

1 **VILLAGE OF ESTERO, FLORIDA**

2  
3 **ORDINANCE NO. 2025 - 04**

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 INCLUDE A**  
9 **REQUIREMENT FOR NONCONVERSION AGREEMENTS**  
10 **FOR ELEVATED STRUCTURES WITH ENCLOSURES**  
11 **BELOW THE REQUIRED ELEVATION, CLARIFY THE**  
12 **PROCESS FOR FLOOD VARIANCE APPEALS, CLARIFY**  
13 **SPECIFIC USE OF FEMA ELEVATION CERTIFICATES**  
14 **AND DRY FLOODPROOFING CERTIFICATIONS, LIMIT**  
15 **PARTITIONING OF ENCLOSED AREAS BELOW FLOOD,**  
16 **AND AMEND RELATED DEFINITIONS; PROVIDING FOR**  
17 **SEVERABILITY; PROVIDING FOR CONFLICTS; AND**  
18 **PROVIDING FOR AN EFFECTIVE DATE.**  
19

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

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

31 **WHEREAS**, the Village’s Flood Hazard Reduction Standards were adopted into the Land  
32 Development Code on November 16, 2022 and have not been amended since then except to  
33 remove “cumulative impact” requirements; and  
34

35 **WHEREAS**, the Village experienced three hurricanes (Ian, Helene and Milton) September  
36 28, 2022; September 26, 2024; and October 9, 2024, respectively; and  
37

38 **WHEREAS**, after experiencing the hurricanes, it became evident that some revisions to  
39 the Ordinance would be appropriate; and  
40

41 **WHEREAS**, FEMA visited the area after Hurricane Ian and required the Village and other  
42 municipalities and Lee County to prepare a Corrective Action Plan which listed specific action  
43 items to be implemented, including changes to the Land Development Code floodplain regulations;  
44 and

45 **WHEREAS**, the changes have been reviewed by the Florida Department of Emergency  
46 Management and \_\_\_\_\_; and

47  
48       **WHEREAS**, the Village Council has determined it appropriate to modify requirements to  
49 be consistent with the FEMA Policy and the Model Code; and  
50

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

55       **NOW THEREFORE, BE IT ENACTED BY THE VILLAGE COUNCIL OF THE**  
56 **VILLAGE OF ESTERO, FLORIDA, THAT:**  
57

58       **Section 1. Amendments to Section 7-3 Flood Hazard Reduction Standards.**  
59

60       Section 7-3 “Flood Hazard Reduction Standards” of the Village Land Development Code  
61 is hereby amended, as shown in strikethrough and underline text, by the following amendments.  
62

63       **SECTION 7-3. FLOOD HAZARD REDUCTION STANDARDS**  
64

65       **7-301. Administration.**  
66

- 67       1. *Disclaimer of Liability.* This section will not create liability on the part of the Village of  
68 Estero or by any officer or employee of the Village for any flood damage that results  
69 from reliance on this section or any administrative decision lawfully made under it.  
70

71       **B. Applicability.**  
72

- 73       1. *General.*  
74  
75       A. Where there is a conflict between a general requirement and a specific requirement,  
76 the specific requirement will be applicable.  
77  
78       B. This section applies to all flood hazard areas within the Village of Estero, as  
79 established in subsection C below.  
80  
81       C. The Flood Insurance Study for Lee County, Florida and Incorporated Areas,  
82 effective November 17, 2022 and all subsequent amendments and revisions, and  
83 the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent  
84 amendments and revisions to such maps, are adopted by reference as a part of this  
85 section and will serve as the minimum basis for establishing flood hazard areas.  
86 Studies and maps that establish flood hazard areas are on file at the Village  
87 Department of Community Development.  
88  
89       2. *Submission of Additional Data to Establish Flood Hazard Area.* To establish flood  
90 hazard areas and base flood elevations, in accordance with Sec. 7-301.E, Site Plans and  
91 Construction Documents, the Floodplain Administrator may require submission of  
92 additional data. Where field surveyed topography prepared by a Florida licensed

professional surveyor or digital topography accepted by the community indicates that ground elevations:

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

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

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

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

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

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**C. Duties and Powers of the Floodplain Administrator.**

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

2. *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this section. The Floodplain Administrator will have the authority to render interpretations of this section consistent with the intent and purpose of this section and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures will not have the effect of waiving requirements specifically provided in this section without the granting of a variance pursuant to Sec. 7-301.G, Variances and Appeals.

- 139 3. *Applications and Permits.* The Floodplain Administrator, in coordination with other  
140 pertinent offices of the community, will:  
141
- 142 A. Review applications and plans to determine whether proposed new development  
143 will be located in flood hazard areas;  
144
  - 145 B. Review applications for modification of any existing development in flood hazard  
146 areas for compliance with the requirements of this section;  
147
  - 148 C. Interpret flood hazard area boundaries where such interpretation is necessary to  
149 determine the exact location of boundaries; a person contesting the determination  
150 will have the opportunity to appeal the interpretation;  
151
  - 152 D. Provide available flood elevation and flood hazard information;  
153
  - 154 E. Determine whether additional flood hazard data will be obtained from other sources  
155 or will be developed by an applicant;  
156
  - 157 F. Review applications to determine whether proposed development will be  
158 reasonably safe from flooding;  
159
  - 160 G. Issue floodplain development permits or approvals for development other than  
161 buildings and structures that are subject to the Florida Building Code, including  
162 buildings, structures and facilities exempt from the Florida Building Code, when  
163 compliance with this section is demonstrated, or disapprove the same in the event  
164 of noncompliance; and  
165
  - 166 H. Coordinate to assure that applications, plan reviews, and inspections for buildings  
167 and structures in flood hazard areas comply with the applicable provisions of this  
168 section.  
169
- 170 4. *Substantial Improvement and Substantial Damage Determinations.* For applications for  
171 building permits to improve buildings and structures, including alterations, movement,  
172 enlargement, replacement, repair, change of occupancy, additions, rehabilitations,  
173 renovations, substantial improvements, repairs of substantial damage, and any other  
174 improvement of or work on such buildings and structures the Floodplain Administrator  
175 shall:  
176
- 177 A. Estimate the market value or require the applicant to obtain an appraisal of the  
178 market value prepared by a qualified independent appraiser of the building or  
179 structure before the start of construction of the proposed work; in the case of repair.  
180 the market value of the building or structure will be the market value before the  
181 damage occurred and before any repairs are made;  
182

- 183 B. Compare the cost to perform the improvement, the cost to repair a damaged  
184 building to its pre-damaged condition, or the combined costs of improvements and  
185 repairs, if applicable, to the market value of the building or structure;  
186
- 187 C. Determine and document whether the proposed work constitutes substantial  
188 improvement or repair of substantial damage; the determination requires evaluation  
189 of previous permits issued for improvements and repairs as specified in the  
190 definition of "substantial improvement" and previous permits issued for repair of  
191 flood-related damage; and  
192
- 193 D. Notify the applicant if it is determined that the work constitutes substantial  
194 improvement or repair of substantial damage and that compliance with the flood  
195 resistant construction requirements of the Florida Building Code and this section is  
196 required.  
197
- 198 5. *Modifications of the Strict Application of the Requirements of the Florida Building Code.*  
199 The Floodplain Administrator will review requests submitted to the Building Official  
200 that seek approval to modify the strict application of the flood load and flood resistant  
201 construction requirements of the Florida Building Code to determine whether such  
202 requests require the granting of a variance in accordance with Sec. 7-301.G, Variances  
203 and Appeals.  
204
- 205 6. *Notices and Orders.* The Floodplain Administrator will coordinate with appropriate local  
206 agencies for the issuance of all necessary notices or orders to ensure compliance with  
207 this section.  
208
- 209 7. *Inspections.* The Floodplain Administrator will make the required inspections as  
210 specified in Sec. 7-301.F, Inspections, for development that is not subject to the Florida  
211 Building Code, including buildings, structures and facilities exempt from the Florida  
212 Building Code. The Floodplain Administrator will inspect flood hazard areas to  
213 determine if development is undertaken without issuance of a permit.  
214
- 215 8. *Other Duties of the Floodplain Administrator.* The Floodplain Administrator will have  
216 other duties, including but not limited to:  
217
- 218 A. Establishing procedures for administering and documenting determinations of  
219 substantial improvement and substantial damage in accordance with Sec.  
220 7-301.C.4, Substantial Improvement and Substantial Damage Determinations;  
221
- 222 B. Requiring that applicants proposing alteration of a watercourse notify adjacent  
223 communities and the Florida Division of Emergency Management, State Floodplain  
224 Management Office, and submit copies of such notifications to the Federal  
225 Emergency Management Agency (FEMA);  
226
- 227 C. Requiring applicants who submit hydrologic and hydraulic engineering analyses to  
228 support permit applications to submit to FEMA the data and information necessary

to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions will be made within six months of such data becoming available;

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

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

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

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

#### **D. Permits.**

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

2. *Floodplain Development Permits or Approvals.* Floodplain development permits or approvals will be issued in accordance with this section for any development activities not subject to the requirements of the Florida Building Code including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
3. *Buildings, Structures, and Facilities Exempt from the Florida Building Code.* In accordance with the requirements of federal regulation for participation in the National Flood Insurance Program (44 CFR Secs. 59 and 60), floodplain development permits or approvals will be required for buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this section.
4. *Application for a Permit or Approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the Village. The information provided shall:
- A. Identify and describe the development to be covered by the permit or approval.
  - B. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
  - C. Indicate the use and occupancy for which the proposed development is intended.
  - D. Be accompanied by a site plan or construction documents as specified in Sec. 7-301.E, Site Plans and Construction Documents.
  - E. State the valuation of the proposed work.
  - F. Be signed by the applicant or the applicant's authorized agent.
  - G. Give such other data and information as required by the Floodplain Administrator.
  - H. For projects proposing to enclose areas under elevated buildings, include a signed Declaration of Land Restriction (Nonconversion Agreement). The agreement shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
5. *Validity of Permit or Approval.* The issuance of a floodplain development permit or approval in accordance with this section shall not be construed to be a permit for, or approval of, any violation of this section, the Florida Building Codes, or any other Village regulations. The issuance of permits based on submitted applications, construction documents, and information will not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

- 320 6. *Suspension or Revocation.* The Floodplain Administrator is authorized to suspend or  
321 revoke a floodplain development permit or approval if the permit was issued in error; on  
322 the basis of incorrect, inaccurate, or incomplete information; or in violation of this  
323 section or any other section, regulation, or requirement of the Village.  
324
- 325 7. *Other Permits Required.* Floodplain development permits and building permits shall  
326 include a condition that all other applicable state or federal permits be obtained before  
327 commencement of the permitted development, including but not limited to the following:  
328
- 329 A. SFWMD; F.S. § 373.036.  
330
- 331 B. Florida Department of Health for onsite sewage treatment and disposal systems;  
332 F.S. § 381.0065 and Ch. 64E-6, F.A.C.  
333
- 334 C. FDEP for activities subject to the Joint Coastal Permit; F.S. § 161.055.  
335
- 336 D. FDEP for activities that affect wetlands and alter surface water flows, in  
337 conjunction with the U.S. Army Corps of Engineers; Sec. 404 of the Clean Water  
338 Act.  
339
- 340 E. Federal permits and approvals.  
341

342 **E. Site Plans and Construction Documents.**  
343

- 344 1. *Information for Development in Flood Hazard Areas.*  
345
- 346 A. The site plan or construction documents for any development subject to the  
347 requirements of this section shall be drawn to scale and include, as applicable to the  
348 proposed development:  
349
- 350 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s),  
351 base flood elevation(s), and ground elevations if necessary for review of the  
352 proposed development.  
353
- 354 2. Where base flood elevations, or floodway data are not included on the FIRM  
355 or in the Flood Insurance Study, they shall be established in accordance with  
356 Sec. 7-301.E.2.B or Sec. 7-301.E.2.C.  
357
- 358 3. Where the parcel on which the proposed development will take place will have  
359 more than 50 lots or is larger than five acres and the base flood elevations are  
360 not included on the FIRM or in the Flood Insurance Study, such elevations  
361 shall be established in accordance with Sec. 7-301.E.2.A.  
362
- 363 4. Location of the proposed activity and proposed structures, and locations of  
364 existing buildings and structures; in coastal high hazard areas, new buildings  
365 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
    2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet.

- 411 D. Where the base flood elevation data are to be used to support a Letter of Map  
412 Change from FEMA, advise the applicant that the analyses shall be prepared by a  
413 Florida licensed engineer in a format required by FEMA, and that it shall be the  
414 responsibility of the applicant to satisfy the submittal requirements and pay the  
415 processing fees.  
416
- 417 3. *Additional Analyses and Certifications.* As applicable to the location and nature of the  
418 proposed development activity, and in addition to the requirements of this section, the  
419 applicant shall have the following analyses signed and sealed by a Florida licensed  
420 engineer for submission with the site plan and construction documents:  
421
- 422 A. For development activities proposed to be located in a regulatory floodway, a  
423 floodway encroachment analysis that demonstrates that the encroachment of the  
424 proposed development will not cause any increase in base flood elevations; where  
425 the applicant proposes to undertake development activities that do increase base  
426 flood elevations, the applicant shall submit such analysis to FEMA as specified in  
427 Sec. 7-301.E.4, Submission of Additional Data, and shall submit the Conditional  
428 Letter of Map Revision, if issued by FEMA, with the site plan and construction  
429 documents.  
430
- 431 B. For development activities proposed to be located in a riverine flood hazard area  
432 for which base flood elevations are included in the Flood Insurance Study or on the  
433 FIRM and floodways have not been designated, hydrologic and hydraulic analyses  
434 that demonstrate that the cumulative effect of the proposed development, when  
435 combined with all other existing and anticipated flood hazard area encroachments,  
436 will not increase the base flood elevation more than one foot at any point within the  
437 community. This requirement does not apply in isolated flood hazard areas not  
438 connected to a riverine flood hazard area or in flood hazard areas identified as Zone  
439 AO or Zone AH.  
440
- 441 C. For alteration of a watercourse, an engineering analysis prepared in accordance with  
442 standard engineering practices which demonstrates that the flood-carrying capacity  
443 of the altered or relocated portion of the watercourse will not be decreased, and  
444 certification that the altered watercourse shall be maintained in a manner which  
445 preserves the channel's flood-carrying capacity; the applicant shall submit the  
446 analysis to FEMA as specified in Sec. 7-301.E.4, Submission of Additional Data.  
447
- 448 D. For activities that propose to alter mangrove stands in coastal high hazard areas  
449 (Zone V), an engineering analysis that demonstrates that the proposed alteration  
450 will not increase the potential for flood damage.  
451
- 452 4. *Submission of Additional Data.* When additional hydrologic, hydraulic or other  
453 engineering data, studies, and additional analyses are submitted to support an  
454 application, the applicant has the right to seek a Letter of Map Change from FEMA to  
455 change the base flood elevations, change floodway boundaries, or change boundaries of  
456 flood hazard areas shown on FIRMs, and to submit such data to FEMA for such

purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees will be the responsibility of the applicant.

**F. Inspections.**

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

**G. Variances and Appeals.**

1. *General.* The **Village Council Planning, Zoning and Design Board (“PZDB”)**, acting as the Board of Adjustment and Appeals pursuant to Section 553.73(5), F.S., shall hear and decide on requests for appeals and requests for variances from the strict application of this section. This section does not apply to Sec. 3109 of the Florida Building Code, Building.
2. *Appeals.* The **Village Council-PZDB** shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this section. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by state law.
3. *Limitations on Authority to Grant Variances.* The **Village Council-PZDB** will base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Sec. 7-301.G.7, Considerations for Issuance of Variances, the conditions of issuance set forth in Sec. 7-301.G.8, Conditions for Issuance of Variances, and the comments and recommendations of the Building Official. The **Village Council-PZDB** has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section.
4. *Restrictions in Floodways.* A variance will not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Sec. 7-301.E.3, Additional Analyses and Certifications.
5. *Historic Buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter **12.44** Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance will not be granted and the building and any repair, improvement, and rehabilitation will be subject to the requirements of the Florida Building Code.

- 503
- 504 6. *Functionally Dependent Uses.* A variance is authorized to be issued for the construction
- 505 or substantial improvement necessary for the conduct of a functionally dependent use,
- 506 as defined in this section, provided the variance meets the requirements of Sec.
- 507 7-301.G.4, Restrictions in Floodways is the minimum necessary considering the flood
- 508 hazard, and all due consideration has been given to use of methods and materials that
- 509 minimize flood damage during occurrence of the base flood.
- 510
- 511 7. *Considerations for Issuance of Variances.* In reviewing requests for variances, the
- 512 **Village Council PZDB** will consider all technical evaluations, all relevant factors, all
- 513 other applicable provisions of the Florida Building Code, this section, and the following:
- 514
- 515 A. The danger that materials and debris may be swept onto other lands resulting in
- 516 further injury or damage;
- 517
- 518 B. The danger to life and property due to flooding or erosion damage;
- 519
- 520 C. The susceptibility of the proposed development, including contents, to flood
- 521 damage and the effect of such damage on current and future owners;
- 522
- 523 D. The importance of the services provided by the proposed development to the
- 524 community;
- 525 E. The availability of alternate locations for the proposed development that are subject
- 526 to lower risk of flooding or erosion;
- 527
- 528 F. The compatibility of the proposed development with existing and anticipated
- 529 development;
- 530
- 531 H. The relationship of the proposed development to the comprehensive plan and
- 532 floodplain management program for the area;
- 533
- 534 I. The safety of access to the property in times of flooding for ordinary and emergency
- 535 vehicles;
- 536
- 537 J. The expected heights, velocity, duration, rate of rise and debris and sediment
- 538 transport of the floodwaters and the effects of wave action, if applicable expected
- 539 at the site; and
- 540
- 541 J. The costs of providing governmental services during and after flood conditions
- 542 including maintenance and repair of public utilities and facilities such as sewer, gas,
- 543 electrical and water systems, streets and bridges.
- 544
- 545

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

A. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this section or the required elevation standards;

B. Determination by the **Village Council PZDB** that:

1. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

2. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and regulations; and

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

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

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

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

2. *Unlawful Continuance.* Any person who continues any work after having been served with a notice of violation or a stop work order, except such work as that person is directed

to perform to remove or remedy a violation or unsafe condition, will be subject to penalties as prescribed by law.

## **7-302. Flood Resistant Development.**

### **A. Buildings and Structures**

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

2. Amend the definitions of “substantial damage” and “substantial improvement” in the Florida Building Code, Building Section 202, and Florida Building Code. Existing Building Section 202, as follows:

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

3. *Florida Building Code Administrative Amendments; Nonconversion Agreements.* Applications for buildings with enclosures below the required elevation shall include signed declarations of land restrictions (nonconversion agreements), as defined in Section 7-303 – Definitions. The agreement shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

4. *Florida Building Code, Administrative Amendments; Certification Forms.* (1) Where elevations of buildings in flood hazard areas are specified in applications, and where certification of the elevation of buildings in flood hazard areas is required, the FEMA Elevation Certificate shall be submitted; (2) Where certifications of the design of dry floodproofed non-residential buildings in flood hazard areas are required and where certification of the elevation of dry floodproofing is required, the FEMA Dry Floodproofing Certificate for Non-residential Structures shall be submitted.

**SUBSTANTIAL IMPROVEMENT.** For the purposes of determining compliance with the flood provision of this Code, any combination of repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of

637 accumulation begins with the first improvement or repair of each building is permitted  
638 subsequent to November 18, 1992. If the structure has sustained substantial damage, any  
639 repairs are considered substantial improvement regardless of the actual repair work  
640 performed. The term does not, however, include either:

641  
642 1. Any project for improvement of a building required to correct existing health,  
643 sanitary or safety code violations identified by the building official and that is the minimum  
644 necessary to assure safe living conditions.

645  
646 2. Any alteration of a historic structure provided that the alteration will not preclude  
647 the structure's continued designation as a historic structure.

648  
649 **B. Subdivisions.**

650  
651 1. *Minimum Requirements.* Subdivision proposals, including proposals for manufactured  
652 home parks and subdivisions, shall be reviewed to determine that:

653  
654 A. Such proposals are consistent with the need to minimize flood damage and will be  
655 reasonably safe from flooding;

656  
657 B. All public utilities and facilities such as sewer, gas, electric, communications, and  
658 water systems are located and constructed to minimize or eliminate flood damage;  
659 and

660  
661 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH  
662 and AO, adequate drainage paths shall be provided to guide floodwaters around and  
663 away from proposed structures.

664  
665 2. *Standards for Subdivision and Other Development Proposals.* Where any portion of  
666 proposed subdivisions, including manufactured home parks and subdivisions, lies within  
667 a flood hazard area, the following shall be required:

668  
669 A. Where the subdivision is greater than 50 lots or five acres and base flood elevations  
670 are not included on the FIRM, base flood elevations determined in accordance with  
671 Sec. 7-301.E.2.A; and

672  
673 B. Compliance with the site improvement and utilities requirements of Sec. 7-302.C,  
674 Site Improvements, Utilities and Limitations.

675  
676 **C. Site Improvements, Utilities and Limitations.**

677  
678 1. *Minimum Requirements.* All proposed new development will be reviewed to determine  
679 that:

680  
681 A. Such proposals are consistent with the need to minimize flood damage and will be  
682 reasonably safe from flooding;

- 683 B. All public utilities and facilities such as sewer, gas, electric, communications, and  
684 water systems are located and constructed to minimize or eliminate flood damage;  
685 and  
686
- 687 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH  
688 and AO, adequate drainage paths shall be provided to guide floodwaters around and  
689 away from proposed structures.  
690
- 691 2. *Sanitary Sewage Facilities.* All new and replacement sanitary sewage facilities, private  
692 sewage treatment plants (including all pumping stations and collector systems), and on-  
693 site waste disposal systems shall be designed in accordance with the standards for onsite  
694 sewage treatment and disposal systems in Ch. 64E-6, F.A.C. and ASCE 24 Ch. 7 to  
695 minimize or eliminate infiltration of floodwaters into the facilities and discharge from  
696 the facilities into floodwaters, and impairment of the facilities and systems.  
697
- 698 3. *Water Supply Facilities.* All new and replacement water supply facilities shall be  
699 designed in accordance with the water well construction standards in Ch. 62-532.500,  
700 F.A.C. and ASCE 24 Ch. 7 to minimize or eliminate infiltration of floodwaters into the  
701 systems.  
702
- 703 4. *Limitations on Sites in Regulatory Floodways.* No development, including but not  
704 limited to site improvements, and land disturbing activity involving fill or regrading,  
705 may be authorized in the regulatory floodway unless the floodway encroachment  
706 analysis required in Sec. 7-301.E.3.A, demonstrates that the proposed development or  
707 land disturbing activity will not result in any increase in the base flood elevation.  
708
- 709 5. *Limitations on Placement of Fill.* Subject to the limitations of this section, fill shall be  
710 designed to be stable under conditions of flooding, including rapid rise and rapid  
711 drawdown of floodwaters, prolonged inundation, and protection against flood-related  
712 erosion and scour. In addition to these requirements, if intended to support buildings and  
713 structures (Zone A only), fill shall comply with the requirements of the Florida Building  
714 Code.  
715
- 716 6. *Limitations on Sites in Coastal High Hazard Areas (Zone V).* In coastal high hazard  
717 areas, alteration of mangrove stands will be permitted only if such alteration is approved  
718 by the FDEP and only if the engineering analysis required by Sec. 7-301.E.3.D  
719 demonstrates that the proposed alteration will not increase the potential for flood  
720 damage.  
721
- 722 D. **Manufactured Homes.**  
723
- 724 1. *General.*  
725
- 726 A. All manufactured homes installed in flood hazard areas shall be installed by an  
727 installer that is licensed in accordance with F.S. § 320.8249, and shall comply with  
728 the requirements of Ch. 15C-1, F.A.C. and the requirements of this section.



- 729 B. The placement of manufactured homes or recreational vehicles is prohibited in  
730 coastal high hazard areas (Zone V), except in an existing manufactured home or  
731 recreational vehicle park or subdivision. A replacement manufactured home or  
732 recreational vehicle may be placed on a lot in an existing manufactured home or  
733 recreational vehicle park or subdivision, provided the anchoring standards of Sec.  
734 7-302.D.3, Anchoring, and the elevation standards of Sec. 7-302.D.4, Elevation, are  
735 met. New or expanded manufactured home or recreational vehicle parks or  
736 subdivisions are prohibited until such time, if ever, that Village of Estero Plan  
737 Policy 80.1.2 is amended or repealed so as to allow such new or expanded  
738 manufactured home or recreational vehicle development.  
739
- 740 2. *Foundations.* All new manufactured homes and replacement manufactured homes  
741 installed in flood hazard areas shall be installed on permanent, reinforced foundations  
742 that:  
743
- 744 A. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed  
745 in accordance with the foundation requirements of the Florida Building Code,  
746 Residential Section R322.2 and this section.  
747
- 748 B. In coastal high hazard areas (Zone V), are designed in accordance with the  
749 foundation requirements of the Florida Building Code, Residential Section R322.3  
750 and this section.  
751
- 752 3. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be  
753 installed using methods and practices which minimize flood damage and shall be  
754 securely anchored to an adequately anchored foundation system to resist flotation,  
755 collapse, or lateral movement. Methods of anchoring include, but are not limited to, use  
756 of over-the-top or frame ties to ground anchors. This anchoring requirement is in  
757 addition to applicable state and local anchoring requirements for wind resistance.  
758
- 759 4. *Elevation.* All manufactured homes that are placed, replaced, or substantially improved  
760 in flood hazard areas shall be elevated such that the bottom of the frame is at or above  
761 the elevation required, as applicable to the flood hazard area, in the *Florida Building*  
762 *Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A  
763 Zone)  
764
- 765 **5. 7.** *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the  
766 requirements of the Florida Building Code, Residential Sections R322.2 or R322.3, for  
767 such enclosed areas, as applicable to the flood hazard area.  
768
- 769 **6. 8.** *Utility Equipment.* Utility equipment that serves manufactured homes, including electric,  
770 heating, ventilation, plumbing, and air conditioning equipment and other service  
771 facilities, shall comply with the requirements of the Florida Building Code, Residential  
772 Section R322, as applicable to the flood hazard area.  
773  
774

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

- 776
- 777 1. *Temporary Placement.* Recreational vehicles and park trailers placed temporarily in
- 778 flood hazard areas shall:
- 779
- 780 A. Be on the site for fewer than 180 consecutive days; or
- 781
- 782 B. Be fully licensed and ready for highway use, which means the recreational vehicle
- 783 or park model is on wheels or jacking system, is attached to the site only by quick-
- 784 disconnect type utilities and security devices, and has no permanent attachments
- 785 such as additions, rooms, stairs, decks, and porches.
- 786
- 787 2. *Permanent Placement.* Recreational vehicles and park trailers that do not meet the
- 788 limitations in Sec. 7-302.E.1, Temporary Placement, shall meet the requirements of Sec.
- 789 7-302.D, Manufactured Homes.
- 790

791 F. **Tanks.**

- 792
- 793 1. *Underground Tanks.* Underground tanks in flood hazard areas shall be anchored to
- 794 prevent flotation, collapse, or lateral movement resulting from hydrodynamic and
- 795 hydrostatic loads during conditions of the design flood, including the effects of buoyancy
- 796 assuming the tank is empty.
- 797
- 798 2. *Above-Ground Tanks, Not Elevated.* Above-ground tanks that do not meet the elevation
- 799 requirements of Sec. 7-302.F.3, Above Ground Tanks, Elevated, shall:
- 800
- 801 A. Be permitted only in flood hazard areas (Zone A) other than coastal high hazard
- 802 areas, provided the tanks are anchored or otherwise designed and constructed to
- 803 prevent flotation, collapse, or lateral movement resulting from hydrodynamic and
- 804 hydrostatic loads during conditions of the design flood, including the effects of
- 805 buoyancy assuming the tank is empty and the effects of flood-borne debris.
- 806
- 807 B. Not be permitted in coastal high hazard areas (Zone V).
- 808
- 809 3. *Above Ground Tanks, Elevated.* Above-ground tanks in flood hazard areas shall be
- 810 attached to and elevated to or above the design flood elevation on a supporting structure
- 811 that is designed to prevent flotation, collapse, or lateral movement during conditions of
- 812 the design flood. Tank-supporting structures shall meet the foundation requirements of
- 813 the applicable flood hazard area.
- 814
- 815 4. *Tank Inlets and Vents.* Tank inlets, fill openings, outlets, and vents shall be:
- 816
- 817 A. At or above the design flood elevation or fitted with covers designed to prevent the
- 818 inflow of floodwater or outflow of the contents of the tanks during conditions of
- 819 the design flood; and
- 820

- 821 B. Anchored to prevent lateral movement resulting from hydrodynamic and  
822 hydrostatic loads, including the effects of buoyancy, during conditions of the design  
823 flood.  
824

825 **G. Other Development.**  
826

- 827 1. *General Requirements for Other Developments.* All development, including man-made  
828 changes to improved or unimproved real estate for which specific provisions are not  
829 specified in this section or the Florida Building Code, shall:  
830 A. Be located and constructed to minimize flood damage;  
831  
832 B. Meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory  
833 Floodways, if located in a regulated floodway;  
834  
835 C. Be anchored to prevent flotation, collapse, or lateral movement resulting from  
836 hydrostatic loads, including the effects of buoyancy, during conditions of the design  
837 flood;  
838  
839 D. Be constructed of flood damage-resistant materials; and  
840  
841 E. Have mechanical, plumbing, and electrical systems above the design flood  
842 elevation, except that minimum electric service required to address life safety and  
843 electric code requirements is permitted below the design flood elevation provided  
844 it conforms to the provisions of the electrical part of the Building Code for wet  
845 locations.  
846
- 847 2. *Non-elevated accessory structures.* Accessory structures are permitted below elevations  
848 required by the Florida Building Code provided the accessory structures are used only  
849 for parking or storage and:  
850
- 851 A. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard  
852 areas, are one-story and not larger than 600 sq. ft. and have flood openings in  
853 accordance with Section R322.2 of the Florida Building Code, Residential.  
854
- 855 B. If located in coastal high hazard areas (Zone V/VE), are not located below elevated  
856 buildings and are not larger than 100 sq. ft.  
857
- 858 C. Are anchored to resist flotation, collapse or lateral movement resulting from flood  
859 loads.  
860
- 861 D. Have flood damage-resistant materials used below the base flood elevation plus one  
862 (1) foot.  
863
- 864 E. Have mechanical, plumbing and electrical systems, including plumbing fixtures,  
865 elevated to or above the base flood elevation plus one (1) foot.  
866

- 867 3. *Fences in Regulated Floodways*. Fences in regulated floodways that have the potential  
868 to block the passage of floodwaters shall meet the limitations of Sec. 7-302.C.4,  
869 Limitations on Sites in Regulatory Floodways.  
870
- 871 4. *Retaining Walls, Sidewalks and Driveways in Regulated Floodways*. Retaining walls and  
872 sidewalks and driveways that involve the placement of fill in regulated floodways shall  
873 meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways.  
874 5. *Roads and Watercourse Crossings in Regulated Floodways*. Roads and watercourse  
875 crossings, including roads, bridges, culverts, low-water crossings, and similar means for  
876 vehicles or pedestrians to travel from one side of a watercourse to the other side, that  
877 encroach into regulated floodways, shall meet the limitations of Sec. 7-302.C.4,  
878 Limitations on Sites in Regulatory Floodways. Alteration of a watercourse that is part of  
879 a road or watercourse crossing shall meet the requirements of Sec. 7-301.E.3, Additional  
880 Analyses and Certifications.  
881
- 882 6. *Concrete Slabs Used as Parking Pads, Enclosure Floors, Landings, Decks, Walkways,*  
883 *Patios, and Similar Nonstructural Uses in Coastal High Hazard Areas (Zone V)*. In  
884 coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings,  
885 decks, walkways, patios, and similar nonstructural uses are permitted beneath or adjacent  
886 to buildings and structures, provided the concrete slabs are designed and constructed to  
887 be:  
888
- 889 A. Structurally independent of the foundation system of the building or structure;  
890  
891 B. Frangible and not reinforced, so as to minimize debris during flooding that is  
892 capable of causing significant damage to any structure; and  
893  
894 C. Have a maximum slab thickness of not more than four inches.  
895
- 896 7. *Decks and Patios in Coastal High Hazard Areas (Zone V)*. In addition to the  
897 requirements of the Florida Building Code, in coastal high hazard areas, decks and patios  
898 shall be located, designed, and constructed in compliance with the following:  
899
- 900 A. A deck that is structurally attached to a building or structure shall have the bottom  
901 of the lowest horizontal structural member at or above the design flood elevation  
902 and any supporting members that extend below the design flood elevation shall  
903 comply with the foundation requirements that apply to the building or structure,  
904 which shall be designed to accommodate any increased loads resulting from the  
905 attached deck.  
906
- 907 B. A deck or patio that is located below the design flood elevation shall be structurally  
908 independent from buildings or structures and their foundation systems and shall be  
909 designed and constructed either to remain intact and in place during design flood  
910 conditions or to break apart into small pieces to minimize debris during flooding  
911 that is capable of causing structural damage to the building or structure, or to  
912 adjacent buildings and structures.

- 913 C. A deck or patio that has a vertical thickness of more than 12 inches or that is  
914 constructed with more than the minimum amount of fill necessary for site drainage  
915 shall not be approved unless an analysis prepared by a qualified registered design  
916 professional demonstrates no harmful diversion of floodwaters or wave runup and  
917 wave reflection that would increase damage to the building or structure or to  
918 adjacent buildings and structures.  
919
- 920 D. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural  
921 grade or on nonstructural fill material that is similar to and compatible with local  
922 soils and is the minimum amount necessary for site drainage may be approved  
923 without requiring analysis of the impact on diversion of floodwaters or wave runup  
924 and wave reflection.  
925
- 926 8. *Other Development in Coastal High Hazard Areas (Zone V)*. In coastal high hazard  
927 areas, development activities other than buildings and structures may be permitted only  
928 if it is also authorized by the appropriate federal, state, or local authority; if located  
929 outside the footprint of, and not structurally attached to, buildings and structures; and if  
930 analyses prepared by qualified registered design professionals demonstrate no harmful  
931 diversion of floodwaters or wave runup and wave reflection that would increase damage  
932 to adjacent buildings and structures. Such other development activities include but are  
933 not limited to:  
934
- 935 A. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control  
936 structures;  
937
- 938 B. Solid fences and privacy walls, and fences prone to trapping debris, unless designed  
939 and constructed to fail under flood conditions less than the design flood or otherwise  
940 function to avoid obstruction of floodwaters; and  
941
- 942 C. On-site sewage treatment and disposal systems defined in Rule 64E-6.002, F.A.C.,  
943 as filled systems or mound systems.  
944
- 945 9. *Nonstructural Fill in Coastal High Hazard Areas (Zone V)*. In coastal high hazard areas:  
946
- 947 A. Minor grading and the placement of minor quantities of nonstructural fill may be  
948 permitted for landscaping and for drainage purposes under and around buildings.  
949
- 950 B. Nonstructural fill with finished slopes that are steeper than one unit vertical to five  
951 units horizontal may be permitted only if an analysis prepared by a qualified  
952 registered design professional demonstrates no harmful diversion of floodwaters or  
953 wave runup and wave reflection that would increase damage to adjacent buildings  
954 and structures.  
955
- 956 10. *Critical Facilities*. Critical facilities shall be located outside the limits of the special  
957 flood hazard area where feasible. Construction of new critical facilities shall be  
958 permissible within the special flood hazard area if no feasible alternative site is available.

If permitted, critical facilities shall be elevated or protected to or above the base flood elevation, plus two feet, or the 500-year (0.2 percent chance) flood elevation, whichever is higher. Flood proofing and sealing measures shall be implemented to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the base flood elevation shall be provided to all critical facilities, to the maximum extent practicable. Critical facilities shall be designed to remain operable during such an event.

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

### **7-303. Definitions.**

#### **A. General.**

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Structures or facilities that commercially produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials that are defined as extremely hazardous substances by the EPA under Sec. 302 of the Emergency Planning and Community Right-to-Know Act, Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 USC;
- (2) Nursing homes, hospitals, and social service homes;
- (3) Structures used as law enforcement stations, fire stations, governmental vehicle and equipment storage facilities, and emergency operations centers that are needed for emergency response activities before, during, and after a flood incident; and
- (4) Public or private utility facilities that are vital to maintaining and restoring normal services to flooded areas before, during, and after a flood incident.

*Declaration of Land Restriction (Nonconversion Agreement).* A form provided by the Floodplain Administrator to be signed by the property owner and recorded on the property deed in the Official Records of the Lee County Clerk of Courts. By signing, the owner agrees not to covert or modify enclosures below elevated buildings in any manner inconsistent with the terms of the building permit and these regulations.

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

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

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

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

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

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

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

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

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

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

(1) The overflow of inland or tidal waters.

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

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

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

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

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



1097 *Flood Insurance Rate Map (FIRM)* means the official map of the Village on which FEMA has  
1098 delineated both special flood hazard areas and the risk premium zones applicable to the Village.  
1099

1100 *Flood Insurance Study (FIS)* means the official report provided by FEMA that contains the FIRM,  
1101 the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base  
1102 flood, and supporting technical data.  
1103

1104 *Floodplain Administrator* means the office or position designated and charged with the  
1105 administration and enforcement of this section (may be referred to as the Floodplain Manager).  
1106 The Village Manager serves as the Floodplain Manager in accordance with this section.  
1107

1108 *Floodplain Development Permit or Approval* means an official document or certificate issued by  
1109 the Floodplain Administrator, or other evidence of approval or concurrence, which authorizes  
1110 performance of specific development activities that are located in flood hazard areas and that are  
1111 determined to be compliant with this section.  
1112

1113 *Floodway* means the channel of a river or other riverine watercourse and the adjacent land areas  
1114 that shall be reserved in order to discharge the base flood without cumulatively increasing the  
1115 water surface elevation more than one foot.  
1116

1117 *Floodway Encroachment Analysis* means an engineering analysis of the impact that a proposed  
1118 encroachment into a floodway is expected to have on the floodway boundaries and base flood  
1119 elevations. The evaluation shall be prepared by a qualified Florida licensed engineer using standard  
1120 engineering methods and models.  
1121

1122 *Florida Building Code* means the family of codes adopted by the Florida Building Commission,  
1123 including the Florida Building Code, Building; the Florida Building Code, Residential; the Florida  
1124 Building Code, Existing Building; the Florida Building Code, Mechanical; the Florida Building  
1125 Code, Plumbing; the Florida Building Code, Fuel Gas.  
1126

1127 *Functionally Dependent Use* means a use which cannot perform its intended purpose unless it is  
1128 located or carried out in close proximity to water, including only docking facilities, port facilities  
1129 that are necessary for the loading and unloading of cargo or passengers, and ship building and ship  
1130 repair facilities; the term does not include long-term storage or related manufacturing facilities.  
1131

1132 *Highest Adjacent Grade* means the highest natural elevation of the ground surface prior to  
1133 construction next to the proposed walls or foundation of a structure.  
1134

1135 *Historic Structure* means any structure that is determined eligible for the exception to the flood  
1136 hazard area requirements of the Florida Building Code, Existing Building, Chapter 12-11: Historic  
1137 Buildings.  
1138

1139 *Letter of Map Amendment (LOMA)* means an amendment based on technical data showing that a  
1140 property was incorrectly included in a designated special flood hazard area. A LOMA amends the  
1141 current effective FIRM and establishes that a specific property, portion of a property, or structure  
1142 is not located in a special flood hazard area.

1143 *Letter of Map Change (LOMC)* means an official determination issued by FEMA that amends or  
1144 revises the FIRM or FIS. The LOMCs include Letter of Map Amendment (LOMA), Letter of Map  
1145 Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), and Conditional Letter of  
1146 Map Revision (CLOMR).

1147  
1148 *Letter of Map Revision (LOMR)* means a revision based on technical data that may show changes  
1149 to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations,  
1150 and other planimetric features.

1151  
1152 *Letter of Map Revision Based on Fill (LOMR-F)* means a determination that a structure or parcel  
1153 of land has been elevated by fill above the base flood elevation and is, therefore, no longer located  
1154 within the special flood hazard area. In order to qualify for this determination, the fill shall have  
1155 been permitted and placed in accordance with this section.

1156  
1157 *Light-Duty Truck* means as defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500 pounds  
1158 gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less  
1159 and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 1160  
1161 (1) Designed primarily for purposes of transportation of property or is a derivation of such  
1162 a vehicle;  
1163  
1164 (2) Designed primarily for transportation of persons and has a capacity of more than 12  
1165 persons; or  
1166  
1167 (3) Available with special features enabling off-street or off-highway operation and use.

1168  
1169 *Lowest Floor* means the lowest floor of the lowest enclosed area of a building or structure,  
1170 including basement, but excluding any unfinished or flood-resistant enclosure, other than a  
1171 basement, usable solely for vehicle parking, building access or limited storage provided that such  
1172 enclosure is not built to render the structure in violation of the non-elevation requirements of the  
1173 Florida Building Code or ASCE 24.

1174  
1175 *Manufactured Home* means a structure, transportable in one or more sections, which is eight feet  
1176 or more in width and greater than 400 square feet, and which is built on a permanent, integral  
1177 chassis and is designed for use with or without a permanent foundation when attached to the  
1178 required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park  
1179 trailer".

1180  
1181 *Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided  
1182 into two or more manufactured home lots for rent or sale.

1183  
1184 *Market Value* means the value of buildings and structures, excluding the land and other  
1185 improvements on the parcel. Market value is the actual cash value (in-kind replacement cost  
1186 depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified  
1187 independent appraiser, or tax assessment value adjusted to approximate market value by a factor  
1188 provided by the Property Appraiser.

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

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

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

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

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

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

*Special Flood Hazard Area* means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

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

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

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

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

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

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

## **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 the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: \_\_\_\_\_  
Carol Sacco, Village Clerk

By: \_\_\_\_\_  
Joanne Ribble, Mayor

Reviewed for legal sufficiency:

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

| Vote:                | AYE   | NAY   |
|----------------------|-------|-------|
| Mayor Ribble         | _____ | _____ |
| Vice Mayor Zaluki    | _____ | _____ |
| Councilmember Fayee  | _____ | _____ |
| Councilmember Hunt   | _____ | _____ |
| Councilmember Lopez  | _____ | _____ |
| Councilmember McLain | _____ | _____ |
| Councilmember Ward   | _____ | _____ |