



FLORIDA DIVISION OF EMERGENCY MANAGEMENT

Office of Floodplain Management

GUIDANCE FOR AGRICULTURAL STRUCTURES: Ordinance changes for variances to wet floodproof agricultural structures in flood hazard areas

Office of Floodplain Management

Florida Division of Emergency Management

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

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OBJECTIVE: This guidance explains FEMA-approved variance conditions and limitations to authorize wet floodproofed agricultural structures in flood hazard areas. It also describes and includes model language to modify floodplain management regulations to specifically provide criteria for variances to allow wet floodproofed agricultural structures (as defined by the FEMA Policy).

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

The FDEM Office of Floodplain Management (OFM) developed this guidance for agricultural structures based on the Policy and Bulletin. It was reviewed by floodplain management specialists with FEMA Region IV. The OFM prepared separate guidance for accessory structures.

Agricultural structures may be elevated or dry floodproofed to or above the Base Flood Elevation plus one foot.

Communities must modify regulations to process variances to approve wet floodproofed agricultural structures.

The NFIP Community Rating System advises that adopting these variance provisions will not adversely impact credit points. However, points for freeboard may be reduced when Elevation Certificates for wet floodproofed agricultural structures are reviewed (see NFIP/CRS Update February/March 2021).

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

Local floodplain regulations require permits for buildings exempt from the FBC and include a section specifically for design and construction, requiring those buildings to be in accordance with ASCE 24 (see below, from the Florida Model Ordinance). The wet floodproofing provisions of

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

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

Or send a request for the OFM to work with you to prepare a draft.

ASCE 24 are equivalent to those described in the FEMA Policy. However, communities **must have a mechanism to ensure compliance** with the FEMA Policy, which establishes criteria for consideration of individual variances for wet floodproofed agricultural structures. The best way to have a mechanism to ensure compliance with the FEMA Policy is to adopt specific provisions for consideration of variances for agricultural structures. The specific provisions must be considered in combination with the standard variance requirements.

301.1 Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to Section 104.3 of this ordinance, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 307 of this ordinance.

www.floridadisaster.org/dem/mitigation/floodplain/community-resources/ (Guidance, Ordinance Amendments, FBC Amendments, and Sample Forms).

APPROACHES NOT INCLUDED IN THIS GUIDANCE. FEMA P-2140 outlines two approaches that are not included in this guidance:

1. The “community-wide exception” is an approach that allows communities specifically approved by FEMA to issue permits rather than handle agricultural structures or large accessory structures as individual variances. As of May 2020, FEMA has not issued guidance for requesting FEMA approval.
2. An approach to allow repair and restoration to pre-damaged condition agricultural structures that are substantially damaged by flooding and agricultural structures designated “repetitive loss properties” by the NFIP.

After reading FEMA P-2140, communities interested in these approaches should contact the Office of Floodplain Management at floods@em.myflorida.com for referral to the FEMA Region IV office. Subsequent correspondence with the Regional Office should copy the OFM.

ORDINANCE NO. XX-XX

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

WHEREAS, the Legislature of the State of Florida has, in {Chapter 125 – County Government or Chapter 166 – Municipalities}, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

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

NOW, THEREFORE, BE IT ORDAINED by the {community’s governing body} of the {name of community} that the {insert appropriate chapter/section numbers} is amended as set forth in the following amendments, as shown in strikethrough and underline format in Section 1.

SECTION 1. AMENDMENTS

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

Add a new definition as follows:

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

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

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

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

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

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

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

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

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

(2) Wet floodproofing construction requirements.

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

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

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

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

SECTION 2. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in **{insert name of community or all unincorporated areas of the county}**. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.

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

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

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

Use your community's standard signature block.