

# VILLAGE OF ESTERO, FLORIDA

**ORDINANCE NO. 2025 - 04**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING LAND DEVELOPMENT CODE SECTION 7-3 "FLOOD HAZARD REDUCTION STANDARDS" TO INCLUDE A REQUIREMENT FOR NONCONVERSION AGREEMENTS FOR ELEVATED STRUCTURES WITH ENCLOSURES BELOW THE REQUIRED ELEVATION, CLARIFY THE PROCESS FOR FLOOD VARIANCE APPEALS, CLARIFY SPECIFIC USE OF FEMA ELEVATION CERTIFICATES AND DRY FLOODPROOFING CERTIFICATES, LIMIT PARTITIONING OF ENCLOSED AREAS BELOW FLOOD, AND AMEND RELATED DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

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

**WHEREAS**, Chapter 553.73, Florida Statutes, allows for local administrative and technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

**WHEREAS**, the Village Council is adopting provisions applicable to buildings in flood hazard areas to (1) require declarations of land restriction (nonconversion agreements) for enclosures below elevated buildings; (2) require the use of specific forms issued by the Federal Emergency Management Agency; and (3) limit partitioning of enclosed areas below elevated buildings and limit access to enclosed areas; and for the purpose of participating in the National Flood Insurance Program's Community Rating System and , pursuant to section 553.73(5), Florida Statutes, is formatting that requirement to coordinate with the *Florida Building Code*; and

**WHEREAS**, the Village Council has determined that it is in the public interest to adopt the proposed local technical amendments to the *Florida Building Code*, and the proposed amendments are not more stringent than necessary to address the need identified, do not

discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes; and

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

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

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

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

**WHEREAS**, the changes were sent to the Florida Division of Emergency Management; and

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

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

**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:
  - A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;
  - B. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
  - C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
  - D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
  - E. Minimize damage to public and private facilities and utilities;
  - F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
  - G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
  - H. Meet the requirements of the National Flood Insurance Program for community participation as set forth in 44 CFR 59.22.
3. *Coordination with Florida Building Code.* This section is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
4. *Warning.* The degree of flood protection required by this section and the Florida Building Code, as amended by the Village of Estero, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by

man-made or natural causes. This section does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of 44 CFR Secs. 59 and 60, may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this section.

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

## **B. Applicability.**

### *1. General.*

- A. Where there is a conflict between a general requirement and a specific requirement, the specific requirement will be applicable.
- B. This section applies to all flood hazard areas within the Village of Estero, as established in subsection C below.
- C. The Flood Insurance Study for Lee County, Florida and Incorporated Areas, effective November 17, 2022 and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this section and will serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Village Department of Community Development.

2. *Submission of Additional Data to Establish Flood Hazard Area.* To establish flood hazard areas and base flood elevations, in accordance with Sec. 7-301.E, Site Plans and Construction Documents, the Floodplain Administrator may require submission of 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.

- 184 B. Are above the closest applicable base flood elevation, the area will be regulated  
185 as a special flood hazard area unless the applicant obtains a Letter of Map  
186 Change that removes the area from the special flood hazard area.  
187
- 188 3. *Other Laws.* The provisions of this section will not be deemed to nullify any  
189 provisions of local, state, or federal law.  
190
- 191 4. *Abrogation and Greater Restrictions.* This section supersedes any regulations in  
192 effect for management of development in flood hazard areas. However, it is not  
193 intended to repeal or abrogate any existing regulations including but not limited to  
194 land development regulations, zoning resolutions, stormwater management  
195 regulations, or the Florida Building Code. In the event of a conflict between this  
196 section and any other regulations, the more restrictive will govern. This section will  
197 not impair any deed restriction, covenant, or easement, but any land that is subject  
198 to such interests will also be governed by this section.  
199
- 200 5. *Interpretation.* In the interpretation and application of this article, all provisions will  
201 be:  
202
- 203 A. Considered as minimum requirements;  
204
- 205 B. Liberally construed in favor of the governing body; and  
206
- 207 C. Deemed neither to limit nor repeal any other powers granted under state  
208 statutes.  
209

210 **C. Duties and Powers of the Floodplain Administrator.**  
211

- 212 1. *Designation.* The Village Manager is designated as the Floodplain Administrator  
213 and may delegate another person to serve in this capacity. The Floodplain  
214 Administrator may delegate performance of certain duties to other employees.  
215
- 216 2. *General.* The Floodplain Administrator is authorized and directed to administer and  
217 enforce the provisions of this section. The Floodplain Administrator will have the  
218 authority to render interpretations of this section consistent with the intent and  
219 purpose of this section and may establish policies and procedures in order to clarify  
220 the application of its provisions. Such interpretations, policies, and procedures will  
221 not have the effect of waiving requirements specifically provided in this section  
222 without the granting of a variance pursuant to Sec. 7-301.G, Variances and Appeals.  
223
- 224 3. *Applications and Permits.* The Floodplain Administrator, in coordination with other  
225 pertinent offices of the community, will:  
226
- 227 A. Review applications and plans to determine whether proposed new  
228 development will be located in flood hazard areas;  
229

- 230 B. Review applications for modification of any existing development in flood  
231 hazard areas for compliance with the requirements of this section;  
232  
233 C. Interpret flood hazard area boundaries where such interpretation is necessary  
234 to determine the exact location of boundaries; a person contesting the  
235 determination will have the opportunity to appeal the interpretation;  
236  
237 D. Provide available flood elevation and flood hazard information;  
238  
239 E. Determine whether additional flood hazard data will be obtained from other  
240 sources or will be developed by an applicant;  
241  
242 F. Review applications to determine whether proposed development will be  
243 reasonably safe from flooding;  
244  
245 G. Issue floodplain development permits or approvals for development other than  
246 buildings and structures that are subject to the Florida Building Code,  
247 including buildings, structures and facilities exempt from the Florida Building  
248 Code, when compliance with this section is demonstrated, or disapprove the  
249 same in the event of noncompliance; and  
250  
251 H. Coordinate **with and provide comments to the Building Official** to assure that  
252 applications, plan reviews, and inspections for buildings and structures in flood  
253 hazard areas comply with the applicable provisions of this section.  
254  
255 4. *Substantial Improvement and Substantial Damage Determinations.* For applications  
256 for building permits to improve buildings and structures, including alterations,  
257 movement, enlargement, replacement, repair, change of occupancy, additions,  
258 rehabilitations, renovations, substantial improvements, repairs of substantial  
259 damage, and any other improvement of or work on such buildings and structures the  
260 Floodplain Administrator shall:  
261  
262 A. Estimate the market value or require the applicant to obtain an appraisal of the  
263 market value prepared by a qualified independent appraiser of the building or  
264 structure before the start of construction of the proposed work; in the case of  
265 repair. the market value of the building or structure will be the market value  
266 before the damage occurred and before any repairs are made;  
267  
268 B. Compare the cost to perform the improvement, the cost to repair a damaged  
269 building to its pre-damaged condition, or the combined costs of improvements  
270 and repairs, if applicable, to the market value of the building or structure;  
271  
272 C. Determine and document whether the proposed work constitutes substantial  
273 improvement or repair of substantial damage; the determination requires  
274 evaluation of previous permits issued for repairs of flood-related damage; and  
275

D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this section is required.

5. *Modifications of the Strict Application of the Requirements of the Florida Building Code.* The Floodplain Administrator will review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance in accordance with Sec. 7-301.G, Variances and Appeals.

6. *Notices and Orders.* The Floodplain Administrator will coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this section.

7. *Inspections.* The Floodplain Administrator will make the required inspections as specified in Sec. 7-301.F, Inspections, for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator will inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

8. *Other Duties of the Floodplain Administrator.* The Floodplain Administrator will have other duties, including but not limited to:

A. Establishing, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage in accordance with Sec. 7-301.C.4, Substantial Improvement and Substantial Damage Determinations;

B. Requiring that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

C. Requiring applicants who submit hydrologic and hydraulic engineering analyses to 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 the Building Official if applicable, 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.



- 368 3. *Buildings, Structures, and Facilities Exempt from the Florida Building Code.* In  
369 accordance with the requirements of federal regulation for participation in the  
370 National Flood Insurance Program (44 CFR Secs. 59 and 60), floodplain  
371 development permits or approvals will be required for buildings, structures and  
372 facilities that are exempt from the Florida Building Code and any further exemptions  
373 provided by law, which are subject to the requirements of this section.  
374
- 375 4. *Application for a Permit or Approval.* To obtain a floodplain development permit or  
376 approval the applicant shall first file an application in writing on a form furnished  
377 by the Village. The information provided shall:  
378
- 379 A. Identify and describe the development to be covered by the permit or  
380 approval.
  - 381
  - 382 B. Describe the land on which the proposed development is to be conducted by  
383 legal description, street address or similar description that will readily identify  
384 and definitively locate the site.
  - 385
  - 386 C. Indicate the use and occupancy for which the proposed development is  
387 intended.
  - 388
  - 389 D. Be accompanied by a site plan or construction documents as specified in Sec.  
390 7-301.E, Site Plans and Construction Documents.
  - 391
  - 392 E. State the valuation of the proposed work.
  - 393
  - 394 F. Be signed by the applicant or the applicant's authorized agent.
  - 395
  - 396 G. Give such other data and information as required by the Floodplain  
397 Administrator.
  - 398
  - 399 H. For projects proposing to enclose areas under elevated buildings, include a  
400 signed Declaration of Land Restriction (Nonconversion Agreement). The  
401 agreement shall be recorded on the property deed prior to issuance of the  
402 Certificate of Occupancy.
  - 403
- 404 5. *Validity of Permit or Approval.* The issuance of a floodplain development permit or  
405 approval in accordance with this section shall not be construed to be a permit for, or  
406 approval of, any violation of this section, the Florida Building Codes, or any other  
407 Village regulations. The issuance of permits based on submitted applications,  
408 construction documents, and information will not prevent the Floodplain  
409 Administrator from requiring the correction of errors and omissions.  
410
- 411 6. *Expiration.* A floodplain development permit or approval shall become invalid  
412 unless the work authorized by such permit commences within 180 days after is  
413 issuance, or if the work authorized is suspended or abandoned for a period of 180

414 days after the work commences. A one-time extension of not more than 180 days  
415 may be requested in writing and justifiable cause shall be demonstrated by applicant.  
416

417 **67.** *Suspension or Revocation.* The Floodplain Administrator is authorized to suspend  
418 or revoke a floodplain development permit or approval if the permit was issued in  
419 error; on the basis of incorrect, inaccurate, or incomplete information; or in violation  
420 of this section or any other section, regulation, or requirement of the Village.  
421

422 **78.** *Other Permits Required.* Floodplain development permits and building permits shall  
423 include a condition that all other applicable state or federal permits be obtained  
424 before commencement of the permitted development, including but not limited to  
425 the following:  
426

427 A. SFWMD; F.S. § 373.036.  
428

429 B. Florida Department of Health for onsite sewage treatment and disposal  
430 systems; F.S. § 381.0065 and Ch. 64E-6, F.A.C.  
431

432 C. FDEP for activities subject to the Joint Coastal Permit; F.S. § 161.055.  
433

434 D. FDEP for activities that affect wetlands and alter surface water flows, in  
435 conjunction with the U.S. Army Corps of Engineers; Sec. 404 of the Clean  
436 Water Act.  
437

438 E. Federal permits and approvals.  
439

440 **E. Site Plans and Construction Documents.**  
441

442 **1. Information for Development in Flood Hazard Areas.**  
443

444 A. The site plan or construction documents for any development subject to the  
445 requirements of this section shall be drawn to scale and include, as applicable  
446 to the proposed development:  
447

448 1. Delineation of flood hazard areas, floodway boundaries and flood  
449 zone(s), base flood elevation(s), and ground elevations if necessary for  
450 review of the proposed development.  
451

452 2. Where base flood elevations, or floodway data are not included on the  
453 FIRM or in the Flood Insurance Study, they shall be established in  
454 accordance with Sec. 7-301.E.2.B or Sec. 7-301.E.2.C.  
455

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

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

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.

D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

3. *Additional Analyses and Certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

A. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Sec. 7-301.E.4, Submission of Additional Data, and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

B. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Sec. 7-301.E.4, Submission of Additional Data.

D. For activities that propose to alter mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

4. *Submission of Additional Data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of 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.
2. *Development Other than Buildings or Structures.* The Floodplain Administrator will inspect all development to determine compliance with the requirements of this section and the conditions of approval of a floodplain development permit.
3. *Buildings, Structures, and Facilities Exempt from the Florida Building Code.* The Floodplain Administrator will inspect buildings, structures, and facilities exempt from the Florida Building Code to determine compliance with the requirements of this section and the conditions of approval of a floodplain development permit.
  - A. *Building Structures and Facilities Exempt from the Florida Building Code, Lowest Floor Inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure, or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:
  - B. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
4. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Sec. 7-301.E.2, Information in Flood Hazard Areas without Base Flood Elevations (Approximate Zone A), the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.
5. *Buildings, Structures, and Facilities Exempt from the Florida Building Code, Final Inspection.* As part of the final inspection, the owner or owner's authorized

agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Sec. 7-301.F.4, Building Structures and Facilities Exempt from the Florida Building Code, Lowest Floor Inspection.

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

#### G. **Variances and Appeals.**

1. *General.* The Village Council, 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 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 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 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 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.

6. *Functionally Dependent Uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this section, provided the variance meets the requirements of Sec. 7-301.G.4, Restrictions in Floodways is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
7. *Considerations for Issuance of Variances.* In reviewing requests for variances, the Village Council will consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this section, and the following:
  - A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
  - B. The danger to life and property due to flooding or erosion damage;
  - C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
  - D. The importance of the services provided by the proposed development to the community;
  - E. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
  - F. The compatibility of the proposed development with existing and anticipated development;
  - G. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
  - H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
  - I. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable expected at the site; and

- 686 J. The costs of providing governmental services during and after flood  
687 conditions including maintenance and repair of public utilities and facilities  
688 such as sewer, gas, electrical and water systems, streets and bridges.  
689
- 690 8. *Conditions for Issuance of Variances.* Variances may be issued only upon:  
691
- 692 A. Submission by the applicant of a showing of good and sufficient cause that  
693 the unique characteristics of the size, configuration, or topography of the site  
694 limit compliance with any provision of this section or the required elevation  
695 standards;  
696 B. Determination by the Village Council that:  
697
- 698 1. Failure to grant the variance would result in exceptional hardship due to  
699 the physical characteristics of the land that render the lot undevelopable;  
700 increased costs to satisfy the requirements or inconvenience do not  
701 constitute hardship;  
702
- 703 2. The granting of a variance will not result in increased flood heights,  
704 additional threats to public safety, extraordinary public expense, nor  
705 create nuisances, cause fraud on or victimization of the public or conflict  
706 with existing local laws and regulations; and  
707
- 708 3. The variance is the minimum necessary, considering the flood hazard,  
709 to afford relief;  
710
- 711 C. If the request is for a variance to allow construction of the lowest floor of a  
712 new building, or substantial improvement of a building, below the required  
713 elevation, a copy in the record of a written notice from the Floodplain  
714 Administrator to the applicant for the variance, specifying the difference  
715 between the base flood elevation and the proposed elevation of the lowest  
716 floor, stating that the cost of federal flood insurance will be commensurate  
717 with the increased risk resulting from the reduced floor elevation (up to  
718 amounts as high as \$25 for \$100 of insurance coverage), and stating that  
719 construction below the base flood elevation increases risks to life and  
720 property.  
721
- 722 H. **Violations.** Any development that is not within the scope of the Florida Building Code  
723 but that is regulated by this section that is performed without an issued permit, that is in  
724 conflict with an issued permit, or that does not fully comply with this section, will be  
725 deemed a violation of this LDC. A building or structure without the documentation of  
726 elevation of the lowest floor, other required design certifications, or other evidence of  
727 compliance required by this section or the Florida Building Code is presumed to be a  
728 violation until such time as that documentation is provided.  
729
- 730 1. *Authority.* For development that is not within the scope of the Florida Building  
731 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.~~

2. *Florida Building Code, Technical Amendment: Substantial Damage.* In the Florida Building Code, Building Section 202, and Florida Building Code, Existing Building Section 202, the term “Substantial Damage shall be as defined in Section 7-303, Definitions.
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.

- 777 4. *Florida Building Code, Administrative Amendments; Certification Forms.* (1)  
778 Where elevations of buildings in flood hazard areas are specified in applications,  
779 and where certification of the elevation of buildings in flood hazard areas is  
780 required, the FEMA Elevation Certificate shall be submitted; (2) Where  
781 certifications of the design of dry floodproofed non-residential buildings in flood  
782 hazard areas are required and where certification of the elevation of dry  
783 floodproofing is required, the FEMA Dry Floodproofing Certificate for Non-  
784 residential Structures shall be submitted.  
785

786 5. *Florida Building Code Technical Amendments; Enclosures Below Required*  
787 *Elevations for Buildings in Flood Hazard Areas.* Enclosed areas below the required  
788 elevation for buildings in flood hazard areas shall be limited as follows:  
789

- 790 A. The interior portion of such enclosed areas shall only be partitioned to separate  
791 parking areas from building access, (stairwells, ramps, and elevators) or  
792 storage areas, unless another partition is required by the fire code.  
793  
794 B. Where perimeter walls are permitted, the limitation on partitions does not  
795 apply to loadbearing walls interior to perimeter wall (crawlspace) foundations.  
796  
797 C. Access to enclosed areas shall be the minimum necessary to allow for the  
798 parking of vehicles (garage door) or limited storage of maintenance equipment  
799 used in connection with the premises (standard exterior door not to exceed 3.0  
800 ft. by 8.0 ft.) or main entry to the building (one double door set to stairway or  
801 elevator).  
802

803 B. **Subdivisions.**  
804

- 805 1. *Minimum Requirements.* Subdivision proposals, including proposals for  
806 manufactured home parks and subdivisions, shall be reviewed to determine that:  
807  
808 A. Such proposals are consistent with the need to minimize flood damage and  
809 will be reasonably safe from flooding;  
810  
811 B. All public utilities and facilities such as sewer, gas, electric, communications,  
812 and water systems are located and constructed to minimize or eliminate flood  
813 damage; and  
814  
815 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones  
816 AH and AO, adequate drainage paths shall be provided to guide floodwaters  
817 around and away from proposed structures.  
818  
819 2. *Standards for Subdivision and Other Development Proposals.* Where any portion  
820 of proposed subdivisions, including manufactured home parks and subdivisions,  
821 lies within a flood hazard area, the following shall be required:  
822

- 823 A. Where the subdivision is greater than 50 lots or five acres and base flood  
824 elevations are not included on the FIRM, base flood elevations determined in  
825 accordance with Sec. 7-301.E.2.A; and  
826 B. Compliance with the site improvement and utilities requirements of Sec. 7-  
827 302.C, Site Improvements, Utilities and Limitations.  
828

829 **C. Site Improvements, Utilities and Limitations.**  
830

- 831 1. *Minimum Requirements.* All proposed new development will be reviewed to  
832 determine that:  
833 A. Such proposals are consistent with the need to minimize flood damage and  
834 will be reasonably safe from flooding;  
835  
836 B. All public utilities and facilities such as sewer, gas, electric, communications,  
837 and water systems are located and constructed to minimize or eliminate flood  
838 damage; and  
839  
840 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones  
841 AH and AO, adequate drainage paths shall be provided to guide floodwaters  
842 around and away from proposed structures.  
843  
844 2. *Sanitary Sewage Facilities.* All new and replacement sanitary sewage facilities,  
845 private sewage treatment plants (including all pumping stations and collector  
846 systems), and on-site waste disposal systems shall be designed in accordance with  
847 the standards for onsite sewage treatment and disposal systems in Ch. 64E-6, F.A.C.  
848 and ASCE 24 Ch. 7 to minimize or eliminate infiltration of floodwaters into the  
849 facilities and discharge from the facilities into floodwaters, and impairment of the  
850 facilities and systems.  
851  
852 3. *Water Supply Facilities.* All new and replacement water supply facilities shall be  
853 designed in accordance with the water well construction standards in Ch. 62-  
854 532.500, F.A.C. and ASCE 24 Ch. 7 to minimize or eliminate infiltration of  
855 floodwaters into the systems.  
856  
857 4. *Limitations on Sites in Regulatory Floodways.* No development, including but not  
858 limited to site improvements, and land disturbing activity involving fill or  
859 regrading, may be authorized in the regulatory floodway unless the floodway  
860 encroachment analysis required in Sec. 7-301.E.3.A, demonstrates that the  
861 proposed development or land disturbing activity will not result in any increase in  
862 the base flood elevation.  
863  
864 5. *Limitations on Placement of Fill.* Subject to the limitations of this section, fill shall  
865 be designed to be stable under conditions of flooding, including rapid rise and rapid  
866 drawdown of floodwaters, prolonged inundation, and protection against flood-  
867 related erosion and scour. In addition to these requirements, if intended to support

buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

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

**D. Manufactured Homes.**

1. *General.*

- A. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed in accordance with F.S. § 320.8249, and shall comply with the requirements of Ch. 15C-1, F.A.C. and the requirements of this section.
- B. The placement of manufactured homes or recreational vehicles is prohibited in coastal high hazard areas (Zone V), except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of Sec. 7-302.D.3, Anchoring, and the elevation standards of Sec. 7-302.D.4, Elevation, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Village of Estero Plan Policy 80.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.

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

- A. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this section.
- B. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this section.

3. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring include, but are not

limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

4. *Elevation.* All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R3222.2 (Zone A) or Section R322.3 (Zone V and Coastal A Zone)
5. *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Sections R322.2 or R322.3, for such enclosed areas, as applicable to the flood hazard area.
6. *Utility Equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

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

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

**F. Tanks.**

1. *Underground Tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
2. *Above-Ground Tanks, Not Elevated.* Above-ground tanks that do not meet the elevation requirements of Sec. 7-302.F.3, Above Ground Tanks, Elevated, shall:
  - A. Be permitted only in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and

constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

B. Not be permitted in coastal high hazard areas (Zone V).

3. *Above Ground Tanks, Elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

4. *Tank Inlets and Vents.* Tank inlets, fill openings, outlets, and vents shall be:

A. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

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

**G. Other Development.**

1. *General Requirements for Other Developments.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this section or the Florida Building Code, shall:

A. Be located and constructed to minimize flood damage;

B. Meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways, if located in a regulated floodway;

C. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

D. Be constructed of flood damage-resistant materials; and

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

2. *Non-elevated accessory structures.* Accessory structures are permitted below elevations required by the Florida Building Code provided the accessory structures are used only for parking or storage and:
- A. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
  - B. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft.
  - C. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
  - D. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.
  - E. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.
3. *Fences in Regulated Floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters shall meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways.
4. *Retaining Walls, Sidewalks and Driveways in Regulated Floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways.
5. *Roads and Watercourse Crossings in Regulated Floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of Sec. 7-302.C.4, Limitations on Sites in Regulatory Floodways. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Sec. 7-301.E.3, Additional Analyses and Certifications.
6. *Concrete Slabs Used as Parking Pads, Enclosure Floors, Landings, Decks, Walkways, Patios, and Similar Nonstructural Uses in Coastal High Hazard Areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and structures, provided the concrete slabs are designed and constructed to be:

- 1052 A. Structurally independent of the foundation system of the building or structure;  
1053  
1054 B. Frangible and not reinforced, so as to minimize debris during flooding that is  
1055 capable of causing significant damage to any structure; and  
1056  
1057 C. Have a maximum slab thickness of not more than four inches.  
1058
- 1059 7. *Decks and Patios in Coastal High Hazard Areas (Zone V)*. In addition to the  
1060 requirements of the Florida Building Code, in coastal high hazard areas, decks and  
1061 patios shall be located, designed, and constructed in compliance with the following:  
1062
- 1063 A. A deck that is structurally attached to a building or structure shall have the  
1064 bottom of the lowest horizontal structural member at or above the design flood  
1065 elevation and any supporting members that extend below the design flood  
1066 elevation shall comply with the foundation requirements that apply to the  
1067 building or structure, which shall be designed to accommodate any increased  
1068 loads resulting from the attached deck.  
1069
- 1070 B. A deck or patio that is located below the design flood elevation shall be  
1071 structurally independent from buildings or structures and their foundation  
1072 systems and shall be designed and constructed either to remain intact and in  
1073 place during design flood conditions or to break apart into small pieces to  
1074 minimize debris during flooding that is capable of causing structural damage  
1075 to the building or structure, or to adjacent buildings and structures.  
1076
- 1077 C. A deck or patio that has a vertical thickness of more than 12 inches or that  
1078 is constructed with more than the minimum amount of fill necessary for site  
1079 drainage shall not be approved unless an analysis prepared by a qualified  
1080 registered design professional demonstrates no harmful diversion of  
1081 floodwaters or wave runup and wave reflection that would increase damage  
1082 to the building or structure or to adjacent buildings and structures.  
1083
- 1084 D. A deck or patio that has a vertical thickness of 12 inches or less and that is at  
1085 natural grade or on nonstructural fill material that is similar to and compatible  
1086 with local soils and is the minimum amount necessary for site drainage may  
1087 be approved without requiring analysis of the impact on diversion of  
1088 floodwaters or wave runup and wave reflection.  
1089
- 1090 8. *Other Development in Coastal High Hazard Areas (Zone V)*. In coastal high hazard  
1091 areas, development activities other than buildings and structures may be permitted  
1092 only if it is also authorized by the appropriate federal, state, or local authority; if  
1093 located outside the footprint of, and not structurally attached to, buildings and  
1094 structures; and if analyses prepared by qualified registered design professionals  
1095 demonstrate no harmful diversion of floodwaters or wave runup and wave  
1096 reflection that would increase damage to adjacent buildings and structures. Such  
1097 other development activities include but are not limited to:



- 1098 A. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control  
1099 structures;  
1100
- 1101 B. Solid fences and privacy walls, and fences prone to trapping debris, unless  
1102 designed and constructed to fail under flood conditions less than the design  
1103 flood or otherwise function to avoid obstruction of floodwaters; and  
1104
- 1105 C. On-site sewage treatment and disposal systems defined in Rule 64E-6.002,  
1106 F.A.C., as filled systems or mound systems.  
1107
- 1108 9. *Nonstructural Fill in Coastal High Hazard Areas (Zone V)*. In coastal high hazard  
1109 areas:  
1110
- 1111 A. Minor grading and the placement of minor quantities of nonstructural fill may  
1112 be permitted for landscaping and for drainage purposes under and around  
1113 buildings.  
1114
- 1115 B. Nonstructural fill with finished slopes that are steeper than one unit vertical  
1116 to five units horizontal may be permitted only if an analysis prepared by a  
1117 qualified registered design professional demonstrates no harmful diversion of  
1118 floodwaters or wave runup and wave reflection that would increase damage  
1119 to adjacent buildings and structures.  
1120
- 1121 10. *Critical Facilities*. Critical facilities shall be located outside the limits of the special  
1122 flood hazard area where feasible. Construction of new critical facilities shall be  
1123 permissible within the special flood hazard area if no feasible alternative site is  
1124 available. If permitted, critical facilities shall be elevated or protected to or above  
1125 the base flood elevation, plus two feet, or the 500-year (0.2 percent chance) flood  
1126 elevation, whichever is higher. Flood proofing and sealing measures shall be  
1127 implemented to ensure that toxic substances will not be displaced by or released  
1128 into floodwaters. Access routes elevated to or above the base flood elevation shall  
1129 be provided to all critical facilities, to the maximum extent practicable. Critical  
1130 facilities shall be designed to remain operable during such an event.  
1131
- 1132 11. *Standards for Areas in the B, C, and X Zones*. All new buildings not located in the  
1133 areas of special flood hazard established in Sec. 7-301.B.1.C, shall have the lowest  
1134 floor elevation (including basement) constructed at least 12 inches above the crown  
1135 of the nearest local street, unless a variance is obtained due to the Building Official  
1136 determines there are extenuating circumstances that would preclude meeting that  
1137 elevation.  
1138  
1139

1140 **7-303. Definitions.**

1141  
1142 **A. General.**

- 1143  
1144 1. *Terms Defined in the Florida Building Code.* Where terms are not defined in this  
1145 section and are defined in the Florida Building Code, such terms will have the  
1146 meanings ascribed to them in that code.  
1147  
1148 2. *Terms Not Defined.* Where terms are not defined in this section or the Florida  
1149 Building Code, such terms will have ordinarily accepted meanings such as the  
1150 context implies.  
1151

1152 **B. Definitions.** Unless otherwise expressly stated, the following words and terms, for the  
1153 purposes of this section only, have the meanings shown in this subsection.  
1154

1155 *Accessory Structure* means a structure on the same parcel of property as a principal structure and  
1156 the use of which is limited to parking and storage incidental to the use of the principal structure.

1157 *Alteration of a Watercourse* means a dam, impoundment, channel relocation, change in channel  
1158 alignment, channelization, or change in cross-sectional area of the channel or the channel capacity,  
1159 or any other form of modification which may alter, impede, retard or change the direction and/or  
1160 velocity of the riverine flow of water during conditions of the base flood.  
1161

1162 *Appeal* means a request for a review of the Floodplain Administrator's interpretation of any  
1163 provision of this section.  
1164

1165 *ASCE 24* means a standard titled Flood Resistant Design and Construction that is referenced by  
1166 the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil  
1167 Engineers, Reston, VA.  
1168

1169 *Base Flood* means a flood having a one percent chance of being equaled or exceeded in any given  
1170 year. [Also defined in Florida Building Code, B, Section 1612.2.] The base flood is commonly  
1171 referred to as the "100-year flood" or the "one-percent-annual chance flood."  
1172

1173 *Base Flood Elevation* means the elevation of the base flood, including wave height, relative to the  
1174 National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other  
1175 datum specified on the Flood Insurance Rate Map (FIRM).  
1176

1177 *Basement* means the portion of a building having its floor subgrade (below ground level) on all  
1178 sides.  
1179

1180 *Coastal High Hazard Area* means a special flood hazard area extending from offshore to the inland  
1181 limit of a primary frontal dune along an open coast and any other area subject to high velocity  
1182 wave action from storms or seismic sources.  
1183

1184 *Conditional Letter of Map Revision (CLOMR)* means a formal review and comment as to whether  
1185 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.

1232 *Encroachment* means the placement of fill, excavation, buildings, permanent structures, or other  
1233 development into a flood hazard area which may impede or alter the flow capacity of riverine flood  
1234 hazard areas.

1235  
1236 *Existing Building and Existing Structure* means any buildings and structures for which the "start  
1237 of construction" commenced before September 19, 1984.

1238  
1239 *Existing Manufactured Home Park or Subdivision* means a manufactured home park or  
1240 subdivision for which the construction of facilities for servicing the lots on which the manufactured  
1241 homes are to be affixed (including, at a minimum, the installation of utilities, the construction of  
1242 streets, and either final site grading or the pouring of concrete pads) is completed before September  
1243 19, 1984.

1244  
1245 *Federal Emergency Management Agency (FEMA)* means the federal agency that, in addition to  
1246 carrying out other functions, administers the National Flood Insurance Program.

1247  
1248 *FEMA Elevation Certificate.* Form issued by FEMA for documentation and certification of  
1249 elevations and other information for buildings in flood hazard areas. When used to certify ground  
1250 and building elevations referenced to datum, the forms shall be prepared, signed, and sealed by  
1251 Florida licensed professional surveyors or registered design professionals qualified to perform  
1252 elevation surveys.

1253  
1254 *FEMA Dry Floodproofing Certificate for Non-residential Structures.* Form issued by FEMA for  
1255 certification of design of dry floodproofing measures, certification of ground elevations and the  
1256 elevation of at-built dry floodproofing measures, and certification that the measures were  
1257 constructed as designed.

1258  
1259 *Flood or Flooding* means a general and temporary condition of partial or complete inundation of  
1260 normally dry land from:

- 1261
- 1262 1. The overflow of inland or tidal waters.
  - 1263
  - 1264 2. The unusual and rapid accumulation or runoff of surface waters from any source.
  - 1265

1266 *Flood Damage-Resistant Materials* means any construction material capable of withstanding  
1267 direct and prolonged contact with floodwaters without sustaining any damage that requires more  
1268 than cosmetic repair.

1269  
1270 *Flood Hazard Area* means the greater of the following two areas:

- 1271
- 1272 1. The area within a floodplain subject to a one percent or greater chance of flooding in any  
1273 year.
  - 1274
  - 1275 2. The area designated as a flood hazard area on the FIRM or otherwise legally designated.
  - 1276

1277 *Flood Insurance Rate Map (FIRM)* means the official map of the Village on which FEMA has  
1278 delineated both special flood hazard areas and the risk premium zones applicable to the Village.  
1279

1280 *Flood Insurance Study (FIS)* means the official report provided by FEMA that contains the FIRM,  
1281 the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base  
1282 flood, and supporting technical data.  
1283

1284 *Floodplain Administrator* means the office or position designated and charged with the  
1285 administration and enforcement of this section (may be referred to as the Floodplain Manager).  
1286 The Village Manager serves as the Floodplain Manager in accordance with this section.  
1287

1288 *Floodplain Development Permit or Approval* means an official document or certificate issued by  
1289 the Floodplain Administrator, or other evidence of approval or concurrence, which authorizes  
1290 performance of specific development activities that are located in flood hazard areas and that are  
1291 determined to be compliant with this section.  
1292

1293 *Floodway* means the channel of a river or other riverine watercourse and the adjacent land areas  
1294 that shall be reserved in order to discharge the base flood without cumulatively increasing the  
1295 water surface elevation more than one foot.  
1296

1297 *Floodway Encroachment Analysis* means an engineering analysis of the impact that a proposed  
1298 encroachment into a floodway is expected to have on the floodway boundaries and base flood  
1299 elevations. The evaluation shall be prepared by a qualified Florida licensed engineer using standard  
1300 engineering methods and models.  
1301

1302 *Florida Building Code* means the family of codes adopted by the Florida Building Commission,  
1303 including the Florida Building Code, Building; the Florida Building Code, Residential; the Florida  
1304 Building Code, Existing Building; the Florida Building Code, Mechanical; the Florida Building  
1305 Code, Plumbing; the Florida Building Code, Fuel Gas.  
1306

1307 *Functionally Dependent Use* means a use which cannot perform its intended purpose unless it is  
1308 located or carried out in close proximity to water, including only docking facilities, port facilities  
1309 that are necessary for the loading and unloading of cargo or passengers, and ship building and ship  
1310 repair facilities; the term does not include long-term storage or related manufacturing facilities.  
1311

1312 *Highest Adjacent Grade* means the highest natural elevation of the ground surface prior to  
1313 construction next to the proposed walls or foundation of a structure.  
1314

1315 *Historic Structure* means any structure that is determined eligible for the exception to the flood  
1316 hazard area requirements of the Florida Building Code, Existing Building, Chapter 12: Historic  
1317 Buildings.  
1318

1319 *Letter of Map Amendment (LOMA)* means an amendment based on technical data showing that a  
1320 property was incorrectly included in a designated special flood hazard area. A LOMA amends the  
1321 current effective FIRM and establishes that a specific property, portion of a property, or structure  
1322 is not located in a special flood hazard area.

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

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

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

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

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

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

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

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

*Market Value* means the value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor 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, AI-A30, AE, A99, AH, VI-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. Permanent Construction 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

1415 alteration of any wall, ceiling, floor or other structural part of a building, whether or not that  
1416 alteration affects the external dimensions of the building.

1417  
1418 *Substantial Damage* means damage sustained by a building or structure whereby the cost of  
1419 restoring the building or structure to its before-damaged condition would equal or exceed 50  
1420 percent of the market value of the building or structure before the damage occurred. The term also  
1421 includes buildings and structures that have experienced repetitive loss.

1422  
1423 *Substantial Improvement* means any combination of repair, reconstruction, rehabilitation,  
1424 alteration, addition, or other improvement of a building or structure, the cost of which equals or  
1425 exceeds 50 percent of the market value of the building or structure before the improvement or  
1426 repair is started. If the structure has incurred "substantial damage," any repairs are considered  
1427 substantial improvement regardless of the actual repair work performed. The term does not include  
1428 either:

- 1429  
1430 1. Any project for improvement of a building required to correct existing health, sanitary, or  
1431 safety code violations identified by the Building Official and that are the minimum  
1432 necessary to assure safe living conditions.  
1433  
1434 2. Any alteration of a historic structure provided the alteration will not preclude the structure's  
1435 continued designation as a historic structure.

1436  
1437 *Variance* means a grant of relief from the requirements of this section, or the flood resistant  
1438 construction requirements of the Florida Building Code, which permits construction in a manner  
1439 that would not otherwise be permitted by this section or the Florida Building Code.

1440  
1441 *Watercourse* means a river, creek, stream, channel, or other topographic feature in, on, through, or  
1442 over which water flows at least periodically.

### 1443 **Section 3. Fiscal Impact Statement**

1444  
1445  
1446 In terms of design, plan application review, construction, and inspection of the buildings  
1447 and structures, the cost impact as an overall average is negligible in regard to the local technical  
1448 amendments because all development has been subject to the requirements of the local floodplain  
1449 management ordinance adopted for participation in the National Flood Insurance Program.  
1450 Therefore, in terms of lower potential for flood damage, there will be continued savings and  
1451 benefits to consumers.

### 1452 **Section 43. Severability.**

1453  
1454  
1455 If any provision of this ordinance or its application to any person or circumstance is held  
1456 invalid, the invalidity does not affect other provisions or applications of this ordinance which can  
1457 be given effect without the invalid provision or application, and to this end the provisions of this  
1458 ordinance are severable.



**Section 54. 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 65. Effective Date.**

This Ordinance shall take effect immediately upon adoption.

**PASSED** on first reading the 4th day of June, 2025.

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

Attest: **VILLAGE OF ESTERO, FLORIDA**

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