 108.2.7, AND POLICY 108.2.8.

WHEREAS, the Monroe County Board of County Commissioners conducted a public hearing for the purpose of considering the transmittal to the State Land Planning Agency a proposed amendment to the Monroe County 2010 Comprehensive Plan addressing the compatibility of lands adjacent to or closely proximate to military installations in the Future Land Use Element by creating Goal 108, Objective 108.1, Policy 108.1.1, Policy 108.1.2, Policy 108.1.3, Policy 108.1.4., Policy 108.1.5, Policy 108.1.6, Objective 108.2, Policy 108.2.1, Policy 108.2.2, Policy 108.2.3, Policy 108.2.4, Policy 108.2.5, Policy 108.2.6, Policy 108.2.7, and Policy 108.2.8; and

WHEREAS, the Monroe County Planning Commission and the Monroe County Board of County Commissioners support the requested text amendment;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1: The Board of County Commissioners does hereby adopt the recommendation of the Planning Commission to transmit the draft ordinance for adoption of the proposed text amendment.

Section 2: The Board of County Commissioners does hereby transmit the proposed amendment to the State Land Planning Agency for review and comment in accordance with the State Coordinated Review process pursuant to Section 163.3184(4), Florida Statutes.

Section 3. The Monroe County staff is given authority to prepare and submit the required transmittal letter and supporting documents for the proposed amendment in accordance with the requirements of Rule 9J-11.006, Florida Administrative Code.

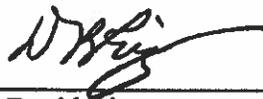
Section 4. The Clerk of the Board is hereby directed to forward a certified copy of this resolution to the Director of Planning.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 14th day of December, 2011.

Mayor David Rice	<u>Yes</u>
Mayor <i>pro tem</i> Kim Wigington	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY



Mayor David Rice



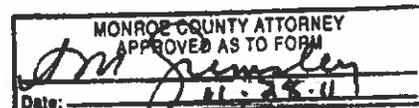
(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK



DEPUTY CLERK

FILED FOR RECORD
2012 JAN -5 PM 2:23





ORDINANCE NO. _____-2012

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADDRESSING THE COMPATIBILITY OF LANDS ADJACENT TO OR CLOSELY PROXIMATE TO MILITARY INSTALLATIONS IN THE FUTURE LAND USE ELEMENT IN THE 2010 MONROE COUNTY COMPREHENSIVE PLAN; CREATING GOAL 108, OBJECTIVE 108.1, POLICY 108.1.1, POLICY 108.1.2, POLICY 108.1.3, POLICY 108.1.4., POLICY 108.1.5, POLICY 108.1.6, POLICY 108.1.7, OBJECTIVE 108.2, POLICY 108.2.1, POLICY 108.2.2, POLICY 108.2.3, POLICY 108.2.4, POLICY 108.2.5, POLICY 108.2.6, POLICY 108.2.7, AND POLICY 108.2.8; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

WHEREAS, Sections 163.3175, and 163.3177, Florida Statute (F.S.), require local governments to address compatibility of development with military installations and require the exchange of information between local governments and military installations;

WHEREAS, Sections 163.3175, and 163.3177, F.S., require the adoption of criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations within the future land use plan element by June 30, 2012. A local government that does not address compatibility of land proximate to an existing military installation in the future land use plan element by June 30, 2012, shall enter into mediation. Mediation would include representatives from the Naval Air Station Key West, Monroe County, the State Land Planning Agency, the South Florida Regional Planning Council, and potentially other private land owners.

WHEREAS, if a local government comprehensive plan does not contain criteria addressing compatibility by December 31, 2013, the State Land Planning Agency may notify the Administration Commission, which may impose sanctions pursuant to Section 163.3184(8), F.S., including the direction to state agencies to not provide funds to increase the capacity of roads, bridges, or water and sewer systems for those local governments with plan amendments determined not to be in compliance. The Administration Commission may also specify that the local government is not eligible for grants under the following programs: Florida Small Cities Community Development Block Grant Programs; Florida Recreation Development Assistance Program; and revenue sharing. If the local government has a Coastal Management Element, the

Administration Commission may also specify that the local government is not eligible for funding pursuant to s.161.091, F.S., regarding beach management and maintenance funding; and

WHEREAS, County staff, in conjunction with representatives of Naval Air Station Key West have collaborated on various policies and standards to address military compatibility within the Monroe County 2010 Comprehensive Plan; and

WHEREAS, on the October 19, 2011 Board of County Commissioners (BOCC) meeting, the BOCC directed Monroe County staff to process the proposed amendments; and

WHEREAS, the Monroe County Development Review Committee considered the proposed amendment at a regularly scheduled meeting held on the 17th day of October, 2011; and

WHEREAS, at a regularly scheduled meeting held on the 1st day of December, 2011, the Monroe County Planning Commission held a public hearing for the purpose of considering the transmittal to the State Land Planning Agency of a proposed amendment to the Monroe County Year 2010 Comprehensive Plan and recommended approval of the amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The Monroe County 2010 Comprehensive Plan is amended as follows: (Deletions are ~~stricken through~~ and additions are underlined.)

Goal 108

Monroe County shall promote and encourage the compatibility of lands adjacent to or closely proximate to the Boca Chica airfield of Naval Air Station Key West (NASKW) pursuant to Sections 163.3175 and 163.3177, Florida Statutes.

Objective 108.1

Naval Air Station Key West and Monroe County shall exchange information to encourage effective communication and coordination concerning compatible land uses as defined herein.

Policy 108.1.1

Monroe County shall transmit to the commanding officer of Naval Air Station Key West information relating to proposed changes to comprehensive plans, plan amendments, Future Land Use Map amendments and proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the Naval Air Station Key West (within the Military Installation Area of Impact (MIAI)). Pursuant to statutory requirements, Monroe County shall also transmit to the commanding officer copies of applications for development orders requesting a variance or waiver from height requirements within areas defined in Monroe County's comprehensive plan as being in the MIAI. Monroe County shall

provide the military installation an opportunity to review and comment on the proposed changes.

Policy 108.1.2

Monroe County shall coordinate with Naval Air Station Key West and the Department of Economic Opportunity to review Best Practices and provide guidance on recommended sound attenuation options to be identified in development orders for optional implementation in new construction and redevelopment of existing structures in areas located within the MIAI. The list of recommended sound attenuation options may be based on the level of noise exposure, level of sound protection, and the type of residential construction or manufactured housing that is proposed. Monroe County and the Naval Air Station Key West will coordinate with the Department of Economic Opportunity to identify state and federal housing programs, and to develop informational literature to inform qualified homeowners of the availability of potential funds for sound attenuation.

Policy 108.1.3

Within 30 days from the date of receipt from Monroe County of proposed changes, the Naval Air Station Key West commanding officer or his or her designee may provide comments to Monroe County on the impact proposed changes may have on the mission of the military installation. Monroe County shall forward a copy of any comments regarding comprehensive plan amendments to the state land planning agency. The commanding officer's comments, underlying studies, and reports shall not be binding on Monroe County. Monroe County shall take into consideration any comments provided by the Naval Air Station Key West commanding officer or his or her designee and shall also be sensitive to private property rights and not be unduly restrictive on those rights.

Policy 108.1.4

Monroe County shall include a representative of Naval Air Station Key West as an ex officio, nonvoting member of Monroe County's Planning Commission. The NASKW ex officio member represents all military interests in Monroe County.

Policy 108.1.5

Monroe County shall notify the Naval Air Station Key West commanding officer or his or her designee of any development proposals that are scheduled for the Development Review Committee (DRC) at the earliest date possible. NASKW may provide comments on proposals to the DRC.

Policy 108.1.6

The Navy is undertaking an Environmental Impact Statement (EIS) to evaluate alternatives for future airfield operations at Naval Air Station Key West. Monroe County shall work closely with the Navy throughout the process of the EIS and shall discourage the Navy from increasing its operations at NASKW that negatively impact the surrounding community.

Policy 108.1.7

Monroe County will encourage the Navy to acquire all land it is are impacting with its operations and noise within any geographic area with 80+ Day-Night Average Sound Level (DNL).

Objective 108.2

Monroe County shall consider the protection of public health, safety and welfare as a principal objective of compatible land use planning on lands adjacent to or closely proximate to the Boca Chica airfield of NASKW.

Policy 108.2.1

Monroe County shall adopt an overlay to the Future Land Use Map Series identifying the Military Installation Area of Impact (MIAI); within which growth management policies shall guide land use activities and uses in areas exposed to impacts generated by Navy operations.

Policy 108.2.2

Density and intensity standards and land uses established by the Future Land Use Element and Future Land Use Map (insert DATE) for properties located within the MIAI overlay shall be recognized and allowed to develop to the maximum development potential pursuant to the standards existing on (insert DATE).

Policy 108.2.3

Monroe County and Naval Air Station Key West (NASKW) recognize the existing density and intensity, as of DATE, established by the Future Land Use Element and Future Land Use Map for property adjacent to or closely proximate to NASKW. NASKW has indicated that they will not object to the issuance of development orders, within the MIAI, if properties have development rights on Future Land Use Map, Land Use District (Zoning) Map, approved development agreements or Section 380.032, F.S., agreements with the State Land Planning Agency. NASKW may provide comments and suggest measures to mitigate potential impacts.

Policy 108.2.4

Existing development located within the MIAI overlay shall be recognized and allowed to redevelop. Further, the property's established density and intensity standards and land uses provided by the Future Land Use Element and Future Land Use Map shall be recognized and allowed to redevelop to the maximum development potential pursuant to the standards existing on (insert DATE).

Policy 108.2.5

Monroe County will maintain the Future Land Use Map (FLUM) designations, for any application received after (insert effective DATE), for properties located within the MIAI overlay. FLUM amendments that increase density or intensity within the MIAI overlay received after (insert effective DATE), are not permitted unless Monroe County transmits the requested FLUM amendment to NASKW, pursuant to Policy 108.1.1.

Monroe County may consider Future land Use Map amendments that increase density or intensity within the MIAI overlay, if the property owner submits a scientific study, utilizing option (1) or (2) below, to show that the subject property is not within a noise zone or land use incompatibility area based on the uses proposed, based upon a resolution adopted by the Board of County Commissioners (BOCC).

The NASKW commanding officer or his or her designee may provide comments, within 30 days, to Monroe County on the proposed removal from the MIAI requirements.

1) The scientific study shall be conducted in accordance with professionally accepted methodology and should be conducted in accordance with the following minimum recommended standards to ensure that the parcel is not within the MIAI because the noise level is <65 DNL:

- Conduct 10 random (representative) 24 hour measurement surveys
 - Measurements shall be conducted on days when there are active training operations for fixed wing and rotary wing aircraft typically deployed to NASKW for varying durations.
 - In order to assure "average" conditions over the 10 days, it is required that data be acquired for each direction of airport operation in proportion to the proper (annual) percent for the typical aircraft deployed at NASKW.
 - Ten (10) representative days is a requirement for estimating the yearly average DNL.
 - A sample of 10 days provides an estimate of the actual yearly DNL (Day-Night Average Sound Level), accurate to within 1 decibel (dB), with 90 percent confidence.
 - Typically deployed is defined based on an inventory of the type of aircraft in operation at NASKW during the preceding year, with the frequency of those types being agreed to by County staff prior to the study being conducted.

2) Alternatively, any property owner may submit, with a requested FLUM amendment, a noise study that was modeled using the Integrated Noise Model which has been adopted by the FAA as the standard model used for Part 150 studies or NOISEMAP which is used by the Department of Defense for modeling military aircraft noise for Air Installation Compatible Use Zone.

The Board may condition a granting of a resolution on a waiver of liability against or indemnification of the County by the requesting property owner for any cause of action or claim based upon the current or future uses and operations at NASKW.

Policy 108.2.6

For any application received after (insert effective DATE), within the MIAI overlay, Monroe County will not approve NEW land uses, as demonstrated on the MIAI Land Use Table (permitted uses shown in Column #2), through a Future Land Use Map, Text, overlay or LUD map amendment.

The MIAI Land Use Table provides the Future Land Use Map (FLUM) Categories (Column 1) as of DATE and includes the permitted uses (Column 2), allocated density per acre (Column 3), maximum net density per buildable acre (Column 4), the floor area ratio (Column 5), and corresponding zoning category (Column 6) within each FLUM category located within the MIAI boundary. Further the MIAI Land Use Table provides land uses located within the 65-69 DNL Noise Zone 2 and NASKW's suggested land use compatibility within this noise zone. The table includes land uses allowed (Column 7), land uses allowed with restrictions (Column 8), land uses that are generally incompatible but allowed with exceptions (Column 9) and the land uses that are not compatible and should be prohibited. Column 11 provides notes associated with Columns 7, 8, 9 and 10 and indicates that additional land uses may be permitted based upon existing (as of Date) provisions adopted within the Comprehensive Plan (reference the MIAI Land Use Table attached as Exhibit 1).

Policy 108.2.7

Nonresidential land uses expressly allowed within the residential Future Land Use Categories (see Column 11 MIAI Land Use Table) as land uses permitted in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996, shall be recognized through a "Letter of Development Rights Determination" process and transmitted to the State Land Planning Agency.

Policy 108.2.8

Within the MIAI overlay, Monroe County may consider requests from property owners for reduction in density and/or intensity or changes in uses that reduce incompatibility of land uses with Goal 108 and associated Objectives and Policies.

- Section 2.** The Military Installation Area of Impact Land Use Table pursuant to Policy 108.2.6 is hereby adopted and attached hereto as Exhibit 1.
- Section 3.** **Severability.** If any section, subsection, sentence, clause, item, change, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.
- Section 4.** **Repeal of Inconsistent Provisions.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.
- Section 5.** **Transmittal.** This ordinance shall be transmitted by the Director of Planning to the State Land Planning Agency pursuant to Chapter 163 and 380, Florida Statutes.
- Section 6.** **Filing and Effective Date.** This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding the amendment in compliance with Chapter 163, Florida Statutes and after any applicable appeal periods have expired.

Section 7. **Inclusion in the Comprehensive Plan.** The numbering of the foregoing amendment may be renumbered to conform to the numbering in the Monroe County Year 2010 Comprehensive Plan and shall be incorporated in the Monroe County Year 2010 Comprehensive Plan.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the _____ day of _____ A.D., 2012.

Mayor David Rice _____
Mayor *pro tem* Kim Wigington _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner Heather Carruthers _____

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

BY _____
Mayor David Rice

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

DEPUTY CLERK



**MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 442 - 2011**

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS CREATING AN OVERLAY TO THE FUTURE LAND USE MAP SERIES TO ESTABLISH THE MILITARY INSTALLATION AREA OF IMPACT PURSUANT TO POLICY 108.2.1 OF THE 2010 MONROE COUNTY COMPREHENSIVE PLAN.

WHEREAS, the Monroe County Board of County Commissioners conducted a public hearing for the purpose of considering the transmittal to the State Land Planning Agency a proposed amendment to the Monroe County 2010 Comprehensive Plan creating an overlay to the Future Land Use Map series to establish the Military Installation Area of Impact pursuant to Policy 108.2.1; and

WHEREAS, the Monroe County Planning Commission and the Monroe County Board of County Commissioners support the requested text amendment;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1: The Board of County Commissioners does hereby adopt the recommendation of the Planning Commission to transmit the draft ordinance for adoption of the proposed map amendment.

Section 2: The Board of County Commissioners does hereby transmit the proposed amendment to the State Land Planning Agency for review and comment in accordance with the State Coordinated Review process pursuant to Section 163.3184(4), Florida Statutes.

Section 3. The Monroe County staff is given authority to prepare and submit the required transmittal letter and supporting documents for the proposed amendment in

accordance with the requirements of Rule 9J-11.006, Florida Administrative Code.

Section 4. The Clerk of the Board is hereby directed to forward a certified copy of this resolution to the Director of Planning.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 14th day of December, 2011.

Mayor David Rice	<u>Yes</u>
Mayor <i>pro tem</i> Kim Wigington	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY



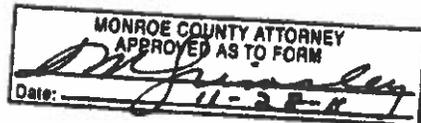
Mayor David Rice



ATTEST: DANNY L. KOLHAGE, CLERK



DEPUTY CLERK



FILED FOR RECORD
2012 JAN -5 PM 2:23



ORDINANCE NO. -2012

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS CREATING AN OVERLAY TO THE FUTURE LAND USE MAP SERIES TO ESTABLISH THE MILITARY INSTALLATION AREA OF IMPACT PURSUANT TO POLICY 108.2.1 OF THE 2010 MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

WHEREAS, Sections 163.3175, and 163.3177, Florida Statute (F.S.), require local governments to address compatibility of development with military installations and require the exchange of information between local governments and military installations;

WHEREAS, Sections 163.3175, and 163.3177, F.S., require the adoption of criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations within the future land use plan element by June 30, 2012. A local government that does not address compatibility of land proximate to an existing military installation in the future land use plan element by June 30, 2012, shall enter into mediation. Mediation would include representatives from the Naval Air Station Key West, Monroe County, the State Land Planning Agency, the South Florida Regional Planning Council, and potentially other private land owners; and

WHEREAS, if a local government comprehensive plan does not contain criteria addressing compatibility by December 31, 2013, the State Land Planning Agency may notify the Administration Commission, which may impose sanctions pursuant to Section 163.3184(8), F.S., including the direction to state agencies to not provide funds to increase the capacity of roads, bridges, or water and sewer systems for those local governments with plan amendments determined not to be in compliance. The Administration Commission may also specify that the local government is not eligible for grants under the following programs: Florida Small Cities Community Development Block Grant Programs; Florida Recreation Development Assistance Program; and revenue sharing. If the local government has a Coastal Management Element, the Administration Commission may also specify that the local government is not eligible for funding pursuant to s.161.091, F.S., regarding beach management and maintenance funding; and

WHEREAS, County staff, in conjunction with representatives of Naval Air Station Key West have collaborated on various policies and standards to address military compatibility within the Monroe County 2010 Comprehensive Plan; and

WHEREAS, the proposed amendment establishes a Military Installation Area of Impact (MIAI) overlay to the Future Land Use Map as the companion map amendment to proposed Comprehensive Plan Policy 108.2.1, requiring the adoption of the MIAI overlay; and

WHEREAS, on the October 19, 2011 Board of County Commissioners (BOCC) meeting, the BOCC directed Monroe County staff to process the proposed amendments; and

WHEREAS, the Monroe County Development Review Committee considered the proposed amendment at a regularly scheduled meeting held on the 17th day of October, 2011; and

WHEREAS, at a regularly scheduled meeting held on the 1st day of December, 2011, the Monroe County Planning Commission held a public hearing for the purpose of considering the transmittal to the State Land Planning Agency of a proposed amendment to the Monroe County Year 2010 Comprehensive Plan and recommended approval of the amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The Military Installation Area of Impact Future Land Use Map Overlay of the Year 2010 Comprehensive Plan is hereby adopted and attached hereto as Exhibit A.

Section 2. This ordinance is contingent upon the passage by the Board of County Commissioners and the approval of the State Land Planning Agency of the ordinance creating Policy 108.2.1, shown on Exhibit B, requiring the adoption of the Military Installation Area of Impact Future Land Use Map Overlay.

Section 3. **Severability.** If any section, subsection, sentence, clause, item, change, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

Section 4. **Repeal of Inconsistent Provisions.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. **Transmittal.** This ordinance shall be transmitted by the Director of Planning to the State Land Planning Agency pursuant to Chapter 163 and 380, Florida Statutes.

Section 6. **Filing and Effective Date.** This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding

the amendment in compliance with Chapter 163, Florida Statutes and after any applicable appeal periods have expired.

Section 7. Inclusion in the Comprehensive Plan. The numbering of the foregoing amendment may be renumbered to conform to the numbering in the Monroe County Year 2010 Comprehensive Plan and shall be incorporated in the Monroe County Year 2010 Comprehensive Plan.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the ____ day of ____ A.D., 2012.

Mayor David Rice _____
Mayor *pro tem* Kim Wigington _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner Heather Carruthers _____

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

BY _____
Mayor David Rice

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

DEPUTY CLERK

