**Florida Guidance for Accessory Structures**

**and Agricultural Structures in Flood Hazard Areas**

State Floodplain Management Office

Florida Division of Emergency Management

Helpline: 850-815-4556 and floods@em.myflorida.com

In February 2020, FEMA released FEMA Policy #104-008-03, a policy defining agricultural structures and accessory structures and specifying conditions and limitations that must be imposed when communities allow property owners to build those structures using wet floodproofing techniques instead of complying with the NFIP requirements to elevate or dry floodproof nonresidential structures. In August 2020, FEMA published FEMA P-2140, *Floodplain Management Bulletin: Requirements for Agricultural Structures and Accessory Structures*. The Bulletin and Policy are available here: <https://www.fema.gov/media-collection/floodplain-management-requirements-agricultural-and-accessory-structures>

The DEM State Floodplain Management Office (SFMO) developed this guidance based on the Policy and Bulletin. It was reviewed by floodplain management specialists with FEMA Region IV.

Communities in the NFIP must regulate all development in SFHAs. The NFIP regulations specify buildings and structures must be elevated to or above the Base Flood Elevation, with an allowance for dry floodproofing non-residential buildings in SFHAs identified as Flood Zone A/AE. It is only by FEMA policy that wet floodproofing measures are permitted in specific circumstances.

**Florida communities are encouraged to modify local floodplain management regulations to incorporate requirements for wet floodproofed accessory structures that are smaller than the size limits established in the Policy and described below. Communities must modify regulations to process variances to allow larger accessory structures and to allow any wet floodproofed agricultural structures.**

This guidance describes and includes model language for four ways communities can respond to the Policy.

**Version A.** Rely on existing regulations, combined with a written administrative policy that is consistent with the FEMA Policy, to issue permits for wet floodproofed accessory structures that are not larger than the size limits specified in the Policy. This version does not require changing regulations. See **Attachment A**.

**Version B**. Modify floodplain management regulations to allow permits to be issued for wet floodproofed accessory structures that are not larger than the size limits specified in the Policy, as an alternative to Version A. See **Attachment B**.

**Version C**. Modify floodplain management regulations to specifically provide criteria for variances to allow wet floodproofed accessory structures that are larger than the size limits specified in the Policy. This version requires changing regulations. See **Attachment C**. Version C can be combined with Version D (variances for agricultural structures).

**Please Note!** All communities that elect to modify regulations must submit draft ordinances to the SFMO at least 30 days before the first reading.

Please put the community name in the subject line and send to floods@em.myflorida.com.

**Version D**. Modify floodplain management regulations to specifically provide criteria for variances to allow wet floodproofed agricultural structures (as defined by the FEMA Policy). This version requires changing regulations. See **Attachment D**. Version D can be combined with Version C (variances for larger accessory structures).

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| **Approaches Not Included in This Guidance.** FEMA Policy #104-008-03 outlines two approaches that are not included in this guidance: 1. The “community-wide exception” is an approach that allows communities specifically approved by FEMA to issue permits rather than handle agricultural structures or large accessory structures as individual variances. As of May 2020, FEMA has not issued guidance for requesting FEMA approval.
2. An approach to allow repair and restoration to pre-damaged condition agricultural structures that are substantially damaged by flooding and agricultural structures designated “repetitive loss properties” by the NFIP.

After reading the Policy, communities interested in these approaches should contact the State Floodplain Management Office at floods@em.myflorida.com for referral to the FEMA Region IV office. Subsequent correspondence with the Regional Office should copy the SFMO. |

**ATTACHMENT A**

**Version A.** Rely on existing regulations, combined with a written administrative policy that is consistent with the FEMA Policy, to issue permits for wet floodproofed accessory structures that are not larger than the size limits specified in the Policy.

Most local floodplain management regulations do not have explicit requirements for accessory structures in SFHAs. Some Florida communities added specific provisions which now must be checked for consistency with the FEMA Policy, especially the specific size limits (see Version B).

Local regulations have a section titled “Other Development” (below, copied from the Model Ordinance). This section applies to everything not specified in the regulations or within the scope of the FBC, including accessory structures. Note that this section does not include size or use limits and does not explicitly require flood openings (flood openings are part of resisting hydrostatic loads, item #3).



Local floodplain management regulations authorize the Floodplain Administrator to render interpretations and “establish policies and procedures in order to clarify the application of the provisions.” Communities that make interpretations, policies, and procedures that are consistent with FEMA policies and published guidance will maintain good standing in the NFIP. The following model administrative policy language is consistent with FEMA Policy #104-008-03.

**Please Note!** Please send a copy of the administrative policy to the SFMO. Put the community name in the subject line and send to floods@em.myflorida.com.

**{COMMUNITY NAME} ADMINISTRATIVE POLICY FOR APPROVAL OF ACCESSORY STRUCTURES IN SPECIAL FLOOD HAZARD AREAS**

The purpose of this policy is to maintain consistency with FEMA Policy #104-008-03 (February 2020) to allow issuance of permits for wet floodproofed, small accessory structures in special flood hazard areas (SFHAs). The **{County/City/Town}** floodplain management regulations **{insert citation}** authorize the Floodplain Administrator to render interpretations and “establish policies and procedures in order to clarify the application of the provisions.”

For floodplain management purposes and for application of this policy:

**Accessory structure** means a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

Requirements for wet floodproofing outlined in the FEMA Policy and guidance documents are equivalent to the requirements in **{insert citation}** titled “Other Development.”

Permits may be issued for wet floodproofed accessory structures that:

1. Meet the requirements for “Other Development.”
2. Are only for parking or storage.
3. In Zone A/AE, are one-story and not larger than 600 square feet.
4. Have flood openings in accordance with the flood opening requirements in Section R322 of the Florida Building Code, Residential.
5. In Zone V/VE, are not located below elevated buildings and are not larger than 100 square feet.

Applicants seeking approval of wet floodproofed accessory structures that are larger than the specified sizes may request individual variances in accordance with the variance provisions of the local floodplain management regulations.

**Approved By:** \_\_\_\_\_\_{signature, title}\_\_\_\_\_\_\_

**Date Adopted:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTACHMENT B**

**Version B**. Modify floodplain management regulations to allow permits to be issued for wet floodproofed accessory structures that are not larger than the size limits specified in the Policy.

**Please Note!** All communities that elect to modify regulations must submit draft ordinances to the SFMO at least 30 days before the first reading.

Please put the community name in the subject line and send to floods@em.myflorida.com.

Instead of establishing an administrative policy (Version A), Florida communities that anticipate many requests for accessory structures in SFHAs should to modify existing regulations to adopt explicit requirements to allow issuance of permits for wet floodproofed accessory structures. Florida communities that already have specific provisions should replace or modify those provisions to be consistent with this language Policy.

**ORDINANCE NO. XX-XX**

**AN ORDINANCE BY THE {community’s governing body}** **AMENDING THE {name of community} LAND DEVELOPMENT CODE TO AMEND {insert appropriate chapter/section numbers} TO PROVIDE CRITERIA FOR ACCESSORY STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; SEVERABILITY; AND AN EFFECTIVE DATE.**

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 **WHEREAS,** the Legislature of the State of Florida has, in **{Chapter 125 – County Government** or **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 Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

 **WHEREAS**, the **{community’s governing body}** has determined it appropriate to adopt regulations that are consistent with the FEMA Policy to allow issuance of permits for wet floodproofed accessory structures that are not larger than the sizes specified in the FEMA Policy.

 **NOW, THEREFORE, BE IT ORDAINED** by the **{community’s governing body}** of **{name of community}** that the following floodplain management regulations are hereby adopted.

**SECTION 1. This ordinance specifically amends the {insert chapter/section}:**

*{Add a new definition / Modify a definition} as follows:*

**Accessory structure.** A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

*In Section XXX Building and Structures, add a new Section XXX.X as follows:*

**Section XXX.X. Accessory structures.** Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

(1) 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.

(2) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

(3) If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft. [DELETE (3) IF COMMUNITY HAS ONLY ZONE A/AE]

(4) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

(5) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

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

**SECTION 2. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply in **{insert name of community or all unincorporated areas of the county}**. This ordinance shall apply to all applications for accessory structures in special flood hazard areas submitted on or after the effective date of this ordinance.

**SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the **{community’s governing body}** that the provisions of this ordinance shall become and be made a part of the **{name of community’s}** Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 5. EFFECTIVE DATE.**

This ordinance shall take effect on **{insert date}.**

*Use community’s standard signature block*

**ATTACHMENT C**

**Please Note!** All communities that elect to modify regulations must submit draft ordinances to the SFMO at least 30 days before the first reading.

Please put the community name in the subject line and send to floods@em.myflorida.com.

**Version C**. Modify floodplain management regulations to specifically provide criteria for variances to allow wet floodproofed accessory structures that are larger than the size limits specified in the Policy.

Florida communities that anticipate requests for accessory structures in SFHA that are larger than the size limits specified in the policy should adopt explicit variance provisions. See Note on page 1 to submit drafts to the State Floodplain Management Office several weeks before first reading.

**ORDINANCE NO. XX-XX**

**AN ORDINANCE BY THE {community’s governing body}** **AMENDING THE {name of community} LAND DEVELOPMENT CODE TO AMEND {insert appropriate chapter/section numbers} TO PROVIDE CRITERIA FOR ACCESSORY STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; SEVERABILITY; AND AN EFFECTIVE DATE.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **WHEREAS,** the Legislature of the State of Florida has, in **{Chapter 125 – County Government** or **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 Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

 **WHEREAS**, the **{community’s governing body}** has determined it appropriate to adopt variance provisions that are consistent with the FEMA Policy to consider variances for wet floodproofed accessory structures that are larger than the sizes specified in the FEMA Policy.

 **NOW, THEREFORE, BE IT ORDAINED** by the **{community’s governing body}** of **{name of community}** that the following floodplain management regulations are hereby adopted.

**SECTION 1. This ordinance specifically amends the {insert chapter/section}:**

*{Add a new definition / Modify a definition} as follows:*

**Accessory structure.** A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

*In Section XXX Variances and Appeals, under the subsection titled “Considerations for issuance of variances,” add a new Section XXX.X as follows and renumber subsequent section:*

**Section XXX.X. Accessory structures.** A variance is authorized to be issued for the construction or substantial improvement of accessory structures provided the requirements of this section are satisfied and the accessory structures are used only for parking or storage and:

(1) Represents minimal investment and has low damage potential.

(2) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are larger than one story, 600 square feet, and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

(3) If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings, are larger than 100 square feet in size, and have walls designed to break away in accordance with Section R322.3 of the Florida Building Code, Residential. [DELETE (3) IF COMMUNITY HAS ONLY ZONE A/AE]

(4) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

(5) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

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

**SECTION 2. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply in **{insert name of community or all unincorporated areas of the county}**. This ordinance shall apply to all applications for accessory structures in special flood hazard areas submitted on or after the effective date of this ordinance.

**SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the **{community’s governing body}** that the provisions of this ordinance shall become and be made a part of the **{name of community’s}** Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 5. EFFECTIVE DATE.**

This ordinance shall take effect on **{insert date}.**

*Use community’s standard signature block*

**ATTACHMENT D**

**Version D**. Modify floodplain management regulations to specifically provide criteria for variances to allow wet floodproofed agricultural structures (as defined by the FEMA Policy).

To satisfy the NFIP, buildings, structures and facilities exempt from the Florida Building Code that are located in SFHAs are regulated by local floodplain management regulations. By Florida statute, nonresidential farm buildings on farms (sec. 60.50, F.S.), are exempt from the Florida Building Code.

The contents of some agricultural structures may be more valuable to protect than the structures themselves. In those cases, owners should consider the benefits of complying with the elevation or dry floodproofing requirements of ASCE 24, rather than seeking variances for wet floodproofing.

Local floodplain regulations require permits for those buildings and include a section specifically for design and constructions, requiring them to be in accordance with ASCE 24 (below, from the Model Ordinance). The wet floodproofing provisions of ASCE 24 are equivalent to those described in the FEMA Policy. However, communities must have a mechanism to ensure compliance with the FEMA Policy, which establishes criteria for consideration of individual variances for wet floodproofed agricultural structures.

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The best way to have a mechanism to ensure compliance with the FEMA Policy is to adopt specific provisions for considering variances for agricultural structures. The specific provisions must be considered in combination with the standard variance requirements.

**Please Note!** All communities that elect to modify regulations must submit draft ordinances to the SFMO at least 30 days before the first reading.

Please put the community name in the subject line and send to floods@em.myflorida.com.

**ORDINANCE NO. XX-XX**

**AN ORDINANCE BY THE {community’s governing body}** **AMENDING THE {name of community} LAND DEVELOPMENT CODE TO MODIFY {insert appropriate chapter/section numbers} TO PROVIDE VARIANCE CRITERIA FOR AGRICULTURAL STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; SEVERABILITY; AND AN EFFECTIVE DATE.**

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 **WHEREAS,** the Legislature of the State of Florida has, in **{Chapter 125 – County Government** or **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 Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

 **WHEREAS**, the **{community’ governing body}** has determined it appropriate to adopt variance provisions that are consistent with the FEMA Policy to allow consideration of variances for wet floodproofed agricultural structures, as defined in the FEMA Policy.

 **NOW, THEREFORE, BE IT ORDAINED** by the **{community’s governing body}** of **{name of community}** that the following floodplain management regulations are hereby adopted.

**SECTION 1. This ordinance specifically amends the {insert chapter/section}:**

*Add a new definition as follows:*

**Agricultural structure.** For floodplain management purposes, a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

*In Section XXX Variances and Appeals, add a new Section XXX.X as follows:*

**Section XXX.X. - Agricultural structures.** A variance is authorized to be issued for the construction or substantial improvement of agricultural structures provided the requirements of this section are satisfied and:

(1) A determination has been made that the proposed agricultural structure:

(a) Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.

(b) Has low damage potential (amount of physical damage, contents damage, and loss of function).

(c) Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water‑reactive materials.

(d) Is not located in a coastal high hazard area (Zone V/VE), except for aquaculture structures dependent on close proximity to water. [DELETE (d) IF COMMUNITY HAS ONLY ZONE A/AE]

(e) Complies with the wet floodproofing construction requirements of paragraph (2), below.

(2) Wet floodproofing construction requirements.

(a) Anchored to resist flotation, collapse, and lateral movement.

(b) When enclosed by walls, walls have flood openings that comply with the flood opening requirements of ASCE 24, Chapter 2.

(c) Flood damage-resistant materials are used below the base flood elevation plus one (1) foot.

(d) Mechanical, electrical, and utility equipment, including plumbing fixtures, are elevated above the base flood elevation plus one (1) foot.

**SECTION 2. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply in **{insert name of community or all unincorporated areas of the county}**. This ordinance shall apply to all applications for accessory structures in special flood hazard areas submitted on or after the effective date of this ordinance.

**SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the **{community’s governing body}** that the provisions of this ordinance shall become and be made a part of the **{name of community’s}** Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 5. EFFECTIVE DATE.**

This ordinance shall take effect on **{insert date}.**

*Use community’s standard signature block*