

1 VILLAGE OF ESTERO, FLORIDA

2
3 ORDINANCE NO. 2022 - 13

4
5 AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
6 VILLAGE OF ESTERO, FLORIDA, AMENDING LAND
7 DEVELOPMENT CODE SECTION 7-3 “FLOOD HAZARD
8 REDUCTION STANDARDS” TO UPDATE THE
9 EFFECTIVE FLOOD INSURANCE STUDY APPLICABLE
10 TO THE VILLAGE, AMEND THE PROCESS FOR
11 DETERMINING SUBSTANTIAL IMPROVEMENT AND
12 SUBSTANTIAL DAMAGE DETERMINATIONS, UPDATE
13 REFERENCE TO THE FLORIDA BUILDING CODE
14 HISTORIC BUILDINGS CHAPTER, SPECIFY ELEVATION
15 OF AND FOUNDATIONS FOR MANUFACTURED HOMES
16 IN FLOOD HAZARD AREAS, PROVIDE STANDARDS FOR
17 NON-ELEVATED ACCESSORY STRUCTURES IN FLOOD
18 AREAS, AND AMEND DEFINITIONS; CLARIFYING AND
19 REENACTING THE REPEAL OF ORDINANCE 2015-16;
20 PROVIDING FOR SEVERABILITY; PROVIDING FOR
21 CONFLICTS; AND PROVIDING FOR AN EFFECTIVE
22 DATE.

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24 WHEREAS, the Legislature of the State of Florida has, in Chapter 125 – County
25 Government or Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments
26 the authority to adopt regulations designed to promote the public health, safety, and general
27 welfare of its citizenry; and

28
29 WHEREAS, the Village of Estero participates in the National Flood Insurance Program
30 and participates in the NFIP’s Community Rating System, a voluntary incentive program that
31 recognizes and encourages community floodplain management activities that exceed the minimum
32 program requirements and achieved a CRS rating of Class 6, making citizens who purchase NFIP
33 flood insurance policies eligible for premium discounts; and

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

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

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43 WHEREAS, the Federal Emergency Management Agency released FEMA Policy
44 #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory
45 Structures; and

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

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

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

NOW THEREFORE, BE IT ENACTED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, THAT:

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

Section 7-3 “Flood Hazard Reduction Standards” of the Village Land Development Code is hereby amended, as shown in strikethrough and underline text, by the following amendments.

SECTION 7-3. FLOOD HAZARD REDUCTION STANDARDS

7-301. Administration.

A. General.

1. *Scope.* This section applies to all development that is wholly within or partially within any flood hazard area or special flood hazard area (see Sec. 7-303, Definitions), including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.
2. *Purpose and Intent.* The purpose and intent of this section and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare, and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- 91 A. Minimize unnecessary disruption of commerce, access, and public service during
92 times of flooding;
- 93 B. Require the use of appropriate construction practices in order to prevent or
94 minimize future flood damage;
- 95 C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations,
96 storage of equipment or materials, and other development which may increase flood
97 damage or erosion potential;
- 98 D. Manage the alteration of flood hazard areas, watercourses, and shorelines to
99 minimize the impact of development on the natural and beneficial functions of the
100 floodplain;
- 101 E. Minimize damage to public and private facilities and utilities;
- 102 F. Help maintain a stable tax base by providing for the sound use and development of
103 flood hazard areas;
- 104 G. Minimize the need for future expenditure of public funds for flood control projects
105 and response to and recovery from flood events; and
- 106 H. Meet the requirements of the National Flood Insurance Program for community
107 participation as set forth in 44 CFR 59.22.
- 108
- 109 3. *Coordination with Florida Building Code.* This section is intended to be administered
110 and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24
111 refers to the edition of the standard that is referenced by the Florida Building Code.
112
- 113 4. *Warning.* The degree of flood protection required by this section and the Florida
114 Building Code, as amended by the Village of Estero, is considered the minimum
115 reasonable for regulatory purposes and is based on scientific and engineering
116 considerations. Larger floods can and will occur. Flood heights may be increased by
117 man-made or natural causes. This section does not imply that land outside of mapped
118 special flood hazard areas, or that uses permitted within such flood hazard areas, will be
119 free from flooding or flood damage. The flood hazard areas and base flood elevations
120 contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and
121 the requirements of 44 CFR Secs. 59 and 60, may be revised by the Federal Emergency
122 Management Agency, requiring this community to revise these regulations to remain
123 eligible for participation in the National Flood Insurance Program. No guaranty of vested
124 use, existing use, or future use is implied or expressed by compliance with this section.
125
- 126 5. *Disclaimer of Liability.* This section will not create liability on the part of the Village of
127 Estero or by any officer or employee of the Village for any flood damage that results
128 from reliance on this section or any administrative decision lawfully made under it.
129

130 **B. Applicability.**

131

132 1. *General.*

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

- 135 B. This section applies to all flood hazard areas within the Village of Estero, as
136 established in subsection C below.
137 C. The Flood Insurance Study for Lee County, Florida and Incorporated Areas,
138 effective ~~November 17, 2022~~ August 28, 2008, and all subsequent amendments and
139 revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all
140 subsequent amendments and revisions to such maps, are adopted by reference as a
141 part of this section and will serve as the minimum basis for establishing flood hazard
142 areas. Studies and maps that establish flood hazard areas are on file at the Village
143 ~~Hall~~ Department of Community Development.

144
145 2. *Submission of Additional Data to Establish Flood Hazard Area.* To establish flood
146 hazard areas and base flood elevations, in accordance with Sec. 7-301.E, Site Plans and
147 Construction Documents, the Floodplain Administrator may require submission of
148 additional data. Where field surveyed topography prepared by a Florida licensed
149 professional surveyor or digital topography accepted by the community indicates that
150 ground elevations:

151
152 A. Are below the closest applicable base flood elevation, even in areas not delineated
153 as a special flood hazard area on a FIRM, the area will be considered as a flood
154 hazard area and subject to the requirements of this section and, as applicable, the
155 requirements of the Florida Building Code.

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

160
161 3. *Other Laws.* The provisions of this section will not be deemed to nullify any provisions
162 of local, state, or federal law.

163
164 4. *Abrogation and Greater Restrictions.* This section supersedes any regulations in effect
165 for management of development in flood hazard areas. However, it is not intended to
166 repeal or abrogate any existing regulations including but not limited to land development
167 regulations, zoning resolutions, stormwater management regulations, or the Florida
168 Building Code. In the event of a conflict between this section and any other regulations,
169 the more restrictive will govern. This section will not impair any deed restriction,
170 covenant, or easement, but any land that is subject to such interests will also be governed
171 by this section.

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173 **C. Duties and Powers of the Floodplain Administrator.**
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175 1. *Designation.* The Village Manager is designated as the Floodplain Administrator and
176 may delegate another person to serve in this capacity. The Floodplain Administrator may
177 delegate performance of certain duties to other employees.
178

- 179 2. *General.* The Floodplain Administrator is authorized and directed to administer and
180 enforce the provisions of this section. The Floodplain Administrator will have the
181 authority to render interpretations of this section consistent with the intent and purpose
182 of this section and may establish policies and procedures in order to clarify the
183 application of its provisions. Such interpretations, policies, and procedures will not have
184 the effect of waiving requirements specifically provided in this section without the
185 granting of a variance pursuant to Sec. 7-301.G, Variances and Appeals.
186
- 187 3. *Applications and Permits.* The Floodplain Administrator, in coordination with other
188 pertinent offices of the community, will:
189
- 190 A. Review applications and plans to determine whether proposed new development
191 will be located in flood hazard areas;
 - 192 B. Review applications for modification of any existing development in flood hazard
193 areas for compliance with the requirements of this section;
 - 194 C. Interpret flood hazard area boundaries where such interpretation is necessary to
195 determine the exact location of boundaries; a person contesting the determination
196 will have the opportunity to appeal the interpretation;
 - 197 D. Provide available flood elevation and flood hazard information;
 - 198 E. Determine whether additional flood hazard data will be obtained from other sources
199 or will be developed by an applicant;
 - 200 F. Review applications to determine whether proposed development will be
201 reasonably safe from flooding;
 - 202 G. Issue floodplain development permits or approvals for development other than
203 buildings and structures that are subject to the Florida Building Code, including
204 buildings, structures and facilities exempt from the Florida Building Code, when
205 compliance with this section is demonstrated, or disapprove the same in the event
206 of noncompliance; and
 - 207 H. Coordinate to assure that applications, plan reviews, and inspections for buildings
208 and structures in flood hazard areas comply with the applicable provisions of this
209 section.
210
- 211 4. *Substantial Improvement and Substantial Damage Determinations.* For applications for
212 building permits to improve buildings and structures, including alterations, movement,
213 enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
214 renovations, substantial improvements, repairs of substantial damage, and any other
215 improvement of or work on such buildings and structures ~~such that the value or size of~~
216 ~~the buildings increases by at least 50 percent, calculated over the preceding five years,~~
217 the Floodplain Administrator shall:
218
- 219 A. Estimate the market value or require the applicant to obtain an appraisal of the
220 market value prepared by using the Building Cost Value in the property appraiser's
221 ~~records unless a qualified independent appraiser of just the structure is submitted,~~
222 of the building or structure before the start of construction of the proposed work; in

- 223 the case of repair. the market value of the building or structure will be the market
224 value before the damage occurred and before any repairs are made;
225
- 226 B. Compare the cost to perform the improvement, the cost to repair a damaged
227 building to its pre-damaged condition, or the combined costs of improvements and
228 repairs, if applicable, to the market value of the building or structure;
229
- 230 C. Determine and document whether the proposed work constitutes substantial
231 improvement or repair of substantial damage; the determination requires evaluation
232 of previous permits issued for improvements and repairs as specified in the
233 definition of "substantial improvement" and previous permits issued for repair of
234 flood-related damage; and
235
- 236 D. Notify the applicant if it is determined that the work constitutes substantial
237 improvement or repair of substantial damage and that compliance with the flood
238 resistant construction requirements of the Florida Building Code and this section is
239 required.
240
- 241 5. *Modifications of the Strict Application of the Requirements of the Florida Building Code.*
242 The Floodplain Administrator will review requests submitted to the Building Official
243 that seek approval to modify the strict application of the flood load and flood resistant
244 construction requirements of the Florida Building Code to determine whether such
245 requests require the granting of a variance in accordance with Sec. 7-301.G, Variances
246 and Appeals.
247
- 248 6. *Notices and Orders.* The Floodplain Administrator will coordinate with appropriate local
249 agencies for the issuance of all necessary notices or orders to ensure compliance with
250 this section.
251
- 252 7. *Inspections.* The Floodplain Administrator will make the required inspections as
253 specified in Sec. 7-301.F, Inspections, for development that is not subject to the Florida
254 Building Code, including buildings, structures and facilities exempt from the Florida
255 Building Code. The Floodplain Administrator will inspect flood hazard areas to
256 determine if development is undertaken without issuance of a permit.
257
- 258 8. *Other Duties of the Floodplain Administrator.* The Floodplain Administrator will have
259 other duties, including but not limited to:
260
- 261 A. Establishing procedures for administering and documenting determinations of
262 substantial improvement and substantial damage in accordance with Sec.
263 7-301.C.4, Substantial Improvement and Substantial Damage Determinations;
264
- 265 B. Requiring that applicants proposing alteration of a watercourse notify adjacent
266 communities and the Florida Division of Emergency Management, State Floodplain

267 Management Office, and submit copies of such notifications to the Federal
268 Emergency Management Agency (FEMA);

269
270 C. Requiring applicants who submit hydrologic and hydraulic engineering analyses to
271 support permit applications to submit to FEMA the data and information necessary
272 to maintain the Flood Insurance Rate Maps if the analyses propose to change base
273 flood elevations, flood hazard area boundaries, or floodway designations; such
274 submissions will be made within six months of such data becoming available;

275
276 D. Reviewing required design certifications and documentation of elevations specified
277 by this section and the Florida Building Code to determine that such certifications
278 and documentations are complete;

279
280 E. Notifying FEMA when the corporate boundaries of the Village are modified; and

281
282 F. Advising applicants for new buildings and structures, including substantial
283 improvements, which are located in any unit of the Coastal Barrier Resources
284 System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the
285 Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood
286 insurance is not available on such construction; areas subject to this limitation are
287 identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System
288 Areas" and "Otherwise Protected Areas."

289
290 9. *Floodplain Management Records.* Regardless of any limitation on the period required
291 for retention of public records, the Floodplain Administrator will maintain and
292 permanently keep and make available for public inspection all records that are necessary
293 for the administration of this section and the flood resistant construction requirements of
294 the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map
295 Change; records of issuance of permits and denial of permits; determinations of whether
296 proposed work constitutes substantial improvement or repair of substantial damage;
297 required design certifications and documentation of elevations specified by the Florida
298 Building Code and this section; notifications to adjacent communities, FEMA, and the
299 state related to alterations of watercourses; assurances that the flood carrying capacity
300 of altered watercourses will be maintained; documentation related to appeals and
301 variances, including justification for issuance or denial; and records of enforcement
302 actions taken in accordance with this section and the flood resistant construction
303 requirements of the Florida Building Code. These records are available for public
304 inspection at the Village Hall.

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306 **D. Permits.**

307
308 1. *Permits Required.* Any owner or owner's authorized agent also referred to as "applicant"
309 who intends to undertake any development activity within the scope of this section,
310 including buildings, structures and facilities exempt from the Florida Building Code,
311 which is wholly within or partially within any flood hazard area shall first make

312 application to the Floodplain Administrator and obtain the required permits and
313 approvals. No such permit or approval will be issued until compliance with the
314 requirements of this section and all other applicable codes and regulations has been
315 satisfied.

316
317 2. *Floodplain Development Permits or Approvals.* Floodplain development permits or
318 approvals will be issued in accordance with this section for any development activities
319 not subject to the requirements of the Florida Building Code including buildings,
320 structures, and facilities exempt from the Florida Building Code. Depending on the
321 nature and extent of proposed development that includes a building or structure, the
322 Floodplain Administrator may determine that a floodplain development permit or
323 approval is required in addition to a building permit.

324
325 3. *Buildings, Structures, and Facilities Exempt from the Florida Building Code.* In
326 accordance with the requirements of federal regulation for participation in the National
327 Flood Insurance Program (44 CFR Secs. 59 and 60), floodplain development permits or
328 approvals will be required for buildings, structures and facilities that are exempt from
329 the Florida Building Code and any further exemptions provided by law, which are
330 subject to the requirements of this section.

331
332 4. *Application for a Permit or Approval.* To obtain a floodplain development permit or
333 approval the applicant shall first file an application in writing on a form furnished by the
334 Village. The information provided shall:

335
336 A. Identify and describe the development to be covered by the permit or approval.

337
338 B. Describe the land on which the proposed development is to be conducted by legal
339 description, street address or similar description that will readily identify and
340 definitively locate the site.

341
342 C. Indicate the use and occupancy for which the proposed development is intended.

343
344 D. Be accompanied by a site plan or construction documents as specified in Sec.
345 7-301.E, Site Plans and Construction Documents.

346
347 E. State the valuation of the proposed work.

348
349 F. Be signed by the applicant or the applicant's authorized agent.

350
351 G. Give such other data and information as required by the Floodplain Administrator.

352
353 5. *Validity of Permit or Approval.* The issuance of a floodplain development permit or
354 approval in accordance with this section shall not be construed to be a permit for, or
355 approval of, any violation of this section, the Florida Building Codes, or any other
356 Village regulations. The issuance of permits based on submitted applications,

357 construction documents, and information will not prevent the Floodplain Administrator
358 from requiring the correction of errors and omissions.

359
360 6. *Suspension or Revocation.* The Floodplain Administrator is authorized to suspend or
361 revoke a floodplain development permit or approval if the permit was issued in error; on
362 the basis of incorrect, inaccurate, or incomplete information; or in violation of this
363 section or any other section, regulation, or requirement of the Village.

364
365 7. *Other Permits Required.* Floodplain development permits and building permits shall
366 include a condition that all other applicable state or federal permits be obtained before
367 commencement of the permitted development, including but not limited to the following:

368
369 A. SFWMD; F.S. § 373.036.

370
371 B. Florida Department of Health for onsite sewage treatment and disposal systems;
372 F.S. § 381.0065 and Ch. 64E-6, F.A.C.

373
374 C. FDEP for activities subject to the Joint Coastal Permit; F.S. § 161.055.

375
376 D. FDEP for activities that affect wetlands and alter surface water flows, in
377 conjunction with the U.S. Army Corps of Engineers; Sec. 404 of the Clean Water
378 Act.

379
380 E. Federal permits and approvals.

381
382 **E. Site Plans and Construction Documents.**

383
384 1. *Information for Development in Flood Hazard Areas.*

385
386 A. The site plan or construction documents for any development subject to the
387 requirements of this section shall be drawn to scale and include, as applicable to the
388 proposed development:

389
390 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s),
391 base flood elevation(s), and ground elevations if necessary for review of the
392 proposed development.

393
394 2. Where base flood elevations, or floodway data are not included on the FIRM
395 or in the Flood Insurance Study, they shall be established in accordance with
396 Sec. 7-301.E.2.B or Sec. 7-301.E.2.C.

397
398 3. Where the parcel on which the proposed development will take place will have
399 more than 50 lots or is larger than five acres and the base flood elevations are
400 not included on the FIRM or in the Flood Insurance Study, such elevations
401 shall be established in accordance with Sec. 7-301.E.2.A.

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4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 6. If the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
 7. Extent of any proposed alteration of mangrove stands, provided such alteration is approved by FDEP.
 8. Existing and proposed alignment of any proposed alteration of a watercourse.
 9. Estimated labor and material costs.
- B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this section but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this section.
2. *Information in Flood Hazard Areas without Base Flood Elevations (Approximate Zone A)*. Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:
- A. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
 - B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
 - C. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

- 447 2. Specify that the base flood elevation is two feet above the highest adjacent
448 grade at the location of the development, provided there is no evidence
449 indicating flood depths have been or may be greater than two feet.
450
- 451 D. Where the base flood elevation data are to be used to support a Letter of Map
452 Change from FEMA, advise the applicant that the analyses shall be prepared by a
453 Florida licensed engineer in a format required by FEMA, and that it shall be the
454 responsibility of the applicant to satisfy the submittal requirements and pay the
455 processing fees.
456
- 457 3. *Additional Analyses and Certifications.* As applicable to the location and nature of the
458 proposed development activity, and in addition to the requirements of this section, the
459 applicant shall have the following analyses signed and sealed by a Florida licensed
460 engineer for submission with the site plan and construction documents:
461
- 462 A. For development activities proposed to be located in a regulatory floodway, a
463 floodway encroachment analysis that demonstrates that the encroachment of the
464 proposed development will not cause any increase in base flood elevations; where
465 the applicant proposes to undertake development activities that do increase base
466 flood elevations, the applicant shall submit such analysis to FEMA as specified in
467 Sec. 7-301.E.4, Submission of Additional Data, and shall submit the Conditional
468 Letter of Map Revision, if issued by FEMA, with the site plan and construction
469 documents.
470
- 471 B. For development activities proposed to be located in a riverine flood hazard area
472 for which base flood elevations are included in the Flood Insurance Study or on the
473 FIRM and floodways have not been designated, hydrologic and hydraulic analyses
474 that demonstrate that the cumulative effect of the proposed development, when
475 combined with all other existing and anticipated flood hazard area encroachments,
476 will not increase the base flood elevation more than one foot at any point within the
477 community. This requirement does not apply in isolated flood hazard areas not
478 connected to a riverine flood hazard area or in flood hazard areas identified as Zone
479 AO or Zone AH.
480
- 481 C. For alteration of a watercourse, an engineering analysis prepared in accordance with
482 standard engineering practices which demonstrates that the flood-carrying capacity
483 of the altered or relocated portion of the watercourse will not be decreased, and
484 certification that the altered watercourse shall be maintained in a manner which
485 preserves the channel's flood-carrying capacity; the applicant shall submit the
486 analysis to FEMA as specified in Sec. 7-301.E.4, Submission of Additional Data.
487
- 488 D. For activities that propose to alter sand dunes or mangrove stands in coastal high
489 hazard areas (Zone V), an engineering analysis that demonstrates that the proposed
490 alteration will not increase the potential for flood damage.

491 4. *Submission of Additional Data.* When additional hydrologic, hydraulic or other
492 engineering data, studies, and additional analyses are submitted to support an
493 application, the applicant has the right to seek a Letter of Map Change from FEMA to
494 change the base flood elevations, change floodway boundaries, or change boundaries of
495 flood hazard areas shown on FIRMs, and to submit such data to FEMA for such
496 purposes. The analyses shall be prepared by a Florida licensed engineer in a format
497 required by FEMA. Submittal requirements and processing fees will be the responsibility
498 of the applicant.
499

500 **F. Inspections.**

- 501 1. *General.* Development for which a floodplain development permit or approval is
502 required will be subject to inspection.
503
- 504 2. *Development Other than Buildings or Structures.* The Floodplain Administrator will
505 inspect all development to determine compliance with the requirements of this section
506 and the conditions of approval of a floodplain development permit.
507
- 508 3. *Buildings, Structures, and Facilities Exempt from the Florida Building Code.* The
509 Floodplain Administrator will inspect buildings, structures, and facilities exempt from
510 the Florida Building Code to determine compliance with the requirements of this section
511 and the conditions of approval of a floodplain development permit.
512
- 513 4. *Building Structures and Facilities Exempt from the Florida Building Code, Lowest Floor*
514 *Inspection.* Upon placement of the lowest floor, including basement, and prior to further
515 vertical construction, the owner of a building, structure, or facility exempt from the
516 Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain
517 Administrator:
518
- 519 A. If a design flood elevation was used to determine the required elevation of the
520 lowest floor, the certification of elevation of the lowest floor prepared and sealed
521 by a Florida licensed professional surveyor; or
522
- 523 B. If the elevation used to determine the required elevation of the lowest floor was
524 determined in accordance with Sec. 7-301.E.2, Information in Flood Hazard Areas
525 without Base Flood Elevations (Approximate Zone A), the documentation of height
526 of the lowest floor above highest adjacent grade, prepared by the owner or the
527 owner's authorized agent.
528
- 529 5. *Buildings, Structures, and Facilities Exempt from the Florida Building Code, Final*
530 *Inspection.* As part of the final inspection, the owner or owner's authorized agent shall
531 submit to the Floodplain Administrator a final certification of elevation of the lowest
532 floor or final documentation of the height of the lowest floor above the highest adjacent
533 grade; such certifications and documentations shall be prepared as specified in Sec.
534 7-301.F.4, Building Structures and Facilities Exempt from the Florida Building Code,
535 Lowest Floor Inspection.

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

541
542 **G. Variances and Appeals.**
543

544 1. *General.* The Planning, Zoning and Design Board shall hear and decide on requests for
545 appeals and requests for variances from the strict application of this section. This section
546 does not apply to Sec. 3109 of the Florida Building Code, Building.
547

548 2. *Appeals.* The PZDB shall hear and decide appeals when it is alleged there is an error in
549 any requirement, decision, or determination made by the Floodplain Administrator in
550 the administration and enforcement of this section. Any person aggrieved by the decision
551 may appeal such decision to the Circuit Court, as provided by state law.
552

553 3. *Limitations on Authority to Grant Variances.* The PZDB will base its decisions on
554 variances on technical justifications submitted by applicants, the considerations for
555 issuance in Sec. 7-301.G.7, Considerations for Issuance of Variances, the conditions of
556 issuance set forth in Sec. 7-301.G.8, Conditions for Issuance of Variances, and the
557 comments and recommendations of the Building Official. The PZDB has the right to
558 attach such conditions as it deems necessary to further the purposes and objectives of
559 this section.
560

561 4. *Restrictions in Floodways.* A variance will not be issued for any proposed development
562 in a floodway if any increase in base flood elevations would result, as evidenced by the
563 applicable analyses and certifications required in Sec. 7-301.E.3, Additional Analyses
564 and Certifications.
565

566 5. *Historic Buildings.* A variance is authorized to be issued for the repair, improvement, or
567 rehabilitation of a historic building that is determined eligible for the exception to the
568 flood resistant construction requirements of the Florida Building Code, Existing
569 Building, Chapter ~~12~~ 11 Historic Buildings, upon a determination that the proposed
570 repair, improvement, or rehabilitation will not preclude the building's continued
571 designation as a historic building and the variance is the minimum necessary to preserve
572 the historic character and design of the building. If the proposed work precludes the
573 building's continued designation as a historic building, a variance will not be granted and
574 the building and any repair, improvement, and rehabilitation will be subject to the
575 requirements of the Florida Building Code.
576

577 6. *Functionally Dependent Uses.* A variance is authorized to be issued for the construction
578 or substantial improvement necessary for the conduct of a functionally dependent use,
579 as defined in this section, provided the variance meets the requirements of Sec.
580 7-301.G.4, Restrictions in Floodways is the minimum necessary considering the flood

581 hazard, and all due consideration has been given to use of methods and materials that
582 minimize flood damage during occurrence of the base flood.
583

584 7. *Considerations for Issuance of Variances.* In reviewing requests for variances, the PZDB
585 will consider all technical evaluations, all relevant factors, all other applicable provisions
586 of the Florida Building Code, this section, and the following:
587

- 588 A. The danger that materials and debris may be swept onto other lands resulting in
589 further injury or damage;
- 590 B. The danger to life and property due to flooding or erosion damage;
- 591 C. The susceptibility of the proposed development, including contents, to flood
592 damage and the effect of such damage on current and future owners;
- 593 D. The importance of the services provided by the proposed development to the
594 community;
- 595 E. The availability of alternate locations for the proposed development that are subject
596 to lower risk of flooding or erosion;
- 597 F. The compatibility of the proposed development with existing and anticipated
598 development;
- 599 G. The relationship of the proposed development to the comprehensive plan and
600 floodplain management program for the area;
- 601 H. The safety of access to the property in times of flooding for ordinary and emergency
602 vehicles;
- 603 I. The expected heights, velocity, duration, rate of rise and debris and sediment
604 transport of the floodwaters and the effects of wave action, if applicable expected
605 at the site; and
- 606 J. The costs of providing governmental services during and after flood conditions
607 including maintenance and repair of public utilities and facilities such as sewer, gas,
608 electrical and water systems, streets and bridges.

609
610 8. *Conditions for Issuance of Variances.* Variances may be issued only upon:
611

- 612 A. Submission by the applicant of a showing of good and sufficient cause that the
613 unique characteristics of the size, configuration, or topography of the site limit
614 compliance with any provision of this section or the required elevation standards;
615
- 616 B. Determination by the PZDB that:
617
 - 618 1. Failure to grant the variance would result in exceptional hardship due to the
619 physical characteristics of the land that render the lot undevelopable; increased
620 costs to satisfy the requirements or inconvenience do not constitute hardship;
621
 - 622 2. The granting of a variance will not result in increased flood heights, additional
623 threats to public safety, extraordinary public expense, nor create nuisances,
624 cause fraud on or victimization of the public or conflict with existing local
625 laws and regulations; and

626 3. The variance is the minimum necessary, considering the flood hazard, to
627 afford relief;

628
629 C. If the request is for a variance to allow construction of the lowest floor of a new
630 building, or substantial improvement of a building, below the required elevation, a
631 copy in the record of a written notice from the Floodplain Administrator to the
632 applicant for the variance, specifying the difference between the base flood
633 elevation and the proposed elevation of the lowest floor, stating that the cost of
634 federal flood insurance will be commensurate with the increased risk resulting from
635 the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance
636 coverage), and stating that construction below the base flood elevation increases
637 risks to life and property.

638
639 H. **Violations.** Any development that is not within the scope of the Florida Building Code but
640 that is regulated by this section that is performed without an issued permit, that is in conflict
641 with an issued permit, or that does not fully comply with this section, will be deemed a
642 violation of this LDC. A building or structure without the documentation of elevation of the
643 lowest floor, other required design certifications, or other evidence of compliance required
644 by this section or the Florida Building Code is presumed to be a violation until such time as
645 that documentation is provided.

646
647 1. *Authority.* For development that is not within the scope of the Florida Building Code but
648 that is regulated by this section and that is determined to be a violation, the Floodplain
649 Administrator is authorized to serve notices of violation or stop work orders to owners
650 of the property involved, to the owner's agent, or to the person or persons performing the
651 work.

652
653 2. *Unlawful Continuance.* Any person who continues any work after having been served
654 with a notice of violation or a stop work order, except such work as that person is directed
655 to perform to remove or remedy a violation or unsafe condition, will be subject to
656 penalties as prescribed by law.

657
658 **7-302. Flood Resistant Development.**

659
660 A. **Buildings and Structures Exempt from Florida Building Code.** In accordance with Sec.
661 7-301.D.3, Buildings, Structures, and Facilities Exempt from the Florida Building Code,
662 buildings, structures, and facilities that are exempt from the Florida Building Code, including
663 substantial improvement or repair of substantial damage of such buildings, structures and
664 facilities, shall be designed and constructed in accordance with the flood load and flood
665 resistant construction requirements of ASCE 24. Structures exempt from the Florida Building
666 Code that are not walled and roofed buildings shall comply with the requirements of Sec. 7-
667 302.G, Other Development.

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670

671 **B. Subdivisions.**

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1. *Minimum Requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
 - A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
2. *Standards for Subdivision and Other Development Proposals.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
 - A. Where the subdivision is greater than 50 lots or five acres and base flood elevations are not included on the FIRM, base flood elevations determined in accordance with Sec. 7-301.E.2.A; and
 - B. Compliance with the site improvement and utilities requirements of Sec. 7-302.C, Site Improvements, Utilities and Limitations.

C. Site Improvements, Utilities and Limitations.

1. *Minimum Requirements.* All proposed new development will be reviewed to determine that:
 - A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
 - C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
2. *Sanitary Sewage Facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-

716 site waste disposal systems shall be designed in accordance with the standards for onsite
717 sewage treatment and disposal systems in Ch. 64E-6, F.A.C. and ASCE 24 Ch. 7 to
718 minimize or eliminate infiltration of floodwaters into the facilities and discharge from
719 the facilities into floodwaters, and impairment of the facilities and systems.

720
721 3. *Water Supply Facilities.* All new and replacement water supply facilities shall be
722 designed in accordance with the water well construction standards in Ch. 62-532.500,
723 F.A.C. and ASCE 24 Ch. 7 to minimize or eliminate infiltration of floodwaters into the
724 systems.

725
726 4. *Limitations on Sites in Regulatory Floodways.* No development, including but not
727 limited to site improvements, and land disturbing activity involving fill or regrading,
728 may be authorized in the regulatory floodway unless the floodway encroachment
729 analysis required in Sec. 7-301.E.3.A, demonstrates that the proposed development or
730 land disturbing activity will not result in any increase in the base flood elevation.

731
732 5. *Limitations on Placement of Fill.* Subject to the limitations of this section, fill shall be
733 designed to be stable under conditions of flooding, including rapid rise and rapid
734 drawdown of floodwaters, prolonged inundation, and protection against flood-related
735 erosion and scour. In addition to these requirements, if intended to support buildings and
736 structures (Zone A only), fill shall comply with the requirements of the Florida Building
737 Code.

738
739 6. *Limitations on Sites in Coastal High Hazard Areas (Zone V).* In coastal high hazard
740 areas, alteration of sand dunes and mangrove stands will be permitted only if such
741 alteration is approved by the FDEP and only if the engineering analysis required by Sec.
742 7-301.E.3.D demonstrates that the proposed alteration will not increase the potential for
743 flood damage.

744
745 **D. Manufactured Homes.**

746
747 1. *General.*

748
749 A. All manufactured homes installed in flood hazard areas shall be installed by an
750 installer that is licensed in accordance with F.S. § 320.8249, and shall comply with
751 the requirements of Ch. 15C-1, F.A.C. and the requirements of this section.

752
753 B. The placement of manufactured homes or recreational vehicles is prohibited in
754 coastal high hazard areas (Zone V), except in an existing manufactured home or
755 recreational vehicle park or subdivision. A replacement manufactured home or
756 recreational vehicle may be placed on a lot in an existing manufactured home or
757 recreational vehicle park or subdivision, provided the anchoring standards of Sec.
758 7-302.D.3, Anchoring, and the elevation standards of Sec. ~~7-302.D.4, Elevation, 7-~~
759 ~~302.D.5, General Elevation Requirement, and Sec. 7-302.D.6, Elevation~~
760 ~~Requirement for Certain Existing Manufactured Home Parks and Subdivisions, as~~

761 applicable, are met. New or expanded manufactured home or recreational vehicle
762 parks or subdivisions are prohibited until such time, if ever, that Village of Estero
763 Plan Policy 80.1.2 is amended or repealed so as to allow such new or expanded
764 manufactured home or recreational vehicle development.
765

766 2. *Foundations.* All new manufactured homes and replacement manufactured homes
767 installed in flood hazard areas shall be installed on permanent, reinforced foundations
768 that:
769

770 A. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed
771 in accordance with the foundation requirements of the Florida Building Code,
772 Residential Section R322.2 and this section. ~~Foundations for manufactured homes~~
773 ~~subject to Sec. 7-302.D.6.B are permitted to be reinforced piers or other foundation~~
774 ~~elements of at least equivalent strength.~~
775

776 B. In coastal high hazard areas (Zone V), are designed in accordance with the
777 foundation requirements of the Florida Building Code, Residential Section R322.3
778 and this section.
779

780 3. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be
781 installed using methods and practices which minimize flood damage and shall be
782 securely anchored to an adequately anchored foundation system to resist flotation,
783 collapse, or lateral movement. Methods of anchoring include, but are not limited to, use
784 of over-the-top or frame ties to ground anchors. This anchoring requirement is in
785 addition to applicable state and local anchoring requirements for wind resistance.
786

787 4. *Elevation.* All manufactured homes that are placed, replaced, or substantially improved
788 in flood hazard areas shall be elevated such that the bottom of the frame is at or above
789 the elevation required, as applicable to the flood hazard area, in the *Florida Building*
790 *Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A*
791 *Zone).* ~~Manufactured homes that are placed, replaced, or substantially improved shall~~
792 ~~comply with Sec. 7-302.D.5, General Elevation Requirement, and Sec. 7-302.D.6,~~
793 ~~Elevation Requirement for Certain Existing Manufactured Home Parks and~~
794 ~~Subdivisions, as applicable.~~
795

796 ~~5. *General Elevation Requirement.* Unless subject to the requirements of Sec. 7-302.D.6,~~
797 ~~Elevation Requirement for Certain Existing Manufactured Home Parks and~~
798 ~~Subdivisions, all manufactured homes that are placed, replaced, or substantially~~
799 ~~improved on sites located: (a) outside of a manufactured home park or subdivision; (b)~~
800 ~~in a new manufactured home park or subdivision; (c) in an expansion to an existing~~
801 ~~manufactured home park or subdivision; or (d) in an existing manufactured home park~~
802 ~~or subdivision upon which a manufactured home has incurred "substantial damage" as~~
803 ~~the result of a flood, shall be elevated such that the top or the lowest floor is at or above~~
804 ~~the elevation required, as applicable to the flood hazard area, in the Florida Building~~
805 ~~Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).~~

806 ~~6. Elevation Requirement for Certain Existing Manufactured Home Parks and~~
807 ~~Subdivisions. Manufactured homes that are not subject to Sec. 7-302.D.5, General~~
808 ~~Elevation Requirement, including manufactured homes that are placed, replaced, or~~
809 ~~substantially improved on sites located in an existing manufactured home park or~~
810 ~~subdivision, unless on a site where substantial damage as result of flooding has occurred,~~
811 ~~shall be elevated such that either the:~~

812
813 ~~A. Top or the lowest floor of the manufactured home is at or above the elevation~~
814 ~~required, as applicable to the flood hazard area, in the Florida Building Code,~~
815 ~~Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or~~

816
817 ~~B. Bottom of the frame is supported by reinforced piers or other foundation elements~~
818 ~~of at least equivalent strength that are not less than 36 inches in height above grade.~~

819
820 5.7. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the
821 requirements of the Florida Building Code, Residential Sections R322.2 or R322.3, for
822 such enclosed areas, as applicable to the flood hazard area.

823
824 6.8. Utility Equipment. Utility equipment that serves manufactured homes, including electric,
825 heating, ventilation, plumbing, and air conditioning equipment and other service
826 facilities, shall comply with the requirements of the Florida Building Code, Residential
827 Section R322, as applicable to the flood hazard area.

828
829 **E. Recreational Vehicles and Park Trailers.**

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

832
833 A. Be on the site for fewer than 180 consecutive days; or

834
835 B. Be fully licensed and ready for highway use, which means the recreational vehicle
836 or park model is on wheels or jacking system, is attached to the site only by quick-
837 disconnect type utilities and security devices, and has no permanent attachments
838 such as additions, rooms, stairs, decks, and porches.

839
840 2. *Permanent Placement.* Recreational vehicles and park trailers that do not meet the
841 limitations in Sec. 7-302.E.1, Temporary Placement, shall meet the requirements of Sec.
842 7-302.D, Manufactured Homes.

843
844 **F. Tanks.**

845
846 1. *Underground Tanks.* Underground tanks in flood hazard areas shall be anchored to
847 prevent flotation, collapse, or lateral movement resulting from hydrodynamic and
848 hydrostatic loads during conditions of the design flood, including the effects of buoyancy
849 assuming the tank is empty.

850

- 851 2. *Above-Ground Tanks, Not Elevated.* Above-ground tanks that do not meet the elevation
852 requirements of Sec. 7-302.F.3, Above Ground Tanks, Elevated, shall:
853
- 854 A. Be permitted only in flood hazard areas (Zone A) other than coastal high hazard
855 areas, provided the tanks are anchored or otherwise designed and constructed to
856 prevent flotation, collapse, or lateral movement resulting from hydrodynamic and
857 hydrostatic loads during conditions of the design flood, including the effects of
858 buoyancy assuming the tank is empty and the effects of flood-borne debris.
859
 - 860 B. Not be permitted in coastal high hazard areas (Zone V).
861
- 862 3. *Above Ground Tanks, Elevated.* Above-ground tanks in flood hazard areas shall be
863 attached to and elevated to or above the design flood elevation on a supporting structure
864 that is designed to prevent flotation, collapse, or lateral movement during conditions of
865 the design flood. Tank-supporting structures shall meet the foundation requirements of
866 the applicable flood hazard area.
867
- 868 4. *Tank Inlets and Vents.* Tank inlets, fill openings, outlets, and vents shall be:
869
- 870 A. At or above the design flood elevation or fitted with covers designed to prevent the
871 inflow of floodwater or outflow of the contents of the tanks during conditions of
872 the design flood; and
873
 - 874 B. Anchored to prevent lateral movement resulting from hydrodynamic and
875 hydrostatic loads, including the effects of buoyancy, during conditions of the design
876 flood.
877
- 878 **G. Other Development.**
879
- 880 1. *General Requirements for Other Developments.* All development, including man-made
881 changes to improved or unimproved real estate for which specific provisions are not
882 specified in this section or the Florida Building Code, shall:
883
 - 884 A. Be located and constructed to minimize flood damage;
885
 - 886 B. Meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory
887 Floodways, if located in a regulated floodway;
888
 - 889 C. Be anchored to prevent flotation, collapse, or lateral movement resulting from
890 hydrostatic loads, including the effects of buoyancy, during conditions of the design
891 flood;
892
 - 893 D. Be constructed of flood damage-resistant materials; and
894

895 E. Have mechanical, plumbing, and electrical systems above the design flood
896 elevation, except that minimum electric service required to address life safety and
897 electric code requirements is permitted below the design flood elevation provided
898 it conforms to the provisions of the electrical part of the Building Code for wet
899 locations.
900

901 2. *Accessory Structures.* Accessory structures are not required to meet the elevation
902 requirements if they meet all of the following requirements, in addition to those set forth
903 in Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways:
904

905 A. The structure is securely anchored to resist flotation, collapse, and lateral
906 movement;
907

908 B. The building is a minimal investment, and the total size of the building does not
909 exceed 1,000 square feet in floor area;
910

911 C. The structure is used exclusively for uninhabitable parking or storage purposes;
912

913 D. All electrical or heating equipment is elevated above the base flood elevation or
914 otherwise protected from intrusion of floodwaters; and
915

916 E. For accessory structures located in coastal high-hazard areas (V zones), breakaway
917 walls are used below the lowest floor.
918

919 *Non-elevated accessory structures.* Accessory structures are permitted below elevations
920 required by the Florida Building Code provided the accessory structures are used only
921 for parking or storage and:
922

923 A. If located in special flood hazard areas (Zone A/AE) other than coastal high
924 hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in
925 accordance with Section R322.2 of the Florida Building Code, Residential.
926

927 B. If located in coastal high hazard areas (Zone V/VE), are not located below
928 elevated buildings and are not larger than 100 sq. ft.
929

930 C. Are anchored to resist flotation, collapse or lateral movement resulting from flood
931 loads.
932

933 D. Have flood damage-resistant materials used below the base flood elevation plus
934 one (1) foot.
935

936 E. Have mechanical, plumbing and electrical systems, including plumbing fixtures,
937 elevated to or above the base flood elevation plus one (1) foot.
938

- 939 3. *Fences in Regulated Floodways.* Fences in regulated floodways that have the potential
940 to block the passage of floodwaters shall meet the limitations of Sec. 7-302.C.4,
941 Limitations on Sites in Regulatory Floodways.
942
- 943 4. *Retaining Walls, Sidewalks and Driveways in Regulated Floodways.* Retaining walls and
944 sidewalks and driveways that involve the placement of fill in regulated floodways shall
945 meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways.
946
- 947 5. *Roads and Watercourse Crossings in Regulated Floodways.* Roads and watercourse
948 crossings, including roads, bridges, culverts, low-water crossings, and similar means for
949 vehicles or pedestrians to travel from one side of a watercourse to the other side, that
950 encroach into regulated floodways, shall meet the limitations of Sec. 7-302.C.4,
951 Limitations on Sites in Regulatory Floodways. Alteration of a watercourse that is part of
952 a road or watercourse crossing shall meet the requirements of Sec. 7-301.E.3, Additional
953 Analyses and Certifications.
954
- 955 6. *Concrete Slabs Used as Parking Pads, Enclosure Floors, Landings, Decks, Walkways,*
956 *Patios, and Similar Nonstructural Uses in Coastal High Hazard Areas (Zone V).* In
957 coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings,
958 decks, walkways, patios, and similar nonstructural uses are permitted beneath or adjacent
959 to buildings and structures, provided the concrete slabs are designed and constructed to
960 be:
961
- 962 A. Structurally independent of the foundation system of the building or structure;
 - 963
 - 964 B. Frangible and not reinforced, so as to minimize debris during flooding that is
965 capable of causing significant damage to any structure; and
 - 966
 - 967 C. Have a maximum slab thickness of not more than four inches.
968
- 969 7. *Decks and Patios in Coastal High Hazard Areas (Zone V).* In addition to the
970 requirements of the Florida Building Code, in coastal high hazard areas, decks and patios
971 shall be located, designed, and constructed in compliance with the following:
972
- 973 A. A deck that is structurally attached to a building or structure shall have the bottom
974 of the lowest horizontal structural member at or above the design flood elevation
975 and any supporting members that extend below the design flood elevation shall
976 comply with the foundation requirements that apply to the building or structure,
977 which shall be designed to accommodate any increased loads resulting from the
978 attached deck.
979
 - 980 B. A deck or patio that is located below the design flood elevation shall be structurally
981 independent from buildings or structures and their foundation systems and shall be
982 designed and constructed either to remain intact and in place during design flood
983 conditions or to break apart into small pieces to minimize debris during flooding

- 984 that is capable of causing structural damage to the building or structure, or to
985 adjacent buildings and structures.
986
- 987 C. A deck or patio that has a vertical thickness of more than 12 inches or that is
988 constructed with more than the minimum amount of fill necessary for site drainage
989 shall not be approved unless an analysis prepared by a qualified registered design
990 professional demonstrates no harmful diversion of floodwaters or wave runup and
991 wave reflection that would increase damage to the building or structure or to
992 adjacent buildings and structures.
993
- 994 D. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural
995 grade or on nonstructural fill material that is similar to and compatible with local
996 soils and is the minimum amount necessary for site drainage may be approved
997 without requiring analysis of the impact on diversion of floodwaters or wave runup
998 and wave reflection.
999
- 1000 8. *Other Development in Coastal High Hazard Areas (Zone V)*. In coastal high hazard
1001 areas, development activities other than buildings and structures may be permitted only
1002 if it is also authorized by the appropriate federal, state, or local authority; if located
1003 outside the footprint of, and not structurally attached to, buildings and structures; and if
1004 analyses prepared by qualified registered design professionals demonstrate no harmful
1005 diversion of floodwaters or wave runup and wave reflection that would increase damage
1006 to adjacent buildings and structures. Such other development activities include but are
1007 not limited to:
1008
- 1009 A. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control
1010 structures;
1011
- 1012 B. Solid fences and privacy walls. and fences prone to trapping debris. unless designed
1013 and constructed to fail under flood conditions less than the design flood or otherwise
1014 function to avoid obstruction of floodwaters; and
1015
- 1016 C. On-site sewage treatment and disposal systems defined in Rule 64E-6.002, F.A.C.,
1017 as filled systems or mound systems.
1018
- 1019 9. *Nonstructural Fill in Coastal High Hazard Areas (Zone V)*. In coastal high hazard areas:
1020
- 1021 A. Minor grading and the placement of minor quantities of nonstructural fill may be
1022 permitted for landscaping and for drainage purposes under and around buildings.
1023
- 1024 B. Nonstructural fill with finished slopes that are steeper than one unit vertical to five
1025 units horizontal may be permitted only if an analysis prepared by a qualified
1026 registered design professional demonstrates no harmful diversion of floodwaters or
1027 wave runup and wave reflection that would increase damage to adjacent buildings
1028 and structures.

1029 10. *Critical Facilities.* Critical facilities shall be located outside the limits of the special
1030 flood hazard area where feasible. Construction of new critical facilities shall be
1031 permissible within the special flood hazard area if no feasible alternative site is available.
1032 If permitted, critical facilities shall be elevated or protected to or above the base flood
1033 elevation, plus two feet, or the 500-year (0.2 percent chance) flood elevation, whichever
1034 is higher. Flood proofing and sealing measures shall be implemented to ensure that toxic
1035 substances will not be displaced by or released into floodwaters. Access routes elevated
1036 to or above the base flood elevation shall be provided to all critical facilities, to the
1037 maximum extent practicable. Critical facilities shall be designed to remain operable
1038 during such an event.

1040 11. *Standards for Areas in the B, C, and X Zones.* All new buildings not located in the areas
1041 of special flood hazard established in Sec. 7-301.B.1.C, shall have the lowest floor
1042 elevation (including basement) constructed at least 12 inches above the crown of the
1043 nearest local street, unless the Building Official determines there are extenuating
1044 circumstances that would preclude meeting that elevation.

1045
1046 **7-303. Definitions.**

1047
1048 **A. General.**

1049
1050 1. *Terms Defined in the Florida Building Code.* Where terms are not defined in this section
1051 and are defined in the Florida Building Code, such terms will have the meanings ascribed
1052 to them in that code.

1053
1054 2. *Terms Not Defined.* Where terms are not defined in this section or the Florida Building
1055 Code, such terms will have ordinarily accepted meanings such as the context implies.

1056
1057 **B. Definitions.** Unless otherwise expressly stated, the following words and terms, for the
1058 purposes of this section only, have the meanings shown in this subsection.

1059
1060 *Accessory structure* means a structure on the same parcel of property as a principal structure and
1061 the use of which is limited to parking and storage incidental to the use of the principal structure.

1062 *Alteration of a Watercourse* means a dam, impoundment, channel relocation, change in channel
1063 alignment, channelization, or change in cross-sectional area of the channel or the channel capacity,
1064 or any other form of modification which may alter, impede, retard or change the direction and/or
1065 velocity of the riverine flow of water during conditions of the base flood.

1066
1067 *Appeal* means a request for a review of the Floodplain Administrator's interpretation of any
1068 provision of this section.

1069
1070 *ASCE 24* means a standard titled Flood Resistant Design and Construction that is referenced by
1071 the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil
1072 Engineers, Reston, VA.

1073 *Base Flood* means a flood having a one percent chance of being equaled or exceeded in any given
1074 year. [Also defined in Florida Building Code, B, Section 1612.2.] The base flood is commonly
1075 referred to as the "100-year flood" or the "one-percent-annual chance flood."
1076

1077 *Base Flood Elevation* means the elevation of the base flood, including wave height, relative to the
1078 National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other
1079 datum specified on the Flood Insurance Rate Map (FIRM).
1080

1081 *Basement* means the portion of a building having its floor subgrade (below ground level) on all
1082 sides.
1083

1084 *Coastal High Hazard Area* means a special flood hazard area extending from offshore to the inland
1085 limit of a primary frontal dune along an open coast and any other area subject to high velocity
1086 wave action from storms or seismic sources. ~~Coastal high hazard areas are also referred to as "high~~
1087 ~~hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood~~
1088 ~~Insurance Rate Maps (FIRM) as Zone VI-V30, VE, or V.~~
1089

1090 *Conditional Letter of Map Revision (CLOMR)* means a formal review and comment as to whether
1091 a proposed flood protection project or other project complies with the minimum NFIP
1092 requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR
1093 does not revise the effective FIRM or Flood Insurance Study; upon submission and approval of
1094 certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the
1095 effective FIRM.
1096

1097 *Critical Facility* means one or more of the following:
1098

1099 (1) Structures or facilities that commercially produce, use, or store highly volatile,
1100 flammable, explosive, toxic and/or water-reactive materials that are defined as extremely
1101 hazardous substances by the EPA under Sec. 302 of the Emergency Planning and
1102 Community Right-to-Know Act, Title III of the Superfund Amendments and
1103 Reauthorization Act of 1986, 42 USC;
1104

1105 (2) Nursing homes, hospitals, and social service homes;
1106

1107 (3) Structures used as law enforcement stations, fire stations, governmental vehicle and
1108 equipment storage facilities, and emergency operations centers that are needed for
1109 emergency response activities before, during, and after a flood incident; and
1110

1111 (4) Public or private utility facilities that are vital to maintaining and restoring normal
1112 services to flooded areas before, during, and after a flood incident.
1113

1114 *Design Flood* means the flood associated with the greater of the following two areas:
1115

1116 (1) Area with a floodplain subject to a one percent or greater chance of flooding in any year;
1117 or

1118 (2) Area designated as a flood hazard area on the FIRM or otherwise legally designated.

1119

1120 *Design Flood Elevation* means the elevation of the "design flood," including wave height, relative
1121 to the datum specified on the FIRM. In areas designated as Zone AO, the design flood elevation
1122 will be the elevation of the highest existing grade of the building's perimeter plus the depth number
1123 (in feet) specified on the FIRM. In areas designated as Zone AO where the depth number is not
1124 specified on the map, the depth number will be taken as being equal to two feet.

1125

1126 *Development* means any man-made change to improved or unimproved real estate, including but
1127 not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent
1128 storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling
1129 operations, or any other land disturbing activities.

1130

1131 *Encroachment* means the placement of fill, excavation, buildings, permanent structures, or other
1132 development into a flood hazard area which may impede or alter the flow capacity of riverine flood
1133 hazard areas.

1134

1135 *Existing Building and Existing Structure* means any buildings and structures for which the "start
1136 of construction" commenced before September 19, 1984.

1137

1138 *Existing Manufactured Home Park or Subdivision* means a manufactured home park or
1139 subdivision for which the construction of facilities for servicing the lots on which the manufactured
1140 homes are to be affixed (including, at a minimum, the installation of utilities, the construction of
1141 streets, and either final site grading or the pouring of concrete pads) is completed before September
1142 19, 1984.

1143

1144 ~~*Expansion to an Existing Manufactured Home Park or Subdivision* means the preparation of~~
1145 ~~additional sites by the construction of facilities for servicing the lots on which the manufactured~~
1146 ~~homes are to be affixed (including the installation of utilities, the construction of streets, and either~~
1147 ~~final site grading or the pouring of concrete pads).~~

1148

1149 *Federal Emergency Management Agency (FEMA)* means the federal agency that, in addition to
1150 carrying out other functions, administers the National Flood Insurance Program.

1151

1152 *Flood or Flooding* means a general and temporary condition of partial or complete inundation of
1153 normally dry land from:

1154

1155 (1) The overflow of inland or tidal waters.

1156

1157 (2) The unusual and rapid accumulation or runoff of surface waters from any source.

1158

1159 *Flood Damage-Resistant Materials* means any construction material capable of withstanding
1160 direct and prolonged contact with floodwaters without sustaining any damage that requires more
1161 than cosmetic repair.

1162

1163 *Flood Hazard Area* means the greater of the following two areas:

- 1164
- 1165 (1) The area within a floodplain subject to a one percent or greater chance of flooding in any
- 1166 year.
- 1167
- 1168 (2) The area designated as a flood hazard area on the FIRM or otherwise legally designated.
- 1169

1170 *Flood Insurance Rate Map (FIRM)* means the official map of the Village on which FEMA has

1171 delineated both special flood hazard areas and the risk premium zones applicable to the Village.

1172

1173 *Flood Insurance Study (FIS)* means the official report provided by FEMA that contains the FIRM,

1174 the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base

1175 flood, and supporting technical data.

1176

1177 *Floodplain Administrator* means the office or position designated and charged with the

1178 administration and enforcement of this section (may be referred to as the Floodplain Manager).

1179 The Village Manager serves as the Floodplain Manager in accordance with this section.

1180

1181 *Floodplain Development Permit or Approval* means an official document or certificate issued by

1182 the Floodplain Administrator, or other evidence of approval or concurrence, which authorizes

1183 performance of specific development activities that are located in flood hazard areas and that are

1184 determined to be compliant with this section.

1185

1186 *Floodway* means the channel of a river or other riverine watercourse and the adjacent land areas

1187 that shall be reserved in order to discharge the base flood without cumulatively increasing the

1188 water surface elevation more than one foot.

1189

1190 *Floodway Encroachment Analysis* means an engineering analysis of the impact that a proposed

1191 encroachment into a floodway is expected to have on the floodway boundaries and base flood

1192 elevations. The evaluation shall be prepared by a qualified Florida licensed engineer using standard

1193 engineering methods and models.

1194

1195 *Florida Building Code* means the family of codes adopted by the Florida Building Commission,

1196 including the Florida Building Code, Building; the Florida Building Code, Residential; the Florida

1197 Building Code, Existing Building; the Florida Building Code, Mechanical; the Florida Building

1198 Code, Plumbing; the Florida Building Code, Fuel Gas.

1199

1200 *Functionally Dependent Use* means a use which cannot perform its intended purpose unless it is

1201 located or carried out in close proximity to water, including only docking facilities, port facilities

1202 that are necessary for the loading and unloading of cargo or passengers, and ship building and ship

1203 repair facilities; the term does not include long-term storage or related manufacturing facilities.

1204

1205 *Highest Adjacent Grade* means the highest natural elevation of the ground surface prior to

1206 construction next to the proposed walls or foundation of a structure.

1207

1208 *Historic Structure* means any structure that is determined eligible for the exception to the flood
1209 hazard area requirements of the Florida Building Code, Existing Building, Chapter 12-41: Historic
1210 Buildings.

1211
1212 *Letter of Map Amendment (LOMA)* means an amendment based on technical data showing that a
1213 property was incorrectly included in a designated special flood hazard area. A LOMA amends the
1214 current effective FIRM and establishes that a specific property, portion of a property, or structure
1215 is not located in a special flood hazard area.

1216
1217 *Letter of Map Change (LOMC)* means an official determination issued by FEMA that amends or
1218 revises the FIRM or FIS. The LOMCs include Letter of Map Amendment (LOMA), Letter of Map
1219 Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), and Conditional Letter of
1220 Map Revision (CLOMR).

1221
1222 *Letter of Map Revision (LOMR)* means a revision based on technical data that may show changes
1223 to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations,
1224 and other planimetric features.

1225
1226 *Letter of Map Revision Based on Fill (LOMR-F)* means a determination that a structure or parcel
1227 of land has been elevated by fill above the base flood elevation and is, therefore, no longer located
1228 within the special flood hazard area. In order to qualify for this determination, the fill shall have
1229 been permitted and placed in accordance with this section.

1230
1231 *Light-Duty Truck* means as defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500 pounds
1232 gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less
1233 and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 1234
- 1235 (1) Designed primarily for purposes of transportation of property or is a derivation of such
1236 a vehicle;
 - 1237
 - 1238 (2) Designed primarily for transportation of persons and has a capacity of more than 12
1239 persons; or
 - 1240
 - 1241 (3) Available with special features enabling off-street or off-highway operation and use.
 - 1242

1243 *Lowest Floor* means the lowest floor of the lowest enclosed area of a building or structure,
1244 including basement, but excluding any unfinished or flood-resistant enclosure, other than a
1245 basement, usable solely for vehicle parking, building access or limited storage provided that such
1246 enclosure is not built to render the structure in violation of the non-elevation requirements of the
1247 Florida Building Code or ASCE 24.

1248
1249 *Manufactured Home* means a structure, transportable in one or more sections, which is eight feet
1250 or more in width and greater than 400 square feet, and which is built on a permanent, integral
1251 chassis and is designed for use with or without a permanent foundation when attached to the

1252 required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park
1253 trailer".

1254
1255 *Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided
1256 into two or more manufactured home lots for rent or sale.

1257
1258 *Market Value* means ~~the price at which a property will change hands between a willing buyer and~~
1259 ~~a willing seller, neither party being under compulsion to buy or sell and both having reasonable~~
1260 ~~knowledge of relevant facts. As used in this section, the term refers to the market~~ the value of
1261 buildings and structures, excluding the land and other improvements on the parcel. Market value
1262 ~~may be established by a qualified independent appraiser,~~ is the actual cash value (in-kind
1263 replacement cost depreciated for age, wear and tear, neglect, and quality of construction)
1264 determined by a qualified independent appraiser, or tax assessment value adjusted to approximate
1265 market value by a factor provided by the Property Appraiser.

1266
1267 *New Construction* means for the purposes of this section and the flood resistant construction
1268 requirements of the Florida Building Code, structures for which the "start of construction"
1269 commenced on or after September 19, 1984 and includes any subsequent improvements to such
1270 structures.

1271
1272 ~~*New Manufactured Home Park or Subdivision* means a manufactured home park or subdivision~~
1273 ~~for which the construction of facilities for servicing the lots on which the manufactured homes are~~
1274 ~~to be affixed (including at a minimum, the installation of utilities, the construction of streets, and~~
1275 ~~either final site grading or the pouring of concrete pads) is completed on or after September 19,~~
1276 ~~1984.~~

1277
1278 *Park Trailer* means a transportable unit which has a body width not exceeding 14 feet and which
1279 is built on a single chassis and is designed to provide seasonal or temporary living quarters when
1280 connected to utilities necessary for operation of installed fixtures and appliances.

1281
1282 *Permanent Construction* means does not include land preparation (such as clearing, grading, or
1283 filling), the installation of streets or walkways, excavation for a basement, footings, piers, or
1284 foundations, the erection of temporary forms or the installation of accessory buildings such as
1285 garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial
1286 improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor
1287 or other structural part of a building, whether or not that alteration affects the external dimensions
1288 of the building.

1289
1290 *Recreational Vehicle* means a vehicle, including a park trailer, which is:

- 1291
1292 (1) Built on a single chassis;
1293
1294 (2) 400 square feet or less when measured at the largest horizontal projection;
1295
1296 (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

1297 (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters
1298 for recreational, camping, travel, or seasonal use.
1299

1300 *Repetitive Loss* means flood-related damage sustained by a structure on two separate occasions
1301 during a ten-year period for which the cost of repairs at the time of each flood event, on the average,
1302 equals or exceeds 25 percent of the market value of the structure before the damage occurred.
1303

1304 *Special Flood Hazard Area* means an area in the floodplain subject to a one percent or greater
1305 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A,
1306 AO, A1-A30, AE, A99, AH, V1-V30, VE or V. Start of construction. The date of issuance of
1307 permits for new construction and substantial improvements, provided the actual start of
1308 construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is
1309 within 180 days of the date of the issuance. The actual start of construction means either the first
1310 placement of permanent construction of a building (including a manufactured home) on a site,
1311 such as the pouring of slab or footings, the installation of piles, the construction of columns.
1312

1313 *Substantial Damage* means damage sustained by a building or structure whereby the cost of
1314 restoring the building or structure to its before-damaged condition would equal or exceed 50
1315 percent of the market value of the building or structure before the damage occurred. The term also
1316 includes buildings and structures that have experienced repetitive loss.
1317

1318 *Substantial Improvement* means any combination of repair, reconstruction, rehabilitation, addition,
1319 or other improvement of a building or structure, taking place during a five-year period, the
1320 cumulative cost of which equals or exceeds 50 percent of the market value of the building or
1321 structure before the improvement or repair is started. For each building or structure, the five-year
1322 period begins on the date of the first improvement or repair of the building or structure subsequent
1323 to November 18, 1992. If the structure has incurred "substantial damage," any repairs are
1324 considered substantial improvement regardless of the actual repair work performed. The term does
1325 not include either:
1326

1327 (1) Any project for improvement of a building required to correct existing health, sanitary,
1328 or safety code violations identified by the Building Official and that are the minimum
1329 necessary to assure safe living conditions.
1330

1331 (2) Any alteration of a historic structure provided the alteration will not preclude the
1332 structure's continued designation as a historic structure.
1333

1334 *Variance* means a grant of relief from the requirements of this section, or the flood resistant
1335 construction requirements of the Florida Building Code, which permits construction in a manner
1336 that would not otherwise be permitted by this section or the Florida Building Code.
1337

1338 *Watercourse* means a river, creek, stream, channel, or other topographic feature in, on, through, or
1339 over which water flows at least periodically.
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Section 2. Repeal of Ordinance 2015-16.

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

Section 3. Severability.

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

Section 4. Conflicts.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

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

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 2nd day of November, 2022.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: _____
Carol Sacco, Village Clerk

By: _____
Katy Errington, Mayor

Reviewed for legal sufficiency:

By: _____
Nancy E. Stroud, Esq.
Village Land Use Attorney

	Vote:	AYE	NAY
1387	Mayor Errington	_____	_____
1388	Vice Mayor McLain	_____	_____
1389	Councilmember Ribble	_____	_____
1390	Councilmember Fiesel	_____	_____
1391	Councilmember Boesch	_____	_____
1392	Councilmember Ward	_____	_____
1393	Councilmember Wilson	_____	_____