



FLORIDA DIVISION OF EMERGENCY MANAGEMENT

Office of Floodplain Management

GUIDANCE FOR "PLAIN LANGUAGE" LOCAL AMENDMENTS TO THE FLORIDA BUILDING CODE

Office of Floodplain Management

Florida Division of Emergency Management

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OBJECTIVE: This guidance explains an approach to formatting local amendments to the Florida Building Code (FBC) in "plain language" for inclusion in floodplain management ordinances. This approach differs from FDEM Office of Floodplain Management (OFM) guidance used since 2011 in that it does not rely on applying legislative formatting (underline and strike-through) to the actual text of the FBC. The plain-language approach has the benefit of minimizing differences when the FBC provisions are amended in the future. The staff of the Florida Building Commission advised OFM that this approach satisfies the statutory requirement that local amendments are in a "usable format." See [Sec. 553.73\(4\) and \(5\), Florida Statutes](#).

BACKGROUND FOR LOCAL AMENDMENTS: All communities in Florida are required to enforce the FBC. The FBC includes requirements for buildings in flood hazard areas. FEMA determined that the flood provisions of the FBC meet or exceed the minimum requirements of the National Flood Insurance Program. Communities that elect to adopt more restrictive "higher standards" that affect the design of buildings must adopt local amendments to the FBC.

Section 553.73(4), F. S., governs the adoption of local amendments to the FBC. Communities may adopt local administrative amendments that modify FBC Chapter 1, and communities may adopt location technical amendments that modify other requirements of the FBC. Section 553.73(5), F.S., specifically governs local amendments to the flood provisions of the FBC.

Local amendments to the flood provisions of the FBC do not sunset (expire) when the Florida Building Commission adopts subsequent editions of the FBC, provided the local amendments meet one of three criteria set forth in Sec. 553.73(5):

- (1) if the higher standard had already been adopted by local ordinance prior to July 1, 2010
- (2) if the higher standard is adopted for the purpose of participating in the Community Rating System (CRS)
- (3) if the higher standard requires freeboard

Communities considering higher standards that do not qualify under one of the three criteria listed above should contact FDEM OFM for assistance. FDEM recommends using the clause "for the purpose of participating in the CRS," even if the community may not be contemplating joining the CRS immediately.

RATIONALE FOR CHANGE: Over the years, a number of communities have elected to locate their FBC amendments in their floodplain management ordinances, which are usually in their Land Development Codes. Some of those communities have asked whether amendments can be formatted in plainer language. Until early 2023, FDEM advised those communities to consult with their attorneys to determine whether that approach satisfies the statutory requirements for local amendments to the FBC.

IMPORTANT NOTE!

All communities that amend their local floodplain regulations or the FBC must submit draft ordinances to the OFM at least 30 days before presenting proposals to planning boards or elected officials.

Please put your community name in the subject line and send a request for the OFM to work with you to prepare a draft to floods@em.myfloridacom.

In 2021, sec. 553.73(4) was amended to provide that if an FBC technical amendment is not adopted in accordance with the statute, then that action may be subject to a petition by a "substantially affected person." Therefore, a plain reading is that if a local amendment **is adopted in accordance with the statute**, that local FBC amendment is not subject to petition, even when those amendments reside in land development codes. The 2021 statute amendment adds subparagraph (l), which states:

(l) If a local government adopts a regulation, law, ordinance, policy, amendment, or land use or zoning provision **without using the process established in this subsection**, and a substantially affected person considers such regulation, law, ordinance, policy, amendment, or land use or zoning provision to be a technical amendment to the Florida Building Code, then the substantially affected person may submit a petition to the commission for a nonbinding advisory opinion. If a substantially affected person submits a request in accordance with this paragraph, the commission shall issue a nonbinding advisory opinion stating whether or not the commission interprets the regulation, law, ordinance, policy, amendment, or land use or zoning provision as a technical amendment to the Florida Building Code. As used in this paragraph, the term "local government" means a county, municipality, special district, or political subdivision of the state. [emphasis added]

FBC AMENDMENTS FOR HIGHER STANDARDS IN THIS GUIDANCE: The statute authorizes communities to adopt local administrative amendments and local technical amendments. This guidance has five sections:

Section 1: General Instructions for FBC Amendments

Section 2: FBC Administrative Amendments (Chapter 1). Shows model "plain language" for two common administrative amendments:

- Require FEMA Elevation Certificate and Dry Floodproofing Certificate for Non-residential Structures
- Require Nonconversion Agreements

Section 3: FBC Technical Amendments. Shows model "plain language" for the following technical amendments that many Florida communities have adopted:

- Additional Height: Freeboard
- Treat CAZ exactly like Zone V
- Cumulative Substantial Improvement
- Lower SI & SD Percentages
- Enclosures: No partitions and/or limited access
- Enclosures: Limit size
- Enclosures: Not permitted
- Dwellings: Foundations in Zone A/AE designed by RDP
- Dwellings: Open foundations in Zone A/AE (limit the use of fill)
- Repetitive Flood Damage as part of Substantial Damage

Section 4: Model Adopting Shell for FBC Amendments. This section is the starting point to be tailored by each community.

Section 5: Example Formatting Multiple FBC Amendments. Illustrates how multiple amendments can be formatted.

GUIDANCE TO INCORPORATE FLOODPLAIN MANAGEMENT HIGHER STANDARDS IN LOCAL ORDINANCES: Many Florida communities modify floodplain management ordinances to adopt higher standards (more restrictive provisions) for aspects of floodplain management that do not require amending the FBC. Separate guidance illustrates incorporating the following higher standards in local ordinances. <https://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/> (under Guidance, Ordinance Amendments, FBC Amendments, and Sample Forms).

- Agricultural structures (variance for wet floodproofing)
- Manufactured homes: location limitations; remove 36-inch option (required for CRS Class 8); not permitted
- Market value (actual cash value)

OTHER HIGHER STANDARDS FOR LOCAL FLOODPLAIN MANAGEMENT ORDINANCES: Contact OFM to help prepare amendments for the following higher standards that do not require amending the FBC or any other higher standards not listed.

- Adopt local flood hazard area maps in addition to FIS and FIRMs
- Limit the use of fill for purposes other than to elevate buildings
- Critical facilities
- Zone X (elevation relative to highest adjacent grade or crown of road)
- Subdivision (building footprints outside of SFHA)
- Hazardous materials limitations
- Compensatory storage
- Certified Floodplain Manager: Floodplain Administrator
- Setbacks: small streams without SFHA; streams without BFE; streams with BFE, without Floodway

Section 1: General Instructions for FBC Amendments

These instructions are generic. **FDEM OFM will work with communities to tailor the ordinance**, which must then be prepared and processed in accordance with each community's standard protocols.

1. The model language is based on the FEMA-approved Model Ordinance. Always use the community's exact provision(s) to prepare amendments.
2. Be careful about section/item numbering when inserting a **new** section/subsection/item(s).
3. For previously adopted FBC amendments, reformatting FBC amendments **must** be paired with the removal (repeal or strike-through) of those amendments.
4. FDEM does not determine whether higher standards qualify for CRS credits. Notations about possible CRS credits are based on the CRS Coordinators Manual. Communities should work with their CRS specialists to determine whether an activity is eligible for CRS credits.

Section 2: FBC Administrative Amendments (Chapter 1)

Require FEMA Elevation Certificate and Dry Floodproofing Certificate

Background: The FBC requires submission of elevations for plan review (Sec. 107.3.5) and twice during inspections (110.3 "upon placement of lowest floor" and "as part of final inspection." Requirements for elevation are also specified in 1612.5 and R322.1.10 (as-built). The NFIP does not require using the FEMA Elevation Certificate and the FEMA Dry Floodproofing Certificate. CRS communities must use FEMA forms.

When added as a new higher/more specific requirement, insert in FBC whereas clause: require the use of specific forms issued by the Federal Emergency Management Agency,

Insert in the flood ordinance section titled Definitions:

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

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

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code, administrative amendments; certification forms.

(1) Where elevations of buildings in flood hazard areas are specified in applications, and where certification of the elevation of buildings in flood hazard areas is required, the FEMA Elevation Certificate shall be submitted.

(2) Where certifications of the design of dry floodproofed non-residential buildings in flood hazard areas are required and where certification of the elevation of dry floodproofing is required, the FEMA Dry Floodproofing Certificate for Non-residential Structures shall be submitted.

Require Nonconversion Agreement

Background: Illegal conversion of enclosures below elevated buildings for uses other than those explicitly allowed can be problematic, and enforcement is challenging. Some communities require permit applicants to sign nonconversion agreements and record the agreements in land records to inform future owners. Possible CRS credits.

NOTE: Not shown are options to not require agreements for enclosures below a specific size (e.g., 100 sf for stairwell enclosure) or to not require agreements for perimeter wall (crawlpace) foundations that are less than 4-5 ft high. Discuss those options with OFM.

*When added as a new higher standard, insert in FBC whereas clause: require declarations of land restriction (nonconversion agreements) for enclosures below elevated **{select one: buildings / dwellings}***

Insert in the flood ordinance section titled Definitions:

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 Clerk of Courts. By signing, the owner agrees not to convert or modify enclosures below elevated **{select one: buildings / dwellings}** in any manner inconsistent with the terms of the building permit and these regulations.

Insert in the flood ordinance section titled Application for a Permit, a new numbered item:

(8) For projects proposing to enclose areas under elevated buildings, include a signed Declaration of Land Restriction (Nonconversion Agreement). The agreement shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

Insert in the flood ordinance section titled Buildings and Structures:

XX. – 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 *{insert flood ordinance section number for definitions}*. The agreements shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

Section 3: FBC Technical Amendments

Additional Height: Freeboard

Background: The FBC requires new buildings, substantially improved buildings, and buildings that incur substantial damage to be elevated to or above the BFE plus 1 foot (or

protected with dry floodproofing to that elevation, where permitted). Some additional elevation is required for some Flood Design Class 3 and Class 4 buildings. Some communities elect to adopt additional height, called "freeboard." Possible CRS credits.

*When added as a new higher standard, insert in FBC whereas clause: increase the minimum elevation requirement for **{select appropriate: all buildings; residential buildings}** in flood hazard areas,*

Insert in the flood ordinance section titled Buildings and Structures:

ALL BUILDINGS: XX. – Florida Building Code technical amendments; minimum building elevations in flood hazard areas.

(1) The minimum elevation for buildings in flood hazard areas that are within the scope of the Florida Building Code, Building, shall be, as specified in ASCE 24, the base flood elevation plus {INSERT} feet, or the design flood elevation, whichever is higher.

(2) The minimum elevation for one- and two-family dwellings and townhouses in flood hazard areas that are within the scope of the Florida Building Code, Residential, shall be the base flood elevation plus {INSERT} feet or the design flood elevation, whichever is higher.

ALTERNATIVE: XX. – Florida Building Code technical amendments; minimum building elevations in flood hazard areas. All buildings and structures in flood hazard areas shall have the lowest floor, dry floodproofing measures, or the bottom of the lowest horizontal structural member of the lowest floor, as applicable to occupancy and flood zone, at or above the base flood elevation plus {INSERT} feet, or the design flood elevation, whichever is higher.

DWELLINGS ONLY (not multi-family): XX. – Florida Building Code technical amendments; minimum building elevations in flood hazard areas. The minimum elevation for one- and two-family dwellings and townhouses in flood hazard areas that are within the scope of the Florida Building Code, Residential, shall be the base flood elevation plus {INSERT} feet, or the design flood elevation, whichever is higher.

Treat CAZ exactly like Zone V

Background: FEMA delineates a Limit of Moderate Wave Action on FIRMs for coastal communities when it determines that waves between 1.5 and 3 feet are present during the base flood (3 ft wave height is used to delineate the landward boundary of Zone V). The FBC treats CAZ like Zone V, with two exceptions: non-residential buildings are permitted to be dry floodproofed, and backfilled stem walls are permitted for all buildings. Some communities elect to modify the FBC and their local floodplain ordinances to treat the CAZ exactly like Zone V. Possible CRS credits.

When added as a new higher standard, insert in FBC whereas clause: apply coastal high hazard area (Zone V) requirements in areas designated Coastal A Zones to increase resiliency,

Insert in the flood ordinance section titled Definitions:

Coastal A Zone. Flood hazard areas that have been delineated as subject to wave heights between 1 ½ feet (457 mm) and 3 feet (914 mm). Such areas are seaward of the Limit of Moderate Wave Action shown on the Flood Insurance Rate Map.

Limit of Moderate Wave Action. Line shown on FIRMs to indicate the inland limit of the 1 ½-foot (457 mm) breaking wave height during the base flood.

Insert in the flood ordinance section titled Buildings and Structures:

ALL BUILDINGS: **XX. – Florida Building Code technical amendments; Coastal A Zones.**

(1) Buildings within the scope of the Florida Building Code, Building, that are located in Coastal A Zones shall not be permitted to be dry floodproofed and shall not be permitted to have backfilled stem wall foundations.

(2) Dwellings within the scope of the Florida Building Code, Residential, that are located in Coastal A Zones shall not be permitted to have backfilled stem wall foundations.

DWELLINGS ONLY (not multi-family): **XX. – Florida Building Code technical amendments; Coastal A Zones.** Dwellings within the scope of the Florida Building Code, Residential, that are located in Coastal A Zones shall not be permitted to have backfilled stem wall foundations.

Throughout the flood ordinance, where "coastal high hazard area" appears, add "and Coastal A Zones."

Cumulative Substantial Improvement

Background: The basic substantial improvement requirement of the NFIP and the FBC is triggered when the cost of improvements/repairs equals or exceeds 50% of the market value of the building. [Ordinance include a definition for "market value."] Cumulative Substantial Improvement requires tracking and accumulating costs/percentages over specified time periods. One of the benefits of this provision is to, over time, bring more nonconforming buildings into compliance. Another benefit is reducing the likelihood that property owners will deliberately phase improvements to avoid the basic one-time 50% substantial improvement threshold. Possible CRS credits for at least a 5-year period of accumulation.

When added as a new higher standard, insert in FBC whereas clause: require accumulation of costs of improvements and repairs of buildings, based on issued permits, over a **{number of years}**-year period,

Modify the flood ordinance section titled Duties and Powers of the Floodplain Administrator:

XX. – Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

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(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; and

Modify the flood ordinance section titled Definitions:

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure taking place during a {see NOTES for number of years}–year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to {see NOTE}. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendment; cumulative substantial improvement. In the Florida Building Code, Building, and Florida Building Code, Existing Building, definitions for the term "Substantial Improvement" shall be as defined in Section {insert flood ordinance section number for definitions}.

NOTES:

Where this **{see NOTES for the number of years}** appears in the above texts, insert the period of time. There are pros and cons for selecting longer periods (such as 10 years or the life of the structure) and shorter periods (such as 1-, 2-, 3- or 5-years). The period of time also determines the number of Community Rating System points. Communities that adopt this provision should have written administrative procedures in place.

To alert the public and those who use the regulations about this time-dependent requirement that has a specific 'look back' period that does not look back earlier than initial adoption, where **{see NOTE}** appears, insert the date based on one of the following:

- If the community has previously adopted a cumulative substantial improvement provision, **insert the effective date of the first ordinance that adopted that**

provision.

- If this is the first time the community has adopted a cumulative substantial improvement provision, **insert the actual date identified by month, day, and year on which this ordinance will be effective**. An actual date is needed; "the date of adoption of this ordinance" is meaningless after the ordinance is codified.

Lower SI & SD Percentages

Background: The NFIP and FBC define "substantial improvement" and "substantial damage" as when the ratio of costs to market value equals or exceeds 50 percent. Depending on the selected lower percentage, the objective is to bring more nonconforming buildings into compliance or a slight "hedge" on estimates. Possible CRS credits.

When added as a new higher standard, insert in FBC whereas clause: reduce the percentage used to determine substantial improvement and substantial damage,

If new, amend the ordinance definitions for "substantial damage" and "substantial improvement" to strike "50" and insert a lower percentage selected by the community.

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendment; substantial damage and substantial improvement. In the Florida Building Code, Building and Florida Building Code, Existing Building, definitions for the terms "Substantial Damage" and "Substantial Improvement" shall be as defined in Section *{insert flood ordinance section number for definitions}*.

Enclosures: No partitions and/or limited access

Background: Illegal conversion of enclosures below elevated buildings for uses other than those explicitly allowed can be problematic, and enforcement is challenging. Some communities do not allow enclosures to be partitioned, and others limit access to the "minimum necessary" for the allowed uses for parking, storage, and building access. Possible CRS credits.

NOTE: Not shown is the option to only limit partitioning (just remove item 3 for access limits).

*NOTE: Where **{buildings / dwellings}** are shown, select "buildings" to apply to all buildings; select "dwellings" to apply to one- and two-family homes and townhouses.*

*When added as a new higher standard, insert in FBC whereas clause: limit partitioning of enclosed areas below elevated **{buildings / dwellings}** and to limit access to enclosed areas.*

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendments; enclosures below required elevations for {buildings / dwellings} in flood hazard areas. Enclosed areas below the required elevation for **{buildings / dwellings}** in flood hazard areas shall be limited as follows:

(1) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators unless a partition is required by the fire code.

(2) Where perimeter walls are permitted, the limitation on partitions does not apply to load-bearing walls interior to perimeter wall (crawl space) foundations.

(3) Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

Enclosures: Limit size

Background: Illegal conversion of enclosures below elevated buildings for uses other than those explicitly allowed can be problematic, and enforcement is challenging. Some communities discourage conversion by limiting the size of enclosures. Possible CRS credits.

*NOTE: Where **{buildings / dwellings}** are shown, select "buildings" to apply to all buildings; select "dwellings" to apply to one- and two-family homes and townhouses.*

*When added as a new higher standard, insert in FBC whereas clause: limit the size of enclosures below elevated **{select one: buildings / dwellings}***

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendments; limit enclosures below required elevations for {buildings / dwellings} in flood hazard areas. The area enclosed below the required elevation for **{buildings / dwellings}** in flood hazard areas shall be not more than **{insert selected size limit}** square feet in area unless the areas are enclosed by lattice or screening. The size limit does not apply to for perimeter wall (crawl space) foundations that have a wall height less than **{insert height, usually 4 or 5} feet.**

Enclosures: Not permitted

Background: Illegal conversion of enclosures below elevated buildings for uses other than those explicitly allowed can be problematic, and enforcement is challenging. Some communities avoid this problem by not allowing any enclosures below buildings in SFHAs, or not allowing enclosures in Zone V and Coastal A Zones. This also reduces the amount of floodborne debris, especially from breakaway walls. Possible CRS credits.

*NOTE: Where **{buildings / dwellings}** are shown, select "buildings" to apply to all buildings; select "dwellings" to apply to one- and two-family homes and townhouses.*

*When added as a new higher standard, insert in FBC whereas clause: prohibit enclosures below elevated **{select one: buildings / dwellings}** in **{flood hazard areas – or – coastal high hazard areas and Coastal A Zones}**;*

Insert in the flood ordinance section titled Buildings and Structures:

ALL FLOOD HAZARD AREAS **XX. – Florida Building Code technical amendments; prohibit enclosures below required elevations for {buildings / dwellings} in flood hazard areas.** Enclosed areas below the required elevations below the required elevation for

{buildings / dwellings} in flood hazard areas are not permitted, unless enclosed by lattice or screening.

ZONE V & CAZ XX. – Florida Building Code technical amendments; prohibit enclosures below required elevations for {buildings / dwellings} in coastal high hazard areas and Coastal A Zones. Enclosed areas below the required elevations below the required elevation for {buildings / dwellings} in coastal high hazard areas and Coastal A Zones are not permitted, unless enclosed by lattice or screening.

Dwellings: Foundations in Zone A/AE by Registered Design Professionals

Background: The FBC Building, requires all buildings to be designed. The FBC authorizes building officials to require construction documents to be prepared and sealed by registered design professionals "where special conditions exist" (Sec. 107.1). The FBC Residential, requires dwellings in coastal high hazard areas (Zone V) and Coastal A Zones to be designed by registered design professionals (Sec. R322.3.9). However, the Sec. R322.2.3 of the FBC Residential, like the NFIP, does not require foundations in Zone A/AE to be designed. Possible CRS credits.

When added as a new higher standard, insert in FBC whereas clause: require foundations of dwellings in flood hazard areas to be designed by registered design professionals,

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendments; foundation design requirements for one- and two-family dwellings and townhouses in flood hazard areas. Construction documents for one- and two-family dwellings and townhouses in flood hazard areas shall include documentation prepared and sealed by a registered design professional that the foundation design accounts for site-specific flood loads.

Dwellings: Open foundations in Zone A/AE (limit the use of fill)

Background: Many communities limit the use of fill in SFHAs to preserve floodplain storage and to avoid creating local drainage problems, especially when in-fill development and redevelopment occurs on small lots. Limiting the use of fill may have other environmental benefits, including less ground disturbance and fewer trees removed. Possible CRS credits.

NOTE: *This has the effect of not allowing perimeter walls (crawl space) or fill to support buildings, including backfilled stem walls. It can be modified to allow those foundation types.*

When added as a new higher standard, insert in FBC whereas clause: require open foundations for dwellings in flood hazard areas to minimize obstruction of drainage and flood flows,

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendments; foundation limits for dwellings in flood hazard areas other than coastal high hazard areas and Coastal A Zones. Foundations for dwellings within the scope of the Florida Building Code, Residential, that are

located in flood hazard areas other than coastal high hazard areas and Coastal A Zones shall be columns or piles, and designs for foundations shall be prepared and sealed by registered design professionals.

Modify the flood ordinance section titled Limitations on Placement of Fill:

Fill shall not be used to elevate dwellings. Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-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~~

Repetitive Flood Damage as Substantial Damage

Background: Some communities have areas that experience frequent low-level flooding that damages buildings, but consider those areas unlikely to experience flooding so severe that it triggers the 50% substantial damage threshold. NFIP flood insurance policies include coverage called Increased Cost of Compliance (ICC). Owners of NFIP-insured buildings that are located in SFHA **and** that are determined to meet the basic definition of "substantial damage" caused by flooding are eligible to file ICC claims for up to \$30,000 (as of late 2024) towards the cost of bringing buildings into compliance with the floodplain management requirements for new construction. In communities that adopt specific language for "repetitive loss" structures, such structures may be eligible for the ICC claim even if they do not meet the standard 50% threshold for substantial damage by a single event.

To qualify for ICC, communities must adopt and enforce the repetitive loss provision on all buildings in SFHAs, not just those on the NFIP "rep loss list" or only those covered by NFIP flood insurance.

The specific language that defines "repetitive loss" is specified in the federal law that authorized the ICC coverage. [Source: FEMA P-1080, [Answers to Frequently Asked Questions about Increased Cost of Compliance](#).] Possible CRS credits.

When added as a new higher standard, insert in FBC whereas clause: require buildings that sustain repetitive flood damage during a 10-year period to be included in the definition of "substantial damage,"

Modify the flood ordinance section titled Duties and Powers of the Floodplain Administrator:

XX. -- Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

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(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; for proposed work to repair damage

caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage"; and

Modify the flood ordinance section titled Definitions:

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Insert in the flood ordinance section titled Buildings and Structures:

XX. – Florida Building Code technical amendment; repetitive flood damage. In the Florida Building Code, Building, and Florida Building Code, Existing Building, definitions for the term "Substantial Damage " shall be as defined in Section **{insert flood ordinance section number for definitions}**.

Section 4: Model Adopting Shell for FBC Amendments

FDEM cautions about removing or modifying the Whereas clauses shown in this model adopting shell that are specific to FBC amendments and the fiscal impact statement because they are related to the statutory requirements for local amendments of the FBC. FBC amendments that are not properly adopted may be subject to petition and legal action, or they may sunset with the next edition of the FBC.

IMPORTANT NOTE! All communities that amend their local floodplain regulations or the FBC must submit draft ordinances to the OFM at least 30 days before presenting proposals to planning boards or elected officials.

Please put your community name in the subject line and send a request for the OFM to work with you to prepare a draft to floods@em.myflorida.com.

SAMPLE TITLE, WHEREAS CLAUSES, AND FISCAL IMPACT STATEMENT

ORDINANCE NO. _____

AN ORDINANCE BY THE {community's governing body} AMENDING THE {insert appropriate code of ordinances or land development chapter/section numbers} TO {insert description of amendments}; TO {adopt/amend/reformat} LOCAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY AND SEVERABILITY; AND PROVIDING FOR 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 **{name of community}** 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

WHEREAS, Chapter 553, 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 Clause for Reformatting Previously Adopted FBC Amendments:

WHEREAS, the **{community's governing body}** previously adopted local amendments to the Florida Building Code and is reformatting those amendments as part of **{cite where located}**; and

Whereas Clauses for Amending Previously adopted FBC Amendments:

WHEREAS, the **{community's governing body}** is amending a previously adopted local amendment to **{insert a brief description of the higher standard or standard or standards}** for buildings and structures in flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the *Florida Building Code*; and

Whereas Clauses for Adopting New FBC Amendments:

WHEREAS, the **{community's governing body}** is adopting a requirement to **{insert a brief description of the higher standard or standard or standards}** for buildings and structures in flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the *Florida Building Code*; and

Whereas Clause for Repealing Previously adopted FBC Amendments

WHEREAS, the **{community's governing body}** previously adopted a local amendment to the Florida Building Code and has determined it appropriate to repeal that local amendment; and

WHEREAS, the **{community's governing body}** 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.

NOW, THEREFORE, BE IT ORDAINED by the **{community's governing body}** of the **{name of community}** that the **{insert appropriate chapter/section numbers}** is amended as set forth in the following amendments.

SECTION 1. AMENDMENTS

The {insert appropriate chapter/section numbers}, is hereby {added/amended/repealed} by the following amendments.

{Modify Section XX Definitions, by amending/adding the following definitions}

{Modify Section xx, by amending/adding the following}

{Repeal Section xx as follows}

Fiscal Impact Statement for Amending Previously Adopted FBC Amendments or Adopting New FBC Amendments:

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

Section 5: Example: Formatting Multiple FBC Amendments

DO NOT USE VERBATIM – FDEM OFM WILL WORK WITH YOU TO DRAFT SPECIFICALLY FOR YOUR COMMUNITY

Please put your community name in the subject line and send a request for the OFM to work with you to prepare a draft to floods@em.myflorida.com.

Instructions: This example shows reformatting previously adopted FBC amendments and adopting some new FBC amendments. Not shown is the deletion of the previously adopted amendments.

WHEREAS, the {community's governing body} previously adopted local amendments to the Florida Building Code to (1) require additional elevation for buildings in flood hazard areas and (2) limit enclosure size below elevated buildings in coastal high hazard areas and Coastal A Zones, and is reformatting those amendments as part of the floodplain management regulations; and

WHEREAS, the {community's governing body} is adopting requirements for buildings and structures in flood hazard areas to (1) require use of specific forms issued by the Federal Emergency Management Agency; (2) reduce the percentage used to determine substantial improvement and substantial damage; (3) apply coastal high hazard area (Zone V) requirements in areas designated Coastal A Zones to increase resiliency; and (4) require foundations of dwellings in flood hazard areas to be designed by registered design professionals; and, for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), F.S., is formatting those requirement to coordinate with the *Florida Building Code*; and

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Delete previously adopted FBC amendments in the former format.

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XX. – Definitions.

Coastal A Zone. Flood hazard areas that have been delineated as subject to wave heights between 1 ½ feet (457 mm) and 3 feet (914 mm). Such areas are seaward of the Limit of Moderate Wave Action shown on the Flood Insurance Rate Map.

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

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

Limit of Moderate Wave Action. Line shown on FIRMs to indicate the inland limit of the 1 ½-foot (457 mm) breaking wave height during the base flood.

XX. – Buildings and Structures.

(XX) Florida Building Code, Administrative Amendments.

(1) Where elevations of buildings in flood hazard areas are specified in applications, and where certification of the elevation of buildings in flood hazard areas is required, the FEMA Elevation Certificate shall be submitted.

(2) Where certifications of the design of dry floodproofed non-residential buildings in flood hazard areas and where certification of the elevation of dry floodproofing is required, the FEMA Dry Floodproofing Certificate for Non-residential Structures shall be submitted.

(XX) Florida Building Code, Technical Amendments.

(1) Lower substantial improvement and substantial damage. In the Florida Building Code, Building and Florida Building Code, Existing Building, the definitions for the terms "Substantial Damage" and "Substantial Improvement" shall be as defined in Section XX-X.

(2) Minimum building elevations:

(a) The minimum elevation for buildings within the scope of the Florida Building Code, Building, shall be as specified in ASCE 24, the base flood elevation plus two (2) feet, or the design flood elevation, whichever is higher.

(b) The minimum elevation for one- and two-family dwellings and townhouses within the scope of the Florida Building Code, Residential, shall be the base flood elevation plus two (2) feet or the design flood elevation, whichever is higher.

(3) Coastal A Zone.

(a) Buildings within the scope of the Florida Building Code, Building, that are located in Coastal A Zones shall not be permitted to be dry floodproofed and shall not be permitted to have backfilled stem wall foundations.

(b) Dwellings within the scope of the Florida Building Code, Residential, that are located in Coastal A Zones shall not be permitted to have backfilled stem wall foundations.

(4) Foundation design requirement, one- and two-family dwellings. Construction documents for one- and two-family dwellings and townhouses in flood hazard areas shall include documentation, prepared and sealed by a registered design professional, that the foundation design accounts for site-specific flood loads.

(5) Limit enclosures below elevated dwellings and townhouses in coastal high hazard areas and Coastal A Zones. Enclosed areas below the required elevation for dwellings in coastal high hazard areas and Coastal A Zones shall be not more than 150 square feet in area, unless enclosed by lattice or screening.