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ARTICLE VIII. - FLOOD DAMAGE PREVENTION [86]

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Sec. 3-2-156. - Short title.

The provisions contained in this article shall be known as the "Flood Damage Prevention Code."

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-157. - Purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;
- (b) Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (d) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-158. - Objectives.

The objectives of this article are:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;
- (f) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas; and
- (g) To ensure that potential homebuyers are notified that property is in a flood hazard area.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-159. - Methods of reducing flood losses.

In order to accomplish its purposes, this article includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (e) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards in other areas.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-160. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Accessory structure (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, gazebos, pavilions and hay sheds. Gazebos and pavilions qualify as a minimum investment if they are no greater than four hundred (400) square feet in size and have a value not more than eight thousand dollars (\$8,000.00).

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the floodplain management administrator's interpretation of any provision of this article or a request for a variance.

Area of shallow flooding means a designated AO or AH zone on the county's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood"). Base flood is the term used throughout this article.

Base flood elevation means the highest water-surface elevation associated with the base flood.

Basement means that portion of a building having its floor sub-grade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building—See *Structure*.

Coastal high hazard area means those portions of a coastal floodplain having special flood hazards that are subject to the high-velocity waters, including hurricane wave wash and tidal waves. These areas are designated on the FIRM as zone V1—V30, VE, or V.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and

emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

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), shear walls, or breakaway walls.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction means any structure for which the "start of construction" commenced before December 31, 1974.

Existing manufactured home park, existing manufactured home subdivision, existing mobile home park and existing mobile home subdivision mean a parcel of land (or contiguous parcels) for which the construction of facilities for servicing the lots on which the manufactured/mobile 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 before December 31, 1974.

Expansion to an existing manufactured home park, existing manufactured home subdivision, existing mobile home park and existing mobile home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured/mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters;
- (b) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (c) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion by undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event.

Flood boundary and floodway map (FBFM) means the official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood hazard boundary map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Floodplain means any land area susceptible to flooding.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management administrator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain management regulations means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway fringe means that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage or manufacturing facilities.

Hardship (as related to variances from the provisions of this article) means the exceptional hardship that would result from a failure to grant the requested variance. The board of county commissioners requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a building.

Historic structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b)

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior, or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Increased cost of compliance (ICC) means the cost to repair a "substantially" or "repetitively" flood-damaged building that is required to bring it into compliance with the requirements of this article. ICC coverage is provided for in every standard NFIP flood insurance policy.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, 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 non-elevation design standards of this article.

Manufactured home means a building, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to improve property.

Manufactured home park, manufactured home subdivision, mobile home park, and mobile home subdivision mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured/mobile home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or value determined by the Charlotte County Property Appraiser plus fifteen (15) percent.

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 national geodetic vertical datum (NGVD).

Mobile home means a building, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to improve property.

National geodetic vertical datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced on or after December 31, 1974. The term also includes any subsequent improvements to such structures.

New manufactured home park or subdivision and new mobile home park or subdivision mean a parcel of land (or contiguous parcels of land) for which the construction of facilities for servicing the lots on which the manufactured/mobile 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 April 27, 2003.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Public safety and nuisance means anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle that is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Repetitive loss means flood-related damages sustained by a structure on two (2) separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event.

Scour line means two and four-tenths (2.4) feet NGVD.

Special flood hazard area (SFHA) (see Area of special flood hazard) means an area having special flood hazard and shown on a FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE, or V.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a building (including a mobile home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured/mobile home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means all walled and roofed buildings, including gas or liquid storage tanks and manufactured/mobile homes that are principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term also includes structures that have incurred "substantial damage" or "repetitive loss", regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for a permit for improvements and which are the minimum necessary to assure safe living conditions. This includes any combination of repairs, reconstruction, rehabilitation, addition, alteration, or other improvements to a building taking place during a five-year period, in which the cumulative cost of such improvements equals or exceeds fifty (50) percent of the market value of the building either:

- (a) Before the improvement is started; or
- (b) In case of substantial damage, before the damage occurred.

For the 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.

Substantially improved existing manufactured home parks or subdivisions and mobile home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in exceptional hardship.

Violation means the failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 1, 9-23-03)

Sec. 3-2-161. - Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the zoning and building code jurisdiction of the board of county commissioners.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-162. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency [FEMA] in the Flood Insurance Study [FIS] for Charlotte County, effective May 5, 2003, with the accompanying maps and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this article. The flood insurance study is on file at the office of the county community development department.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-163. - Designation of the flood management administrator.

The building official shall administer and implement the provisions of this article and is herein referred to as the flood management administrator or administrator.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 2, 9-23-03)

Sec. 3-2-164. - Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-165. - Violations unlawful.

It is unlawful to locate, extend, convert or structurally alter any structure or land in violation of the terms of this article or any other applicable law.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-166. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-167. - Interpretation.

In the interpretation and application of this article all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2003-020, § 1, 4-22-2003)

Sec. 3-2-168. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. The provisions of this article do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article does not create liability on the part of Charlotte County or on any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-169. - Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00), or imprisoned for not more than sixty (60) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the floodplain management administrator from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-170. - Permit applications and elevation data requirements.

- (a) *Contents of application.* The application for a development permit shall be made to the floodplain management administrator on forms furnished by him or her prior to any development activities.
- (b) *Application stage.* Before approving a building permit application for a structure to be located in an A or V zone as shown on the FIRM, the administrator shall obtain from the applicant plans drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, existing or proposed fill areas, and storage areas for equipment of materials. The plans of proposed structures must show the relation to mean sea level of the lowest proposed floor, including basements, and the location and elevation of proposed electrical and mechanical equipment. If flood-proofing is to be used, then the plans shall so indicate and also show the elevation in relation to the mean sea level of the nonresidential structure to be flood-proofed. If the plans indicate that the elevation or proposed flood-proofing is sufficient for the appropriate zone on the FIRM, then the administrator shall so indicate on the plans and grant his or her approval.
- (c)

Construction stage. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, the administrator shall obtain from the applicant one of the following as appropriate to the structure and zone:

- (1) A certificate from a registered professional engineer that the nonresidential flood-proofed structure meets the flood-proofing criteria in subsection (b) of this section.
 - (2) A certificate prepared by or under the direction of a registered land surveyor or professional engineer certifying that the lowest floor has been elevated to a minimum of the base flood elevation and indicating the specific elevation of the lowest floor in relation to the mean sea level as shown by the applicable portion of the FIRM.
 - (3) In coastal high-hazard areas, a certificate prepared by a registered engineer or registered architect certifying that the specific elevation of the lowest horizontal structural members of the lowest floor is a minimum of the base flood elevation in relation to the mean sea level as shown by the applicable portion of the FIRM.
 - (4) In existing manufactured/mobile home parks; manufactured/mobile home subdivisions or recreational vehicle parks, a certificate prepared by or under the direct supervision of a registered land surveyor or professional engineer that the lowest floor of the manufactured/mobile home has been elevated to a minimum of the base flood elevation and indicating the specific elevation in relation to the mean sea level as shown by the FIRM, or that the chassis has been elevated by reinforced piers, or other foundation elements of equivalent or greater strength, not less than thirty-six (36) inches in height above grade and indicating the specific elevation above grade.
- (d) *Stop work orders.* Any work undertaken prior to submission of the required certification shall be at the permit holder's risk. The permit holder shall prior to further progressive work being performed, correct all deficiencies detected by review by the administrator. Failure to submit the certification or failure to make the required corrections shall be cause to issue a stop-work order for the project.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 3, 9-23-03)

Sec. 3-2-171. - Duties of the administrator.

Duties of the administrator include, but are not limited to the following:

- (a) Review all development permits to assure that the permit requirements of this article have been satisfied;
- (b) Advise the permit holder that additional federal, state, or local permits may be required, and if such additional permits are necessary, require that copies of such permits be provided and maintained on file with the development permit;
- (c) Notify adjacent communities, the state NFIP coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
- (d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (e) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved buildings, in accordance [section 3-2-170](#)
- (f) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with [section 3-2-170](#)

- (g) Review certified plans and specifications for compliance;
- (h) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;
- (i) When base flood elevation data or floodway data have not been provided in accordance with [section 3-2-162](#), the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of this article; and
- (j) Coordinate all change requests to the FIS and FIRM, or the FBFM, or both, with the requester, state, and FEMA.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 4, 9-23-03)

Sec. 3-2-172. - General standards for flood hazard reduction.

In all areas of special flood hazard the following requirements apply:

- (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (b) Manufactured/mobile homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include the use of over-the-top or frame ties to ground anchors. This requirement shall be in conformity with applicable state requirements for resisting wind forces;
- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article;
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said nonconformity is not furthered, extended, or replaced; and
- (k) New construction and substantial improvements shall be designed and constructed using stem wall or deepened footer methods so as to minimize the amount of fill material used on site.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 4, 9-23-03)

Sec. 3-2-173. - Specific standards for flood hazard reduction.

In all areas of special flood hazard where base flood elevation data has been provided as required by [section 3-2-170](#), the following provisions shall apply:

- (a) *Residential construction.* New construction or substantial improvement of any residential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated to a minimum of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of subsection (c) of this section.
- (b) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated to a minimum of the base flood elevation. Buildings located in all A-Zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation plus one (1) foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the administrator.
- (c) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - a. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one (1) foot above foundation interior grade (which must be equal in elevation to or higher than the exterior foundation grade); and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.
 - (2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
 - (3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - (4) Where elevation requirements exceed six (6) feet above the highest adjacent grade, a copy of the legally recorded restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's

originally approved design and shall be presented as a condition of issuance of the final certificate of occupancy.

- (d) *Standards for manufactured/mobile homes and recreational vehicles.*
- (1) All manufactured/mobile homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured/mobile home parks or subdivisions, in a new manufactured/mobile home park or subdivision or in substantially improved manufactured/mobile home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.
 - (2) All manufactured/mobile homes placed or substantially improved in an existing manufactured/mobile home park or subdivision must be elevated so that:
 - a. The lowest floor of the manufactured/mobile home is elevated to a minimum of the base flood elevation; or
 - b. The manufactured/mobile home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than thirty-six (36) inches in height above the grade.
 - (3) The manufactured/mobile home must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (4) In an existing manufactured/mobile home park or subdivision on which a manufactured/mobile home has incurred "substantial damage" as the result of a flood, any manufactured/mobile home placed or substantially improved must meet the standards of subsections (d)(2)a and (d)(3) of this section.
 - (5) All recreational vehicles placed on sites must either:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days, and be 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); or
 - b. Meet all the requirements for new construction, pursuant to subsection (d)(1) of this section, including anchoring and elevation requirements, or all of the requirements of subsections (d)(2)a and (d)(3) of this section.
- (e) *Floodways.* Located within areas of special flood hazard established in [section 3-2-162](#), are areas designated as floodways. Because floodways are extremely hazardous areas, due to the velocity of floodwaters which carry debris and potential projectiles, and have significant erosion potential, the following provisions apply:
- (1) 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 demonstrating that such encroachments will not result in any increase in flood levels during occurrence of the base flood discharge;
 - (2) If the requirements of subsection (e)(1) of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of [3-2-172](#)
 - (3) The placement of mobile homes is prohibited except in an existing mobile home park or subdivision. A replacement mobile home may be placed on a lot in an existing mobile home park or subdivision provided the anchoring

standards of [section 3-2-172\(b\)](#), the elevation standards of subsection (a), and the encroachment standards of subsection (e)(1), are met.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 5, 9-23-03; Ord. No. 2004-056, § 1, 9-13-04)

Sec. 3-2-174. - Standards for flood hazard areas without established base flood elevation and floodways.

Within the areas of special flood hazard established in [section 3-2-162](#), for which no base flood elevation data or regulatory floodway has been designated by FEMA, the following provisions shall apply:

- (a) When base flood elevation data or floodway data have not been provided in accordance with [section 3-2-162](#), the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of this article. When such base flood elevation data is utilized:
 - (1) The administrator shall obtain from the applicant the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures;
 - (2) If the structure has been flood-proofed in accordance with the requirements of [section 3-2-173\(b\)](#), the administrator shall obtain from the applicant the elevation in relation to the mean sea level to which the structure has been floodproofed; and
 - (3) Records pertaining to the provisions of this section shall be maintained by the official designated in [section 3-2-163](#)
- (b) In riverine situations, the administrator shall notify adjacent communities and the state coordinating office prior to granting authority to alter or relocate any watercourse. Copies of such notification shall be submitted to FEMA.
- (c) Prior to granting authority to alter or relocate any watercourse, the administrator shall assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (d) Manufactured/mobile homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include the 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.
- (e) When base flood elevation data or floodway data is not available from any source, the lowest floor of the structure shall be elevated to no lower than three (3) feet above the highest adjacent grade.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-175. - Standards for flood hazard areas with established base flood elevation without regulatory floodways.

Within the areas of special flood hazard established in [section 3-2-162](#), for which base flood elevation data has been provided by FEMA but without the delineation of the regulatory floodway, the following provisions shall apply:

- (a)

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as zones A1—30 and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the county.

- (b) Development activities in zones A1—30, AE, and AH, on the county's FIRM which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the developer or applicant first applies, with the county's endorsement, for a conditional FIRM revision, and receives the approval of FEMA.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-176. - Standards for areas of shallow flooding (A0 zones).

Located within the areas of special flood hazard established in [section 3-2-162](#), are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to a minimum of the base flood elevation specified on the FIRM. If no base flood elevation is specified, the lowest floor, including basement, shall be elevated to a minimum of three (3) feet above the highest adjacent grade, or eighteen (18) inches above the crown of the adjacent road, whichever is greater.
- (b) All new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor, including basement, elevated to a minimum of the base flood elevation specified on the FIRM. If no base flood elevation is specified, the lowest floor, including basement, shall be elevated to a minimum of three (3) feet above the highest adjacent grade, or eighteen (18) inches above the crown of the adjacent road, whichever is greater.
 - (2) Together with attendant utility and sanitary facilities be completely floodproofed to a minimum of the specified base flood elevation so that any space below that level 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. Certification is required pursuant to [section 3-2-170](#)

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 6, 9-23-03)

Sec. 3-2-177. - Standards for subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- (d)

Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured/mobile home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-178. - Standards for coastal high hazard areas.

Located within areas of special flood hazard areas established in [section 3-2-162](#) are coastal high hazard areas, designated as zones V1—V30, VE, or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all other provisions in this article, the following provisions shall also apply:

- (a) All new construction and substantial improvements in zones V1—V30 and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
 - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to a minimum of the base flood elevation; and
 - (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one (1) percent chance of being equaled or exceeded in any given year (one (1) percent annual chance).
- (b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsection (a) above.
- (c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in zones V1—V30 and VE. The administrator shall maintain a record of all such information.
- (d) All new construction shall be located landward of the reach of mean high tide.
- (e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than the applicable wind speed and exposure requirements for the location. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (1) Breakaway wall collapse shall result from water load resulting from wave action less than that which would occur during the base flood; and
 - (2) The elevated portion of the building and supporting foundation system shall 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 (structural and non-structural). Maximum wind and water loading

values to be used in this determination shall each have a one (1) percent chance of being equaled or exceeded in any given year.

- (f) The enclosed space below the lowest floor shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.
- (g) Prohibit the use of fill for structural support of buildings. When fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- (h) Prohibit manmade alteration of sand dunes and mangrove stands which would increase potential flood damage.
- (i) No mobile home or recreational vehicle shall be placed in a coastal high-hazard area except in an existing mobile home park or subdivision or an existing recreational vehicle park.
- (j) All manufactured/mobile homes placed or substantially improved on sites in an existing manufactured/mobile home park or subdivision within zones V1—V30, V, and VE on the FIRM shall meet the standards of subsections (a) through (h), and [section 3-2-173\(d\)](#).
- (k) Recreational vehicles placed on sites within zones V1—V30, V, and VE on the county's FIRM must:
 - (1) Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - (2) Meet the requirements of this article.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 7, 9-23-03)

Sec. 3-2-179. - Critical facilities.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA), preferably outside the 0.2 percent annual chance floodplain. Construction of new critical facilities may be permissible within the SFHA if no feasible alternative sites are unavailable. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) or more feet above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. No. 2003-020, § 1, 4-22-03)

Sec. 3-2-180. - Appeals and variances.

- (a) The construction board of adjustment and appeals [CBAA] shall hear and decide appeals and requests for variances from the requirements of this article.
- (b) The CBAA shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the administrator in the enforcement or administration of this article.
- (c) The CBAA upon consideration of the factors for the granting of a variance set forth in [section 3-2-181](#), may attach such conditions to the granting of the variance as it deems necessary to further the purposes and objectives of this article.

- (d) Any party aggrieved by the decision of the board may petition the circuit court for a writ of certiorari within thirty (30) days of the entry of the order of the CBAA.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 8, 9-23-03)

Sec. 3-2-181. - Variance procedures; reports to FEMA.

- (a) *Factors to be considered.* In acting upon such applications, the construction board of adjustment and appeals shall consider all technical evaluations, all relevant factors, and the standards specified in this article, as well as:
- (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger of 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, where applicable;
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (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 of 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.
- (b) *Requirements for issuance of variance.* Variances shall only be issued when there is:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship;
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
 - (4) A determination that the variance is the minimum necessary deviation from the requirements of this article.
- (c) *Notice to owner of consequences of variance.* Any applicant to whom a variance is granted shall be given written notice over the signature of the administrator. A copy of the notice shall be recorded in the official records books of Charlotte County in a manner so that it appears in the chain of title of the subject property. The notice shall specify:
- (1) The difference between the required elevation and the elevation to which the lowest floor is to be built;
 - (2) That the issuance of a variance to construct a structure below the required elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 - (3) That such construction below the required elevation increases risks to life and property.

- (d) Variances shall not be granted after-the-fact.
- (e) Variances shall not be granted within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.
- (f) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.
- (g) The administrator shall maintain a record of all variances granted, including the justification for their issuance, and report such variances in its biennial report submitted to FEMA.

(Ord. No. 2003-020, § 1, 4-22-03; Ord. No. 2003-066, § 9, 9-23-03)

Sec. 3-2-182. - Historic structures.

Variances may be issued for the repair or rehabilitation of "historic" structures, as defined in this article, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic" structure.

(Ord. No. 2003-020, § 1, 4-22-03)

Secs. 3-2-183—3-2-185. - Reserved.

FOOTNOTE(S):

⁽⁸⁶⁾ **Editor's note**— Formerly, Art. VIII pertained to a coastal construction code, substantive sections being §§ 3-2-156—3-2-160, 3-2-171—3-2-177. Such provisions were deleted by Ord. No. 2003-020, § 1, adopted Apr. 22, 2003. Sec. 1 of such ordinance further provided for the inclusion of §§ 3-2-156—3-2-182 as a new Art. VIII herein set out. [\(Back\)](#)