

## LEE COUNTY ORDINANCE NO. 06-17

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) CHAPTER 6 - BUILDINGS AND BUILDING REGULATIONS; AMENDING (ARTICLE II, CODES AND STANDARDS, DIVISION 1, GENERALLY) ENFORCING OFFICERS (§6-44); AMENDING (DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS) APPLICABILITY OF DIVISION (§6-71); RIGHT OF APPEAL; NOTICE OF APPEAL (§6-80); AMENDING AND RENAMING VARIATIONS; MODIFICATIONS OF ORDERS (§6-81); AMENDING DECISIONS (§6-82); AMENDING, PROVIDING FOR AND RENAMING (DIVISION 3, BUILDING CODE) STATEWIDE EFFECTIVENESS; AMENDMENTS (§6-111) RELATED TO FLORIDA BUILDING CODE (FBC), CHAPTER 1, ADMINISTRATION; DELETING FBC EXCEPTION SECTION 103.1 (GENERAL), AMENDING AND RENUMBERING FBC EXCEPTION SECTIONS 103.2, 103.2.1 AND 103.2.2 AS A PORTION OF FBC EXCEPTION SECTION 104 (DUTIES AND POWERS OF THE BUILDING OFFICIAL - RIGHT OF ENTRY); DELETING FBC EXCEPTION SECTION 103.3 (STOP WORK ORDERS); AMENDING AND RENUMBERING FBC SECTION 103.4 (REVOCATION OF PERMITS) AS A PORTION OF FBC EXCEPTION SECTION 105.4 (CONDITIONS OF THE PERMIT); AMENDING AND RENUMBERING FBC EXCEPTION SECTIONS 103.4.1 (MISREPRESENTATION OF PERMITS) AND 103.4.2 (VIOLATION OF CODE PROVISIONS) AS PORTIONS OF FBC SECTION 105.4 (CONDITIONS OF THE PERMIT); DELETING FBC EXCEPTION SECTION 103.5 (UNSAFE BUILDINGS OR SYSTEMS); DELETING FBC EXCEPTION SECTION 103.6 (REQUIREMENTS NOT COVERED BY CODE); DELETING FBC EXCEPTION SECTIONS 103.7 AND 103.7.1 (ALTERNATE MATERIALS AND METHODS); DELETING FBC EXCEPTION SECTION 103.7.2 (ACCESSIBILITY); DELETING FBC EXCEPTION SECTION 104.1.1 (RELATING TO BUILDING PERMITS FOR FARM BUILDINGS); AMENDING AND RENUMBERING FBC EXCEPTION SECTION 104.1.5 AS A PORTION OF FBC SECTION 105.4 (CONDITIONS OF THE PERMIT); RENUMBERING FBC EXCEPTION SECTION 104.1.11 (USE PERMITS) AS A PORTION OF FBC SECTION 105.4 (CONDITIONS OF THE PERMIT); PROVIDING FOR ADOPTION OF ADDITIONAL FEES AS A PORTION OF FBC SECTION 105.4.1.4 (CONDITIONS OF THE PERMIT - FEES); DELETING FBC CHAPTER 2 DEFINITION OF "FARM"; DELETING FBC CHAPTER 33 (SITE WORK, DEMOLITION AND CONSTRUCTION), EXCEPTION SECTION 3311.5 (TRASH CONTAINERS); PROVIDING FOR ADOPTION MANAGEMENT AND REMOVAL OF CONSTRUCTION SITE TRASH AND DEBRIS (§6-114); PROVIDING FOR ADOPTION MAINTENANCE (§6-115);

RENUMBERING RESERVED SECTIONS (§§6-116 -- 6-210); AMENDING (ARTICLE III, COASTAL CONSTRUCTION CODE, DIVISION 1, GENERALLY) INTENT OF ARTICLE; APPLICABILITY OF ARTICLE (§6-332); DEFINITIONS (§6-333); CONFLICTING PROVISIONS (§6-334); PENALTY FOR VIOLATION OF ARTICLE (§6-335); ADDITIONAL REMEDIES (§6-336); AMENDING (DIVISION 2, CONSTRUCTION STANDARDS FOR COASTAL BUILDING ZONE) STRUCTURAL REQUIREMENTS FOR MINOR STRUCTURES (§6-365); AMENDING (ARTICLE IV, FLOOD HAZARD REDUCTION, DIVISION 2, ADMINISTRATION) APPEALS (§6-445); VARIANCES (§6-446); AMENDING (DIVISION 3, STANDARDS) GENERAL STANDARDS (§6-471); SPECIFIC STANDARDS (§6-472); STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS OR FLOODWAYS (§6-473); STANDARDS FOR SUBDIVISION PROPOSALS (§6-474); STANDARDS FOR AREAS OF SHALLOW FLOODING (§6-475); AMENDING (ARTICLE IV, UNIFORM FIRE CODE) FIRE PROTECTION FOR CONSTRUCTION LOCATED OUTSIDE ESTABLISHED FIRE DISTRICTS (§6-555); AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code; and

WHEREAS, the Board of County Commissioners has the authority to adopt this division pursuant to Article VIII of the Constitution of the State, F.S. Ch. 125 and F.S. §§163.3201 and 163.3202; and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, Florida Statutes Chapter 553 requires the use of the Florida Building Code to ensure uniformity of regulation and implementation of technical provisions related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code; and

WHEREAS, a local government may not revise or amend any technical standard of the Florida Building Code, except as provided in the Florida Building Code §553.70(b); and

WHEREAS, a local government may adopt non-technical standards to the administrative provisions of the Florida Building Code; and

WHEREAS, on August 11, 2006, the Land Development Code Advisory Committee (LDCAC) reviewed and approved the proposed amendments to LDC Chapter 6; and

WHEREAS, on June 26, 2006, the Local Planning Agency (LPA) reviewed the proposed amendments to LDC Chapter 6 and found them consistent with the Lee Plan; and

WHEREAS, on September 13, 2006, the Executive Regulatory Oversight Committee (EROC) reviewed the proposed amendments to LDC Chapter 6.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

## **SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 6**

Lee County Land Development Code Chapter 6 is amended to read as follows with strike through identifying deleted language and underline identifying new language:

### **CHAPTER 6**

#### **BUILDINGS AND BUILDING REGULATIONS**

#### **ARTICLE II. CODES AND STANDARDS**

##### **DIVISION 1 GENERALLY**

Sec. 6-44. Enforcing officers.

Designated county officials, referenced by the standard codes adopted herein, ~~shall~~ will be appointed by the county administrator. The designated officials ~~shall~~ will carry out the duties enumerated in the standard codes and ~~shall~~ will be deemed the responsible officials with respect to enforcement of the provisions of the construction code.

##### **DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS**

Sec. 6-71. Applicability of division.

This division ~~shall~~ will include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the ~~county division of codes and building services or its successor agency~~ Department of Community Development within the unincorporated areas of the county.

Sec. 6-80. Right of appeal; notice of appeal.

(a) ~~Whenever the building official, fire official, coordinator or their designees reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or w~~ When it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official, fire official, flood plain coordinator or their designees to the Board of Adjustment and Appeals. Notice of appeal ~~shall~~ must be in writing and filed within 30 days after the decision is rendered by the building official, fire official, flood plain coordinator or their designees. ~~All~~ Requests for appeal ~~shall~~ must be on forms provided by the ~~division of codes and building services or its successor agency~~ Department of Community Development. ~~A~~ The fee ~~which shall may be adopted by an~~ required by the administrative code ~~shall~~ must accompany ~~such~~ the notice of appeal.

**(b) Unchanged**

Sec. 6-81. Variations ~~to standard codes~~; modification of orders ~~of building official~~.

(a) The Board of Adjustment and Appeals, pursuant to an appeal from a decision of the ~~building official~~, fire official, flood plain coordinator or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the ~~building official~~, fire official, flood plain coordinator or their designees should be modified or reversed.

(b) ~~Any~~ Decisions of the Board of Adjustment and Appeals to vary the application of ~~any~~ a provision of a code or to modify an order of the ~~building official~~, fire official, flood plain coordinator or their designees ~~shall~~ must specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

Sec. 6-82. Decisions.

(a) ~~Every~~ Decisions of the Board of Adjustment and Appeals ~~shall~~ will be final; subject, however, to any remedy an aggrieved party might have at law or in equity. ~~Every~~ Decisions ~~shall~~ must be in writing and ~~shall~~ must indicate the vote upon the decision. ~~Every~~ Decisions of the Board of Adjustment and Appeals ~~shall~~ must be signed and attested to by the chairman of the board.

(b) The Board of Adjustment and Appeals ~~shall~~ must, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of the Board of Adjustment and Appeals reverses or modifies a refusal, order or disallowance of the ~~building official~~, fire official, coordinator or their designees, or varies the application of ~~any~~ a provision of a code, the appropriate official ~~shall~~ will immediately take action in accordance with ~~such that~~ decision.

(d) Any aggrieved person may obtain judicial review of the decision of the Board of Adjustment and Appeals by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the Board of Adjustment and Appeals' decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition ~~shall must~~ be filed with ~~division of codes and building services~~ the Department of Community Development for forwarding to the county attorney's office.

### DIVISION 3. BUILDING CODE

Sec. 6-111. Statewide effectiveness ~~Adoption~~; amendments.

The statewide effectiveness of the Florida Building Code (FBC) is codified in Florida Statutes Chapter 553. The FBC is hereby adopted by reference and made a part of this article with the exceptions set forth as follows and is supplemented with the addition of the following:

Florida Building Code Chapter 1, Administration.

~~Exception. Section 103 relating to powers and duties of the building official is amended to read as follows:~~

~~103.1 General.~~

~~The building official is hereby authorized and directed to enforce the provisions of this code. The building official has the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures must be in compliance with the intent and purpose of this code, and may not have the effect of waiving requirements specifically provided for in this code.~~

~~103.2 Right of entry.~~

~~103.2.1~~

FBC Section 104 pertaining to the Duties and Powers of the Building Official is amended to include the following:

Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists ~~in any building or upon any premises any~~ a condition or code violation ~~which that~~ makes ~~such~~ the building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter ~~such~~ the building, structure or premises at all reasonable times to inspect the same or to perform ~~any duty~~ the duties imposed upon the building official by this code.

If ~~such~~ the building or premises are occupied, ~~he~~ the building official must first present proper credentials and request entry. If ~~such~~ the building, structure, or premises are unoccupied, he must ~~first~~ make a reasonable effort to locate the owner or other persons having charge or control of ~~such~~ the building and request entry. If entry is refused, the building official has recourse to every remedy provided by law to secure entry.

~~103.2.2~~

When the building official has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or ~~any~~ other persons having charge, care or control of any building, structure, or premises may fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

~~103.3 Stop work orders. Upon notice from the building official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, must immediately cease. Such notice must be in writing and posted on the permit board, stating the reasons for the cease and desist. Work may only resume after lifting of the stop work order by the Building Department.~~

~~103.4~~

FBC Section 105.4 relating to Conditions of the Permit is amended to include the following:

*Revocation of permits.* The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of ~~any~~ an ordinance, ~~or~~ regulation, or ~~any~~ provisions of this code.

~~103.4.1~~

*Misrepresentation of application.* The building official may revoke a permit or approval issued under the provisions of this code, ~~in case~~ where there has been ~~any~~ false statements or misrepresentations as to ~~the~~ material facts in the application or plans on which the permit or approval was based.

~~103.4.2~~

*Violation of code provisions.* The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

~~103.5 Unsafe buildings or systems.~~ All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and must be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Standard Unsafe Building Abatement Code or other local ordinance.

~~103.6 Requirements not covered by code.~~ Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, will be determined by the building official.

~~103.7 Alternate materials and methods:~~

~~103.7.1~~ The provisions of the technical codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the building official. The building official must approve any such alternate, provided the building official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the "SFPE Engineering Guide to Performance-Based Fire Protection Analysis and Design of Buildings," or other methods approved by the building official may be used. The building official will require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate:

~~103.7.2 Accessibility.~~ Alternate designs and technologies for providing access to and usability of a facility for persons with disabilities must be in accordance with ~~11-2.2:~~

Exception. Section 104.1.1 relating to when permits are required is amended as follows:

~~104.1.1~~ When required. Pursuant to F.S. § 553.73(8), these regulations will not apply to non-residential farm buildings on farms, including pole barns, chicken coops, equipment sheds, and the like. These regulations do apply, however, to processing plants, offices, and the like, as may be determined by the building official.

Exception. Section 104.1.5 relating to time limitations is amended as follows:

Not authority to violate other ordinances or regulations. An issued permit will be construed as a license to proceed with the proposed work, but will not be construed as authority to violate, cancel, alter or set aside ~~any of~~ the provisions of this code ~~or any other County ordinance or regulation~~, nor will issuance of a permit prevent the building official from thereafter requiring the timely correction of errors in plans or in construction, or of violations of this code.

Transferability of permit. Although a permit issued to an owner is transferable to another owner, actual notice must be provided to the building official prior to transferring ~~any~~ the permit.

Other requirements.

Building permits will be issued following the approval of site and construction plans.

Building permits on multi-family projects will be issued on each individual building or structure.

Multi-tenant occupancies including, but not limited to, shopping malls, may be permitted on an individual building or structure (shell), however, individual permits will be used separately for tenant spaces.

Foundation inspections.

The first inspection required by the permit must be successfully completed within a six-month period of issuance or ~~said~~ the permit will be deemed invalid. All subsequent inspections must be made within a six-month period of the most recent passed inspection until completion of work, or the permit will become invalid.

For purposes of this section, the foundation inspection will be considered the first inspection. The entire foundation must be completed within the first six months from the date of issuance of the permit. Partial inspections due to complexity of foundation may be made with building inspector's plans and job site plans and will be initialed by ~~said~~ the inspector only on that portion of ~~said~~ the plans that is inspected and these inspections are for compliance to plans and specifications and are in no way to be construed as the first inspection. Subsequent inspections may be made until the entire foundation is completed. At that time, the foundation will be signed off as the first inspection.

~~One or more extensions of the building permit for good cause may be granted by the building official on a project for a period not exceeding 90 days each. Said request must be made by written notice to the building official at least 30 days prior to expiration of said building permit. The building official may require compliance with any revised building code, mechanical code, plumbing code, electrical code, gas code, swimming pool code or fire code requirements in effect at the time of granting any extension to the building permit. Any extension request denied may be appealed to the Board of County Commissioners by the applicant on a form provided by the building official. The board will grant or deny the extension upon a finding of good cause or lack thereof. If granted, said extension or extensions may not exceed a period of 90 days each.~~



~~Exception. Section 104.1.11 relating to use permits is added as follows:~~

~~104.1.11~~

*Use permits.* A use permit, authorizing a use in accordance with the provisions of Chapter 34 of the Lee County Land Development Code, is required prior to occupancy or a change of occupancy of commercial or industrial zoned property.

FBC Section 105.4.1.4 relating to Permits is amended to include the following:

*Additional fees.* Fees for renewal, reissuance or extension of a building permit may also require the payment of new or increased impact fees that have become effective since the first issuance of the permit.

~~Chapter 2, Definitions:~~

~~Exception. The following definitions are hereby adopted and made part of this section:~~

~~Farm. For the purposes of this chapter, farm means property one acre or larger in size on which crops are grown or livestock is raised for commercial purposes. A farm does not include the family garden or family pets, even though the underlying property may be classified as agricultural, for e.g., AG-1, AG-2 or AG-3.~~

~~Chapter 33, Site Work, Demolition and Construction:~~

~~Exception: Add new section 3311.5 Trash containers:~~

~~3311.5~~

Sec. 6-114. Management and removal of construction site trash and debris.

(a) *Unlawful to bury.* It is unlawful to bury construction site trash or debris on the construction site or on any other public or private property not specifically approved for such use.

(b) *Trash containers and collection service.* A suitable trash container and adequate collection service must be provided for each construction site. For purposes of this requirement, a "suitable container" means a structure, device, receptacle ~~designated location or combination thereof,~~ or other container approved by the County, which holds and contains construction debris on the construction site in a central location long enough for it to be removed from the site by means of whatever collection service the contractor chooses to use or may be required to use pursuant to other applicable laws, before such debris is:

- (1) washed or blown off-site;
- (2) contaminates subsurface elements;
- (3) becomes volatile or malodorous;
- (4) makes an attractive nuisance or
- (5) otherwise becomes a threat to the public health, safety and welfare.

Sec. 6-115. Maintenance.

(a) Purpose of this section. The purpose of this section is to protect the comfort, health, safety, and general welfare of the citizens of unincorporated Lee County by:

- (1) establishing minimum building and structure maintenance standards; and
- (2) providing for the abatement of nuisances affecting the general public.

(b) Provisions are supplementary. The maintenance standards in this section are supplementary to standards that are found in other sections of this code and in other ordinances of Lee County.

(c) Maintenance required.

- (1) Building, structures, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, must be maintained in a safe and sanitary condition. Devices and safeguards that are required by the technical codes when constructed, altered or repaired, must be maintained in good working order. The owner, or his designated agent, will be responsible for the maintenance of buildings, structures, electrical, gas, mechanical and plumbing systems.

(2) Exterior surfaces of buildings, including roofs.

a. Building walls and roofs must be maintained as follows:

1. Building walls and roofs must be maintained in a secure and attractive manner.
2. Deteriorated or damaged structural and decorative elements of any building wall or roof must be repaired or replaced in a workman-like manner to match as closely as possible the materials and construction of the building.
3. Roofs must be maintained in a secure and waterproof condition.

b. Doors, windows and screens must be maintained as follows:

1. Doors and windows must be secure in a tight fitting and weatherproof condition.
2. Sashes/sills with rotten wood must be repaired or replaced.
3. Torn or damaged screens must be promptly repaired.

c. Awnings or canopies must be maintained in good condition. Torn or loose awnings must be promptly repaired or replaced.

d. Screen rooms, pool cages and screen enclosures must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of any screen rooms, pool cages and screen enclosures must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the building.

e. Soffit and fascia must be maintained in good condition. All damaged or missing soffit or fascia must be repaired or replaced in a workmanlike manner to match as closely as possible the material and construction of the existing soffit and fascia.

(3) Fences. Fences and non-roofed walls must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of any fence or non-roofed wall must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction

of the fence or non-roofed wall. Fences and non-roofed walls must be maintained as to appear vertical to the unassisted eye.

- (4) Docks and Seawalls. Docks and seawalls must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of docks or seawalls must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the dock or seawall. Docks and seawalls must be maintained as to appear vertical to the unassisted eye.

- (5) Signs. Signs must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of a sign must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the sign.

- (6) Permits and Development Orders. The characterization of construction activity as either a repair or maintenance does not relieve the property owner from the responsibility of obtaining all permits or development orders necessary to comply with the foregoing provisions of this section.

(d) Nuisances.

- (1) No person owning, leasing, operating or having control of premises may maintain, keep or permit any nuisance as described in this section.

- (2) The existence of any of the following conditions or conduct is hereby declared to be a public nuisance:

- a. Buildings that are abandoned.
- b. Buildings that are boarded up, except when placed for temporary hurricane protection and removed within 30 days.
- c. Buildings that are partially destroyed and not rebuilt or repaired within a reasonable temporary period.
- d. Partially constructed buildings or structures for which building permits have expired.
- e. Attractive nuisances dangerous to children such as untended or unfenced excavations, untended or unenclosed swimming pools, or abandoned or broken equipment or machinery.

- f. Blocking of drainage swales or pipes so as to cause flooding or adversely affect surrounding property.
- g. Outdoor storage on private property of boats and motor vehicles and trailers that are not affixed with a current registration decal.

Secs. 6-~~114~~ 116-6-210 Reserved.

### ARTICLE III. COASTAL CONSTRUCTION CODE

#### DIVISION 1. GENERALLY

Sec. 6-332. Intent of article; applicability of article.

**[Lead in paragraph for this section is unchanged.]**

**(1)-(4) Unchanged**

(5) *Certification of compliance.* ~~All~~ Plans for buildings in the coastal building zone must be signed and sealed by an architect or engineer registered in the state. Upon completion of the building and prior to the issuance of a certificate of occupancy, a statement must be filed with the ~~director of the division of codes and building services~~ building official, signed and sealed by an architect or engineer registered in the state and in substantially the following form: "To the best of my knowledge and belief the above-described construction of all structural loadbearing components complies with the permitted documents and plans submitted to the ~~Division of Codes and Building Services~~ Building Department."

Sec. 6-333. Definitions.

(a) The following words, terms and phrases, when used in this article, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*State minimum building code* means the ~~building code~~ Florida Building Code ~~adopted by a municipality or county pursuant to the requirements of F.S. § 553.73.~~

**[All other definitions in this section remain unchanged.]**

Sec. 6-334. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of ~~any~~ other lawfully adopted ordinances, the most restrictive requirements ~~shall~~ will apply.

Sec. 6-335. Penalty for violation of article.

Any person who violates ~~any~~ the provisions of this article ~~shall~~ will, upon conviction, be punished as provided in section 1-5; ~~and~~ Such person also shall must pay all costs and expenses involved in the case. Each day ~~such~~ the violation continues ~~shall~~ will be considered a separate offense.

Sec. 6-336. Additional remedies.

In addition to ~~any~~ the criminal penalties ~~which~~ that may be imposed pursuant to section 6-335, the county ~~shall~~ will have recourse to ~~such~~ those remedies in law and equity ~~as~~ that may be necessary to ensure compliance with the provisions of this article, including injunctive relief to enjoin and restrain ~~any~~ a person from violating this article.

## DIVISION 2. CONSTRUCTION STANDARDS FOR COASTAL BUILDING ZONE

Sec. 6-365. Structural requirements for minor structures.

Minor structures must satisfy the structural requirements of section 6-362(c) and the applicable provisions of the ~~Standard~~ Florida Building Code as required by article II of this chapter. However, these structures are not required to meet the balance of the specific structural requirements set out in section 6-362. ~~Such~~ These structures must be designed to produce the minimum adverse impact on the beach and dune system and adjacent properties to reduce the potential water and wind blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure is not permitted.

## ARTICLE IV. FLOOD HAZARD REDUCTION

### DIVISION 2. ADMINISTRATION

Sec. 6-445. Appeals.

(a) The county construction Board of Adjustment and Appeals established by chapter 6, article II, division 2, ~~shall~~ will hear and decide appeals when it is alleged there is an error in ~~any~~ a requirement, decision or determination made by the flood plain coordinator in the enforcement or administration of this article.

**(b) & (c) Unchanged**

Sec. 6-446. Variances.

(a) The county construction board of adjustment and appeals ~~shall~~ will hear and is hereby authorized to grant variances from base flood elevation requirements upon a clear showing by the applicant that an exceptional hardship would result from compliance with the requirements. Variances ~~shall~~ will only be granted upon a determination by the Board of Adjustment and Appeals, based upon competent substantial evidence presented by the applicant, that:

**(1) & (2) Unchanged**

(b) Variances ~~shall~~ may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(c) If a variance is granted, the flood plain coordinator ~~shall~~ will notify the applicant, in writing, that:

**(1) Unchanged**

(2) ~~Such~~ Construction below the base flood level increases risks to life and property.

~~Such~~ This notification ~~shall~~ will be maintained with a record of all variance actions.

**(d) Unchanged**

(e) An application for a variance from the terms of this article ~~shall~~ must be submitted to the flood plain coordinator or his designee on ~~such~~ forms as that may be provided. The request for a variance ~~shall~~ will be scheduled on agenda of the Board of Adjustment and Appeals.

(f) A variance is a deviation from the exact terms and conditions of this article. The variance ~~shall~~ must be the minimum deviation necessary to provide relief to the property owner.

(g) In passing upon ~~such~~ an applications, the Board of Adjustment and Appeals ~~shall~~ must consider all technical evaluations, all relevant factors, all standards specified in this article, and:

**(1)-(11) Unchanged**

**(h) & (i) Unchanged**

- (j) The coordinator ~~shall will~~ report ~~any all~~ variances to the federal insurance administrator upon request.

### DIVISION 3. STANDARDS

#### Sec. 6-471. General standards.

In ~~all~~ areas of special flood hazard, the following provisions are required:

- (1) ~~All n~~New construction and substantial improvements ~~shall must~~ be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes ~~shall must~~ be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This standard ~~shall will~~ be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) ~~All n~~New construction and substantial improvements ~~shall must~~ be constructed with materials and utility equipment resistant to flood damage;
- (4) ~~All n~~New construction or substantial improvements ~~shall must~~ be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities ~~shall must~~ be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding. Utility equipment ~~shall will~~ be exempt from this requirement as long as the utility company ~~which that~~ owns the equipment accepts the sole responsibility for ~~any~~ flood damage to the equipment by filing written acceptance of ~~such this~~ responsibility with the local building director prior to claiming the exemption;
- (6) ~~All n~~New and replacement water supply systems ~~shall must~~ be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) New and replacement sanitary sewage systems ~~shall must~~ be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (8) New and replacement on-site waste disposal systems ~~shall must~~ be located and constructed to avoid impairment to them or contamination from them during flooding; and
- (9) ~~Any a~~Alterations, repairs, reconstruction or improvements to a structure ~~which is that are~~ in compliance with the provisions of this article ~~shall must~~ meet the requirements of new construction as contained in this article.



Sec. 6-472. Specific standards.

In ~~all~~ areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of ~~any a~~ residential structure ~~shall~~ must have the lowest floor, including basement, elevated to or above the base flood elevation. This ~~shall~~ requirement will apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. ~~Should~~ If solid foundation perimeter walls ~~be~~ are used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters ~~shall~~ must be provided in accordance with standards of subsection (3) of this section.
  - a. Manufactured homes to be placed or substantially improved on a site located in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (1) of this section must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation or the manufactured home chassis is supported by reinforced piers, or other foundation elements of at least equivalent strength, that are no less than 36 inches in height above grade, and ~~shall~~ must comply with section 6-471(2).
  - b. Recreational vehicles are not subject to the provisions of subsection (1) of this section if placed on the site for fewer than 180 consecutive days or fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. ~~Any r~~ Recreational vehicles which ~~that~~ cannot be placed on the site pursuant to ~~such~~ this criteria ~~shall will be required to~~ must comply with subsection (1) of this section and section 6-471(2) unless or until the county becomes an approved community for an exception to this rule. If an exception is approved by the administrator for the National Flood Insurance Program, a recreational vehicle ~~which that~~ cannot be placed on the site pursuant to the criteria of this subsection ~~shall~~ must be subject to the provisions set forth in subsection (1) or (1)a of this section, as applicable, for manufactured homes. Proof that an exception has been granted to the county by the administrator of the National Flood Insurance Program shall will be established upon the county's receipt of written notice.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure ~~shall~~ must either have the lowest floor, including basement, elevated to or above the base flood

elevation, or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect ~~shall~~ must certify that the standards of this subsection are satisfied. ~~Such~~ The certification ~~shall~~ will must be provided to the flood plain coordinator.

**(3) Unchanged**

(4) *Floodways.* Located within areas of special flood hazard established in section 6-408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwater, which carries debris and potential projectiles and has erosion potential, the following provisions ~~shall~~ will apply:

a. Encroachments, including fill, new construction, substantial improvements and other developments, are prohibited unless certification, ~~with supporting technical data~~, by a registered professional engineer is provided with supporting technical data demonstrating that encroachments ~~shall~~ will not result in any increase in flood levels during occurrence of the base flood discharge.

b. If subsection (4)a of this section is satisfied, all new construction and substantial improvements ~~shall~~ must comply with all applicable flood hazard reduction provisions of this division.

**c. Unchanged**

**(5) Unchanged**

(6) *Coastal high-hazard areas (V zones).* Located within the areas of special flood hazard as designated in this article are areas designated as coastal high-hazard areas. These areas have special flood hazards associated with wave wash; therefore, the following additional provisions ~~will~~ apply:

a. ~~All n~~ New construction ~~shall~~ must be located landward of the reach of the mean high tide.

b. ~~All n~~ New construction and substantial improvements ~~shall~~ must be elevated so that the lowest supporting horizontal member, excluding pilings or columns, is located at or above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Breakaway walls may be permitted and must be designed to wash away in the event of abnormal wave action in accordance with subsection (6)h of this section.

- c. ~~All~~New construction and substantial improvements ~~shall~~ must be securely anchored on pilings or columns.
- d. ~~All~~Pilings and columns and the attached structures ~~shall~~ must be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The anchoring and support system ~~shall~~ must be designed with wind and water loading values ~~which that~~ equal or exceed the 100-year mean recurrence interval (one percent annual chance flood).
- e. Compliance with the provisions contained in subsections (6)b, c and d of this section ~~shall~~ must be certified by a professional engineer or architect.
- f. ~~There shall may not be no any~~ Fill may not be used as structural support.
- g. ~~There shall may not be no any a~~ Alteration of sand dunes or mangrove stands which that would increase potential flood damage is prohibited.
- h. Nonsupporting breakaway walls, latticework or decorative screening may be allowed below the base flood elevation provided it is not part of the structural support of the building and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which it is to be used, and provided the following design specifications are met:
  - 1. Design safe loading resistance of each wall ~~shall may not be not~~ less than ten and not more than 20 pounds per square foot; or  
  
 If more than 20 pounds per square foot, a registered professional engineer or architect ~~shall~~ must certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system ~~shall~~ must not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Water loading values to be used in this determination ~~shall~~ must each have a one percent chance of being equalled or exceeded in ~~any a~~ given year ( 100-year mean recurrence interval). Wind loading values ~~shall will~~ be those required by local and state law.
- i. If breakaway walls are utilized, ~~such the~~ enclosed space ~~shall may~~ not be used for human habitation, but ~~shall~~ must be designed to be used only for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises.
- j. **Unchanged**

- k. ~~Any~~ Alterations, repairs, reconstruction or improvements to a structure ~~shall may~~ not enclose the space below the lowest floor except with breakaway walls, as provided for in subsections (6)h and i of this section.

l. **Unchanged**

(7) **Unchanged**

Sec. 6-473. Standards for streams without established base flood elevations or floodways.

Located within the areas of special flood hazard, where small streams exist but where no base flood data has been provided or where no floodways have been provided, the following provisions apply:

- (1) No encroachments, including fill material or structures, ~~shall may~~ be located within a distance from the stream bank equal to two times the width of the stream at the top of the bank or 50 feet on each side from the top of the bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that ~~such the~~ encroachments ~~shall may will~~ not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) New construction or substantial improvements of structures ~~shall must~~ be elevated or floodproofed in accordance with elevations established in accordance with section 6-442(11).

Sec. 6-474. Standards for subdivision proposals.

- (a) ~~All s~~ Subdivision proposals ~~shall must~~ be consistent with the need to minimize flood damage.
- (b) ~~All s~~ Subdivision proposals ~~shall must have locate and construct~~ public utilities and facilities such as sewers, electrical and water systems ~~located and constructed so as~~ to minimize flood damage.
- (c) ~~All s~~ Subdivision proposals ~~shall must~~ have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data ~~shall must~~ be provided for subdivision proposals and other proposed development ~~which that~~ is greater than the lesser of 50 lots or five acres.

Sec. 6-475. Standards for areas of shallow flooding.

Located within the areas of special flood hazard established in section 6-408 are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (1) ~~All~~nNew construction and substantial improvements of residential structures ~~shall~~ must have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, ~~shall~~ must be elevated at least two feet above the highest adjacent grade.
- (2) ~~All~~nNew construction and substantial improvements of nonresidential structures ~~shall~~ must:
  - a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, ~~shall~~ must be elevated at least two feet above the highest adjacent grade; or
  - b. **Unchanged**

#### ARTICLE VI. UNIFORM FIRE CODE

Sec. 6-555. Fire protection for construction located outside established fire districts.

- (a) **Unchanged**
- (b) *Fire protection standards.* ~~All~~dDevelopment outside the boundaries of an established fire district must comply with the following requirements:
  - (1) ~~All~~sSingle-family, duplex and manufactured homes must be provided with ~~one of the following~~:
    - a. ~~A fire sprinkler system and water supply meeting the requirements of N.F.P.A. 13D, or~~
    - b. ~~A~~ a complete automatic fire detection system covering all areas and interconnected to a control panel with battery back up. Detectors must be placed in accordance with their listing requirements so as to afford the most effective and efficient detection as required by the latest N.F.P.A. standard adopted and referring to fire alarms.

**(2) & (3) Unchanged**

## **SECTION TWO: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

## **SECTION THREE: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

## **SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager, or his designee, without the need for a public hearing.

## **SECTION FIVE: EFFECTIVE DATE**

The ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Douglas St. Cerny made a motion to adopt the foregoing ordinance, seconded by Commissioner John E. Albion.

The vote was as follows:

Robert P. Janes	Absent
Douglas St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED THIS 26th day of September, 2006.

ATTEST:

CHARLIE GREEN, CLERK

BOARD OF COUNTY  
COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By:\_\_\_\_\_

Deputy Clerk

By:\_\_\_\_\_

\_\_\_\_\_  
Tammara Hall, Chairwoman

APPROVED AS TO FORM:

By:\_\_\_\_\_

\_\_\_\_\_  
John J. Fredyma  
Assistant County Attorney  
Office of the County Attorney

S:\LU\ORDINANC\Adopted\06-17 - Chapter 6 Building Code Amendments (Final) JJF