

LEE COUNTY ORDINANCE NO. 08-12

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE (LDC) CHAPTER 6 (BUILDINGS AND BUILDING REGULATION); AMENDING DEFINITIONS (§ 6-405); LANDS TO WHICH ARTICLE APPLIES (§ 6-407); BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD (§ 6-408); VARIANCES (§ 6-446); 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); AND STANDARDS FOR AREAS OF SHALLOW FLOODING (§ 6-475); AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners ("Board"), is the governing body in and for Lee County; and,

WHEREAS, the Legislature of the State of Florida has authorized and delegated in Chapter 125 Florida Statutes, the responsibility to counties to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and,

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code (LDC), which contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Lee Plan Goal 101: Planning, Coordination and Implementation, requires Lee County to protect the public from the effects of natural and technological hazards through county emergency plans and programs; and,

WHEREAS, the Lee Plan Goal 105: Protection of Life and Property in Coastal High Hazard Areas, requires Lee County to protect human life and developed property from natural disasters; and,

WHEREAS, the Lee Plan Goal 110: Hazard Mitigation, requires Lee County to provide, through county plans, programs, and regulations, means to minimize future property losses from natural disasters such as flooding, tropical storms and hurricanes; and,

WHEREAS, Lee Plan Objective 110.1: Development Regulations, requires Lee County to review and revise all development regulations to require that the vulnerability of future development in the A-Zone (as defined by the Federal Emergency Management Agency) be reduced; and,

WHEREAS, Lee Plan Policy 110.1.1 requires that regulations and incentives will be examined for appropriate requirements for floodplain management; and,

WHEREAS, Lee Plan Policy 110.1.5 requires Lee County to maintain the floodplain management plan and to analyze the flooding problem of the unincorporated areas of Lee County, inventory the flood hazard area, review possible activities to remedy identified flooding problems, select appropriate alternatives, and formulate a schedule for implementation; and,

WHEREAS, the flood hazard areas of Lee County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and,

WHEREAS, these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands that are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages; and,

WHEREAS, the U.S Congress established the National Flood Insurance Program (NFIP) as a federal program enabling property owners in participating communities to purchase insurance as protection against flood losses in exchange for state and community floodplain management regulations that reduce future flood damages; and,

WHEREAS, in order for the Federal Government to make flood insurance available within Lee County as a financial protection against flood losses, NFIP requires Lee County to adopt and enforce a floodplain management ordinance to reduce future flood risk to new construction in floodplains; and,

WHEREAS, this insurance is necessary to provide an insurance alternative to disaster assistance to reduce the escalating costs of repairing damage to buildings and their contents caused by floods; and,

WHEREAS, NFIP established the Community Rating System (CRS) to encourage communities to exceed the minimum level of floodplain management requirements. In exchange for increasing flood preparedness and achieving a CRS rating, the community's residents are offered discounted flood insurance premium rates. For CRS participating communities, flood insurance premium rates are discounted in increments of 5 percent per class rating; and,

WHEREAS, Lee County's participation in the NFIP has earned the unincorporated area of Lee County a Class 5 CRS rating and has earned policyholders

living in unincorporated Lee County a 25 percent reduction in flood insurance premiums; and,

WHEREAS, if Lee County opts to no longer participate in the NFIP, then within one year after a flood hazard has been identified (and an NFIP map provided), flood insurance and Federal or Federal-related financial assistance will not be available under the NFIP for acquisition or construction purposes in a Special Flood Hazard Area (SFHA); and,

WHEREAS, if Lee County opts to no longer participate in the NFIP and if a Presidentially-declared disaster occurs as a result of flooding in the non-participating portion of the County, the non-participating areas would not be able to receive Federal financial assistance for the permanent repair or reconstruction of insurable buildings within those areas; and,

WHEREAS, flood insurance and floodplain management would benefit Lee County's residents and economy;

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

SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 6

Lee County Land Development Code Chapter 6 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

CHAPTER 6 ARTICLE IV. FLOOD HAZARD REDUCTION DIVISION 1. GENERALLY

Sec. 6-405. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article will be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.

Addition to an existing building means any walled and roofed expansion to the perimeter or height of a building ~~in which the addition is connected by a common loadbearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter loadbearing walls is new construction.~~

Basement means ~~that portion~~ any area of a building having its floor subgrade (below ground level) on all sides.

Breakaway walls means any type of walls, whether solid or open-lattice, and whether constructed of concrete, masonry, wood, ~~metal, plastic or any other suitable building materials~~ insect screening, which are not part of the structural support of the building and which are designed and constructed to collapse under specific lateral loading forces without causing damage to the elevated portion of the buildings or the supporting foundation system on which they are used.

Building means any structure ~~built for support, shelter or enclosure for any occupancy or storage.~~

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of ~~fill~~, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Existing manufactured home park or manufactured home subdivision means a parcel or contiguous parcels of land divided into two or more manufactured home lots or sites for rent or sale for which the construction of facilities for servicing the lot or site on which the manufactured home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, was completed prior to ~~August 31~~ September 19, 1984.

Floor means ~~the top surface of an enclosed area in a building, including basement, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used for parking vehicles.~~

Floodplain or flood-prone area means any land area susceptible to inundation by water from any source (see definition of flooding).

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Functionally dependent facility means a facility ~~which~~ that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, ~~such as limited to~~ a docking or port facility necessary for the loading and unloading of cargo or

passengers, shipbuilding, ~~or ship repair or seafood processing facilities~~. The term does not include long-term storage, manufacture, sales, or service facilities.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with ~~the National Geodetic Vertical Datum (NGVD) of 1929~~ North American Vertical Datum of 1988 (NAVD88), or other datum, to which base flood elevations shown on the county flood insurance rate map are referenced.

~~*National Geodetic Vertical Datum (NGVD)*, as corrected in 1929,~~ *North American Vertical Datum of 1988 (NAVD88)* is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means structures for which the start of construction commenced on or after ~~May 1, 1990,~~ September 19, 1984, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed on or after ~~August 31~~ September 19, 1984.

Recreational vehicle means a vehicle ~~which~~ that is:

(1) *No Change*.

(2) ~~Five~~ Four hundred square feet or less when measured at the largest horizontal projection;

(3) and (4) *No Change*.

~~*Reinforced pier* means a system, designed and sealed by a state registered architect or engineer, which is an integral part of a foundation and anchoring system for the permanent installation of a manufactured home or recreational vehicle, as applicable, so as to prevent flotation, collapse, or and lateral movement of the manufactured home or recreational vehicle due to flood and wind forces. At a~~

~~minimum, a reinforced pier would have a footing adequate to support the weight of the manufactured home or recreational vehicle under saturated soil conditions such as occur during a flood. In areas subject to high-velocity floodwaters and debris impact, cast-in-place reinforced concrete piers may be appropriate. Nothing in this subsection shall prevent a design which that uses pilings, compacted fill, or any other method, as long as the minimum flood and wind standards are met.~~

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure, ~~the cost of which equals or exceeds, over during a five-year period, wherein the cumulative cost of any repair, reconstruction, rehabilitation, or improvement to the structure equals or exceeds a cumulative total of 50 percent of the market value of the structure:~~

- (1) Before the repair or improvement is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred.

~~For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.~~

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are the minimum necessary solely to ensure safe living conditions; or any alteration of a "historic structure" as defined herein listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22 so long as the alteration does not preclude the structure's continued designation as a "historic structure" as defined in this article.

Variance means a grant of relief to a person from the requirements of this article. ~~which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.~~

Violation means the failure of a structure or other development to be fully compliant with County floodplain management regulations. A structure or other development without an approved elevation certificate, applicable structure certifications, or other evidence of compliance required under this article is presumed to be in violation until such documentation is provided.

The balance of the definitions remain unchanged.

Sec. 6-407. Lands to which article applies.

This article ~~shall apply~~ applies to all areas of special flood hazard within the unincorporated areas of the county within the jurisdiction of the Board of County Commissioners. These areas have been designated on the ~~flood hazard boundary map (FHBM)~~ Flood Insurance Rate Map (FIRM) on file with the coordinator and the office of the county department of public resources.

Sec. 6-408. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for Lee County, dated August 28, 2008, with the accompanying maps and other supporting data are adopted by reference and declared to be a part of this ordinance. ~~established by this article are those identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Rate Map for the unincorporated areas of Lee County, Florida and the underlying Community Panels as revised and adopted by FEMA through May 5, 2003.~~

DIVISION 2. ADMINISTRATION

Sec. 6-446. Variances.

- (a) The county construction Board of Adjustment and Appeals 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 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) It will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing regulations or ordinances; and
 - (2) The lot or parcel in question is so small or has such unusual characteristics that the prescribed standards cannot be met without some relief so as to allow a reasonable use of the property.
- (b) A variance request to place fill or allow an encroachment within a floodway may be administratively approved upon a determination by the floodplain coordinator, in conjunction with the Lee County Attorney's Office, that the failure to grant the variance would result in an inordinate burden of an existing use of real property or a vested right to a specific use of real property as defined under Section 70.01, Florida Statutes, or any subsequent amendments thereto.

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

(cd) If a variance is granted, the floodplain coordinator will notify the applicant, in writing, that:

- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
- (2) Construction below the base flood level increases risks to life and property.

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

(de) Variances may be issued by the Board of Adjustment and Appeals for repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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

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

(gh) In passing upon an application, the Board of Adjustment and Appeals must consider all technical evaluations, all relevant factors, all standards specified in this article, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;

- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (hi) Upon consideration of the factors listed in subsection ~~(g)~~ (h) of this section and purposes of this article, the Board of Adjustment and Appeals or the floodplain coordinator may attach such conditions to the granting of variances as ~~it deemed~~ necessary to further the purposes of this article.
- (ij) Any aggrieved person may ; file a petition for writ of certiorari to the Circuit Court for relief within 30 calendar days after the decision of the Board of Adjustment and Appeals or the floodplain coordinator ; ~~apply to the circuit court for relief, but not thereafter, pursuant to the Florida Rules of Appellate Procedure.~~
- (jk) The coordinator will report 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) New construction and substantial improvements must be anchored to prevent flotation, collapse, and ~~or~~ lateral movement of the structure;
- (2) and (3) *No Change.*

(4) New construction ~~or~~ and substantial improvements must be constructed by methods and practices that minimize flood damage;

(5) through (9) *No Change*.

(10) All development permit applicants must acquire and submit all necessary Federal and State permits, including those required to comply with Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 prior to issuance of a Lee County building permit.

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, in addition to those set forth in section 6-471, are required:

(1) *Residential construction.* New construction ~~or~~ and substantial improvement of a residential structure must have the lowest floor, including basement, elevated to or above the base flood elevation. This 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. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate ~~the unimpeded movements of floodwaters~~ automatic equalization of hydrostatic flood forces on the exterior walls must be provided in accordance with standards of subsection (3) of this section.

a. *No Change*.

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. Recreational vehicles that cannot be placed on the site pursuant to these criteria 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~~ Federal Emergency Management Agency, a recreational vehicle that cannot be placed on the site pursuant to the criteria of this subsection 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 for the National Flood Insurance Program~~ Federal Emergency Management Agency will be established upon the county's receipt of written notice.

(2) *Nonresidential construction.* New construction ~~or~~ and substantial improvement of any commercial, industrial or other nonresidential structure 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 must certify that the standards of this subsection are satisfied. The certification as well as an operation and maintenance plan must be provided to the floodplain coordinator.

(3) *Elevated buildings.* New construction ~~or~~ and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the ~~base flood elevation~~ lowest floor, must be designed to preclude finished living space in the area below the ~~base flood elevation~~ lowest floor and be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on ~~such~~ exterior walls below the ~~base flood elevation~~ lowest floor. The enclosed areas below the ~~base flood elevation~~ lowest floor ~~may~~ must only be used ~~only~~ for the parking of vehicles, building access, or storage and must comply with the following:

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings must be provided having a total net area of not less than one square inch for every square foot of enclosed area ~~subject to flooding~~;

2. *and* 3. *No Change.*

b. *and* c. *No Change.*

d. The interior portion of such enclosed area ~~may~~ must not be ~~partitioned~~ finished or ~~finished~~ partitioned into separate rooms.

(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, in addition to those set forth in section 6-472 (1) through (3), will apply:

a. *No Change.*

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

c. *No Change.*

(5) *Accessory structures.* Accessory structures may be exempted from meeting the elevation requirements only if they meet all of the following requirements, in addition to those set forth in Section 6-471:

a. The structure is securely anchored to resist flotation, collapse, ~~or~~ and lateral movement; ~~and~~

b. The building is a minimal investment and the total size of the building does not exceed 1,000 square feet in floor area; ~~and~~

c. The structure is used exclusively for ~~nonhabitable~~ uninhabitable ~~recreational, security, parking~~ or storage purposes; ~~and~~

d. All electrical or heating equipment is elevated above the base flood elevation or ~~flood-protected~~ otherwise protected from intrusion of floodwaters; ~~and~~

e. For accessory structures located in coastal high-hazard zones (V zones), breakaway walls are used below the ~~base flood elevation~~ lowest floor; ~~or~~

~~f. The accessory structure is exempt from elevation pursuant to subsection (1) of this section.~~

(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, in addition to those set forth in section 6-472 (1) through (3) will~~ apply:

a. *No Change.*

b. New construction and substantial improvements must be elevated so that elevation of the bottom of the lowest supporting horizontal structural member of the lowest floor, excluding pilings or columns, is located at or above the base flood elevation level, with all space below the ~~lowest supporting member~~ lowest floor 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. *No Change.*

d. Pilings and columns and the attached structures 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 water loads must be those associated with the base flood, and the wind loads must be those required by applicable building codes. A registered professional engineer must develop or review the structural design, specifications, and plans for the construction, and must certify that the design and the methods of construction to be used are in accordance with the accepted engineering standards of practice. ~~anchoring and support system must be designed with wind and water loading values that equal or exceed the 100-year mean recurrence interval (one percent annual chance flood).~~

e. *through g. No Change.*

h. Non-supporting breakaway walls, open-latticework or decorative insect screening may be allowed below the ~~base flood elevation~~ lowest floor 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. and 2. *No Change.*

I. through I. *No Change.*

(7) *Critical facilities.* Critical facilities must be constructed on properly compacted fill and have the lowest floor (including basement) elevated above the elevation of the 500-year flood level, and Road access to the critical facility must be outside constructed above the 500-year flood level to ensure access by emergency and ordinary vehicles plain.

Sec. 6-473. Standards for streams without established base flood elevations and 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, in addition to those set forth in section 6-471, will apply:

(1) *No Change.*

(2) ~~New construction or substantial improvements of structures must be elevated or flood proofed in accordance with elevations established in accordance with section 6-442(11).~~ All new proposed developments and subdivision proposals (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include base flood elevation data;

(3) The applicant must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, County, or other source. Data developed pursuant to section 6-473(2), must be considered and will be used as criteria for requiring new construction, substantial improvements, and other development in Zone A on the community's Flood Insurance Rate Map (FIRM) and comply with the provisions of section 6-472;

(4) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM, the applicant must:

(a) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures,

(b) Obtain, if the structure has been floodproofed in accordance with provision (2) of section 6-472, the elevation (in relation to mean sea level) to which the structure was floodproofed; and

(c) submit a record of all such information to the coordinator.

(5) In riverine situations, notify adjacent communities and the State NFIP Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(6) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(7) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM must be installed using methods and practices designed to minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

Sec. 6-474. Standards for subdivision and other development proposals.

(a) *through* (c) *No Change.*

~~(d) Base flood elevation data must be provided for subdivision proposals and other proposed development 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, in addition to those set forth in section 6-471, will apply:

(1) New construction and substantial improvements of residential structures located in an AO-Zone must have the lowest floor, including basement, elevated to at least as high as the depth number specified on the ~~flood insurance rate map~~-FIRM, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, must be elevated at least two feet above the highest adjacent grade.

(2) New construction and substantial improvements of nonresidential structures located in an AO-Zone must:

a. *and b. No Change.*

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 become 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 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 re-lettered 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 re-lettered 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 on August 28, 2008.

Commissioner Tammara Hall made a motion to adopt the foregoing ordinance, seconded by Commissioner Frank Mann. The vote was as follows:

Robert P. Janes	Absent
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye

rank Mann

Aye

ULY PASSED AND DATED THIS 10TH DAY OF JUNE, 2008.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Ray Judah, Chair

PPROVED AS TO FORM:

y: _____
Michael D. Jacob

ssistant County Attorney

ounty Attorney's Office

LU\ORDINANCE\Adopted\08-12 - FEMA Flood Map Ordinance Amendment MDJ