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**ORDINANCE
NUMBER 2021-**

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA AMENDING CHAPTER 3-2 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, ENTITLED BUILDINGS AND BUILDING REGULATIONS; PROVIDING FOR UPDATED SECTIONS IN ACCORDANCE WITH GOVERNING CODES AND REGULATIONS, CLARIFICATION OF DEFINITIONS, AND REMOVAL OF ADMINISTRATIVE AND SCRIVENERS ERRORS; PROVIDING FOR INCLUSION IN THE CHARLOTTE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, authorizes counties to adopt, by reference or in full, and enforce building and related technical codes and regulations; and

WHEREAS, from time to time it is necessary to delete unnecessary or out of date provisions and to make other necessary or beneficial changes to the Code; and

WHEREAS, federal and internationally recognized codes and regulations previously adopted by or otherwise governing the Code are routinely updated; and

WHEREAS, the County must periodically revise the Code to reflect the most current version of previously adopted or otherwise governing codes and regulations to maintain accuracy and accordance; and

WHEREAS, the Charlotte County Board of County Commissioners has determined that the health, safety, and welfare of its citizens and property owners are best served by periodic updates, corrections and omissions to the Code.

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

33 Section 1. Chapter 3-2 of the Charlotte County Code of Ordinances entitled "Buildings
34 and Building Regulations", is hereby amended as follows (words that are stricken out
35 are deletions; words that are underlined are additions):
36

37 Chapter 3-2 - BUILDINGS AND BUILDING REGULATIONS

38 Footnotes:

39 --- (1) ---

40 **Cross reference**— Housing, Ch. 1-8; health, Ch. 2-3; fire prevention code, Ch. 3-3;
41 impact fees, Ch. 3-31.5; mobile homes, Ch. 3-4; planning and development, Ch. 3-5;
42 water and sewers, Ch. 3-8; zoning, Ch. 3-9; fire districts, Ch. 4-3; sewer and water
43 districts, Ch. 4-5; contracting license, § 1-10-33; cable television license, § 1-10-161 et
44 seq.; county buildings for amusement and entertainment, § 1-11-6; fallout shelters, § 2-
45 1-45; building plans for food establishments, § 2-3-26; fire inspections of buildings under
46 construction, § 3-3-9; approval of building in bed of street or road, § 3-5-25; plats, § 3-5-
47 66 et seq.; building permits under zoning ordinance, § 3-9-5; moving of structures under
48 zoning ordinance, § 3-9-~~865.7~~; signs, § 3-9-~~9585~~.

49 **State Law reference**— Authority of county to adopt technical codes, F.S. §§
50 125.01(1)(i), 125.56; building construction standards, F.S. Ch. 553; inspection warrants,
51 F.S. § 933.20 et seq.

52 ARTICLE I. - IN GENERAL

53 Sec. 3-2-1. - Definitions.

54 (a) *General.* As used in this chapter, "the board" will mean construction industry
55 license board, and the following words and terms shall have meanings as found in
56 F.S. section 489.105: certificate, certified contractors, contractor, contracting, air
57 conditioning contractors (class A), air conditioning contractors (class B), air
58 conditioning contractors (class C), building contractors, general contractors,
59 mechanical contractors, plumbing contractors, residential contractors, roofing
60 contractors, sheet metal contractors, commercial swimming pool/spa contractors,
61 residential swimming pool/spa contractors, maintenance swimming pool/spa
62 contractors, underground utility and excavation contractors, specialty contractors,
63 primary qualifying agent, secondary qualifying agent, registered contractors, and
64 registration. The term electrical contractor shall have the meaning as found in F.S.
65 section 489.505.

66 (1) *Contractor* means the person who is qualified for, and is only responsible for,
67 the project contracted for and means, except as exempted in this chapter, the
68 person who, for compensation, undertakes to, submits a bid to, or does himself
69 or herself or by others construct, repair, alter, remodel, add to, demolish,
70 subtract from, or improve any building or structure, including related
71 improvements to real estate, for others or for resale to others or performs any
72 work as defined in section 3-2-1(c)(1)—(27), Charlotte County Code.

73 (2) *Contracting* means, except as exempted in this chapter, engaging in business
74 as a contractor and includes, but is not limited to, performance of any of the
75 acts as set forth in Charlotte County Code section 3-2-1 which define types of
76 contractors. The attempted sale of contracting services and the negotiation or
77 bid for a contract on these services also constitutes contracting. If the services
78 offered require licensure or agent qualification, the offering, negotiation for a
79 bid, or attempted sale of these services requires the corresponding licensure.

80 (3) The exemption from licensure in F.S. section 489.103(1), regarding
81 contractors in work on bridges, roads, streets, highways, or railroads, and
82 services incidental thereto, hereby is deemed to apply to section 3-2-1,
83 Charlotte County Code.

84 (b) *Journeyman licenses.*

85 (1) *Journeyman electrician* means any person qualified to perform work in the
86 electrical trade while employed and supervised by a master electrician and who
87 is licensed under the provisions of this chapter. A journeyman electrician cannot
88 contract or perform work independently.

89 (2) *Journeyman plumber* means any person qualified to perform work in the
90 plumbing trade while employed and supervised by a master plumber and who is
91 licensed under the provisions of this chapter. A journeyman plumber cannot
92 contract or perform work independently.

93 All electricians, whether master or journeyman will be issued cards indicating the type of
94 license held and will be required to exhibit them upon the request of the building official,
95 building inspectors or code compliance officers.

96 (c) *Local specialty contractors:* Local specialty contractors are engaged in, but not
97 necessarily limited to, one (1) or more of the following trades:

98 (1) *Acoustical and insulation contractors* are those who are qualified to install,
99 maintain, repair, alter, or extend any insulation primarily installed to prevent loss
100 or gain of heat from rooms or buildings. They are also those who are qualified
101 to install, maintain, repair, alter, or extend any insulation primarily installed to
102 prevent loss or gain of heat from internal or external sources in pipes, vessels,
103 ducts, or built-up refrigerated boxes or rooms. They are also qualified to install
104 acoustical materials and non-structural domed ceilings.

105 (2) *Aluminum contractors* are those who are qualified to work with aluminum and
106 vinyl products and whose services are limited to the erection, repair, and
107 alteration of aluminum carports, screened areas, sliding glass doors, retractable
108 screens, storm shutters, porches on existing foundations, roofovers of mobile
109 homes, soffit and fascia, and gutters and downspouts; the installation of vinyl
110 and aluminum siding on residential and commercial projects; and the
111 replacement of glass or vinyl windows in existing openings of porch enclosures
112 on existing slabs but not in the primary structure or other habitable spaces. An
113 aluminum contractor may perform limited carpentry necessary and incidental to
114 such work but may not perform any work which affects the structural integrity of

- 115 the building or structure. Aluminum contractors may not perform concrete or
116 masonry work.
- 117 (3) *Asphalt paving and coating contractors* are those who have the knowledge
118 and skills to construct driveways, parking lots, sidewalks, and patios with
119 asphalt materials, and may also coat, seal or paint the striping of the above-
120 mentioned areas.
- 121 (4) *Building demolition contractors, explosive.* State license only. Permits for this
122 type of demolition will be issued at the discretion of the building official on an
123 "as needed" basis, with the approval of the authorized zoning, public safety, and
124 fire prevention officials, and upon notification to the sheriff's office.
- 125 (5) *Building demolition contractors, non-explosive* are those who are qualified and
126 have the knowledge and skill to demolish buildings and structures or interior
127 demolitions of existing structures. A building demolition contractor, non-
128 explosive, is limited to demolishing buildings two (2) habitable stories in height
129 or less. A contractor must obtain a building demolition contractor, non-explosive
130 license unless the contractor is a state certified contractor, registered contractor
131 or local specialty contractor licensed to build the type of structure or
132 improvement being demolished, or is otherwise exempted by this chapter.
- 133 (6) *Building movers* are those who are qualified to move buildings or structures
134 from one site to another in accordance with all applicable building, zoning and
135 traffic laws. Permits for building moving will be issued at the discretion of the
136 building official on an "as needed" basis.
- 137 (7) *Cabinet and trim carpentry contractors* are those who have the knowledge and
138 skills to install or maintain non-structural finished wood products including
139 paneling, flooring, trim, cabinetry, countertops, non-structural dome ceilings,
140 interior doors and all hardware incidental thereto, soffit and fascia,
141 weatherproofing and install gutters and downspouts. Such contractor may not
142 perform any work which affects the structural integrity of the building. Cabinet
143 and trim carpentry contractors may install countertops made from materials
144 other than wood or laminate, may perform minor "punch-out" type work on new
145 construction such as minor drywall repair or painting touch up and may install
146 manufactured partitions in restrooms.
- 147 (8) *Carpentry contractors* are those who are qualified to and have the knowledge
148 and skill to construct wooden structures and install wood products, including but
149 not limited to, rough framing, including metal studs, structural and non-structural
150 walls, trusses, sheathing, paneling, trim carpentry, roof dry-ins, soffit and fascia,
151 gutters and downspouts, all types of siding materials applied to existing
152 framework, dome ceilings, weatherproofing and installation of storm and
153 security shutters, and doors and preglazed windows, but not garage doors.
154 Carpentry contractors shall also be permitted to perform the work of a cabinet
155 and trim carpenter. They may also perform the work of a drywall and painting
156 contractor as provided herein when in conjunction with the work performed
157 above.

- 158 (9) *Ceramic tile, terrazzo, and marble contractors* are those who are qualified to
159 mix, prepare, seal or finish terrazzo, prepare the base and set tile, including,
160 pool tile, set marble, granite counter tops or install brick, stone or faux brick
161 pavers horizontally (on ground only). Ceramic tile, terrazzo, and marble
162 contractors may install wood and laminate wood flooring products. As exempted
163 in section (d), a ceramic tile, terrazzo, and marble contractor's license is not
164 required for the installation of vinyl plank flooring and is not required for projects
165 where the scope of the work to be performed includes only the demolition of tile.
- 166 (10) *Concrete place and finish contractors* are those who are qualified to batch
167 and mix aggregates, cement, and water to agreed specifications, to construct
168 forms and framework for the casting and shaping of concrete, including
169 placement of mesh reinforcement bars, and steel reinforcement bars (rods)
170 incidental thereto, to pour, place, and finish concrete and to perform mudjacking
171 for flatwork only. This section would also apply to concrete sidewalks and
172 driveways. Concrete place and finish contractors can install brick pavers and
173 apply decorative materials to driveways, lanais and patios and can perform
174 concrete cutting on existing slabs but cannot cut structural or vertical walls and
175 cannot form or finish a structural concrete pool shell.
- 176 (11) *Concrete/masonry contractors* are those who are qualified to select, cut and
177 lay brick and concrete block or any other unit masonry products, lay brick and
178 other clay products, rough cut and dress stone, artificial stone and precast
179 blocks, glass brick or block, or any person who is qualified to batch and mix
180 aggregates, cement and water to agreed specifications, to construct forms and
181 framework for the casting and shaping of concrete, to place and erect
182 reinforcing steel and miscellaneous embedded steel, to place mesh
183 reinforcement, plastic vapor barriers and edge forms, **and** to pour, place and
184 finish concrete including flatwork and to perform mudjacking. Concrete/masonry
185 contractors can apply decorative materials to driveways, lanais and patios. This
186 category shall also include those who are qualified to install tie beams and
187 alternative wall systems, erect pre-cast or pre-stressed concrete products, and
188 those who are qualified to install poured concrete roof deck systems.
189 Concrete/masonry contractors shall also be permitted to perform the work of a
190 plaster stucco and spraycrete contractor as provided herein but cannot form or
191 finish a structural concrete pool shell.
- 192 (12) *Door, window and garage door contractors* are those who are qualified and
193 have the knowledge and skill to install, repair or replace any door, window and
194 garage door, including storm and security shutters, including any work
195 necessary and incidental to such installation, repair or replacement. May
196 perform the installation of vinyl and aluminum siding on residential and
197 commercial projects. Such contractor may not perform any work which affects
198 the structural integrity of the building.
- 199 (13) *Drywall contractors* are those who are qualified to install gypsum drywall
200 products to wood and metal studs, to wood and steel joists and to metal runners
201 in buildings of unlimited area and height. The scope of work shall include the
202 preparation of the surface over which the drywall product is to be applied,

203 including the placing of non-structural metal studs, runners and all necessary
204 trim, and to spray coat drywall with a plaster aggregate mixture.

205 (14) *Fence contractors* are those who are qualified to install, maintain or repair
206 fencing on grade, including pre-cast concrete and pre-fabricated fences, and
207 swimming pool mesh safety barriers which meet all applicable safety, zoning
208 and building codes.

209 (15) *Glass and glazing contractors* are those who are qualified to install all types
210 of windows, select, cut, assemble and install all makes and kinds of glass and
211 glass work, and execute the glazing frames, panels, sash and door and holding
212 metal frames, ornamental decorations, mirrors, and glass tub and shower
213 enclosures.

214 (16) *Grade, fill, and clearing contractors* are those who are qualified to grade and
215 fill lots, remove materials such as rock, gravel, sand, surface debris, and
216 vegetation, including the grubbing of roots, removal of trees, clearing the land
217 and leveling the surface incidental and necessary thereto, install driveway
218 culverts and stormwater collection systems incidental thereto, including non-
219 marine rip rap, in compliance with local building and zoning regulations and
220 environmental laws. This is not to be construed as a license to perform
221 underground utility work as defined herein nor to demolish buildings or
222 structures, unless a permit has been obtained by a contractor licensed to
223 perform these services and said contractor has listed the grade, fill and clear
224 contractor as the subcontractor of record.

225 (17) *Job site cleanup contractors* are those who are responsible for the removal
226 of all non-usable construction materials, trash, etc., from commercial and
227 residential construction sites.

228 (18) *Landscaping contractors, commercial* are those who are qualified to install
229 trees, shrubs, plants and accessory materials, including non-marine rip rap on
230 commercial jobsites.

231 (19) *Lawn irrigation contractors* are those who are qualified to install, maintain,
232 repair, alter, or extend all piping and sprinkler heads for the irrigation of laws.
233 Such contractor may connect lawn irrigation piping to the pump, and the
234 electrical controller to a service disconnect provided for that purpose, but may
235 not otherwise connect to, alter, or repair any source of water intended for
236 potable use, or connect to, alter or repair any electrical pump or any electrical
237 pump wiring system or power supply in conjunction with the irrigation system.

238 (20) *Marine construction contractors* are those who are qualified with the
239 experience and skill to construct, maintain, alter or repair seawalls, retaining
240 walls, bulkheads, revetments, docks, pilings including installing pile wraps,
241 decks, and boardwalks, boat lifts, piers, wharves, groins and other marine
242 structures, including pile driving. Marine construction contractors may also
243 perform dredging operations, install and maintain rip rap, and perform concrete
244 work incidental to davit installation. Marine construction contractors shall also
245 be permitted to perform the work of a pile driving contractor as provided herein.

- 246 (21) *Painting contractors* are those who are qualified to use spraying equipment
247 as well as hand tools to finish both exterior and interior work. A painting
248 contractor may do paper hanging, sandblasting, and roof painting. A painting
249 contractor may also apply paint, acrylic, epoxy or other materials for coating of
250 driveways, lanais, and patios.
- 251 (22) *Pile driving contractors* are those who are qualified with the experience and
252 skill to drive piling, including sheet piling, and construction foundations,
253 including the excavating, forming and placing of reinforcing steel and concrete,
254 and performing other work incidental thereto; including pile wraps.
- 255 (23) *Plaster, stucco, and spraycrete contractors* are those who are qualified to
256 coat surfaces with a mixture of sand or other aggregate, including river rock,
257 gypsum plaster, Portland cement, or quick-lime and water, or any combination
258 of such material as to create a permanent surface coating. May also apply
259 paint, acrylic, epoxy, or other materials for coating of driveways, lanais, and
260 patios. This shall include the installation of pre-manufactured or decorative
261 stone. Such contractor may apply and affix gypsum or metal lath or any other
262 product prepared or manufactured, including the placing of metal studs and
263 runners to which lath is to be applied, to provide key or suction bases for the
264 support of plaster coatings. Such contractors cannot form or finish a structural
265 concrete pool shell.
- 266 (24) *Sign contractors* are those who are qualified to install, repair, add to or
267 change non-electrical signs in accordance with building and zoning codes.
- 268 (25) *Sign contractors, electrical* are those who are qualified to install, repair, alter,
269 add to, or change any electrical wires, apparatus, raceways, conduit, or any
270 part thereof on electrical signs and are qualified to erect signs. Such contractor
271 may connect to an existing sign circuit and may contract for and take out
272 building permits for the erection of signs in accordance with building and zoning
273 codes.
- 274 (26) *Structural steel contractors* are those who are qualified to erect structural
275 steel shapes and plates, including such minor field fabrication as may be
276 necessary, of any profile, perimeter or cross-section that are or may be used as
277 structural members for buildings and structures, including riveting, bolting,
278 welding and rigging, only in connection therewith. Structural steel contractors
279 may install handrails.
- 280 (27) *Swimming pool/spa water treatment and cleaning provider* means any
281 person whose scope of work involves the water treatment and cleaning of any
282 swimming pool, hot tub, or spa, whether public or private. The scope of such
283 work does not include any piping and piping repairs, replacement and repair of
284 existing equipment, installation or repair of equipment, tile, coping, filter
285 equipment or chemical feeders, replastering, construction of decks, footers,
286 stemwalls and steps, and reinstallation or addition of pool heaters. A state
287 certified or registered commercial pool/spa contractor, residential pool/spa
288 contractor or swimming pool/spa servicing contractor shall not be required to
289 obtain a local swimming pool/spa water treatment and cleaning contractor

290 license. A swimming pool/spa water treatment and cleaning provider is not
291 permitted to drain a swimming pool of more than twenty (20) percent of its
292 capacity.

293 (d) *Exemptions.*

294 (1) *Tile demolition.* Contractors are exempted from the requirement to hold a valid
295 building demolition contractors, non-explosive or a valid ceramic tile, terrazzo,
296 and marble contractor's license for projects if the scope of the work to be
297 performed includes only the demolition of tile.

298 (2) *Vinyl plank flooring.* Contractors are exempted from the requirement to hold a
299 valid local specialty license for ceramic tile, terrazzo, and marble for projects if
300 the scope of the work to be performed includes only the installation of vinyl
301 plank flooring.

302 (e) Certificates of competency for the following specialty contractors will remain valid
303 so long as the contractor renews the certificate of competency in accordance with
304 section 3-2-22. However, no new certificates of competency will be issued.

305 (1) *Reinforcing steel contractors* are those who are qualified to fabricate, place
306 and tie steel reinforcing bars (rods) of any profile, perimeter, or cross-section,
307 that are or may be used to reinforce concrete buildings and structures in such a
308 manner that under all agreed specifications, steel reinforcing bars (rods) for
309 concrete buildings and structures can be fabricated, placed and tied. In
310 addition, these contractors will also be allowed to install swimming pool
311 reinforcing steel bars (rods).

312 (2) *Rip rap contractors* are those who are qualified to use stone, compressed
313 shell, and similar material to prevent the erosion of the soil, and to form or
314 construct an erosion prevention wall or embankment.

315 (3) *Shed tie-down contractors* are those who are qualified to place and tie down
316 all types of portable utility sheds in accordance with local building and zoning
317 regulations.

318 (4) *Swimming pool shell contractors* are those who are qualified to excavate form
319 and install concrete pool shells according to methods approved by applicable
320 state and county codes.

321 (5) *Tennis court contractors* are those who are qualified to construct, maintain or
322 repair tennis courts, including the preparation of the surface, drainage, paving,
323 surface topping, concrete, asphalt, posts and fencing; provided, however, that
324 any required electrical installations shall only be performed by a licensed
325 electrical contractor.

326 (f) Only state certified contractors are recognized for the following specialty
327 contractors.

328 (1) Alarm system contractors.

329 (2) Alarm system contractor I.

330 (3) Alarm system contractor II.

- 331 (4) Elevator installation contractors.
- 332 (5) Fire extinguish dry.
- 333 (6) Fire sprinkler system.
- 334 (7) Fire suppression system.
- 335 (8) Liquid petroleum gas.
- 336 (9) Mobile home dealers and manufacturers.
- 337 (10) Mobile home set up contractor.
- 338 (11) Specialty structure contractor.

339 (g) The following are also regulated by this chapter:

- 340 (1) *Swimming pool/spa water treatment and cleaning providers* as defined in
341 section 3-2-1(c)(27). Swimming pool/spa water treatment and cleaning
342 providers licensed by Charlotte County will be required to display a sticker,
343 provided by the county, on their vehicle, which states that they are licensed to
344 perform the services listed in section 3-2-1(c)(27).

345 (Ord. No. 83-04, § 5, 3-8-83; Ord. No. 83-07, § 2, 3-22-83; Ord. No. 84-13, § 1, 7-14-84;
346 Ord. No. 84-24, § 1, 11-6-84; Ord. No. 88-45, § 1, 12-20-88; Ord. No. 89-58, §§ 1, 2, 7-
347 11-89; Ord. No. 92-16, § 1, 2-26-92; Ord. No. 92-86, §§ 1—3, 10-20-92; Ord. No. 97-
348 117, § 1, 12-2-97; Ord. No. 2000-001, § 1, 1-11-00; Ord. No. 2002-042, § 1, 9-24-02;
349 Ord. No. 2006-057, § 1, 6-13-06; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026, §
350 1, 11-13-12; Ord. No. 2014-012, § 1, 5-13-14; Ord. No. 2015-029, § 1, 6-23-15; Ord.
351 No. 2019-001, § 1, 1-8-19)

352 **State Law reference**— Contracting, F.S. Ch. 489; definitions, F.S. §§ 489.105,
353 489.505; qualifications for practice, F.S. § 489.113.

354 Sec. 3-2-2. - Violations.

355 Any person violating any of the provisions of this chapter or any orders or
356 resolutions promulgated pursuant hereto shall be deemed guilty of a violation of this
357 Code. Each violation shall constitute a separate offense.

358 (Ord. No. 83-04, § 22, 3-8-83)

359 Sec. 3-2-3. - Judicial enforcement generally.

360 The Charlotte County Construction Industry Licensing Board, the board of county
361 commissioners or any aggrieved person may, in addition to other remedies provided in
362 this Code, apply to the courts for enforcement of the provisions of this chapter, and of
363 the code or codes promulgated and adopted pursuant hereto. Such violations may be
364 restrained by injunction, including mandatory injunction, or otherwise abated in any
365 manner provided by law.

366 (Ord. No. 83-04, § 23, 3-8-83; Ord. No. 2009-019, § 1, 5-12-09)

367 Sec. 3-2-4. - Purpose.

368 This chapter is enacted for the purpose of protecting the public health, safety,
369 morals and general welfare of the people of the county and shall be effective in the
370 unincorporated area of the county.

371 (Ord. No. 83-04, § 2, 3-8-83)

372 Sec. 3-2-5. - Responsibility of contractors.

373 (a) Every contractor shall have all of the following responsibilities with respect to any
374 work performed within the county by the contractor or under the contractor's
375 direction, or by the contractor's employees or subcontractors, or for which the
376 contractor or any partnership in which the contractor is a partner or any corporation
377 in which the contractor is an employee or officer, shall receive or be promised any
378 compensation or consideration either in money or other thing(s) of value:

379 (1) To see that all such work shall fully conform to the requirements of the
380 applicable provisions of this chapter and other ordinances of the county
381 pertaining or relating to such work, including but without being limited to, the
382 Florida Building Code, in the editions now or hereafter adopted by the Florida
383 Building Commission.

384 (2) To see that all such work is done in conformity with the plans and
385 specifications covering same.

386 (3) To see that all progress or other payments made by or for the owner on
387 account of any such work are properly applied in payment of labor and material
388 bills in accordance with the Florida Construction Lien Law, F.S. Chapter 713.

389 (b) The responsibilities imposed upon contractors by this section shall be deemed to
390 require the personal attendance and presence on the job of the contractor or his
391 designated agent from time to time, and for such length of time as to assure the
392 fulfillment of such responsibilities; and every contractor shall be deemed to be
393 responsible for all work done under or by virtue of the authority of the certificate,
394 even though performed by an employee or other third party, to the same extent as if
395 such contractor had done the work personally.

396 (c) It shall be the responsibility of the contractor to keep all payroll records including
397 but not limited to wages paid, withholding tax, and Federal Insurance Contributions
398 Act (FICA) records pertaining to workers employed by the contractor for each job
399 and to make the same available to the building official, building inspector or code
400 compliance officer at any reasonable time, and from time to time during the
401 progress of the work and for one (1) year after completion thereof.

402 (d) The fact that the building permit or other permit for a particular job or part of a job
403 is issued to the owner or other third party shall not be deemed to diminish the
404 responsibility of any contractor as set out in this section where the work is being

405 done by the contractor or the contractor's employees or under the supervision of the
406 certificate holder.

407 (Ord. No. 2000-001, § 2, 1-11-00; Ord. No. 2009-019, § 1, 5-12-09)

408 Sec. 3-2-6. - Certificates of competency—Generally.

409 (a) *Required.* It shall be unlawful for any person to engage in the business or act in
410 the capacity of a contractor as defined in this chapter, or advertise himself as
411 available to engage in the business or act in the capacity of a contractor, without
412 first obtaining a certificate of competency as provided for herein or being duly
413 certified by the state.

414 (b) *Issuance to individual.* When an individual proposes to do business in his own
415 name, certification, when granted, shall be issued only to that individual.

416 (c) *Issuance to corporation, partnership, etc.* If the applicant proposes to engage in
417 contracting as a partnership, corporation, business trust or other legal entity, the
418 application shall state the name of the partnership and of its partners, or the name
419 of the corporation and of its officers and directors, or the name of the business trust
420 and the trustees, or the name of such other legal entity and its members, and
421 furnish evidence of statutory compliance if a fictitious name is used, and furnish a
422 copy of the charter, agreement or indenture or other instrument under which such
423 business is organized. Such application shall also show that the person applying for
424 the certificate of competency is legally qualified to act for the business organization
425 in all matters connected with its contracting business and that he has authority to
426 supervise construction undertaken by such business organization and that he has
427 an active participation in the operation, management and control of the business
428 organization. The certificate, when issued upon application of a business
429 organization, shall be in the name of such business organization; and the name of
430 the qualifying individual shall be noted thereupon.

431 (1) *Affiliation of qualified individual with business organization.*

432 a. At least one (1) supervising member or supervising employee of the
433 business organization shall be qualified under this chapter in order for the
434 business organization to be qualified by current certificate of competency in
435 the category of the business conducted for which the supervising member
436 or supervising employee is qualified. If an individual qualifying a business
437 organization ceases to be affiliated with such business organization, he
438 shall inform the county licensing division in writing. In addition, if such
439 individual is the only qualified individual affiliated with the business
440 organization, the business organization shall notify the board of the
441 individual's termination and shall have a minimum of sixty (60) days from
442 the termination of the individual's affiliation with the business organization in
443 which to obtain another qualified person. It shall be unlawful for the
444 business organization to contract, continue working or receive permits until
445 a qualifying individual is obtained.

- 446 b. The individual shall also inform the building director in writing when he
447 proposes to engage in contracting in his own name or in affiliation with
448 another business organization, and he or such new business organization
449 shall supply the same information to the board as required for applicants
450 under this article.
- 451 c. After an investigation of the financial responsibility, credit and business
452 reputation of the individual and the new business organization, upon a
453 favorable determination, the building director shall forthwith issue, without
454 an examination, a new certificate or registration in the individual's name;
455 and the name of the business organization shall be noted thereon as
456 provided above.
- 457 d. It shall be unlawful for a qualified individual to represent more than two (2)
458 business entities. If an applicant desires to qualify more than one (1)
459 business entity, he shall appear before the board and present evidence of
460 having an active participation in the operation, management and control of
461 the second company, as well as ability and financial responsibility as
462 required by this section. The applicant shall also fully disclose all persons
463 with a financial interest or expectancy in the second company. The
464 issuance of such additional business qualification by the board shall be
465 based on the following criteria. The decision of the board may be appealed
466 by the applicant through the provisions provided herein.
- 467 1. The entity already qualified and the entity seeking to be qualified must
468 both have a cash balance and positive net worth as evidenced by
469 certified bank statements or other evidence from a Certified Public
470 Accountant which are no more than thirty (30) days old.
 - 471 2. Additional entities must have a minimum cash balance of ten thousand
472 dollars (\$10,000.00) and a minimum net worth of ten thousand dollars
473 (\$10,000.00). Documentation of verification of bank balance is required
474 through certified bank statements no more than thirty (30) days old.
 - 475 ~~3.— Additional entities must have a minimum cash balance of ten thousand~~
476 ~~dollars (\$10,000.00) and a minimum net worth of ten thousand dollars~~
477 ~~(\$10,000.00). Documentation of verification of bank balance is required~~
478 ~~through certified bank statements.~~
 - 479 ~~4.~~3. The qualifier must be responsible for and capable of supervising,
480 directing, managing and controlling both the contracting activities of the
481 entity he qualifies and the entity he seeks to qualify. Managing of
482 contracting activities includes the proper collection and disbursement of
483 funds and the proper payment of subcontractors and other bills. In
484 addition, he must be responsible for and capable of the supervision,
485 direction, management and control of all entities for which he pulls
486 permits. Geographical location of all entities involved must be so
487 situated as to permit the aforementioned supervision, direction,
488 management and control. The board will consider the ownership

489 interest, status as a corporate officer, check-writing authority, and other
490 facts as evidence of control of the entities.

491 ~~5-4~~. Credit reports on all entities involved must be favorable and must
492 include any liens and judgments against the entities, and those liens
493 and judgments must not be such as to jeopardize the financial
494 responsibility of the entities being qualified.

495 ~~6-5~~. A qualifier must be doing business under the license he presently
496 holds for at least one (1) year prior to his application to qualify an
497 additional entity.

498 (2) *Application process.*

499 a. Submit a letter requesting an appearance before the board at the next
500 regularly scheduled meeting to qualify for an additional license or to make a
501 change to an existing additional license. The completed and correct
502 application must be submitted to the board no later than three (3) weeks
503 prior to the next regularly scheduled meeting of the board; however, it
504 cannot be guaranteed that the application will be placed on the agenda for
505 the next regularly scheduled meeting.

506 (~~ed~~) This section shall not apply to plumbing contractors as defined in F.S. section
507 489.105.

508 (Ord. No. 83-04, § 10, 3-8-83; Ord. No. 84-15, § 3, 7-17-89; Ord. No. 84-24, § 3, 11-6-
509 84; Ord. No. 88-45, § 9, 12-20-88; Ord. No. 89-58, § 8, 7-11-89; Ord. No. 97-116, § 1,
510 12-2-97; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026, § 2, 11-13-12; Ord. No.
511 2014-012, § 2, 5-13-14; Ord. No. 2015-029, § 2, 6-23-15)

512 **Editor's note**— This text was formerly found in § 3-2-42. Former § 3-2-6 is now located
513 in § 3-2-46.

514 Secs. 3-2-7—3-2-20. - Reserved.

515 ARTICLE II. - COUNTY BUILDING BOARD AND BUILDING DEPARTMENT^[2]

516

517 Footnotes:

518 --- (2) ---

519 **Cross reference**— Administration, Ch. 1-2.

520 Sec. 3-2-21. - Created.

521 There is created the Charlotte County Construction Industry Licensing Board which,
522 pursuant to the provision of this article, shall recommend to the board of county
523 commissioners policy with respect to the functioning, supervision and administration of

524 the Charlotte County Building Construction Services Department, which department is
525 hereby created.

526 (Ord. No. 83-04, § 1, 3-8-83; Ord. No. 2009-019, § 1, 5-12-09)

527 Sec. 3-2-22. - Certificate of competency procedures.

528 (a) *Generally.*

529 (1) The county Construction Industry Licensing Board (CILB), or the building
530 director, or his designee, shall examine and determine the qualifications of
531 persons desiring to engage in the trade or occupation of contractor, as defined
532 in this chapter, and shall issue to such persons as are determined to be
533 qualified, local certificates of competency.

534 (2) In addition, the CILB may revoke or suspend local certificates of competency
535 issued under this chapter, as provided herein. The CILB may also suspend the
536 right to obtain building permits of contractors certified pursuant to state law.

537 (b) *Waiving certificate requirements.* Notwithstanding any other provisions of this
538 chapter or the Code to the contrary, the CILB may waive any or all of the
539 requirements for a certificate of competency and after approving such waiver, grant
540 a certificate of competency with or without restrictions or limitations for any trade for
541 which the CILB issues or approves certificates of competency upon written
542 application by an individual and payment of an administrative fee established by the
543 approved scale of fees. The applicant shall be sponsored by an active certified or
544 registered contractor who must appear before the CILB with the applicant. It is the
545 expressed policy of the CILB that this waiver be used sparingly and only in the most
546 exceptional circumstances. It is not intended that waivers are to be routinely
547 granted. It is expected that all individuals seeking a local certificate of competency
548 in their particular trade will follow the procedures set forth in the Code to obtain such
549 certification. In determining whether to waive the requirements for a certificate of
550 competency, the CILB shall consider, without limitation, the following factors:

551 (1) The score obtained on any recognized examination for a particular trade.

552 (2) Whether the individual is has a certificate of competency or the equivalent
553 from another Florida county or in another jurisdiction not within Florida.

554 (3) The number of years the individual has been engaged in a particular trade.

555 (4) The type of local certificate of competency the individual is seeking.

556 (5) The likelihood of danger to the public health, safety and welfare if the
557 individual is granted a local certificate of competency.

558 (6) Any other pertinent factor that relates to a particular individual's qualifications
559 or lack thereof to obtain a local certificate of competency by waiver.

560 (c) *Applications; qualifications.* Individuals desiring local certificates of competency
561 shall make an application on a form provided by the CILB. No person shall be

562 entitled to be examined until he has furnished proof satisfactory to the board that he
563 has met the following requirements:

564 (1) a. Has attained the age of eighteen (18) years or more.

565 b. Is authorized to work in the United States, pursuant to Title 8, United
566 States Code § 1621.
567

568 (2) a. Has financial responsibility as determined by the CILB or the building
569 director, or his designee, based on a credit report no more than six (6)
570 months old, obtained at the cost of the applicant from a nationally
571 recognized agency, issued in the applicant's name and mailed directly to
572 the building department; or any other documentation as may reasonably be
573 required by the above-mentioned authority.

574 b. "Financial responsibility" is defined as the ability to safeguard that the
575 public will not sustain economic loss resulting from the contractor's inability
576 to pay his lawful obligations under the contract.

577 c. The financial responsibility grounds on which the board may refuse to
578 qualify an applicant shall include, but not be limited to, the existence, within
579 the past five (5) years preceding the application, of an unsatisfied court
580 judgment rendered against the applicant based upon the failure of the
581 applicant to pay his just obligations.

582 (3) Is of good moral character.

583 (4) Meets eligibility requirements according to one (1) of the following criteria:

584 a. Has received a baccalaureate degree from an accredited four-year college
585 in the appropriate field of engineering, architecture or building construction
586 and has one (1) year of proven experience in the category in which the
587 person seeks to qualify. Two thousand (2,000) man hours in the category
588 applied for in any twelve-month period shall constitute a year of experience
589 for the purpose of this section.

590 b. Has four (4) years of active experience as follows: Has at least three (3)
591 years of active experience as a workman who has learned his trade by
592 serving an apprenticeship or as a skilled workman who is able to command
593 the rate of a mechanic in his particular trade and has at least one (1) year of
594 active experience at the level of foreman who is in charge of a group of
595 workmen and usually is responsible to a superintendent or a contractor or
596 his equivalent, if applying for a certificate for an activity described in the
597 definitions of "general contractors" through "underground utility contractors"
598 in Section 3-2-1.

599 c. Has a combination of not less than one (1) year of experience as a
600 foreman and not less than thirty-six (36) credits from any accredited college
601 in a related field of study; has a combination of not less than one (1) year of
602 experience as a skilled workman, one (1) year of experience as a foreman,
603 and not less than two (2) years of credit from any accredited college-level
604 courses; or has a combination of not less than two (2) years of experience

605 as a skilled workman, one (1) year of experience as a foreman, and not less
606 than one (1) year of credits from any accredited college-level courses. For
607 the number of years of credits from any accredited college-level courses,
608 the applicant shall show completion of an equal number of courses in the
609 appropriate field of engineering, architecture or building construction. All
610 junior or community college level courses shall be considered accredited
611 college-level courses.

612 d. Except as provided below for home inspectors, individuals desiring a local
613 specialty contractor's certificate of competency has three (3) years of active
614 experience in the specialty trade.

615 e. Applicants for certificate of competency for local specialty contractors as
616 defined in Section 3-2-1(c)(1) through (27), may elect to substitute two (2)
617 years of required experience with a completed certification in a relevant
618 course of study from the Charlotte Technical Center or other similar
619 vocational or technical center located in Florida. A detailed course
620 description plus the students' transcript, must be included as part of the
621 application.

622 (5) Additional eligibility requirements for building and general contractors.

623 a. An active county residential contractor is eligible to take the building
624 contractor's examination if he possesses a minimum of three (3) years of
625 proven experience in the classification in which he has a certificate of
626 competency.

627 b. An active county residential contractor is eligible to take the general
628 contractors' examination if he possesses a minimum of four (4) years of
629 proven experience in the classification in which he has a certificate of
630 competency.

631 c. An active county building contractor is eligible to take the general
632 contractors' examination if he possesses a minimum of four (4) years of
633 proven experience in the classification in which he has a certificate of
634 competency.

635 (6) Additional eligibility requirements for air conditioning contractors.

636 a. An active county air conditioning class C contractor is eligible to take the
637 air conditioning class B contractors' examination if he possesses a
638 minimum of three (3) years of proven experience in the classification in
639 which he has a certificate of competency.

640 b. An active county air conditioning class C contractor is eligible to take the
641 air conditioning class A contractors' examination if he possesses a
642 minimum of four (4) years of proven experience in the classification in which
643 he has a certificate of competency.

644 c. An active county air conditioning class B contractor is eligible to take the air
645 conditioning class A contractors' examination if he possesses a minimum of

646 one (1) year of proven experience in the classification in which he has a
647 certificate of competency.

648 (7) Additional eligibility requirements for plumbing contractors.

649 a. No person shall be eligible to take the examination for a master plumber's
650 certificate until such time as he has completed six (6) years of experience in
651 the plumbing trade. However, an active county licensed journeyman
652 plumber shall be eligible to take the examination for a master plumber
653 certificate upon the completion of two (2) years as a journeyman plumber.

654 (8) Additional eligibility requirements for electrical contractors.

655 a. No person shall be entitled to a journeyman's license until he has one (1)
656 of the following requirements:

657 1. Produced proof satisfactory to the building board that he has four (4)
658 years of experience in the electrical trade and a grade of seventy-five
659 (75) percent or better on the journeyman electrical exam; or

660 2. Successfully completed an electrical apprenticeship program
661 acceptable to the CILB, including such examinations as may be
662 required by that board, and approved for same by the CILB.

663 b. No person shall be eligible to take the examination for a master
664 electrician's certificate until such time as he has completed six (6) years of
665 experience in the electrical trade. However, an active county licensed
666 journeyman electrician shall be eligible to take the examination for master
667 electrician upon completion of two (2) years as a journeyman electrician.

668 (9) Additional eligibility requirements for swimming pool/spa contractors.

669 a. An active registered swimming pool/spa servicing contractor is eligible to
670 take the residential swimming/spa pool contractor's examination if he
671 possesses a minimum of three (3) years of proven experience in the
672 classification in which he has a certificate of competency.

673 b. An active registered swimming pool/spa servicing contractor is eligible to
674 take the commercial swimming/spa pool contractor's examination if he
675 possesses a minimum of four (4) years of proven experience in the
676 classification in which he has a certificate of competency.

677 c. An active registered residential swimming pool/spa servicing contractor is
678 eligible to take the commercial swimming/spa pool contractor's examination
679 if he possesses a minimum of one (1) year of proven experience in the
680 classification in which he has a certificate of competency.

681 (10) Additional eligibility requirements for underground utility contractors.

682 a. No person shall be entitled to an underground utility contractor's certificate
683 of competency until he has met one (1) of the following requirements:

684 b. Produced proof satisfactory to the board that he has four (4) years of
685 experience in the trade and a grade of seventy-five (75) percent or better on
686 the underground utility contractor's exam.

687 (d) *Conduct of examinations.* All examinations shall be industry accepted
688 standardized test prepared by testing companies approved by the CILB upon the
689 recommendation of the county licensing division. Examinations may be proctored
690 and graded by the testing company or if authorized by the creator of the test by the
691 county licensing division. The examination shall be for the purpose of testing the
692 qualifications of applicants and their familiarity with rules, regulations and the
693 technical codes involved. Persons failing to pass any examination may apply for a
694 reexamination. A grade on such examination of at least seventy-five (75) percent
695 shall be a prerequisite to the issuance of any certificate of competency.

696 (1) If a contractor is state certified and applies to obtain a local certificate of
697 competency, the business and law portion of the state exam will be
698 reciprocated as long as the applicant has passed the exam, regardless of the
699 score achieved. A score of at least seventy-five (75) percent must be obtained
700 on the trade exam for which the applicant has applied.

701 (e) *Fees, certificate renewal, termination.*

702 (1) A schedule of reasonable fees for applications and examinations for the
703 issuance of a certificate of competency shall be adopted by the board of county
704 commissioners upon the recommendation of the CILB. All such fees shall be
705 deposited in the county general fund and used specifically for the enforcement
706 of contractor licensing regulations in Charlotte County.

707 (2) Each applicant who passes the examination shall be furnished a certificate of
708 competency by the building board.

709 (3) Certificates of competency issued under the provisions of this chapter shall
710 expire on September 30 of a given period as determined by the department
711 director. Each holder of a certificate of competency shall have the same
712 renewed on or before September 30, and it will be the responsibility of the
713 certificate holder to ensure this is done. Each holder shall pay a fee in
714 accordance with the scale of fees recommended by the CILB and approved by
715 the board of county commissioners. Fees shall be deposited in the county
716 general fund and used specifically for the enforcement of contractor licensing
717 regulations in Charlotte County.

718 (4) New certificates of competency shall have the following prorated fees:

719 a. Issuance during the first twelve (12) months shall pay the full biannual fee.

720 b. Issuance during the last twelve (12) months shall pay fifty (50) percent of
721 the biannual fee.

722 (5) Certificate of competency renewal after expiration date shall carry the
723 following penalties in addition to renewal fees:

724 a. A penalty of ten (10) percent shall be added to the renewal fee during the
725 first thirty (30) days after expiration of the certificate.

- 726 b. A penalty of twenty-five (25) percent shall be added to the renewal fee
727 during the second thirty-day period after expiration of the certificate.
- 728 c. A penalty of fifty (50) percent shall be added to the renewal fee during the
729 third thirty-day period after expiration of the certificate.
- 730 d. A penalty of one hundred (100) percent shall be added to the renewal fee
731 after ninety (90) days following the expiration of the certificate. If the
732 certificateholder also has not maintained the license in another Florida
733 jurisdiction within the previous five (5) years, the certificateholder will be
734 required to retake the appropriate trade and business and law
735 examinations.
- 736 (6) Certificates of competency previously issued without examination in such
737 areas that currently require an examination shall terminate if not renewed by
738 September 30 of each period. The holder thereof shall then be required to pass
739 the appropriate examination before a new certificate of competency will be
740 reissued.
- 741 (7) The holder of an active certificate may, upon written request in a form
742 prescribed by the building director, transfer his certificate to an inactive status
743 for a fee established by the approved scale of fees per year for a period of no
744 more than five (5) consecutive years, at which time the license shall terminate
745 unless reactivated under the requirements of this chapter or an extension is
746 granted by the building board. A reactivation fee established by the approved
747 scale of fees will be assessed in addition to the above fee requirements.
- 748 (8) A licensee who holds a "grandfathered" certificate of competency in any trade
749 or craft must maintain said license in compliance with the provisions of this
750 chapter as pertains to renewal or inactivation. Failure to do so shall result in
751 loss of the "grandfathered" status and will require passing an appropriate
752 examination for certificate renewal in such trades or crafts that currently require
753 examinations.
- 754 (9) Failure of the certificate holder to maintain a current file on a certificate of
755 competency that has been placed inactive will result in the holder paying upon
756 renewal a retroactive fee established by the approved scale of fees per year to
757 the last date valid certificate was held, said period not to exceed five (5) years.
- 758 Nothing in this provision shall apply to inactive "grandfathered" certificates of
759 competency, which will be regulated as stated above.
- 760 (10) If a certificate is not renewed or maintained on an inactive status for five (5)
761 years, the certificate holder's file will be purged from the licensing division
762 records and it will be the responsibility of the certificate holder to supply all
763 necessary documents to renew his license. If the certificateholder has not
764 maintained the license in another Florida jurisdiction, the certificateholder will be
765 required to retake the appropriate trade and business and law examinations.
- 766 (11) The holder of any certificate, employed in a governmental agency, state,
767 local or federal, which regulates the building industry, and the rules of which

768 agency prevent the employee from operating in the capacity of contractor, may
769 continue to keep his certificate in inactive status for more than five (5) years.
770 There shall be no fee charged to such employee for keeping his certificate in
771 inactive status in any year, provided that such employee applies to inactive
772 status in each year he desires to keep his certificate in inactive status.

773 (12) No person shall be entitled to a renewal of any certificate of competency
774 which has been revoked unless he fulfilled all requirements ordered by the
775 CILB, and such requirements may include reexamination.

776 (13) An administrative fee established by the approved scale of fees will be
777 assessed for any certificate of competency name change.

778 (14) An administrative fee for letters of reciprocity will be assessed as follows:
779 First letter, free; each additional letter will be subject to a fee established by the
780 approved scale of fees.

781 (Ord. No. 83-04, § 15, 3-8-83; Ord. No. 84-15, § 1, 7-17-84; Ord. No. 84-24, § 1, 11-6-
782 84; Ord. No. 88-45, § 10, 12-20-88; Ord. No. 89-58, § 9, 7-11-89; Ord. No. 92-16, § 10,
783 2-26-92; Ord. No. 92-86, § 4, 10-20-92; Ord. No. 95-036, § 1, 8-29-95; Ord. No. 2002-
784 042, §§ 2, 3, 9-24-02; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026, § 3, 11-13-
785 12; Ord. No. 2014-012, § 3, 5-13-14; Ord. No. 2015-029, § 3, 6-23-15; Ord. No. 2016-
786 024, § 6, 6-14-16)

787 **Editor's note**— This text was formerly found in § 3-2-46. Former § 3-2-22 is now
788 located in § 3-2-42.

789 **Annotation**—Where a building contractor applied for a certificate of competency, it
790 could not be denied on the ground that he had sought relief under the bankruptcy laws,
791 *Lambillotte v. Charlotte County*, 25 B.R. 392 (1982).

792 Sec. 3-2-23. - Status of technical codes;

793 The Florida Building Code, as amended, is the building code in effect in the county.

794 (Ord. No. 83-04, § 6, 3-8-83; Ord. No. 83-11, § 1, 4-19-83; Ord. No. 2000-001, § 3, 1-
795 11-00; Ord. No. 2003-018, § 1, 4-22-03; Ord. No. 2009-019, § 1, 5-12-09)

796 Sec. 3-2-24. - Exceptions generally.

797 The certificate of competency and examining provisions of this chapter shall not
798 apply to:

799 (a) The exceptions listed in F.S. sections 489.103 and 489.503.

800 ~~(b) The builder of nonresidential farm buildings without any electrical, mechanical~~
801 ~~or plumbing systems or facilities on farms where the parcel to be built upon~~
802 ~~exceeds forty (40) acres and where the parcel has also received an agricultural~~
803 ~~exemption as defined in F.S. section 193.461.~~

804 (eb) If a contractor uses the exemption found in F.S. section 489.117(4)(d) to
805 provide labor, a certified or registered general, building or residential contractor
806 must be on site during those phases for which exempted work is performed and
807 during all inspections.

808 (Ord. No. 83-04, § 20, 3-8-83; Ord. No. 83-11, § 3, 4-19-83; Ord. No. 84-21, § 1, 7-31-
809 84; Ord. No. 88-45, § 7, 12-20-88; Ord. No. 89-58, § 7, 7-11-89; Ord. No. 92-16, § 7, 2-
810 26-92; Ord. No. 92-86, § 5, 10-20-92; Ord. No. 97-078, § 1, 9-2-97; Ord. No. 2000-001,
811 § 4, 1-11-00; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026, § 4, 11-13-12; Ord.
812 No. 2014-012, § 4, 5-13-14)

813 **Editor's note**— This text was formerly found in § 3-2-40, as renumbered from § 3-2-41.
814 Former § 3-2-24 is now located in § 3-2-40.

815 **State Law reference**— Exemptions from contracting laws, F.S. §§ 489.103, 489.503.

816 Secs. 3-2-25, 3-2-26. - Reserved.

817 **Editor's note**— Ord. No. 2002-010, § 6, adopted Mar. 26, 2002, repealed § 3-2-26,
818 which pertained to examination exceptions and specialty category contractors, derived
819 from Ord. No. 88-45, § 8, adopted Dec. 20, 1988; Ord. No. 92-16, § 8, adopted Feb. 26,
820 1992; and Ord. No. 92-86, § 6, adopted Oct. 20, 1992.

821 Sec. 3-2-27. - Permits.

822 (a) It shall be unlawful for any person to construct, move, demolish, erect, alter or
823 repair any building or structure or any roof structure, or any electrical or plumbing or
824 mechanical facility, without first obtaining a permit from the building director or his
825 authorized deputy, as required by the department. However, no permit shall be
826 required for any sign exempt under subsection 3-9-95 1.1.10 of the county zoning
827 regulations in this Code, as that section may be amended from time to time, and no
828 permit shall be required for the structures described in subsection 3-2-23(c). A
829 permit issued shall be construed to be a license to proceed with the work and shall
830 not be construed as authority to violate, cancel, alter or set aside any of the
831 provisions of the Charlotte County Code of Laws and Ordinances or the Laws of
832 Florida. The issuance of a permit shall not prevent the building director from
833 thereafter requiring a correction of errors in plans or in construction or of violations
834 of this chapter, or of any code adopted hereunder, or of any applicable portions of
835 the county zoning regulations.

836 (b) Applications for a permit may be made by an owner or contractor in a form
837 prescribed by the building director in conformance with this chapter and all
838 applicable codes including all applicable portions of the county zoning regulations.
839 Each such application shall be accompanied by a statement signed by the owner in
840 a form prescribed by the building director stating that he has investigated and
841 determined that the contractor holds a valid county certificate of competency to

842 perform the work proposed and that he has investigated and determined that
843 potable water is or is not available at the building site.

844 (Ord. No. 83-04, § 9, 3-8-83; Ord. No. 83-11, § 2, 4-19-83; Ord. No. 83-23, § 1, 7-26-83;
845 Ord. No. 88-45, § 6, 12-20-88; Ord. No. 89-58, § 6, 7-11-89; Ord. No. 92-16, § 6, 2-26-
846 92; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026, § 5, 11-13-12)

847 Secs. 3-2-28—3-2-39. - Reserved.

848 ARTICLE III. - CONTRACTORS, JOURNEYMEN, ETC.⁽³⁾

849

850 Footnotes:

851 --- (3) ---

852 **State Law reference**— Contracting, F.S. Ch. 489.

853 Sec. 3-2-40. - Fees.

854 The Board of County Commissioners, upon recommendation of the board, shall
855 establish a schedule of reasonable fees for permits and inspections of installations
856 undertaken by the crafts and trades governed by this chapter, said fees to remain in
857 effect until amended under this chapter; and all such fees collected shall be deposited in
858 the Building Special Revenue Fund.

859 (Ord. No. 83-04, § 7, 3-8-83; Ord. No. 88-45, § 4, 12-20-88; Ord. No. 92-16, § 4, 2-26-
860 92; Ord. No. 2014-012, § 5, 5-13-14)

861 **Editor's note**— This text was formerly found in § 3-2-24. Former § 3-2-40 is now
862 located in § 3-2-24.

863 Sec. 3-2-41. - Emergency meetings of the construction industry licensing board.

864 If the building or licensing official finds that the actions of a contractor, whether a
865 county certificate holder or state certified, constitute an immediate danger to the public
866 health, safety or welfare, the building or licensing official shall pursue the following
867 procedure in order to realize a temporary suspension of the contractor's authority to
868 obtain building permits:

869 (a) (1) The building or licensing official shall call an emergency meeting of the
870 board for the purposes of hearing the charges made against the contractor
871 by the building or licensing official. At the emergency meeting, all parties
872 shall have an opportunity to respond, to present evidence and argument on
873 all issues involved, to conduct cross-examination, and to submit rebuttal
874 evidence.

875 (2) Not less than three (3) days before the emergency meeting of the board,
876 the building or licensing official shall notify the contractor of the substance
877 of the charge against him and the facts expected to be relied upon by the
878 building or licensing official to sustain the charges. Notices shall be
879 considered served on the contractor if hand-delivered or sent by certified
880 mail, return receipt requested, to the last known address of the contractor
881 as shown in the records of the community development department or in
882 the case of a state certified contractor, the address on file with the
883 department of business and professional regulation.

884 (3) Upon conclusion of the special meeting, if the board finds that there is
885 competent and substantial evidence to support the building or licensing
886 official's assertion that the contractor's actions constitute an immediate
887 threat to the public health, safety or welfare, then the board may suspend
888 the authority of the contractor to obtain building permits for a period of up to
889 thirty (30) days. Such emergency suspension shall not be renewable.

890 (4) The board shall, at its next regularly scheduled meeting, initiate the formal
891 proceedings against the contractor described in section 3-2-47.

892 (b) The building or licensing official may request the construction industry licensing
893 board to call an emergency meeting during an officially declared state of emergency
894 to address issues caused by the state of emergency.

895 (Ord. No. 83-04, § 3, 3-3-83; Ord. No. 88-45, § 5, 12-20-88; Ord. No. 89-58, § 5, 7-11-
896 89; Ord. No. 92-16, § 5, 2-26-92; Ord. No. 2003-018, § 2, 4-22-03; Ord. No. 2009-019, §
897 1, 5-12-09; Ord. No. 2012-026, § 6, 11-13-12; Ord. No. 2014-012, § 6, 5-13-14)

898 **Editor's note**— This text was formerly found in § 3-2-26. Former § 3-2-41 is now
899 located in § 3-2-26.

900 Sec. 3-2-42. - Construction industry license board—Membership; organization; board
901 attorney; powers; appeals.

902 (a) *Membership.* The Charlotte County Construction Industry Licensing Board (CILB)
903 shall have nine (9) members appointed by the board of county commissioners to
904 serve at the pleasure of the board of county commissioners. The membership shall
905 consist of one (1) member shall be a general contractor, one (1) a plumbing
906 contractor, one (1) an electrical contractor, one (1) an air conditioning or mechanical
907 contractor, one (1) a specialty contractor, and one (1) an architect or engineer
908 registered in the state. The board shall have three (3) members of the general
909 public with no financial interest, direct or indirect, in the building trades.

910 (1) Members of the board shall be residents of or maintain a principal place of
911 business in the county for two (2) years; and

912 (2) Contractors must have current and active certificate of competency issued
913 either by the state or the county.

914 (b) *Term of office, forfeiture of appointment and filling of vacancies.*

915 (1) All appointments to the board shall be made for a term of four (4) years. No
916 board member shall serve more than two (2) consecutive terms or more than a
917 total of eleven (11) years.

918 (2) Board members shall forfeit their appointment for conviction of any felony or
919 misdemeanor relating to moral turpitude. They may also forfeit their
920 appointment for conviction of construction industry regulation violations or
921 conduct unbecoming a board member, at the discretion of the board members
922 or the board of county commissioners. They shall also forfeit their appointment
923 for chronic absenteeism (more than two (2) consecutive meetings, or more than
924 four (4) meetings in a twelve-month period).

925 (3) Any vacancy on the board shall be filled for the unexpired portion of the term
926 in the same manner as the original appointment.

927 (c) *Organization, board attorney, administration and compensation.*

928 (1) The board shall elect from its members a chairman and a vice-chairman who
929 shall serve in that capacity for one (1) year. This election shall be held at the
930 last scheduled board meeting of the year. The newly elected chairman and vice
931 chairman shall assume the duties at the first scheduled board meeting of the
932 new year.

933 (2) The county shall provide, through outside counsel, an attorney to act as legal
934 counsel to the board.

935 (3) The county shall provide clerical and administrative personnel as may
936 reasonably be required by the board for the proper performance of its duties.

937 (4) Members shall serve without compensation but may be reimbursed for such
938 travel, mileage and per diem expenses as may be authorized by the county
939 commissioners.

940 (d) *Meetings, records and quorum.*

941 (1) The board shall regularly convene at least once every two (2) months, but
942 may convene more often as the agenda demands. All regular and special
943 meetings, hearings and records of all the board's transactions and deliberations
944 shall be open to the public.

945 (2) Five (5) members of the board shall constitute a quorum at any meeting, and
946 a majority vote of those present shall be required to make any decision.

947 (e) *Disqualification of a board member.* A member may be disqualified to act in a
948 particular proceeding, either voluntarily or by a majority vote of the board, for
949 reasons of bias, prejudice or significant personal interest in the matter involved. For
950 purposes of this section, "bias and prejudice" are defined as a member's
951 predisposition either for or against any individual involved in a proceeding, or any
952 issue being considered by the board. Significant personal interest by a member
953 means that the proceedings before the board create a situation where a private duty
954 or interest, as defined in F.S. Chapter 112, Code of Ethics of Public Employees.

955 (f) *Jurisdiction of board.* The board has jurisdiction over all matters contained within
956 this chapter.

957 (g) *Powers of the board.*

958 (1) To develop and adopt minimum standards for certificates of competency of
959 local and registered contractors that are to be kept and made available through
960 the county community development department.

961 (2) To determine the qualifications of applicants for the various types of local and
962 registered contractors' certificates of competency and approve or deny issuance
963 thereof.

964 (3) To promulgate rules and procedures for the conduct of its meetings and
965 hearings and take sworn testimony therein.

966 (4) To hold and conduct hearings in an effort to determine the validity of alleged
967 violations brought by the county against local specialty, registered and certified
968 contractors.

969 (5) To issue subpoenas only upon the specific request of a party to compel the
970 attendance of witnesses and documents before the board, said subpoenas to
971 be served by an individual who is qualified to serve subpoenas under either the
972 Florida Rules of Civil Procedure or Florida Statutes, as they may be amended.

973 Failure to comply with any subpoena issued under this section could result in an
974 enforcement proceeding before the circuit court for the twentieth judicial circuit,
975 which is empowered to hear such cases.

976 (6) To discipline a registered contractor or local specialty contractor found in
977 violation of this chapter, state laws regulating the construction industry, zoning
978 codes, or any requirements hereunder by:

979 a. Revoking, suspending or denying the issuance or renewal of his or her
980 certificate of competency.

981 b. Revoking or suspending his permit pulling privileges, and the authority to
982 perform work which requires a permit or issuing him permits with specific
983 conditions.

984 c. Reprimanding, either in writing or verbally.

985 d. Requiring reexamination.

986 e. Placing on probation for a specific period of time.

987 f. Any combination of the above.

988 g. Referring the case findings and all related case materials on Certified or
989 Registered Contractors to the Florida Department of Business and
990 Professional Regulation for review.

991 h. Issuing fines in accordance with section 3-2-44 for registered or local
992 specialty contractors.

- 993 (7) To discipline a certified contractor found in violation of this chapter, state laws
994 regulating the construction industry, zoning codes, or any requirements
995 hereunder by:
- 996 a. Revoking or suspending his authority to obtain permits thereby preventing
997 him from performing work which requires a permit unless he is operating as
998 an employee of a licensed contractor, or issuing permits with specific
999 conditions.
- 1000 b. Suspending or revoking his authority to engage in business or act in the
1001 capacity of a contractor in Charlotte County.
- 1002 c. Referring the case findings and all related case materials to the Florida
1003 Department of Business and Professional Regulation for review.
- 1004 ~~d.—Reprimanding, either in writing or verbally.~~
- 1005 (8) To impose fines, order restitution and assess reasonable investigative and
1006 legal costs associated with the prosecution of violations, pursuant to F.S.
1007 section 489.131(7)(b). Any fines, restitution and costs so imposed shall be in
1008 addition to any other discipline authorized in this section.
- 1009 (9) The decision of the board in each case shall be represented by a final order,
1010 in the form approved by the CILB, signed by the chairman of the CILB.
- 1011 (10) a. To issue an order upon written notification by the code enforcement
1012 officer that a violator had not contested or paid the civil penalty of a citation
1013 issued pursuant to section 3-2-46 and F.S. Chapter 489, within the
1014 timeframe allowed on the citation, or if a violation has not been corrected
1015 within the timeframe set forth on the notice of violation, the enforcement or
1016 licensing board or the designated special magistrate shall enter an order
1017 directing the violator to pay the civil penalty set forth on the citation or notice
1018 of violation, and a hearing shall not be necessary for the issuance of such
1019 order.
- 1020 b. A certified copy of an order imposing a civil penalty against an uncertified
1021 contractor, unregistered contractor, or person without a local certificate of
1022 competency, or against an individual who hires or contracts with such
1023 unlicensed person, may be recorded in the public records and thereafter
1024 shall constitute a lien against any real or personal property owned by the
1025 violator. Upon petition to the circuit court, such order may be enforced in the
1026 same manner as a court judgment by the sheriffs of this state, including a
1027 levy against personal property; however, such order shall not be deemed to
1028 be a court judgment except for enforcement purposes. A civil penalty
1029 imposed pursuant to this part shall continue to accrue until the violator
1030 comes into compliance or until judgment is rendered in a suit to foreclose
1031 on a lien filed pursuant to this subsection, whichever occurs first. After three
1032 (3) months from the filing of any such lien which remains unpaid, the
1033 enforcement board or licensing board or designated special magistrate may
1034 authorize the local governing body's attorney to foreclose on the lien. No
1035 lien created pursuant to the provisions of this part may be foreclosed on

1036 real property which is a homestead under s. 4, Art. X of the State
1037 Constitution.

1038 (h) *Appeals.*

1039 (1) In accordance with Section 162.11, Florida Statutes, an aggrieved party may
1040 appeal a final disciplinary order of the board to the 20th Judicial Circuit Court
1041 within thirty (30) days of the date the final order is signed by the chairman.

1042 (Ord. No. 83-04, § 4, 3-8-83; Ord. No. 88-45, § 3, 2-20-88; Ord. No. 89-58, § 3, 4, 7-11-
1043 89; Ord. No. 89-69, § 1,2, 9-19-89; Ord. No. 92-16, § 3, 2-26-92; Ord. No. 92-63, § 1, 8-
1044 18-92; Ord. No. 2000-001, §§ 6, 7, 1-11-00; Ord. No. 2009-019, § 1, 5-12-09; Ord. No.
1045 2012-026, § 7, 11-13-12; Ord. No. 2014-012, § 7, 5-13-14; Ord. No. 2015-029, § 4, 6-
1046 23-15; Ord. No. 2016-024, § 7, 6-14-16; Ord. No. 2020-046, § 4, 11-24-20)

1047 **Note**— This text was formerly found in § 3-2-22. Former § 3-2-42 is now located in § 3-
1048 2-6.

1049 Sec. 3-2-43. - Reserved.

1050 **Editor's note**— Ord. No. 2009-019, § 1, adopted May 12, 2009, deleted § 3-2-43,
1051 which pertained to licensing, and derived from Ord. No. 83-04, § 11, adopted March 8,
1052 1983.

1053 Sec. 3-2-44. - Restitution, fines and costs.

1054 (a) The board, in addition to the powers enumerated in section 3-2-42 of this Code, is
1055 hereby granted authority, pursuant to F.S. section 489.131(7)(b), to impose fines,
1056 order restitution and assess reasonable investigative and legal costs associated
1057 with the prosecution of violations against the violator.

1058 (b) In imposing fines, determining the amount of restitution to be ordered, and
1059 assessing costs the board may, in addition to other relevant factors, take into
1060 consideration the following:

1061 (1) The monetary or other damage suffered by the violator's customer, which
1062 damage the violator has not already mitigated as of the time the penalty is
1063 assessed.

1064 (2) Actual job site violations of building codes, or conditions exhibiting gross
1065 negligence, incompetence, or misconduct by the violator which have not been
1066 corrected at the time the penalty is assessed.

1067 (3) The severity of the violation.

1068 (4) The danger to the public.

1069 (5) The number of violations.

1070 (6) The length of time the violator has engaged in contracting.

1071 (7) The deterrent effect of the penalty.

- 1072 (8) The effect of the penalty upon the violator's livelihood.
- 1073 (9) The violator's efforts at rehabilitation.
- 1074 (10) Other mitigating or aggravating circumstances.
- 1075 (c) The following guidelines shall be used in disciplinary cases against Locally
- 1076 Licensed or Registered Contractors, absent aggravating or mitigating
- 1077 circumstances:

Violation Charlotte County Code	Summary Description	Fine
3-2-47(b)(2)	Making a material false statement in the application for or renewal of any certificate or registration, or for the issuance of any permit	\$200— \$500
3-2-47(b)(3)	Discipline by Department of Professional Regulation	\$200— \$1,000
3-2-47(b)(4)	Willful or deliberate disregard and violation of any lawful order of the board, Charlotte County Code, Chapter 3-2, Chapter 3-9, any code adopted pursuant to this chapter, or any state law regulating the construction industry, including chapter 489 and part I of chapter 455	\$500— \$1,000
3-2-47(b)(5)	Abandonment	\$200— \$500
3-2-47(b)(6)	Using or attempting to use a certificate of competency, which has been suspended, revoked, placed inactive, expired or voluntarily surrendered	\$200— \$500
3-2-47(b)(7)	Refusing certified mail	\$200— \$500
3-2-47(b)(8)	Failing to notify of change of address	\$200— \$500
3-2-	Failing to appear	\$200—

47(b)(9)		\$500
3-2-47(b)(10)	Failing to obey a stop work order	\$200— \$1,000
3-2-47(b)(11)	Failing to file required worker's compensation and liability insurance certificates	\$200— \$1,000
3-2-47(b)(12)	Failing to register local license with the state	\$200— \$500
3-2-47(b)(13)	Failing to register state license with Charlotte County	\$200— \$500
3-2-47(b)(14)	Failing to properly post building permit	\$200— \$500
3-2-47(b)(15)	Failing to present certificate of competency for inspection	\$200— \$500
3-2-47(b)(16)	Failing to keep or present for inspection worker payroll records	\$200— \$500
3-2-47(b)(17)	Failing to display certificate of competency number (license number) on advertisements	\$200— \$500
3-2-47(b)(18)	Failing to display certificate of competency number (license number) on vehicle, when applicable	\$200— \$500
3-2-47(b)(19)	Failing to maintain current subcontractor worksheet	\$200— \$500
3-2-47(b)(20)	Failure to obtain inspections including but not limited to final inspections	\$200— \$500
3-2-47(b)(21)	Failure to display swimming pool/spa water treatment provider sticker on vehicle	\$25— \$100

<u>Florida Statutes</u> <u>Violation</u> <u>Charlotte</u> <u>County Code</u>	Summary Description	Fine
3-2-47(b)(22)	Conviction directly relating to contracting	\$200— \$1,000
3-2-47(b)(23)	Assisting in unlicensed contracting	\$200— \$500
3-2-47(b)(24)	Combining or conspiring with unlicensed persons	\$500— \$1,000
3-2-47(b)(25)	Acting in name other than name on certificate	\$200— \$500
3-2-47(b)(26)	Financial mismanagement or misconduct	\$500— \$1,000
3-2-47(b)(27)	False statements	\$500— \$1,000
3-2-47(b)(28)	Fraud or deceit	\$500— \$1,000
3-2-47(b)(29)	Incompetency or misconduct	\$500— \$1,000
3-2-47(b)(30)	Gross negligence, repeated negligence or negligence resulting in significant danger to life or property	\$500— \$1,000
3-2-47(b)(31)	Proceeding on a job without permits or inspections	\$200— \$500
3-2-47(b)(32)	Intimidating, threatening, coercing or discouraging service of notice to owner or notice to contractor	\$500— \$1,000
3-2-47(b)(33)	Failing to satisfy a civil judgment relating to contracting	\$200—

	within a reasonable time.	\$1,000
3-2-47(b)(34)	Violating chapter 633 or rules of the State Fire Marshall	\$200— \$1,000
3-2-47(b)(35)	Practicing beyond the scope of certification or registration	\$200— \$1,000
3-2-47(b)(36)	Being disciplined by any municipality or county for a violation directly related to the practice of the licensee's profession	\$200— \$500

1079

1080 (Ord. No. 2000-001, § 5, 1-11-00; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026,
1081 § 8, 11-13-12; Ord. No. 2014-012, § 8, 5-13-14)

1082 Sec. 3-2-45. - Examinations.

1083 The Charlotte County Construction Industry Licensing Board shall be the board of
1084 examiners for all of the trades and crafts affected by this chapter.

1085 (Ord. No. 83-04, § 14, 3-8-83; Ord. No. 83-11, § 4, 4-19-83; Ord. No. 2000-001, § 8, 1-
1086 11-00)

1087 Sec. 3-2-46. - Code compliance officer.

1088 (a) *Definition.* A code compliance officer is any person authorized by the board of
1089 county commissioners to investigate and enforce the provisions of this chapter, any
1090 state laws pertaining to the regulation of the construction industry, zoning codes,
1091 and all amendments to these regulations.

1092 (b) *Reserved.*

1093 (c) *Duties.*

1094 (1) It shall be the duty of any person designated as a code compliance officer to
1095 enforce the provisions of the county contractors' licensing code, and state laws
1096 as pertain to the licensing and regulation of the construction industry, and
1097 subsequent amendments thereto relating to these respective regulations.

1098 (2) Nothing herein contained shall be construed to authorize or permit any person
1099 designated as a code compliance officer pursuant to this chapter to perform any
1100 function or duties of a law enforcement officer other than as specified herein.
1101 Said code compliance officers designated pursuant to this chapter shall not
1102 make any physical arrests or take any person into custody and shall be exempt

1103 from the requirements relating to the state high-hazard retirement program and
1104 police standards and training commission as defined as provided by general
1105 law.

1106 (d) *Methods of enforcement.*

1107 (1) Receiving complaints of alleged violations by telephone, in person, written,
1108 observation, or referred by sheriff's office or other agency.

1109 (2) Recognizing elements that constitute violations.

1110 (3) Enforcement.

1111 a. Contact with complainant.

1112 b. Contact with offender.

1113 c. Instructions and advice.

1114 d. Warnings.

1115 1. Written.

1116 2. Stop work.

1117 3. Cease and desist.

1118 4. Notice of violation (LICENSED CONTRACTORS ONLY).

1119 5. Citation.

1120 e. Administrative proceedings before the CILB.

1121 1. Number of violation notices.

1122 2. Time between violation notices.

1123 3. Severity of violation.

1124 4. Referral to D.B.P.R.

1125 f. Prosecution. Prepare and refer cases that require state's attorney
1126 involvement to that agency.

1127 Criminal action may be taken against unlicensed contractors in lieu of or in
1128 addition to code enforcement board action.

1129 g. Advise complainant of action taken, if appropriate.

1130 (e) *Issuance of citation.*

1131 (1) Code compliance officers shall have the authority to initiate enforcement
1132 proceedings against uncertified-unregistered contractors and property owners
1133 who hire or contract with uncertified-unregistered contractors or specialty
1134 contractors without local certificates of competency or who proceed on any job
1135 without first obtaining applicable local building permits and inspections.

1136 (2) A violation relating to contractors without certificates of competency engaging
1137 in the business or acting in the capacity of a contractor or advertising himself or
1138 herself as available to engage in the capacity of a contractor without the

1139 appropriate certificate of competency or being duly registered or certified is
1140 deemed to be a serious threat to the public health, safety and welfare and will
1141 not require the issuance of a notice of violation or warning prior to the issuance
1142 of a citation.

1143 (3) A code compliance officer may issue a separate citation for each day that a
1144 violation is found to exist. The citation form shall include but not be limited to the
1145 following:

- 1146 a. Time and date of issuance.
- 1147 b. Name of code compliance officer issuing the notice.
- 1148 c. Name and address of violator.
- 1149 d. Code section that has been violated.
- 1150 e. Brief description of the nature of the violation, including location, date, and
1151 time of violation.
- 1152 f. Amount of the applicable civil penalty.
- 1153 g. Procedure for the person to follow to pay the civil penalty or to contest the
1154 citation.
- 1155 h. Notice that additional citations may be issued for each day that the
1156 applicable violation is found to exist.
- 1157 i. Notice that failure to request an administrative hearing before the CILB
1158 within ten (10) days after service of the citation, exclusive of weekends and
1159 legal holidays, shall constitute a waiver of the violator's right to an
1160 administrative hearing, and that such waiver shall constitute an admission
1161 of violation.
- 1162 j. Notice that the violator may be liable for the reasonable costs of the
1163 administrative hearing should the violator be found guilty of the violation.

1164 (4) A person who has been served with a citation shall elect either to:

- 1165 a. Pay the civil penalty in the manner indicated on the citation; or
- 1166 b. Request an administrative hearing before the CILB within ten (10) days of
1167 service of the citation, exclusive of weekends and legal holidays.

1168 (5) Appeal of the citation by administrative hearing shall be accomplished by filing
1169 a request in writing to the address indicated on the notice or citation, not later
1170 than ten (10) days after service of the citation, exclusive of weekends and legal
1171 holidays. At the hearing, the person charged with the citation or his duly
1172 appointed representative may challenge the validity of the citation, and show
1173 that the violation has been corrected.

1174 (6) Failure of a violator to appeal the decision of the code compliance officer
1175 within this time period shall constitute a waiver of the violator's right to an
1176 administrative hearing. A waiver of the right to administrative hearing shall be
1177 deemed an admission of the violation, and penalties may be imposed
1178 accordingly.

1179 (f) *Administrative hearings.*

1180 (1) The CILB shall have jurisdiction to hear all matters regarding the issuance of a
1181 notice of violation or a citation issued by a code compliance officer for matters
1182 regarding the issuance of a notice of violation or a citation for contracting
1183 without the appropriate certificate of competency and registration or certification
1184 with the state of Florida.

1185 (2) Upon receipt of a timely request for an administrative hearing, the matter shall
1186 be set for hearing on the next regularly scheduled hearing or as soon thereafter
1187 as possible.

1188 (3) Upon receipt of said request for an administrative hearing, the county shall
1189 serve a notice of hearing to the violator, which notice shall include, but not be
1190 limited to, the following:

1191 a. Place, date and time of the hearing.

1192 b. Right of violator to be represented by an attorney.

1193 c. Right of violator to present witnesses and evidence and conduct cross-
1194 examination.

1195 d. A conspicuous statement reflecting the requirements of F.S. Chapter 286
1196 that a person deciding to appeal any decision of the CILB will need to
1197 ensure that a verbatim record of the proceedings is made.

1198 In lieu of providing a notice of hearing as provided above, the county may
1199 include a hearing date in the citation that will be scheduled if the violator
1200 requests an administrative hearing, provided that the citation includes the
1201 information required by this subsection.

1202 (4) No hearing shall be scheduled sooner than ten (10) days from the date of
1203 service of the citation unless there is reason to believe that a violation presents
1204 a serious threat to the public health, safety or welfare. All hearings shall be
1205 administratively scheduled by the building construction services department.

1206 (5) All hearings shall be open to the public. All testimony shall be under oath,
1207 minutes shall be taken, and the proceedings shall be recorded.

1208 (6) Each case before the CILB shall be presented by the personnel designated by
1209 the county administrator.

1210 (7) Formal rules of evidence shall not apply, but fundamental principles of due
1211 process shall be observed and govern the proceedings. All evidence of a type
1212 commonly relied upon by reasonably prudent persons in the conduct of their
1213 affairs shall be admissible whether or not such evidence shall be admissible in
1214 a court in the State of Florida.

1215 (8) Each party shall have the right to call and examine witnesses, to introduce
1216 exhibits, and to cross-examine opposing witnesses on any relevant matter.

1217 (9) The CILB shall make findings of fact based on evidence presented. In order to
1218 make a finding affirming the code compliance officer's decision, the CILB must

1219 find by a preponderance of the evidence that the violator was responsible for
1220 the violation of the relevant code provision as cited.

1221 (10) If the violator is found guilty of the violation and the appropriate penalty is
1222 assessed, the violator may also be held liable for the reasonable costs of the
1223 administrative hearing, at the discretion of the CILB.

1224 (11) If the CILB finds that a violation exists, it may order the violator to pay a civil
1225 penalty of not less than the amount set forth on the citation but not more than
1226 that allowed by F.S. Chapter 489. In determining the amount of the civil penalty,
1227 the CILB shall consider the gravity of the violation, any actions taken by the
1228 violator to correct the violation, and any previous violations committed by the
1229 violator.

1230 (12) The CILB shall have the power to:

1231 a. Take testimony under oath.

1232 b. Determine whether cited violations occurred.

1233 c. Assess and order the payment of civil penalties and administrative costs as
1234 provided under this chapter.

1235 d. Impose liens as provided herein.

1236 (g) *Collection and recovery of civil penalties.*

1237 (1) The county administrator shall provide by administrative order the appropriate
1238 guidelines and procedures for the administration, collection, record keeping,
1239 reporting, and accountability of penalties assessed under this article. Monies
1240 collected pursuant to this section shall be deposited in the county general fund
1241 and used specifically for the enforcement of contractor licensing regulations in
1242 Charlotte County.

1243 (h) *Appellate review for contested citations after the finding of a violation by the CILB.*
1244 The violator or the county may appeal a decision of the CILB by certiorari to the
1245 Charlotte County Circuit Court within thirty (30) days of the date of rendition of the
1246 decision of the CILB.

1247 (i) *Provisions contained herein are supplemental.* Nothing contained in this article
1248 shall prohibit the county from enforcing the provisions of the building code by any
1249 other means.

1250 (j) *Conflict and severance.* In the event this section conflicts with any other county
1251 Code section or other applicable law, the more restrictive shall apply. If any
1252 subsection, sentence, clause, phrase or portion of this section is for any reason held
1253 invalid or unconstitutional by any court of competent jurisdiction, such portion shall
1254 be deemed a separate, distinct, and independent provision; and such holding shall
1255 not affect the validity of the remainder of the chapter.

1256 (Ord. No. 88-45, § 2, 12-20-88; Ord. No. 92-16, § 2, 2-26-92; Ord. No. 93-60, §§ 1—7,
1257 12-14-93; Ord. No. 2000-001, §§ 9—11, 1-11-00; Ord. No. 2009-019, § 1, 5-12-09; Ord.
1258 No. 2012-026, § 9, 11-13-12; Ord. No. 2014-012, § 9, 5-13-14)

1259 **Editor's note**— This text was formerly found in § 3-2-6. Former § 3-2-46 is now located
1260 in § 3-2-22.

1261 Sec. 3-2-47. - Disciplinary action.

1262 (a) The county, through its authorized agents, upon the verified written complaint of
1263 any person, or upon other evidence of a violation, shall investigate the action of any
1264 holder of a certificate of competency, whether certified, registered or local, and hold
1265 a hearing to determine the necessity for disciplinary action. The certificate holder
1266 shall be notified by certified mail and regular mail of the time and place of such
1267 hearing and shall be furnished a copy of the complaint or a short and plain
1268 statement of the matters asserted by the code compliance officer. All parties shall
1269 have the opportunity to be heard and present evidence and argument on the issues
1270 involved, to conduct cross examination and submit rebuttal evidence. In all
1271 disciplinary proceedings before the board, the burden of proof shall be on the
1272 county. Proof shall be by substantial competent evidence presented to the board by
1273 the code compliance officer or anyone having standing in the matter.

1274 (b) The following acts are unlawful, constitute cause for disciplinary action, and are
1275 hereby deemed willful building code violations:

1276 (1) Any violation of F.S. section 489.129 or section 489.533, whether by a
1277 certified, registered or local contractor.

1278 (2) The making of a material false statement in the application for or renewal or
1279 updating of any certificate or registration, or for the issuance of any permit.

1280 (3) Any act which results in a reprimand, censure, revocation, suspension or other
1281 discipline by any board of the Florida Department of Professional Regulation.

1282 (4) Willful or deliberate disregard and violation of any lawful order of the board,
1283 any provisions of Charlotte County Code, chapter 3-2, any provisions of any
1284 code adopted pursuant to this chapter, or any state law regulating the
1285 construction industry, including F.S. Chapter 489 and Part I of Chapter 455.

1286 (5) Abandoning a construction project in which the contractor is engaged or under
1287 contract as a contractor. A project shall be considered abandoned after ninety
1288 (90) days if the contractor terminates the project without just cause, or without
1289 proper notification to the owner, including the reason for termination, or fails to
1290 substantially perform work under the contract. Construction is considered to be
1291 commenced when the contract is executed and the contractor has accepted
1292 funds from the customer or lender.

1293 (6) Using or attempting to use a certificate of competency, whether certified,
1294 registered or local, which has been suspended, revoked, placed inactive,
1295 expired or voluntarily surrendered.

1296 (7) Refusing certified mail directed to the contractor by the Community
1297 Development Department.

- 1298 (8) Failing to notify the Community Development Department in writing of any
1299 change in the physical address or mailing address of the business within thirty
1300 (30) days of said change.
- 1301 (9) Failing to appear in person or through an attorney at any scheduled hearing
1302 on a complaint filed against the contractor.
- 1303 (10) Failing to stop work on a project after being ordered to do so by the building
1304 official, building inspector or code compliance officer.
- 1305 (11) Failing to comply with the provisions of this Code, section 3-2-48 regarding
1306 workers' compensation and liability insurance.
- 1307 (12) Failing to register any local certificate of competency with the state when
1308 required to do so.
- 1309 (13) If a state certified contractor, failing to register with Charlotte County prior to
1310 contracting or commencing work in Charlotte County.
- 1311 (14) Failing to post any required building permit in a conspicuous place in front of
1312 the premises where the work is being performed.
- 1313 (15) Failing to present for inspection any certificate of competency, along with
1314 proper identification, upon request of the building official, building inspector or
1315 code compliance officer.
- 1316 (16) Failing to keep all payroll, including time cards and time sheets, salary,
1317 withholding tax, social security and FICA records pertaining to the workers on
1318 the job, and to make these documents available as required by section 3-2-5 of
1319 this chapter.
- 1320 (17) Failing to cause to appear on any bid, business proposal, contract,
1321 newspaper advertisement, airwave transmission advertisement, paid telephone
1322 directory listing or other advertising medium used by the contractor, the
1323 certificate of competency number (license number) whether state or local.
- 1324 (18) If the name of the business or type of work performed by the business
1325 appears on a vehicle, failing to also display the certificate of competency
1326 number (license number) in numbers and letters not less than two (2) inches in
1327 height, and in colors contrasting the background color.
- 1328 (19) Failing to file with the building construction services department a
1329 subcontractor change form prior to permitting any subcontractor not on the
1330 subcontractor worksheet, or the most recent previously filed subcontractor
1331 change form, to work on the jobsite.
- 1332 (20) Failing to obtain inspections including but not limited to final inspections.
- 1333 (21) Swimming pool/spa water treatment provider failing to display pool sticker on
1334 vehicle used for pool/spa cleaning.
- 1335 (22) Being convicted or found guilty of or entering a plea of nolo contendere to,
1336 regardless of adjudication, a crime in any jurisdiction which directly relates to
1337 the practice of contracting or the ability to practice contracting.

- 1338 (23) Performing any act which assists a person or entity in engaging in the
1339 prohibited uncertified, unregistered or unlicensed practice of contracting, if the
1340 certificateholder or registrant knows or has reasonable grounds to know that the
1341 person or entity was uncertified, unregistered or unlicensed.
- 1342 (24) Knowingly combining or conspiring with an uncertified unregistered person
1343 by allowing his or her certificate or registration to be used by the uncertified,
1344 unregistered or unlicensed person with intent to evade the provisions of this
1345 part. When a certificateholder or registrant allows his or her certificate or
1346 registration to be used by one or more business organizations without having
1347 any active participation in the operations, management, or control of such
1348 business organizations such act constitutes prima facie evidence of an intent to
1349 evade the provisions of this part.
- 1350 (25) Acting in the capacity of a contractor under any certificate or registration
1351 issued hereunder except in the name of the certificateholder or registrant as set
1352 forth on the issued certificate or registration, or in accordance with the
1353 personnel of the certificateholder or registrant as set forth in the application for
1354 the certificate or registration, or as later changed as provided in this part.
- 1355 (26) Committing mismanagement or misconduct in the practice of contracting that
1356 causes financial harm to a customer. Financial mismanagement or misconduct
1357 occurs when:
- 1358 1. Valid liens have been recorded against the property of a contractor's
1359 customer for supplies or services ordered by the contractor for the
1360 customer's job; the contractor has received funds from the customer to pay
1361 for the supplies or services; and the contractor has not had the liens
1362 removed from the property, by payment or by bond, within 75 days after the
1363 date of such liens;
 - 1364 2. The contractor has abandoned a customer's job and the percentage of
1365 completion is less than the percentage of the total contract price paid to the
1366 contractor as of the time of abandonment, unless the contractor is entitled
1367 to retain such funds under the terms of the contract or refunds the excess
1368 funds within 30 days after the date the job is abandoned; or
 - 1369 3. The contractor's job has been completed, and it is shown that the customer
1370 has had to pay more for the contracted job than the original contract price,
1371 as adjusted for subsequent change orders, unless such increase in cost
1372 was the result of circumstances beyond the control of the contractor, was
1373 the result of circumstances caused by the customer, or was otherwise
1374 permitted by the terms of the contract between the contractor and the
1375 customer.
- 1376 (27) Signing a statement with respect to a project or contract falsely indicating
1377 that the work is bonded; falsely indicating that payment has been made for all
1378 subcontracted work, labor, and materials which results in a financial loss to the
1379 owner, purchaser, or contractor; or falsely indicating that workers' compensation
1380 and public liability insurance are provided.

- 1381 (28) Committing fraud or deceit in the practice of contracting.
1382 (29) Committing incompetency or misconduct in the practice of contracting.
1383 (30) Committing gross negligence, repeated negligence, or negligence resulting
1384 in a significant danger to life or property.
1385 (31) Proceeding on any job without obtaining applicable local building department
1386 permits and inspections.
1387 (32) Intimidating, threatening, coercing, or otherwise discouraging the service of a
1388 notice to owner under part I of chapter 713 or a notice to contractor under
1389 chapter 255 or part I of chapter 713.
1390 (33) Failing to satisfy within a reasonable time, the terms of a civil judgment
1391 obtained against the licensee, or the business organization qualified by the
1392 licensee relating to the practice of the licensee's profession.
1393 (34) Violating chapter 633 or the rules of the State Fire Marshal.
1394 (35) Practicing beyond the scope of a certification or registration.
1395 (36) Being disciplined by any municipality or county for a violation directly related
1396 to the practice of the licensee's profession.

1397 For the purposes of this subsection, construction is considered to be commenced
1398 when the contract is executed and the contractor has accepted funds from the
1399 customer or lender.

1400 (Ord. No. 83-04, § 16, 3-8-83; Ord. No. 84-14, § 1, 7-14-84; Ord. No. 84-15, § 2, 7-17-
1401 84; Ord. No. 88-45, § 11, 12-20-88; Ord. No. 92-16, § 11, 2-26-92; Ord. No. 92-86, §§ 7,
1402 8, 10-20-92; Ord. No. 97-078, § 2, 9-2-97; Ord. No. 2000-001, § 12, 1-11-00; Ord. No.
1403 2009-019, § 1, 5-12-09; Ord. No. 2012-026, § 10, 11-13-12; Ord. No. 2014-012, § 10, 5-
1404 13-14; Ord. No. 2017-002, § 1, 1-24-17)

1405 **Cross reference**— Zoning, Ch. 3-9.

1406 **State Law reference**— Felons, removal of disqualifications for employment, F.S. §
1407 112.01; disciplinary proceeding, F.S. § 489.129.

1408 Sec. 3-2-48. - Workers' compensation, liability insurance generally.

1409 It shall be unlawful for any certificate holder to engage in the work of a contractor
1410 unless the following requirements as to insurance coverage have been complied with:

- 1411 (a) The requirements of the Workers' Compensation Law of the State of Florida
1412 have been met.
- 1413 (b) Said person maintains in an insurance company authorized to do business in
1414 state public liability insurance with minimum limits of three hundred thousand
1415 dollars (\$300,000.00) in any accident, and property damage insurance with a
1416 minimum limit of fifty thousand dollars (\$50,000.00) for any one (1) accident, or

1417 three hundred thousand dollars (\$300,000.00) combined single limit liability
1418 insurance.

1419 (c) Said insurance certificate shall show the type of policy issued, the policy
1420 number(s), the name of both the insured and the insurer, the effective dates of
1421 the policy, and an agreement by the insurer to give thirty (30) days' written
1422 notice by mail to the building construction services department if the policy is
1423 canceled.

1424 (Ord. No. 83-04, § 17, 3-8-83; Ord. No. 88-45, § 12, 12-20-88; Ord. No. 92-86, § 9, 10-
1425 20-92; Ord. No. 2009-019, § 1, 5-12-09)

1426 **State Law reference**— Workers' compensation, F.S. Ch. 440.

1427 Sec. 3-2-49. - Prior certificates.

1428 All current valid certificates of competency, whether active or inactive, issued under
1429 prior law are hereby ratified, confirmed and approved provided that the certificates are
1430 renewed pursuant to section 3-2-22.

1431 (Ord. No. 83-04, § 18, 3-8-83; Ord. No. 88-45, § 13, 12-20-88; Ord. No. 2009-019, § 1,
1432 5-12-09)

1433 Sec. 3-2-50. - Reciprocity.

1434 Reciprocity shall be granted to those contractors who have passed an examination
1435 with a score of seventy-five (75) percent or better, prepared, protected and graded by
1436 testing companies approved by the licensing division. Evidence of obtaining a
1437 satisfactory score as described above shall be in the form of a letter, signed by the other
1438 jurisdiction's examination administrator or building department head, stating that the
1439 applicant has passed the examination with the requisite score of seventy-five (75)
1440 percent; provided, however, that nothing contained in this section shall eliminate the
1441 obligation of the applicant from complying with all other applicable portions of this
1442 chapter and the codes adopted hereunder. A reciprocal certificate of competency shall
1443 be issued only upon payment of an amount equal to the renewal fee for such certificate
1444 adopted by the board of county commissioners; such certificate of competency
1445 reciprocally granted may be revoked or suspended in accordance with the terms of this
1446 chapter.

1447 If a contractor is state certified and applies to obtain a local certificate of
1448 competency, the business and law portion of the state exam will be reciprocated as long
1449 as the applicant has passed the exam, regardless of the score achieved. A score of at
1450 least seventy-five (75) percent must be obtained on the trade exam for which the
1451 applicant has applied.

1452 (Ord. No. 83-04, § 19, 3-8-83; Ord. No. 2009-019, § 1, 5-12-09; Ord. No. 2012-026, §
1453 11, 11-13-12; Ord. No. 2016-024, § 8, 6-14-16)

1454 Sec. 3-2-51. - Effect of certificate revocation.

1455 Revocation of any certificate of competency as provided in this chapter shall
1456 automatically revoke any county local business tax receipt that may have been issued
1457 to the holder of any such revoked certificate of competency.

1458 (Ord. No. 83-04, § 12, 3-8-83; Ord. No. 2009-019, § 1, 5-12-09)

1459 Sec. 3-2-52. - Reserved.

1460 **Editor's note**— Ord. No. 2017-002, § 2, adopted Jan. 24, 2017, repealed former § 3-2-
1461 52 in its entirety which pertained to an optional file maintenance fee and derived from
1462 Ord. No. 2009-019, § 1, adopted May 12, 2009.

1463 Secs. 3-2-53—3-2-65. - Reserved.

1464 ARTICLE IV. - BUILDING REGULATIONS^[4]

1465

1466 Footnotes:

1467 --- (4) ---

1468 **Cross reference**— Permit for mobile home or recreational vehicle, § 3-4-4.

1469 **State Law reference**— Authority of county to adopt technical codes, F.S. §§
1470 125.01(1)(i), 125.56; building construction standards, F.S. Ch. 553; inspection warrants,
1471 F.S. § 933.20 et seq.

1472 Sec. 3-2-66. - Appendices adopted.

1473 The following appendices to the Florida Building Code are hereby adopted:

1474 Appendix A, Weight of Building Materials;

1475 Appendix B, Chapter 9B-52 Florida Standard for Passive Radon-Resistant New
1476 Residential Building Construction;

1477 Appendix C, Chapter 9B-53 Standard for Mitigation of Radon in Existing Buildings;

1478 Appendix D, Standard for Rehabilitation;

1479 Appendix E, Chapter 9B-67 Florida Standard for Radon-Resistant New Commercial
1480 Building Construction;

1481 Appendix F, Map of Local Wind Speed Lines.

1482 (Res. No. 79-19, § 1, 3-6-79; Ord. No. 97-078, § 3, 9-2-97; Ord. No. 2003-018, § 3, 4-
1483 22-03)

1484 Sec. 3-2-67. - Wind speed lines established.

1485 (a) Risk Category I wind speed line is as depicted in Attachment A.

1486 (b) Risk Category II wind speed line is as depicted in Attachment B.

1487 (c) Risk Category III wind speed line is as depicted in Attachment C.

1488 (Res. No. 79-18, § 1, 3-6-79; Ord. No. 97-078, § 4, 9-2-97; Ord. No. 2003-018, § 3, 4-
1489 22-03; Ord. No. 2012-005, § 1, 3-13-12)

1490 **Editor's note**— Attachments A, B and C attached to Ordinance No. 2012-005 are
1491 available in the office of the Clerk of the Circuit Court.

1492 Secs. 3-2-68—3-2-71. - Reserved.

1493 **Editor's note**— Sec. 3-2-68, roof coverings, derived from Res. No. 78-66, § 1, adopted
1494 Sept. 26, 1978; and Res. No. 87-262, § 1, adopted Oct. 20, 1987, was deleted by Ord.
1495 No. 98-039, § 3, adopted June 23, 1998. Ord. No. 2003-018, §§ 5—7, adopted Apr. 22,
1496 2003, deleted §§ 3-2-69—3-2-71, which pertained to swimming pools and adopted and
1497 amended a general building code. Such sections were derived from Res. No. 78-65, §
1498 1, adopted Sept. 26, 1978; and Res. No. 78-50, § 1 and Exh. A, adopted Aug. 8, 1978.
1499 Both ordinances were subsequently amended. See the Code Comparative Table at the
1500 back of Vol. II for complete derivation of such sections.

1501 Sec. 3-2-72. - Variances from the on-site sewage treatment and disposal systems
1502 ordinance.

1503 (a) The board of zoning appeals, when so appealed to and after a hearing, may vary
1504 the requirements imposed under the OSTDS ordinance adopted by the board of
1505 county commissioners as provided in such ordinance. The board of zoning appeals
1506 may grant variances from the requirements of the OSTDS ordinance in hardship
1507 cases which may be less restrictive than the provisions of the OSTDS ordinance;
1508 however, a variance may not be granted until the board of zoning appeals is
1509 satisfied that:

1510 (1) The hardship was not caused intentionally by the action of the applicant; and

1511 (2) There is no reasonable alternative, taking into consideration factors such as
1512 cost, for the treatment of the sewage; and

1513 (3) The discharge from the subject on-site sewage treatment and disposal system
1514 will not adversely affect the health of the applicant or the public or significantly
1515 degrade the groundwater or surface waters.

1516 (Ord. No. 2016-024, § 9, 6-14-16)

1517 **Cross reference**— Administration, Ch. 1-2.

1518 Sec. 3-2-73. - Hours of construction activity in residential areas.

1519 (a) *Definitions.* As used in this section:

1520 *Emergency work.* Work made necessary to restore property to a safe condition
1521 following a calamity or work required to protect persons or property from imminent
1522 exposure to danger.

1523 *Person.* Individuals, corporations, firms, associations, joint ventures, partnerships,
1524 estates, trusts, business trusts, syndicates and all other groups and combinations
1525 thereof.

1526 *Residential area.* Any area which is zoned residential under the county zoning
1527 regulations. The residential zones are RE, RSF, RMF, RMF-T, MHP, MHS and MHC.
1528 Any creation of additional residential zones by amendment to the county zoning
1529 regulations or rezoning of property to residential status which occurs after the effective
1530 date of Ordinance No. 84-22 shall be automatically included in the residential area for
1531 the purposes of this section.

1532 (b) *Jurisdiction.* Enforcement of this section shall be within the jurisdiction of the
1533 county code enforcement board pursuant to the same remedies and procedures
1534 that are used for enforcement of the county zoning regulations.

1535 (c) *Hours of certain construction work.* No person shall operate or cause to be
1536 operated any machinery, demolition equipment, construction equipment, power
1537 tools, equipment of a semi-mechanical nature or otherwise undertake construction
1538 work which emits a sound plainly audible across the property line of an inhabited
1539 residential property in a residential area between the hours of 8:00 p.m. and 6:00
1540 a.m. However, this subsection shall not apply to the use of temporary pumps or
1541 other machinery which, because of its very nature and purpose, is required to
1542 operate twenty-four (24) hours a day. This subsection shall also not apply to any
1543 activity, noise or disturbance caused by emergency work.

1544 (d) *Variances.* Any person desiring relief from the provisions of this section may apply
1545 for a variance pursuant to the procedure set forth in section 3-9-6.3 county zoning
1546 regulations in this Code. The board of zoning appeals may grant a variance from
1547 this section only if all of the following criteria are found to exist:

1548 (1) The activity will be of a short duration and cannot be done in a manner that
1549 would comply with this section;

1550 (2) A strict adherence to the terms of this section would result in demonstrable
1551 and undue hardship to the applicant; and

1552 (3) The granting of a variance would not be injurious to surrounding properties or
1553 contrary to the public health, safety and welfare.

1554 (Ord. No. 84-22, §§ 1—4, 8-14-84; Ord. No. 94-17, § 1, 3-29-94; Ord. No. 2017-061, §
1555 1(Exh. A), 12-12-17)

1556 **Cross reference—** Zoning, Ch. 3-9.

1557 Sec. 3-2-74. - Reserved.

1558 **Editor's note**— Ord. No. 2003-018, § 8, adopted Apr. 22, 2003, deleted § 3-2-74,
1559 existing buildings code, derived from Ord. No. 89-03, adopted Jan. 31, 1989; and Ord.
1560 No. 92-09, §§ 1 and 2, adopted Feb. 25-1992.

1561 Sec. 3-2-75. - Reserved.

1562 **Editor's note**— Ord. No. 2012-026, § 12, adopted Nov. 13, 2012 , deleted § 3-2-75,
1563 which pertained to the unsafe building abatement code and derived from Ord. No. 89-
1564 05, §§ 1 and 2, adopted Jan. 31, 1989.

1565 Sec. 3-2-76. - International Property Maintenance Code.

1566 (a) *Adopted.* Subject to the amendments set forth in subsection (b), the **2009 edition**
1567 **of the** International Property Maintenance Code, published **and as amended and**
1568 **updated from time to time** by the International Code Council, is hereby adopted as
1569 the Charlotte County Property Maintenance Code and shall be the governing law
1570 relative to structures and premises defined therein and amendments thereto.

1571 (b) *Amendments.* The **2009 Edition of the** International Property Maintenance Code is
1572 amended to read as follows:

1573 *Section 101.1 Title.* These regulations shall be known as the International Property
1574 Maintenance Code of Charlotte County, hereinafter referred to as "this code."

1575 *Section 102.3 Application of other codes.* Repairs, additions or alterations to a
1576 structure, or changes of occupancy, shall be done in accordance with the
1577 procedures and provisions of the Florida Building Code as amended.

1578 *Section 102.7 Referenced codes and standards.* The codes and standards
1579 referenced in this code shall be those that are listed in Chapter 8, in addition to the
1580 Florida Building Code and the Florida Fire Prevention Code and Life Safety Code
1581 and considered part of the requirements of this code to the prescribed extent of
1582 each such reference. Where differences occur between provisions of this code, the
1583 Florida Building Code and the referenced standards, the provisions of the Florida
1584 Building Code the Florida Fire Prevention Code and Life Safety Code shall apply.

1585 *Section 103 Department of Property Maintenance Inspection* is deleted in its
1586 entirety.

1587 *Section 104.3 Right of entry* is deleted in its entirety.

1588 *Section 106.3 Prosecution of violation.* Any person failing to comply with a notice of
1589 violation or order served in accordance with Section 107 shall be prosecuted by any
1590 method allowed by Florida Statutes and the Code of Laws and Ordinances of
1591 Charlotte County, Florida.

1592 *Section 107.5 Penalties.* Penalties for noncompliance with orders and notices shall
1593 be as set forth in Chapter 162, Florida Statutes and the Code of Laws and
1594 Ordinances of Charlotte County, Florida.

1595 *Section 108.7 Record.* The code official shall cause a report to be recorded in the
1596 Official Records of Charlotte County on the unsafe condition. The report shall state
1597 the occupancy of the structure and the nature of the unsafe condition.

1598 *Section 110.1 General.* The code official shall order the owner of any premises
1599 upon which is located any structure, which in the code official's judgment after
1600 review is so deteriorated or dilapidated or has become so out of repair as to be
1601 dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy,
1602 and such that is unreasonable to repair the structure, to demolish and remove such
1603 structure; or if such structure is capable of being made safe by repairs, to repair and
1604 make safe and sanitary, or to board up and hold for future repair or to demolish and
1605 remove at the owner's option; or where there has been a cessation of normal
1606 construction in accordance with the Florida Building Code, the code official shall
1607 order the owner to demolish and remove such structure, or board up until future
1608 repair. Boarding the building up for future repair shall not extend beyond one year,
1609 unless approved by the building official.

1610 *Section 111.1 Application for appeal.* Any person directly affected by a decision of
1611 the code compliance official or building official applying sections 108, 109, and 110
1612 shall have the right to appeal to the Code Enforcement Special Magistrate, provided
1613 that a written application for appeal is filed within 20 days after the decision, notice,
1614 or order was served. An application for appeal shall be based on a claim that the
1615 true intent of this code or the rules legally adopted thereunder have been incorrectly
1616 interpreted, the provisions of this code do not fully apply, or the requirements of this
1617 code are adequately satisfied by other means.

1618 *Sections 111.2 through Section 111.8* are deleted in their entirety.

1619 *Section 302.4 Weeds* is deleted in its entirety.

1620 ~~*Section 302.8 Motor vehicles.* Excepts as provided for in other regulations, no~~
1621 ~~*inoperative or unlicensed motor vehicle, boat, or trailer shall be parked, kept, or*~~
1622 ~~*stored on any premises, and no vehicle shall at any time be in a state of major*~~
1623 ~~*disassembly, disrepair, or in the process of being stripped or dismantled.*~~

1624 *Section 304.3 Premises Identification* is deleted in its entirety.

1625 *Section 304.14 Insect Screens.* Throughout the year every openable window in a
1626 residential structure and every door, window, and other outside opening required for
1627 ventilations of habitable rooms, food preparation areas, food service areas or any
1628 areas where products to be included or utilized in food for human consumption are
1629 processed, manufactured, packaged, or stored shall be supplied with approved
1630 tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and
1631 every screen door used for insect control shall have a self-closing devise in good
1632 working condition.

1633 *Exception:* Screens shall not be required where other approved means, such as
1634 air curtains or insect repellent fans, are employed.

1635 *Sections 308.3.1 Garbage facilities and 308.3.2 Containers* are deleted in their
1636 entirety.

1637 *Section 606 Elevators, Escalators and Dumbwaiters* is deleted in its entirety.

1638 ~~*Section 701.1 Scope. The provisions of this chapter shall govern the minimum*~~
1639 ~~*conditions and standards for fire safety relating to structures and exterior premises,*~~
1640 ~~*including fire safety facilities and equipment to be provided. All references to the*~~
1641 ~~*International Fire Code shall be replaced with the Florida Fire Prevention Code.*~~

1642 ~~**Chapter 7 Fire Safety Requirements is deleted in its entirety.**~~

1643 *Appendix A Boarding Standard* is hereby adopted in its entirety. All references the
1644 International Building Code shall be replaced with the Florida Building Code.
1645 Section 11. Section 3-3-4, Adoption of code; exceptions, of Article I, Chapter 3-3 of
1646 the Code of Laws and Ordinances of Charlotte County, Florida, is hereby amended
1647 as follows:

1648 (Ord. No. 2010-032, §§ 1, 2, 7-13-10; Ord. No. 2012-026, § 13, 11-13-12; Ord. No.
1649 2016-024, § 10, 6-14-16)

1650 Secs. 3-2-77—3-2-79. - Reserved.

1651 ARTICLE V. - GREEN BUILDING PROGRAM^[5]

1652

1653 Footnotes:

1654 --- (5) ---

1655 **Editor's note**— See the editor's note to Article VI herein.

1656 Sec. 3-2-80. - Title.

1657 The provisions of Sections 3-2-80 through 3-2-89 inclusive shall be known as the
1658 Charlotte County "Livability/Green Building Ordinance."

1659 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1660 Sec. 3-2-81. - Definitions.

1661 The following words, terms and phrases, when used in this chapter, shall have the
1662 meanings ascribed to them in this section, except where the context clearly indicates a
1663 different meaning.

1664 *FGBC*: Acronym for the Florida Green Building Coalition, Inc., a Florida 501(c)3 not-
1665 for-profit corporation whose mission is to establish and maintain a Florida system of
1666 statewide green building standards and third party certification programs with
1667 environmental and economic benefits.

1668 *Federal tax credit for energy efficient homes*: Refers to the tax credit recognized by
1669 the United States Internal Revenue Service for the construction of a home.

1670 *Federal tax credit for solar energy systems*: Refers to the tax credit recognized by
1671 the United States Internal Revenue Service for the installation of qualified residential
1672 solar water heating or photovoltaic systems.

1673 *Florida Solar Energy Center (FSEC)*: As the state of Florida's energy research
1674 institute, FSEC conducts research in building science, photovoltaics, solar thermal,
1675 hydrogen and alternative fuels, fuel cells and other advanced energy technologies.

1676 *Florida Solar Energy System Incentives Program*: A program of state law providing
1677 for rebates for the installation of qualified solar energy systems, codified at F.S. §
1678 377.806.

1679 *GBI*: Acronym for the Green Building Initiative, a not-for-profit organization whose
1680 mission is to accelerate the adoption of building practices that result in energy-efficient,
1681 healthier and environmentally sustainable buildings by promoting credible and practical
1682 green building approaches for residential and commercial construction.

1683 *Green building*: A designation given to buildings that have achieved the
1684 requirements of a green building rating system defined in this green building program.

1685 *Livability/Green Building Program*: The program outlined in this ordinance for
1686 obtaining incentives for green buildings and developments.

1687 *Green globes*: The U.S. commercial/institutional building rating system administered
1688 by the Green Building Initiative.

1689 *LEED*: The Leadership in Energy and Environmental Design Rating System of the
1690 U.S. Green Building Council.

1691 *NAHB*: Acronym for the National Association of Home Builders, a Washington-
1692 based trade association whose mission is to enhance the climate for housing and the
1693 building industry.

1694 *Project*: Any construction associated with the creation, development, or erection of
1695 any building or development eligible for the program.

1696 *Project Application Form*: the form submitted indicating that an owner is interested
1697 in participating in the program for a particular project.

1698 *Sustainable Construction*: the process of environmentally sensitive, resource
1699 efficient site selection, preparation, design, construction, and operation of buildings.

1700 *USGBC*: Acronym for the United States Green Building Council, a non-profit
1701 organization whose mission is to transform the way buildings and communities are
1702 designed, built and operated, enabling an environmentally and socially responsible,
1703 healthy and prosperous environment that improves the quality of life.

1704 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1705 Sec. 3-2-82. - Designation of responsibility for administration and implementation.

1706 (a) The community development department shall be responsible for:

1707 (1) Marketing the Livability/Green Building Program to the community by any
1708 reasonably effective means, including, but not limited to, press releases,
1709 television advertising, or advertising in electronic or print mailers and the
1710 marketing incentives outlined in section 3-2-85; and

1711 (2) Developing any appropriate or necessary application procedures, including
1712 but not limited to, the Livability/Green Building Program application form; and

1713 (3) Writing policies and procedures for staff implementation of the Livability/Green
1714 Building Program; and

1715 (4) Assisting in the development of incentives to award to any project that
1716 successfully satisfies the requirements associated with the Livability/ Green
1717 Building Program; and

1718 (5) Review ordinances proposed for adoption by the board of county
1719 commissioners with the county department responsible for drafting the
1720 ordinance. Community development will review proposed ordinances for
1721 changes that include subject areas used by certification programs for conflicts
1722 and offer recommendations to make the ordinances more compatible with
1723 Green Building and livability standards.

1724 (b) Any disputes regarding the administration of the Livability/Green Building Program
1725 may be appealed to the construction board of adjustment and appeal.

1726 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1727 Sec. 3-2-83. - Livability/Green Building Program applicability.

1728 (a) For all private and county projects, the Livability/Green Building Program shall be
1729 voluntary; however, for projects voluntarily enrolled in the Livability/Green Building
1730 Program, Green Building certification by a third party certification organization and
1731 construction in accordance with the selected standard is mandatory.

1732 (b) In accordance with F.S 255.257 (5) and F.S 255.253 (7), all county, municipal,
1733 school district, water management district, state university, community college, and
1734 state court buildings shall be constructed to comply with a sustainable building
1735 rating system or a national green building code

1736 (c) For any renovation of a government building owned by the county undergoing a
1737 level III alteration as defined by the Florida Building Code, it is encouraged that in all
1738 cases, the county will utilize, to the maximum extent possible, livability and green
1739 building practices designed to save energy and water, reuse materials, reduce
1740 waste and pursue the high quality and durability of the structure.

1741 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1742 Sec. 3-2-84. - Green building standards.

1743 In addition to the Florida Building Code's minimum standards, projects shall qualify
1744 for incentives by being certified using standards developed by the U.S. Green Building
1745 Council, the Green Building Initiative, the Florida Green Building Coalition, the National
1746 Association of Home Builders, the International Green Construction Code, or a
1747 nationally recognized, high-performance green building rating system as approved by
1748 the Green Building Program managing department. These standards shall apply to each
1749 category of construction as follows.

1750 (a) *New residential permitted projects:* New residential projects shall satisfy all
1751 of the requirements including, but not limited to, any monetary or certification
1752 requirements associated with a nationally recognized green building rating
1753 system or a national model green building code such as:

- 1754 (1) The current USGBC LEED for Homes® program,
1755 (2) The current NAHB National Green Home program, or
1756 (3) The GBI Green Globes new home designation, or
1757 (4) The current Green Home Designation Standard of the FGBC.

1758 (b) *Remodeling of existing homes:* The participant shall meet requirements of
1759 remodeling certification including, but not limited to, any monetary or
1760 certification requirements associated with a nationally recognized green building
1761 rating system or a national model green building code such as:

- 1762 (1) The current LEED for Homes® program, or
1763 (2) The current NAHB National Green Home program, or
1764 (3) The GBI Green Globes program, or
1765 (4) The current Green Home Designation Standard of the FGBC, 35 including
1766 but not limited to, any monetary or certification requirements. The home
1767 shall meet the requirements for "remodeling" or "existing home" of the
1768 designation.

1769 (c) *New commercial or institutional buildings:* The program participant shall satisfy
1770 all of the requirements including, but not limited to, any monetary or certification
1771 requirements associated with a nationally recognized green building rating
1772 system or a national model green building code such as:

- 1773 (1) The current LEED for New Construction or applicable USGBC LEED
1774 rating system (e.g., LEED for Schools, LEED for Health Care), or
1775 (2) The Green Globes environmental assessment system for new designs, or
1776 (3) The current Green Commercial Designation Standard of the FGBC or,
1777 (4) The Green Construction Code (IGCC).

- 1778 (d) *Existing commercial and institutional buildings:* The program participant shall
1779 satisfy all of the requirements including, but not limited to, any monetary or
1780 certification requirements associated with a nationally recognized green building
1781 rating system or a national model green building code such as:
- 1782 (1) The current LEED for existing buildings or applicable USGBC LEED rating
1783 system (e.g., LEED for Schools, LEED for Health Care) program, or
- 1784 (2) The Green Globes environmental assessment system for existing
1785 designs, or
- 1786 (3) The current Green Commercial Designation Standard of the FGBC.
- 1787 (e) *Land developments:* The participant shall satisfy all of the requirements
1788 including, but not limited to, any monetary or certification requirements
1789 associated with a nationally recognized green building rating system or a
1790 national model green building code such as:
- 1791 (1) The current LEED for Neighborhoods and Developments rating system
1792 program,
- 1793 (2) The NAHB development designation, or
- 1794 (3) The current Green Development Designation Standard of the FGBC 23.
- 1795 (f) Additional certification programs shall be considered eligible for incentives
1796 upon petition to the building construction services department and adoption by
1797 the board of county commissioners by resolution.

1798 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1799 Sec. 3-2-85. - Incentives and program application.

1800 The program shall include incentives designed to encourage the use of the
1801 program.

- 1802 (a) *All projects.* For any voluntary applicant seeking certification, the county shall
1803 provide fast-track permitting incentives.
- 1804 (b) *Marketing.* The community development department in conjunction with the
1805 public information office and the Charlotte County economic development office
1806 may develop, when funding permits, a marketing program to promote green
1807 building in Charlotte County. The county may provide the following marketing
1808 incentives, including, but not limited to:
- 1809 (1) Providing an outdoor sign that a builder may use to promote a project
1810 under construction that is seeking certification under this program;
- 1811 (2) The inclusion of program participants including developers, builders,
1812 material suppliers on a webpage dedicated to the program including
1813 website links to local sustainable businesses and green building materials
1814 suppliers;

- 1815 (3) The creation of promotional packages such as a program logo for a
1816 program participant's advertisements or brochures and educational
1817 information for building owners demonstrating the benefits of green
1818 building;
- 1819 (4) Press releases; and
- 1820 (5) Special recognition awards to businesses, professionals, and individuals
1821 who exemplify green building. The recipients of the awards will be promoted
1822 by the county by methods deemed to be cost effective and beneficial for
1823 promoting Green Building.
- 1824 (c) *Incentives*: The board of county commissioners may adopt by resolution
1825 monetary incentives if county budget funds permit. If monetary incentives are
1826 adopted, the board of county commissioners may include rebates or credits.
- 1827 (d) *Other incentives*: Other incentives as may be approved by the board.
- 1828 (e) *Failure to receive green certification*: Any project that fails to receive green
1829 certification from a rating agency shall not receive a reduction in any fees and
1830 shall be required to pay the total fee, in the case that a reduction in fees was
1831 offered as an incentive for joining the program.
- 1832 (f) *Damages or substantial improvements*: Any project which received reductions
1833 in fees that is damaged or substantially improved by more than fifty (50) percent
1834 within five (5) years shall rebuild or build to green standards or shall repay the
1835 fee reductions in the case that a reduction in fees was offered as an incentive
1836 for joining the program.
- 1837 (g) *Collected penalties*: Monetary penalties collected shall be used to fund the
1838 Green Building Program.
- 1839 (h) *The applicant is required to meet all of the following conditions*:
- 1840 (1) An accredited professional or professional certifying agent for the Green
1841 Building rating system is a member of the design or construction team for
1842 the building;
- 1843 (2) The building is designed to achieve certification; and
- 1844 (3) The building is registered with the selected Green Building rating system
1845 for certification.
- 1846 (i) *Implementation*: The Green Building Incentive program shall be implemented
1847 as follows:
- 1848 (1) At the time of permit application, the applicant shall be required to submit
1849 the completed scorecard using the most recent version of the selected
1850 green building rating system along with the permit application. The green
1851 building rating system scorecard shall be accompanied by an explanation of
1852 how and why each credit can or cannot be achieved. The scorecard is the
1853 documentation supporting the applicant's request for participation in the
1854 livability/green building program and its incentives.

- 1855 (2) The building registration and other required information shall be filed with
1856 the selected green building rating system before application for the building
1857 permit with the county and the applicant shall provide proof of registration at
1858 the time of building permit submittal.
- 1859 (3) The proposed project construction documents (including the requested
1860 incentives) shall undergo the typical review process. If the county supports
1861 the project, it shall include appropriate building and site development
1862 language requiring that the green building components identified in the
1863 scorecard be constructed or installed in the building.
- 1864 (4) The building and Livability/Green Building Program applications are
1865 approved, after the construction documents are reviewed to ensure
1866 inclusion of the approved green building components, which were
1867 previously identified in the scorecard. Permits shall not be issued unless the
1868 selected green building rating system approved components are included in
1869 the plan drawings or specifications. The county may utilize Green
1870 inspectors or professionals trained in the green building rating systems
1871 during review of the permit drawings and construction of the building.
- 1872 (5) If during construction of the building, the applicant is unable to include all
1873 of the approved green building components previously identified in the
1874 scorecard, then the applicant shall be required to notify the community
1875 development department of the changes and their impact to the certification
1876 of the project.
- 1877 (6) During plan review and construction, the green building accredited
1878 professional responsible for the certification shall provide documentation
1879 and submit regular reports to the county ensuring compliance or identifying
1880 areas of noncompliance with the standards and scorecard submitted with
1881 the application and the approved plans. If during construction, the applicant
1882 is unable to include required green building components, or if the
1883 responsible green building professional finds that the applicant failed to
1884 include these components, then the county shall pursue enforcement.
- 1885 (7) The applicant is responsible for providing documentation of certification to
1886 the county, however documentation should be provided no later than ninety
1887 (90) days after the final inspection is completed. If a year of occupancy is
1888 required in order to earn the certification, the certification must be provided
1889 as soon as it is granted. However, no monetary incentives will be given until
1890 the actual certification is granted.
- 1891 (8) Any development/building wherein the developer/builder has received
1892 incentives under this article shall include and make an irrevocable part of its
1893 covenants. Conditions and restrictions language shall be sufficient to insure
1894 that all buildings within the development or modification to the commercial
1895 building are constructed in accordance with green building standards of a
1896 nationally-recognized standard. This shall be considered a condition of the
1897 granting of the development/building permit, and as such shall be a

1898 permanent restriction and is not subject to change or alteration by any
1899 subsequent homeowners/tenants association.

1900 (j) *Demonstration of Compliance; Penalties.*

1901 (1) Failure to submit documentation of the required certification is a violation
1902 of the county regulations. The time requirement may be extended by the
1903 county building official on a showing of good faith effort to acquire the
1904 certification.

1905 (2) Should the project not attain certification as attested to, the
1906 developer/builder will forfeit a penalty; however, the penalty may be
1907 returned if the board of county commissioners determine, after a public
1908 hearing, that extenuating circumstances beyond the control of the owner
1909 prevented the project from achieving the certification attested to by the
1910 owner.

1911 (3) If, within ninety (90) days, or such longer period as the building official
1912 may allow for good cause, after initial notice from the building official of a
1913 penalty due under this subsection, the applicant demonstrates, through a
1914 supplemental report from the independent entity that provided the initial
1915 report, that it has made sufficient alterations or improvements to earn the
1916 required certification, or to earn more credits toward such a rating, then the
1917 penalty owing shall be eliminated or recalculated accordingly. The amount
1918 of the penalty as so predetermined shall be final. If the applicant does not
1919 submit a supplemental report in accordance with this subsection by the date
1920 required under this subsection, then the amount of the penalty as set forth
1921 in the building official's original notice shall be final.

1922 (4) All funds received shall be used to support the Green Building Program.

1923 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1924 Sec. 3-2-86. - Certification.

1925 Projects that are voluntarily enrolled in the program and therefore voluntarily pursue
1926 certification shall be certified by an independent third party in accordance with the
1927 standards for the rating program indicated in the project application.

1928 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1929 Sec. 3-2-87. - Objectives, goals and education.

1930 (a) Promote a sustainable future that meets today's needs of a stable, diverse and
1931 equitable economy while saving resources, protecting the quality of the air, water,
1932 land and other natural resources, conserving native vegetation, fish, wildlife habitat
1933 and other ecosystems.

- 1934 (b) Deliver efficient projects, develop green buildings and water-thrifty landscapes,
1935 provide education and promote recycling and environmentally sound solid waste
1936 management.
- 1937 (c) Promote economic and environmental health in the county, through education,
1938 marketing benefits and through the design, construction, operations and
1939 deconstruction of its own facilities.
- 1940 (d) Provide leadership to both the private and public sectors in the arena of green
1941 building practices including resource efficiency and disaster mitigation.
- 1942 (e) The county shall conduct training and outreach programs for the purpose of
1943 educating potential or current program participants about the program.
- 1944 (f) The county shall attempt to make available a meeting space at a government
1945 facility when available for green building programs offered by organizations that are
1946 of a general nature (not product specific).
- 1947 (g) County building and planning department staff shall be encouraged to attend at
1948 least two (2) hours of green building/design training per year if available and funded.

1949 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1950 Sec. 3-2-88. - Program review.

- 1951 (a) *Staff review.* The county shall conduct a review of the program to determine the
1952 need for changes in the program to increase its effectiveness.
- 1953 (b) *Purpose.* The purpose of reviewing the program includes but is not limited to
1954 updating program incentives, recommending program or marketing changes to the
1955 county, reviewing suggestions made by program participants, and the green
1956 building awards of the program.

1957 (Ord. No. 2009-020, § 1, 5-12-09; Ord. No. 2013-012, § 1, 6-11-13)

1958 Secs. 3-2-89—3-2-110. - Reserved.

1959 ARTICLE VI. - ABANDONED AND VACANT PROPERTY ORDINANCE

1960 Sec. 3-2-111. - Title.

1961 The provisions of section 3-2-111 through section 3-2-123, inclusive, shall be known
1962 as the "Charlotte County Abandoned and Vacant Property Ordinance."

1963 (Ord. No. 2010-031, § 1, 7-13-10)

1964 Sec. 3-2-112. - Purpose.

1965 It is the intent of the Charlotte County Board of County Commissioners, through the
1966 adoption of this article, to establish a mechanism to protect residential and commercial

1967 neighborhoods from becoming blighted through the lack of maintenance and security of
1968 abandoned properties; to establish an abandoned property registration program; to
1969 ensure properties are free of code violations and fees and fines prior to sale or
1970 occupation and to set forth guidelines for the maintenance of abandoned properties.

1971 (Ord. No. 2010-031, § 1, 7-13-10)

1972 Sec. 3-2-113. - Definitions.

1973 Certain words and phrases in sections 3-2-113 are defined, when used herein, as
1974 follows:

1975 *Abandoned real property* means any property that is vacant and is under a current
1976 notice of default or notice of mortgagee's sale by the lender or the subject of a tax lien
1977 certificate sale or properties that have been the subject of a foreclosure sale where the
1978 title was retained by the beneficiary of a mortgage involved in the foreclosure and any
1979 properties transferred under a deed in lieu of foreclosure or sale.

1980 *Accessible property* means a property that is physically accessible through a
1981 compromised or breached gate, fence, wall or other barriers, intended to provide
1982 physical security to the property, or by the absence of such barrier.

1983 *Accessible structure* means a structure or building that is unsecured, compromised
1984 or breached in such a way as to allow access to the interior space by unauthorized
1985 persons.

1986 *Evidence of vacancy* means any condition or circumstance that on its own, or
1987 combined with other conditions or circumstances present, would lead a reasonable
1988 person to believe that a property is vacant. Such conditions may include, but not are
1989 limited to: overgrown or dead vegetation, including lawns, shrubbery and other
1990 plantings; accumulation of abandoned personal property, trash or waste; visible lack of
1991 maintenance of any building or structure on the property; graffiti on or other defacement
1992 of buildings or structures on the property; and any other condition or circumstance
1993 reasonably indicating that the property is not occupied.

1994 *Foreclosure* means the process, either judicial or extra-judicial, invoked by the
1995 owner or holder of a mortgage, by which a property placed as security for a real estate
1996 loan is sold at public or private sale to satisfy the debt of the borrower in the event of a
1997 default by the borrower under the terms of the promissory note or mortgage.

1998 *Mortgagee* means the person or entity that is the owner or holder of a mortgage,
1999 deed of trust or similar instrument encumbering real property as security for a
2000 promissory note or other debt.

2001 *Property manager* means a property manager, property management or
2002 maintenance company, or similar person or entity responsible for the maintenance of
2003 real property as agent of an owner, mortgagee or other responsible party.

2004 *Owner* means a person or entity that either holds record fee simple title to a parcel
2005 of real property, or holds record beneficial ownership of that parcel of real property
2006 under the terms of a trust or similar instrument of title.

2007 *Responsible party* means either: (1) the owner of a vacant parcel of real property;
2008 or, (2) the holder or owner of the mortgage, deed of trust or similar instrument
2009 encumbering real property ("mortgagee") during any time when an owner of real
2010 property is in default under the terms of that mortgage, deed of trust or similar
2011 instrument; or (3) both the owner and the mortgagee.

2012 *Vacant property* means any property, including any building or structure thereon,
2013 that is not legally occupied.

2014 (Ord. No. 2010-031, § 1, 7-13-10)

2015 Sec. 3-2-114. - Parties responsible for compliance.

2016 (a) The responsible party, as defined in this article, shall comply with all provisions of
2017 this article, including but not limited to, maintenance of real property for which they
2018 are responsible in accordance with the provisions of this article, and in accordance
2019 with all other applicable provisions of the local, state and federal law.

2020 (b) In all instances, the responsibility of a mortgagee to comply with this article shall
2021 be and remain in effect from the date that the mortgagee gives the owner notice of a
2022 default under the terms of the mortgage, or files a Notice of Lis Pendens, whichever
2023 first occurs, until such time as the subject property is sold or transferred to a new
2024 owner, or until any foreclosure action is dismissed.

2025 (Ord. No. 2010-031, § 1, 7-13-10)

2026 Sec. 3-2-115. - Registration of abandoned real properties or real property at risk of
2027 abandonment.

2028 (a) Any owner of property located within the county who has abandoned real property
2029 or who intends to abandon that real property shall immediately register the property
2030 with the county administrator or the county administrator's designee. Registration
2031 fees will be waived for single-family homeowners who resided in the home until the
2032 property was vacated for the first year of registration.

2033 (b) Upon the filing of a Notice of Lis Pendens or an action to foreclose upon a
2034 mortgage or other similar instrument of debt, which debt is secured by real property
2035 located within the county, the holder or owner of said mortgage or other debt
2036 instrument, or the party bringing the foreclosure action, shall immediately register
2037 the property with the county administrator or the county administrator's designee.

2038 (c) The registration of property required in the article shall be upon such forms as are
2039 designated by the county administrator or the county administrator's designee and
2040 shall be accompanied by the approved registration fee as established in this section
2041 3-2-115. The county shall provide for electronic registration.

2042 (d) Registration by an owner shall contain the name of the owner, the address of the
2043 property, the owner's forwarding address and a telephone number at which the
2044 owner can be reached in the future. In addition, the registration shall contain the

2045 name, address and telephone number of any mortgagee. Any owner who registers
2046 a property under this article must report any change of information contained in the
2047 registration within ten (10) days of the change.

2048 (e) Registration by a mortgagee shall contain the name of the mortgagee, the direct
2049 mailing address of the mortgagee, the name and direct telephone number of
2050 mortgagee's designated contact person, a facsimile number and e-mail address. In
2051 addition, the registration shall include the same contact information for any property
2052 manager or other party responsible for the security and maintenance of the
2053 property. Any mortgagee that has registered a property under this article must
2054 report any change of information contained in the registration within ten (10) days of
2055 the change.

2056 (f) A copy of the registration shall be posted by the responsible party upon the
2057 property in a prominent and conspicuous location in a weatherproof enclosure
2058 accessible to personnel of the county.

2059 (g) For so long as the property remains vacant, or subject to a Notice of Lis Pendens
2060 or a foreclosure action, a registration fee shall be due from the owner or other
2061 responsible party, as applicable under the circumstances, each year not later than
2062 the fifteenth day of the month following the month in which the original registration
2063 was made. The annual registration fee for the first year is hereby set at one hundred
2064 fifty dollars (\$150.00) per property. Thereafter, the annual registration fee per
2065 property for each successive year shall be as set forth below:

2066 \$250.00 for the second year;

2067 \$500.00 for the third year;

2068 \$1000.00 for the fourth year;

2069 \$2000.00 for the fifth year;

2070 \$4000.00 for the sixth year; and

2071 \$4000.00 for each year thereafter.

2072 (Ord. No. 2010-031, § 1, 7-13-10; Ord. No. 2012-026, § 14, 11-13-12; Ord. No. 2013-
2073 020, § 1, 7-23-13)

2074 Sec. 3-2-116. - Inspection obligations of mortgagee.

2075 (a) Any mortgagee who holds a mortgage on real property located within the county
2076 shall perform an inspection of the property that is the security for the mortgage,
2077 upon default by the mortgagor, prior to the issuance of a notice of default.

2078 (i) If a property is found to be vacant or shows evidence of vacancy, as defined in
2079 this article, it shall be deemed abandoned and the mortgagee shall comply with
2080 the registration requirements of section 3-2-115, within ten (10) days of the
2081 inspection.

2082 (ii) If the property is occupied but remains in default, it shall be inspected by the
2083 mortgagee or the mortgagee's designee monthly until either: (1) the mortgagor
2084 or other party remedies the default; or (2) it is found to be vacant or shows
2085 evidence of vacancy.

2086 (b) Any mortgagee who holds a mortgage on real property located within the county
2087 which is in default and the subject of an outstanding notice of default, Notice of Lis
2088 Pendens or foreclosure action as of August 1, 2010, shall perform an inspection of
2089 the property by September 1, 2010. If the property is found to be vacant or shows
2090 evidence of vacancy, it shall be deemed abandoned and the mortgagee shall
2091 register the property in accordance with section 3-2-115, within ten (10) days of the
2092 inspection.

2093 (Ord. No. 2010-031, § 1, 7-13-10)

2094 Sec. 3-2-117. - Maintenance requirements.

2095 The responsible party shall have the following obligations with respect to
2096 maintaining property that is subject to this article:

2097 (a) Properties shall be kept free of weeds, overgrown brush, dead vegetation,
2098 trash, junk, debris, building materials, any accumulation of newspapers,
2099 circulars, flyers, notices (except those required by federal, state, or local law),
2100 discarded personal items including, but not limited to, furniture, clothing,
2101 appliances, or any other items that give the appearance that the property is
2102 abandoned.

2103 (b) The property shall be maintained free of graffiti or similar markings by removal
2104 or painting over with an exterior grade paint that matches the color of the
2105 exterior structure.

2106 (c) Front, side and rear yard landscaping shall be maintained in accordance with
2107 the county's standard at the time registration was required.

2108 (d) Items considered to be "landscaping" shall include, but not be limited to,
2109 grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative
2110 rock or bark or artificial turf.

2111 (e) Maintenance shall include, but not be limited to, items such as the following:
2112 watering, cutting and mowing of landscaping, removal of yard waste and debris,
2113 exterior painting, glass replacement, repairs to a building or other structure, or
2114 other acts reasonably necessary to maintain acceptable cosmetic appearance
2115 of the property, including any building or structure on the property, and to
2116 maintain the structural integrity of any building or structure on the property, and
2117 to comply with applicable provisions of the Charlotte County Code and other
2118 local, state or federal law, rule or regulation.

2119 (f) Pools and spas shall be maintained so the water remains free and clear of
2120 pollutants and debris. Pools and spas shall comply with the enclosure
2121 requirements of the International Property Maintenance Code, as may be
2122 amended from time to time.

2123 (g) Failure of the owner or mortgagee or other responsible party to properly
2124 maintain the property shall be a violation of the County Code of Ordinances.
2125 Enforcement of the provisions of this article shall be accomplished in the same
2126 manner as for other violations of the County Code, but such enforcement shall
2127 not be the county's exclusive remedy, it being the intent of the county to make
2128 use of any and all available remedies under this article or under other
2129 provisions of local, state or federal law.

2130 (Ord. No. 2010-031, § 1, 7-13-10)

2131 Sec. 3-2-118. - Security requirements.

2132 (a) The responsible party shall secure properties subject to this article so they are not
2133 accessible to unauthorized persons.

2134 (b) "Secure", as used in subsection (a) above, means the closing and locking of
2135 windows, doors, gates and other openings of such size that may allow access to
2136 enclosed areas of the property or to buildings and structures on the property. Walls
2137 and fences surrounding the property or any portion of the property shall be
2138 maintained in good repair. Broken windows shall be secured by reglazing; boarding
2139 of broken windows shall be used only as a temporary corrective measure and shall
2140 be secured in accordance with the International Property Maintenance Code. Once
2141 a structure is occupied, all boarded openings must be repaired with glazing or new
2142 windows and doors.

2143 (Ord. No. 2010-031, § 1, 7-13-10)

2144 Sec. 3-2-119. - Additional authority as to maintenance and security.

2145 The county administrator, or the county administrator's designee, shall have
2146 authority to require the owner, mortgagee and other responsible parties to implement
2147 additional maintenance and security measures as may be reasonably required to
2148 prevent further decline of the property.

2149 (Ord. No. 2010-031, § 1, 7-13-10)

2150 Sec. 3-2-120. - Property managers.

2151 (a) The owner, the mortgagee or other responsible party may elect to use a property
2152 manager for purposes of complying with the requirements of this article, and any
2153 other laws applicable to the property, but such election shall not relieve the owner,
2154 mortgagee or other responsible party from liability for compliance with this article. If
2155 a property manager is being used for purposes of complying with this article, the
2156 name, address, telephone number and other pertinent contact information
2157 identifying the property manager shall be included in the registration of the property
2158 required under this article.

2159 (b) A property manager accepting appointment as the agent of the owner, the
2160 mortgage or other responsible party shall inspect the property not less than bi-
2161 weekly during the months of March to October to ensure that the property is in
2162 compliance with this article.

2163 (c) If inspection reveals noncompliance, the property manager shall immediately give
2164 written notice of the noncompliance to the owner, the mortgagee or other
2165 responsible party, who shall have ten (10) business days to begin the action
2166 necessary to bring the property into compliance, and not more than thirty (30) days
2167 to complete such action. The county administrator or the county administrator's
2168 designee may extend the compliance time period upon showing unreasonableness
2169 of the time frame for the existing conditions.

2170 (Ord. No. 2010-031, § 1, 7-13-10)

2171 Sec. 3-2-121. - Enforcement; notice of prohibited conditions.

2172 (a) Enforcement. Code compliance officers are directed and empowered to
2173 investigate and enforce the provisions of this article. They are authorized to inspect
2174 any property where a violation of this article is alleged to exist. Code compliance
2175 officers may take code enforcement actions in accordance with chapter 162, Florida
2176 Statutes or section 1-1-15, Charlotte County Code for properties found to be in
2177 violation of this article.

2178 (Ord. No. 2010-031, § 1, 7-13-10)

2179 Sec. 3-2-122. - Exemptions.

2180 (a) Property shall be exempt from the registration requirement of this article if either of
2181 the following two (2) conditions exist.

2182 (1) The property was not the subject of foreclosure and is listed in the applicable
2183 multiple listing service or other substantial competent evidence of actively
2184 marketing the property is provided and the property has not remained vacant
2185 more than one hundred eighty (180) days and the outward appearance is being
2186 maintained; or

2187 (2) The property is under construction and the contractor has applied for and is
2188 covered by an inspection extension program.

2189 (b) At such time either qualifications for exemption ceases to exist, the property shall
2190 be subject to the registration requirements of this article.

2191 (Ord. No. 2010-031, § 1, 7-13-10)

2192 Sec. 3-2-123. - Applicability.

2193 (a) This article shall also apply to properties that have been the subject of a
2194 foreclosure sale where the title was transferred to the mortgagee as a result of a

2195 foreclosure sale, and to property transferred to the mortgagee by a deed-in-lieu of
2196 foreclosure or sale.

2197 (b) This article shall be considered cumulative and not superseding of, or subject to,
2198 any other law or provision relating to the same subject, but shall rather be an
2199 additional remedy available to the county above and beyond any other state, county
2200 or local law or regulation.

2201 (Ord. No. 2010-031, § 1, 7-13-10)

2202 Secs. 3-2-124—3-2-140. - Reserved.

2203 ARTICLE VII. - ELECTRICAL CODE^[6]

2204

2205 Footnotes:

2206 --- (6) ---

2207 **Cross reference**— Cable television, § 1-10-161 et seq.

2208 **State Law reference**— Authority of county to adopt technical codes, F.S. §
2209 125.01(1)(i); building construction standards, F.S. Ch. 553; inspection warrants, F.S. §
2210 933.20 et seq; furnishings copies of local codes, F.S. § 553.23.

2211 Secs. 3-2-141—3-2-143. - Reserved.

2212 **Editor's note**— Former §§ 3-2-141—3-2-143 were deleted by Ord. No 2003-018, § 12,
2213 adopted Apr. 22, 2003. Such sections pertained to the adoption and amendment of an
2214 electrical code and required a one-line diagram and load calculation for certain electrical
2215 service installations. See the Code Comparative Tables at the back of Vol. II for
2216 complete derivation of such provisions.

2217 Sec. 3-2-144. - Electrical fees.

2218 Electrical fees shall be established by resolution of the board of county
2219 commissioners.

2220 (Ord. No. 94-45, § 4, 10-11-94; Ord. No. 97-007, § 10, 3-4-97)

2221 Sec. 3-2-145. - Change in occupancy.

2222 Whenever a change in occupancy of a commercial or industrial building or place of
2223 public assembly occurs or if there is a change in tenants or owners, the electric service
2224 should be disconnected. Prior to reconnection, the tenant/owner shall be required to
2225 obtain a "commercial change of occupancy permit" from the community development
2226 department. The county inspectors will inspect the vacated premises to determine if the
2227 electrical service/wiring, building structure, plumbing, fire and zoning codes are

2228 adequate for the new tenant and free from hazard to life and property. In the event the
2229 electric power is not disconnected, the tenant/owner will still be required to obtain the
2230 necessary permit.

2231 (Ord. No. 97-007, § 11, 3-4-97)

2232 Sec. 3-2-146. - Temporary work.

2233 All temporary work shall be required to secure a permit and an electrical inspection
2234 is required for installing a temporary work, radio transmitting stations, receiving stations,
2235 carnivals, circuses, road shows and similar installations.

2236 (Ord. No. 97-007, § 12, 3-4-97)

2237 Sec. 3-2-147. - Change from residential use.

2238 Existing residential dwelling units or structures, and accessory buildings thereto,
2239 including private garages in a commercial, office, medical, institutional (OMI), or
2240 industrial zoning district shall be allowed to utilize the existing wiring therein if the
2241 minimum standards of the latest adopted edition of the National Electric Code are met.
2242 Provided, however, that the wiring in any alterations or additions to such a structure
2243 must comply with the standards of the latest adopted edition of the National Electric
2244 Code, including local amendments, for commercial occupancy.

2245 (Ord. No. 97-007, § 13, 3-4-97)

2246 Secs. 3-2-148—3-2-155. - Reserved.

2247 ARTICLE VIII. - RESERVED^[7]

2248

2249 Footnotes:

2250 --- (7) ---

2251 **Editor's note**— Ord. No. 2016-014, § 2, adopted March 8, 2016, repealed Art. VIII, §§
2252 3-2-156—3-2-182, which pertained to flood damage prevention and derived from Ord.
2253 No. 2003-020, § 1, adopted April 22, 2003; Ord. No. 2003-066, §§ 1—9, adopted Sept.
2254 23, 2003; and Ord. No. 2004-056, § 1, adopted Sept. 13, 2004.

2255 Secs. 3-2-156—3-2-185. - Reserved.

2256 ARTICLE IX. - RESERVED^[8]

2257

2258 Footnotes:

2259 --- (8) ---

2260 **Editor's note**— Ord. No. 2015-018, § 1(Exh. A), adopted April 28, 2015, repealed Art.
2261 IX, §§ 3-2-186—3-2-201, which pertained to tree requirements. See Code Comparative
2262 Table for a detailed history of derivation.

2263 Secs. 3-2-186—3-2-210. - Reserved.

2264 ARTICLE X. - BUILDING NUMBERING^[9]

2265

2266 Footnotes:

2267 --- (9) ---

2268 **Editor's note**— Ord. No. 89-57, adopted July 11, 1989, did not specifically amend this
2269 Code; hence, inclusion of §§ 1—10 as Ch. 3-2, Art. X, §§ 3-2-211—3-2-220, was at the
2270 discretion of the editor.

2271 Sec. 3-2-211. - Intent.

2272 The intent and purpose of this article is to require all structures, buildings and
2273 dwellings in the county to be readily identifiable by street number to persons providing
2274 emergency services.

2275 (Ord. No. 89-57, § 1, 7-11-89)

2276 **Cross reference**— Emergencies, Ch. 2-1.

2277 Sec. 3-2-212. - Exhibition of street numbers.

2278 Every structure, building and dwelling in the county shall, in accordance with this
2279 article, exhibit the street number assigned by the zoning department to such structure,
2280 building or dwelling.

2281 (Ord. No. 89-57, § 2, 7-11-89)

2282 Sec. 3-2-213. - Definitions.

2283 For the purpose of this article, the following terms, phrases, words and their
2284 derivations shall have the meanings given herein unless the context clearly indicates
2285 otherwise:

2286 (a) *Structure* shall mean anything constructed or erected on the ground, attached to
2287 something having location on the ground, or requiring construction or erection on
2288 the ground.

- 2289 (b) *Building* shall mean any permanent structure, having a roof impervious to weather,
2290 and used or built for the shelter or enclosure of persons, chattels or property of any
2291 kind, excluding garages, storage sheds, barns, tents and cabanas.
- 2292 (c) The *county* shall mean the unincorporated areas of Charlotte County.
- 2293 (d) *Dwelling unit* shall mean a room or rooms connected together, constituting a
2294 separate, independent housekeeping establishment for a family, for owner
2295 occupancy or rental or lease, and physically separated from any other rooms or
2296 dwelling units which may be in the same structure and containing sleeping and
2297 sanitary facilities and one (1) kitchen.
- 2298 (e) *One-family dwelling* shall mean a building containing only one (1) dwelling unit.
- 2299 (f) *Two-family dwelling* shall mean a building containing two (2) dwelling units.
- 2300 (g) *Multiple-family dwelling* shall mean a building containing three (3) or more dwelling
2301 units.
- 2302 (h) *Commercial building* shall mean any structure or building which is not a one-,
2303 two—or multiple-family dwelling.
- 2304 (i) *Detached accessory structure* shall mean a structure such as an entrance gate or
2305 fence, which is customarily incidental or subordinate to the principal structure
2306 located on the same property.
- 2307 (j) *Owner* shall mean any and all persons, firms, entities, partnerships, trusts,
2308 corporations, associations or other organizations who own the free title to, or have
2309 an undivided interest in, any structure or property which is subject to the provisions
2310 of this article.
- 2311 (k) *Occupant* shall mean any person, firm, entity, partnership, trust, corporation,
2312 association or other entity who is occupying or leasing a building or dwelling.

2313 (Ord. No. 89-57, § 3, 7-11-89)

2314 Sec. 3-2-214. - Size and visibility of street numbers.

2315 In accordance with the Florida Building Code all new numbering for addressing of
2316 one- and two-family dwellings shall be posted with street numbers not less than four (4)
2317 inches in height and one-half ($\frac{1}{2}$) inch in width. All commercial buildings and multiple-
2318 family dwellings shall be posted with street numbers not less than six (6) inches in
2319 height. All street numbers shall be posted so as to be clearly visible from any roadway
2320 or street serving such building or dwelling. All numbers required by this article shall be
2321 Arabic numerals and shall be of a contrasting color with the background of the surface
2322 to which such numbers are affixed.

2323 (Ord. No. 89-57, § 4, 7-11-89; Ord. No. 2012-026, § 15, 11-13-12)

2324 Sec. 3-2-215. - Placement of street numbers.

2325 The property owner or occupant of every structure, building or dwelling in the county
2326 shall place the street numbers assigned to such structure, building or dwelling at any of
2327 the following sites or combinations of sites. If such site has a detached accessory
2328 structure that is located between the principal dwelling and the roadway or street
2329 serving the principal dwelling, the location shall render the street numbers clearly visible
2330 from the edge of such roadway or street.

2331 (1) *One-family dwelling*: The street numbers shall be placed on the principal
2332 dwelling, attached garage, or detached accessory structure.

2333 (2) *Two-family dwelling*: The street numbers shall be placed on each dwelling
2334 unit, attached garage, or detached accessory structure. If such site is the
2335 dwelling unit or attached garage, such location shall clearly identify each
2336 dwelling unit from the other, using the street numbers and suffix "A" or "B."

2337 (3) *Multiple-family dwelling*: The street numbers shall be placed on or immediately
2338 adjacent to the sign identifying such multiple-family dwelling. Where the
2339 multiple-family dwelling consists of two (2) or more separate buildings, and is
2340 assigned a common street number, such buildings shall be identified by using
2341 either an alphabetic or numeric designation or a combination thereof, and shall
2342 be placed on each separate building. Apartments shall be identified by an
2343 alphabetic or numeric suffix placed on the entrance to each apartment.

2344 (4) *Commercial buildings*: The specific site at which the street numbers shall be
2345 placed on commercial buildings shall be determined by the owner or occupant
2346 of such commercial building, provided that the provisions of section 3-2-214 of
2347 this article are complied with. The units shall be identified by an alphabetic or
2348 numeric suffix placed on each entrance to places of business.

2349 (Ord. No. 89-57, § 5, 7-11-89)

2350 Sec. 3-2-216. - New construction.

2351 Prior to final inspection, it shall be the duty of the contractors of every new structure,
2352 building or dwelling constructed in the county to place the street numbers assigned to
2353 such new structure, building or dwelling, as required by sections 3-2-214 and 23-2-25 of
2354 this article. A certificate of occupancy (CO), shall not be issued until such time as the
2355 assigned street number is posted to a new structure, building or dwelling.

2356 (Ord. No. 89-57, § 6, 7-11-89)

2357 Sec. 3-2-217. - Removal of old numbers.

2358 It shall be the duty of each property owner or occupant upon receiving notice of a
2359 new street address, or upon affixing a new street number, to remove from the structure,
2360 building or dwelling any number different that might be mistaken for or confused with the
2361 new number so assigned or posted.

2362 Any structure, building or dwelling on which the street number is in script writing
2363 may continue to display the numbering system, but shall also place the street number in
2364 arabic numerals as required by sections 3-2-114 and 3-2-115 of this article.

2365 (Ord. No. 89-57, § 7, 7-11-89)

2366 Sec. 3-2-218. - Variances.

2367 The director of the zoning department, or his designee, may authorize, upon
2368 application by the owner or occupant, and payment of the application fee as determined
2369 by the board of county commissioners, such variance from the terms of this article as
2370 will not be contrary to the public interest where, owing to special conditions peculiar to
2371 the structure or the property on which such structure is located, a literal enforcement of
2372 the provisions of this article would result in unnecessary and undue hardship. A denial
2373 by the zoning official, or his designee, may be appealed to the board of county
2374 commissioners.

2375 (Ord. No. 89-57, § 8, 7-11-89)

2376 Sec. 3-2-219. - Enforcement.

2377 It shall be the duty of the director of the division of community development to
2378 ensure that the provisions of this article are enforced.

2379 (1) The building department shall approve the issuance of a certificate of
2380 occupancy (CO) for a newly constructed one-, two- or multiple-family dwelling,
2381 or commercial building, provided the provisions of sections 3-2-114 and 3-2-115
2382 of this article are complied with.

2383 (2) The zoning department shall approve the issuance of a CO for a commercial
2384 name change that changes the principal use of an existing structure, provided
2385 the provisions of sections 3-2-144 and 3-2-115 of this article are complied with.

2386 (3) If a violation of this article is found to exist, the zoning official or his designee
2387 shall notify the property owner or occupant of the violation in writing. Should
2388 written notification fail to result in compliance with this article within a
2389 reasonable time, the zoning official or his designee shall request legal action
2390 pursuant to the rules of procedure for the code enforcement board.

2391 (Ord. No. 89-57, § 9, 7-11-89)

2392 Sec. 3-2-220. - Penalties.

2393 Any violation of the provisions of this article shall be subject to the enforcement
2394 procedures and penalties pursuant to F.S. Chapter 162, and any county ordinances
2395 enacted pursuant thereto.

2396 (Ord. No. 89-57, § 10, 7-11-89)

2397 ARTICLE XI. - FLOODPLAIN MANAGEMENT

2398 DIVISION 1. - ADMINISTRATION

2399 Subdivision 1. - General

2400 Sec. 3-2-221. - Title.

2401 These regulations shall be known as the Floodplain Management Ordinance of
2402 Charlotte County, Florida hereinafter referred to as "this article."

2403 (Ord. No. 2016-014, § 2, 3-8-16)

2404 Sec. 3-2-222. - Scope.

2405 The provisions of this article shall apply to all development that is wholly within or
2406 partially within any flood hazard area, including but not limited to the subdivision of land;
2407 filling, grading, and other site improvements and utility installations; construction,
2408 alteration, remodeling, enlargement, improvement, replacement, repair, relocation or
2409 demolition of buildings, structures, and facilities that are exempt from the Florida
2410 Building Code; placement, installation, or replacement of manufactured homes and
2411 manufactured buildings; installation or replacement of tanks; placement of recreational
2412 vehicles; installation of swimming pools; and any other development.

2413 (Ord. No. 2016-014, § 2, 3-8-16)

2414 Sec. 3-2-223. - Intent.

2415 The purposes of this article and the flood load and flood resistant construction
2416 requirements of the Florida Building Code are to establish minimum requirements to
2417 safeguard the public health, safety, and general welfare and to minimize public and
2418 private losses due to flooding through regulation of development in flood hazard areas
2419 to:

- 2420 (1) Minimize unnecessary disruption of commerce, access and public service
2421 during times of flooding;
- 2422 (2) Require the use of appropriate construction practices in order to prevent or
2423 minimize future flood damage;
- 2424 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling
2425 operations, storage of equipment or materials, and other development which
2426 may increase flood damage or erosion potential;
- 2427 (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to
2428 minimize the impact of development on the natural and beneficial functions of
2429 the floodplain;
- 2430 (5) Minimize damage to public and private facilities and utilities;

- 2431 (6) Help maintain a stable tax base by providing for the sound use and
2432 development of flood hazard areas;
- 2433 (7) Minimize the need for future expenditure of public funds for flood control
2434 projects and response to and recovery from flood events; and
- 2435 (8) Meet the requirements of the National Flood Insurance Program for
2436 community participation as set forth in the Title 44 Code of Federal Regulations,
2437 Section 59.22.

2438 (Ord. No. 2016-014, § 2, 3-8-16)

2439 Sec. 3-2-224. - Coordination with the Florida Building Code.

2440 This article is intended to be administered and enforced in conjunction with the
2441 Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is
2442 referenced by the Florida Building Code.

2443 (Ord. No. 2016-014, § 2, 3-8-16)

2444 Sec. 3-2-225. - Warning.

2445 The degree of flood protection required by this article and the Florida Building Code,
2446 as amended by this community, is considered the minimum reasonable for regulatory
2447 purposes and is based on scientific and engineering considerations. Larger floods can
2448 and will occur. Flood heights may be increased by manmade or natural causes. This
2449 article does not imply that land outside of mapped special flood hazard areas, or that
2450 uses permitted within such flood hazard areas, will be free from flooding or flood
2451 damage. The flood hazard areas and base flood elevations contained in the flood
2452 insurance study and shown on flood insurance rate maps and the requirements of Title
2453 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal
2454 Emergency Management Agency, requiring this community to revise these regulations
2455 to remain eligible for participation in the National Flood Insurance Program. No guaranty
2456 of vested use, existing use, or future use is implied or expressed by compliance with
2457 this article.

2458 (Ord. No. 2016-014, § 2, 3-8-16)

2459 Sec. 3-2-226. - Disclaimer of liability.

2460 This article shall not create liability on the part of the Board of County
2461 Commissioners of Charlotte County, Florida or by any officer or employee thereof for
2462 any flood damage that results from reliance on this article or any administrative decision
2463 lawfully made thereunder.

2464 (Ord. No. 2016-014, § 2, 3-8-16)

2465 Subdivision 2. - Applicability

2466 Sec. 3-2-227. - General.

2467 Where there is a conflict between a general requirement and a specific requirement,
2468 the specific requirement shall be applicable.

2469 (Ord. No. 2016-014, § 2, 3-8-16)

2470 Sec. 3-2-228. - Areas to which this article applies.

2471 This article shall apply to all flood hazard areas within Charlotte County, Florida, as
2472 established in section 3-2-229 of this article.

2473 (Ord. No. 2016-014, § 2, 3-8-16)

2474 Sec. 3-2-229. - Basis for establishing flood hazard areas.

2475 The flood insurance study for Charlotte County, Florida and Incorporated Areas
2476 dated May 5, 2003, and all subsequent amendments and revisions, and the
2477 accompanying flood insurance rate maps (FIRM), and all subsequent amendments and
2478 revisions to such maps, are adopted by reference as a part of this article and shall serve
2479 as the minimum basis for establishing flood hazard areas. Studies and maps that
2480 establish flood hazard areas are on file at the Charlotte County Community
2481 Development Department, 18400 Murdock Circle, Port Charlotte, Florida 33948.

2482 (Ord. No. 2016-014, § 2, 3-8-16)

2483 Sec. 3-2-230. - Submission of additional data to establish flood hazard areas.

2484 To establish flood hazard areas and base flood elevations, pursuant to division 1,
2485 subdivision 5 of this article, the floodplain administrator may require submission of
2486 additional data. Where field surveyed topography prepared by a Florida licensed
2487 professional surveyor or digital topography accepted by the community indicates that
2488 ground elevations:

2489 (1) Are below the closest applicable base flood elevation, even in areas not
2490 delineated as a special flood hazard area on a FIRM, the area shall be
2491 considered as flood hazard area and subject to the requirements of this article
2492 and, as applicable, the requirements of the Florida Building Code.

2493 (2) Are above the closest applicable base flood elevation, the area shall be
2494 regulated as special flood hazard area unless the applicant obtains a letter of
2495 map change that removes the area from the special flood hazard area.

2496 (Ord. No. 2016-014, § 2, 3-8-16)

2497 Sec. 3-2-231. - Other laws.

2498 The provisions of this article shall not be deemed to nullify any provisions of local,
2499 state or federal law.

2500 (Ord. No. 2016-014, § 2, 3-8-16)

2501 Sec. 3-2-232. - Abrogation and greater restrictions.

2502 This article supersedes any ordinance in effect for management of development in
2503 flood hazard areas. However, it is not intended to repeal or abrogate any existing
2504 ordinances including but not limited to land development regulations, zoning
2505 ordinances, stormwater management regulations, or the Florida Building Code. In the
2506 event of a conflict between this article and any other ordinance, the more restrictive
2507 shall govern. This article shall not impair any deed restriction, covenant or easement,
2508 but any land that is subject to such interests shall also be governed by this article.

2509 (Ord. No. 2016-014, § 2, 3-8-16)

2510 Sec. 3-2-233. - Interpretation.

2511 In the interpretation and application of this article, all provisions shall be:

2512 (1) Considered as minimum requirements;

2513 (2) Liberally construed in favor of the governing body; and

2514 (3) Deemed neither to limit nor repeal any other powers granted under state
2515 statutes.

2516 (Ord. No. 2016-014, § 2, 3-8-16)

2517 Subdivision 3. - Duties and Powers of the Floodplain Administrator

2518 Sec. 3-2-234. - Designation.

2519 The Charlotte County Building Official is designated as the floodplain administrator.
2520 The floodplain administrator may delegate performance of certain duties to other
2521 employees.

2522 (Ord. No. 2016-014, § 2, 3-8-16)

2523 Sec. 3-2-235. - General.

2524 The floodplain administrator is authorized and directed to administer and enforce
2525 the provisions of this article. The floodplain administrator shall have the authority to
2526 render interpretations of this article consistent with the intent and purpose of this article
2527 and may establish policies and procedures in order to clarify the application of its
2528 provisions. Such interpretations, policies, and procedures shall not have the effect of
2529 waiving requirements specifically provided in this article without the granting of a
2530 variance pursuant to division 1, subdivision 7 of this article.

2531 (Ord. No. 2016-014, § 2, 3-8-16)

2532 Sec. 3-2-236. - Applications and permits.

2533 The floodplain administrator, in coordination with other pertinent offices of the
2534 community, shall:

- 2535 (1) Review applications and plans to determine whether proposed new
2536 development will be located in flood hazard areas;
- 2537 (2) Review applications for modification of any existing development in flood
2538 hazard areas for compliance with the requirements of this article;
- 2539 (3) Interpret flood hazard area boundaries where such interpretation is necessary
2540 to determine the exact location of boundaries; a person contesting the
2541 determination shall have the opportunity to appeal the interpretation;
- 2542 (4) Provide available flood elevation and flood hazard information;
- 2543 (5) Determine whether additional flood hazard data shall be obtained from other
2544 sources or shall be developed by an applicant;
- 2545 (6) Review applications to determine whether proposed development will be
2546 reasonably safe from flooding;
- 2547 (7) Issue floodplain development permits or approvals for development other than
2548 buildings and structures that are subject to the Florida Building Code, including
2549 buildings, structures and facilities exempt from the Florida Building Code, when
2550 compliance with this article is demonstrated, or disapprove the same in the
2551 event of noncompliance; and
- 2552 (8) Coordinate with and provide comments to the building official to assure that
2553 applications, plan reviews, and inspections for buildings and structures in flood
2554 hazard areas comply with the applicable provisions of this article.

2555 (Ord. No. 2016-014, § 2, 3-8-16)

2556 Sec. 3-2-237. - Substantial improvement and substantial damage determinations.

2557 For applications for building permits to improve buildings and structures, including
2558 alterations, movement, enlargement, replacement, repair, change of occupancy,
2559 additions, rehabilitations, renovations, substantial improvements, repairs of substantial
2560 damage, and any other improvement of or work on such buildings and structures, the
2561 floodplain administrator, in coordination with the building official, shall:

- 2562 (1) Estimate the market value, or require the applicant to obtain an appraisal of
2563 the market value prepared by a qualified independent appraiser, of the building
2564 or structure before the start of construction of the proposed work; in the case of
2565 repair, the market value of the building or structure shall be the market value
2566 before the damage occurred and before any repairs are made;

- 2567 (2) Compare the cost to perform the improvement, the cost to repair a damaged
2568 building to its pre-damaged condition, or the combined costs of improvements
2569 and repairs, if applicable, to the market value of the building or structure;
- 2570 (3) Determine and document whether the proposed work constitutes substantial
2571 improvement or repair of substantial damage; the determination requires
2572 evaluation of previous permits issued for improvements and repairs as specified
2573 in the definition of "substantial improvement"; for proposed work to repair
2574 damage caused by flooding, the determination requires evaluation of previous
2575 permits issued to repair flood-related damage as specified in the definition of
2576 "substantial damage"; and
- 2577 (4) Notify the applicant if it is determined that the work constitutes substantial
2578 improvement or repair of substantial damage and that compliance with the flood
2579 resistant construction requirements of the Florida Building Code and this article
2580 is required.

2581 (Ord. No. 2016-014, § 2, 3-8-16)

2582 Sec. 3-2-238. - Modifications of the strict application of the requirements of the Florida
2583 Building Code.

2584 The floodplain administrator shall review requests submitted to the building official
2585 that seek approval to modify the strict application of the flood load and flood resistant
2586 construction requirements of the Florida Building Code to determine whether such
2587 requests require the granting of a variance pursuant to division 1, subdivision 7 of this
2588 article.

2589 (Ord. No. 2016-014, § 2, 3-8-16)

2590 Sec. 3-2-239. - Notices and orders.

2591 The floodplain administrator shall coordinate with appropriate local agencies for the
2592 issuance of all necessary notices or orders to ensure compliance with this article.

2593 (Ord. No. 2016-014, § 2, 3-8-16)

2594 Sec. 3-2-240. - Inspections.

2595 The floodplain administrator shall make the required inspections as specified in
2596 division 1, subdivision 6 of this article for development that is not subject to the Florida
2597 Building Code, including buildings, structures and facilities exempt from the Florida
2598 Building Code. The floodplain administrator shall inspect flood hazard areas to
2599 determine if development is undertaken without issuance of a permit.

2600 (Ord. No. 2016-014, § 2, 3-8-16)

2601 Sec. 3-2-241. - Other duties of the floodplain administrator.

- 2602 The floodplain administrator shall have other duties, including but not limited to:
- 2603 (1) Establish, in coordination with the building official, procedures for
2604 administering and documenting determinations of substantial improvement and
2605 substantial damage made pursuant to section 3-2-237 of this article;
 - 2606 (2) Require that applicants proposing alteration of a watercourse notify adjacent
2607 communities and the Florida Division of Emergency Management, State
2608 Floodplain Management Office, and submit copies of such notifications to the
2609 Federal Emergency Management Agency (FEMA);
 - 2610 (3) Require applicants who submit hydrologic and hydraulic engineering analyses
2611 to support permit applications to submit to FEMA the data and information
2612 necessary to maintain the flood insurance rate maps if the analyses propose to
2613 change base flood elevations, flood hazard area boundaries, or floodway
2614 designations; such submissions shall be made within six (6) months of such
2615 data becoming available;
 - 2616 (4) Review required design certifications and documentation of elevations
2617 specified by this article and the Florida Building Code to determine that such
2618 certifications and documentations are complete;
 - 2619 (5) Notify the Federal Emergency Management Agency when the corporate
2620 boundaries of Charlotte County, Florida are modified; and
 - 2621 (6) Advise applicants for new buildings and structures, including substantial
2622 improvements, that are located in any unit of the Coastal Barrier Resources
2623 System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and
2624 the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal
2625 flood insurance is not available on such construction; areas subject to this
2626 limitation are identified on flood insurance rate maps as "Coastal Barrier
2627 Resource System Areas" and "Otherwise Protected Areas."

2628 (Ord. No. 2016-014, § 2, 3-8-16)

2629 Sec. 3-2-242. - Floodplain management records.

2630 Regardless of any limitation on the period required for retention of public records,
2631 the floodplain administrator shall maintain and permanently keep and make available for
2632 public inspection all records that are necessary for the administration of this article and
2633 the flood resistant construction requirements of the Florida Building Code, including
2634 flood insurance rate maps; letters of map change; records of issuance of permits and
2635 denial of permits; determinations of whether proposed work constitutes substantial
2636 improvement or repair of substantial damage; required design certifications and
2637 documentation of elevations specified by the Florida Building Code and this article;
2638 notifications to adjacent communities, FEMA, and the state related to alterations of
2639 watercourses; assurances that the flood-carrying capacity of altered watercourses will
2640 be maintained; documentation related to appeals and variances, including justification
2641 for issuance or denial; and records of enforcement actions taken pursuant to this article
2642 and the flood resistant construction requirements of the Florida Building Code. These

2643 records shall be available for public inspection at Charlotte County Community
2644 Development, 18400 Murdock Circle, Port Charlotte, Florida 33948.

2645 (Ord. No. 2016-014, § 2, 3-8-16)

2646 Subdivision 4. - Permits

2647 Sec. 3-2-243. - Permits required.

2648 Any owner or owner's authorized agent (hereinafter "applicant") who intends to
2649 undertake any development activity within the scope of this article, including buildings,
2650 structures and facilities exempt from the Florida Building Code, which is wholly within or
2651 partially within any flood hazard area shall first make application to the floodplain
2652 administrator, and the building official if applicable, and shall obtain the required
2653 permit(s) and approval(s). No such permit or approval shall be issued until compliance
2654 with the requirements of this article and all other applicable codes and regulations has
2655 been satisfied.

2656 (Ord. No. 2016-014, § 2, 3-8-16)

2657 Sec. 3-2-244. - Floodplain development permits or approvals.

2658 Floodplain development permits or approvals shall be issued pursuant to this article
2659 for any development activities not subject to the requirements of the Florida Building
2660 Code, including buildings, structures and facilities exempt from the Florida Building
2661 Code. Depending on the nature and extent of proposed development that includes a
2662 building or structure, the floodplain administrator may determine that a floodplain
2663 development permit or approval is required in addition to a building permit.

2664 (Ord. No. 2016-014, § 2, 3-8-16)

2665 Sec. 3-2-245. - Buildings, structures and facilities exempt from the Florida Building
2666 Code.

2667 Pursuant to the requirements of federal regulation for participation in the National
2668 Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development
2669 permits or approvals shall be required for the following buildings, structures and facilities
2670 that are exempt from the Florida Building Code and any further exemptions provided by
2671 law, which are subject to the requirements of this article:

- 2672 (1) Railroads and ancillary facilities associated with the railroad.
- 2673 (2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.
- 2674 (3) Temporary buildings or sheds used exclusively for construction purposes.
- 2675 (4) Mobile or modular structures used as temporary offices.

- 2676 (5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02,
2677 which are directly involved in the generation, transmission, or distribution of
2678 electricity.
- 2679 (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the
2680 Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means
2681 an open-sided wooden hut that has a thatched roof of palm or palmetto or other
2682 traditional materials, and that does not incorporate any electrical, plumbing, or
2683 other non-wood features.
- 2684 (7) Family mausoleums not exceeding two hundred fifty (250) square feet in area
2685 which are prefabricated and assembled on site or preassembled and delivered
2686 on site and have walls, roofs, and a floor constructed of granite, marble, or
2687 reinforced concrete.
- 2688 (8) Temporary housing provided by the department of corrections to any prisoner
2689 in the state correctional system.
- 2690 (9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida
2691 Building Code if such structures are located in flood hazard areas established
2692 on flood insurance rate maps.

2693 (Ord. No. 2016-014, § 2, 3-8-16)

2694 Sec. 3-2-246. - Application for a permit or approval.

2695 To obtain a floodplain development permit or approval the applicant shall first file an
2696 application in writing on a form furnished by Charlotte County. The information provided
2697 shall:

- 2698 (1) Identify and describe the development to be covered by the permit or
2699 approval.
- 2700 (2) Describe the land on which the proposed development is to be conducted by
2701 legal description, street address or similar description that will readily identify
2702 and definitively locate the site.
- 2703 (3) Indicate the use and occupancy for which the proposed development is
2704 intended.
- 2705 (4) Be accompanied by a site plan or construction documents as specified in
2706 division 1, subdivision 5 of this article.
- 2707 (5) Include a signed declaration of land restriction (nonconversion agreement) for
2708 projects proposing to enclose areas under elevated buildings that exceed six (6)
2709 feet above the highest adjacent grade which shall be recorded in the Charlotte
2710 County official records prior to issuance of the certificate of occupancy.
- 2711 (6) State the valuation of the proposed work.
- 2712 (7) Be signed by the applicant or the applicant's authorized agent.

2713 (8) Give such other data and information as required by the floodplain
2714 administrator.

2715 (Ord. No. 2016-014, § 2, 3-8-16)

2716 Sec. 3-2-247. - Validity of permit or approval.

2717 The issuance of a floodplain development permit or approval pursuant to this article
2718 shall not be construed to be a permit for, or approval of, any violation of this article, the
2719 Florida Building Codes, or any other ordinance of this community. The issuance of
2720 permits based on submitted applications, construction documents, and information shall
2721 not prevent the floodplain administrator from requiring the correction of errors and
2722 omissions.

2723 (Ord. No. 2016-014, § 2, 3-8-16)

2724 Sec. 3-2-248. - Expiration.

2725 A floodplain development permit or approval shall become invalid unless the work
2726 authorized by such permit is commenced within one hundred eighty (180) days after its
2727 issuance, or if the work authorized is suspended or abandoned for a period of one
2728 hundred eighty (180) days after the work commences. Extensions for periods of not
2729 more than one hundred eighty (180) days each shall be requested in writing and
2730 justifiable cause shall be demonstrated.

2731 (Ord. No. 2016-014, § 2, 3-8-16)

2732 Sec. 3-2-249. - Suspension or revocation.

2733 The floodplain administrator is authorized to suspend or revoke a floodplain
2734 development permit or approval if the permit was issued in error, on the basis of
2735 incorrect, inaccurate or incomplete information, or in violation of this article or any other
2736 ordinance, regulation or requirement of this community.

2737 (Ord. No. 2016-014, § 2, 3-8-16)

2738 Sec. 3-2-250. - Other permits required.

2739 Floodplain development permits and building permits shall include a condition that
2740 all other applicable state or federal permits be obtained before commencement of the
2741 permitted development, including but not limited to the following:

2742 (1) The Southwest Florida Water Management District or the South Florida Water
2743 Management District as applicable; F.S. § 373.036.

2744 (2) Florida Department of Health for onsite sewage treatment and disposal
2745 systems; F.S. § 381.0065 and Chapter 64E-6, F.A.C.

- 2746 (3) Florida Department of Environmental Protection for construction,
2747 reconstruction, changes, or physical activities for shore protection or other
2748 activities seaward of the coastal construction control line; F.S. § 161.141.
- 2749 (4) Florida Department of Environmental Protection for activities subject to the
2750 Joint Coastal Permit; F.S. § 161.055.
- 2751 (5) Florida Department of Environmental Protection for activities that affect
2752 wetlands and alter surface water flows, in conjunction with the U.S. Army Corps
2753 of Engineers; Section 404 of the Clean Water Act.
- 2754 (6) Federal permits and approvals.

2755 (Ord. No. 2016-014, § 2, 3-8-16)

2756 Subdivision 5. - Site Plans and Construction Documents

2757 Sec. 3-2-251. - Information for development in flood hazard areas.

2758 The site plan or construction documents for any development subject to the
2759 requirements of this article shall be drawn to scale and shall include, as applicable to
2760 the proposed development:

- 2761 (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s),
2762 base flood elevation(s), and ground elevations if necessary for review of the
2763 proposed development.
- 2764 (2) Where base flood elevations, or floodway data are not included on the FIRM
2765 or in the flood insurance study, they shall be established in accordance with
2766 section 3-2-252(2) or (3) of this article.
- 2767 (3) Where the parcel on which the proposed development will take place will have
2768 more than fifty (50) lots or is larger than five (5) acres and the base flood
2769 elevations are not included on the FIRM or in the flood insurance study, such
2770 elevations shall be established in accordance with section 3-2-252(1) of this
2771 article.
- 2772 (4) Location of the proposed activity and proposed structures, and locations of
2773 existing buildings and structures; in coastal high hazard areas, new buildings
2774 shall be located landward of the reach of mean high tide.
- 2775 (5) Location, extent, amount, and proposed final grades of any filling, grading, or
2776 excavation.
- 2777 (6) Where the placement of fill is proposed, the amount, type, and source of fill
2778 material; compaction specifications; a description of the intended purpose of the
2779 fill areas; and evidence that the proposed fill areas are the minimum necessary
2780 to achieve the intended purpose.
- 2781 (7) Delineation of the coastal construction control line or notation that the site is
2782 seaward of the coastal construction control line, if applicable.

2783 (8) Extent of any proposed alteration of sand dunes or mangrove stands,
2784 provided such alteration is approved by the Florida Department of
2785 Environmental Protection.

2786 (9) Existing and proposed alignment of any proposed alteration of a watercourse.

2787 The floodplain administrator is authorized to waive the submission of site plans,
2788 construction documents, and other data that are required by this article but that are not
2789 required to be prepared by a registered design professional if it is found that the nature
2790 of the proposed development is such that the review of such submissions is not
2791 necessary to ascertain compliance with this article.

2792 (Ord. No. 2016-014, § 2, 3-8-16)

2793 Sec. 3-2-252. - Information in flood hazard areas without base flood elevations
2794 (approximate zone A).

2795 Where flood hazard areas are delineated on the FIRM and base flood elevation
2796 data have not been provided, the floodplain administrator shall:

2797 (1) Require the applicant to include base flood elevation data prepared in
2798 accordance with currently accepted engineering practices.

2799 (2) Obtain, review, and provide to applicants base flood elevation and floodway
2800 data available from a federal or state agency or other source or require the
2801 applicant to obtain and use base flood elevation and floodway data available
2802 from a federal or state agency or other source.

2803 (3) Where base flood elevation and floodway data are not available from another
2804 source, where the available data are deemed by the floodplain administrator to
2805 not reasonably reflect flooding conditions, or where the available data are
2806 known to be scientifically or technically incorrect or otherwise inadequate:

2807 (a) Require the applicant to include base flood elevation data prepared in
2808 accordance with currently accepted engineering practices; or

2809 (b) Specify that the base flood elevation is three (3) feet above the highest
2810 adjacent grade at the location of the development, provided there is no
2811 evidence indicating flood depths have been or may be greater than three
2812 (3) feet.

2813 (4) Where the base flood elevation data are to be used to support a letter of map
2814 change from FEMA, advise the applicant that the analyses shall be prepared by
2815 a Florida licensed engineer in a format required by FEMA, and that it shall be
2816 the responsibility of the applicant to satisfy the submittal requirements and pay
2817 the processing fees.

2818 (Ord. No. 2016-014, § 2, 3-8-16)

2819 Sec. 3-2-253. - Additional analyses and certifications.

2820 As applicable to the location and nature of the proposed development activity, and
2821 in addition to the requirements of this section, the applicant shall have the following
2822 analyses signed and sealed by a Florida licensed engineer for submission with the site
2823 plan and construction documents:

2824 (1) For development activities proposed to be located in a regulatory floodway, a
2825 floodway encroachment analysis that demonstrates that the encroachment of
2826 the proposed development will not cause any increase in base flood elevations;
2827 where the applicant proposes to undertake development activities that do
2828 increase base flood elevations, the applicant shall submit such analysis to
2829 FEMA as specified in section 3-2-254 of this article and shall submit the
2830 conditional letter of map revision, if issued by FEMA, with the site plan and
2831 construction documents.

2832 (2) For development activities proposed to be located in a riverine flood hazard
2833 area for which base flood elevations are included in the flood insurance study or
2834 on the FIRM and floodways have not been designated, hydrologic and hydraulic
2835 analyses that demonstrate that the cumulative effect of the proposed
2836 development, when combined with all other existing and anticipated flood
2837 hazard area encroachments, will not increase the base flood elevation more
2838 than one (1) foot at any point within the community. This requirement does not
2839 apply in isolated flood hazard areas not connected to a riverine flood hazard
2840 area or in flood hazard areas identified as zone AO or zone AH.

2841 (3) For alteration of a watercourse, an engineering analysis prepared in
2842 accordance with standard engineering practices which demonstrates that the
2843 flood-carrying capacity of the altered or relocated portion of the watercourse will
2844 not be decreased, and certification that the altered watercourse shall be
2845 maintained in a manner which preserves the channel's flood-carrying capacity;
2846 the applicant shall submit the analysis to FEMA as specified in section 3-2-254
2847 of this article.

2848 (4) For activities that propose to alter sand dunes or mangrove stands in coastal
2849 high hazard areas (zone V), an engineering analysis that demonstrates that the
2850 proposed alteration will not increase the potential for flood damage.

2851 (Ord. No. 2016-014, § 2, 3-8-16)

2852 Sec. 3-2-254. - Submission of additional data.

2853 When additional hydrologic, hydraulic or other engineering data, studies, and
2854 additional analyses are submitted to support an application, the applicant has the right
2855 to seek a letter of map change from FEMA to change the base flood elevations, change
2856 floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs,
2857 and to submit such data to FEMA for such purposes. The analyses shall be prepared by
2858 a Florida licensed engineer in a format required by FEMA. Submittal requirements and
2859 processing fees shall be the responsibility of the applicant.

2860 (Ord. No. 2016-014, § 2, 3-8-16)

2861 Subdivision 6. - Inspections

2862 Sec. 3-2-255. - General.

2863 Development for which a floodplain development permit or approval is required shall
2864 be subject to inspection.

2865 (Ord. No. 2016-014, § 2, 3-8-16)

2866 Sec. 3-2-256. - Development other than buildings and structures.

2867 The floodplain administrator shall inspect all development to determine compliance
2868 with the requirements of this article and the conditions of issued floodplain development
2869 permits or approvals.

2870 (Ord. No. 2016-014, § 2, 3-8-16)

2871 Sec. 3-2-257. - Buildings, structures and facilities exempt from the Florida Building
2872 Code.

2873 The floodplain administrator shall inspect buildings, structures and facilities exempt
2874 from the Florida Building Code to determine compliance with the requirements of this
2875 article and the conditions of issued floodplain development permits or approvals.

2876 (Ord. No. 2016-014, § 2, 3-8-16)

2877 Sec. 3-2-258. - Buildings, structures and facilities exempt from the Florida Building
2878 Code, lowest floor inspection.

2879 Upon placement of the lowest floor, including basement, and prior to further vertical
2880 construction, the owner of a building, structure or facility exempt from the Florida
2881 Building Code, or the owner's authorized agent, shall submit to the floodplain
2882 administrator:

2883 (1) If a design flood elevation was used to determine the required elevation of the
2884 lowest floor, the certification of elevation of the lowest floor prepared and sealed
2885 by a Florida licensed professional surveyor; or

2886 (2) If the elevation used to determine the required elevation of the lowest floor
2887 was determined in accordance with section 3-2-252(3)(b) of this article, the
2888 documentation of height of the lowest floor above highest adjacent grade,
2889 prepared by the owner or the owner's authorized agent.

2890 (Ord. No. 2016-014, § 2, 3-8-16)

2891 Sec. 3-2-259. - Buildings, structures and facilities exempt from the Florida Building
2892 Code, final inspection.

2893 As part of the final inspection, the owner or owner's authorized agent shall submit to
2894 the floodplain administrator a final certification of elevation of the lowest floor or final
2895 documentation of the height of the lowest floor above the highest adjacent grade; such
2896 certifications and documentations shall be prepared as specified in section 3-2-258 of
2897 this article.

2898 (Ord. No. 2016-014, § 2, 3-8-16)

2899 Sec. 3-2-260. - Manufactured homes.

2900 The floodplain administrator shall inspect manufactured homes that are installed or
2901 replaced in flood hazard areas to determine compliance with the requirements of this
2902 article and the conditions of the issued permit. Upon placement of a manufactured
2903 home, a certification of the elevation of from the lowest floor-bottom of the frame shall
2904 be submitted to the floodplain administrator.

2905 (Ord. No. 2016-014, § 2, 3-8-16)

2906 Subdivision 7. - Variances and Appeals

2907 Sec. 3-2-261. - General.

2908 The construction industry licensing board (CILB) shall hear and decide on requests
2909 for appeals and requests for variances from the strict application of this article. Pursuant
2910 to F.S. § 553.73(5), the CILB shall hear and decide on requests for appeals and
2911 requests for variances from the strict application of the flood resistant construction
2912 requirements of the Florida Building Code. This section does not apply to Section 3109
2913 of the Florida Building Code, Building.

2914 (Ord. No. 2016-014, § 2, 3-8-16)

2915 Sec. 3-2-262. - Appeals.

2916 The CILB shall hear and decide appeals when it is alleged there is an error in any
2917 requirement, decision, or determination made by the floodplain administrator in the
2918 administration and enforcement of this article. Any person aggrieved by the decision
2919 may appeal such decision to the Circuit Court, as provided by Florida Statutes.

2920 (Ord. No. 2016-014, § 2, 3-8-16)

2921 Sec. 3-2-263. - Limitations on authority to grant variances.

2922 The CILB shall base its decisions on variances on technical justifications submitted
2923 by applicants, the considerations for issuance in section 3-2-267 of this article, the
2924 conditions of issuance set forth in section 3-2-268 of this article, and the comments and
2925 recommendations of the floodplain administrator and the building official. The CILB has

2926 the right to attach such conditions as it deems necessary to further the purposes and
2927 objectives of this article.

2928 (Ord. No. 2016-014, § 2, 3-8-16)

2929 Sec. 3-2-264. - Restrictions in floodways.

2930 A variance shall not be issued for any proposed development in a floodway if any
2931 increase in base flood elevations would result, as evidenced by the applicable analyses
2932 and certifications required in section 3-2-253 of this article.

2933 (Ord. No. 2016-014, § 2, 3-8-16)

2934 Sec. 3-2-265. - Historic buildings.

2935 A variance is authorized to be issued for the repair, improvement, or rehabilitation of
2936 a historic building that is determined eligible for the exception to the flood resistant
2937 construction requirements of the Florida Building Code, Existing Building, Chapter ~~4412~~
2938 Historic Buildings, upon a determination that the proposed repair, improvement, or
2939 rehabilitation will not preclude the building's continued designation as a historic building
2940 and the variance is the minimum necessary to preserve the historic character and
2941 design of the building. If the proposed work precludes the building's continued
2942 designation as a historic building, a variance shall not be granted and the building and
2943 any repair, improvement, and rehabilitation shall be subject to the requirements of the
2944 Florida Building Code.

2945 (Ord. No. 2016-014, § 2, 3-8-16)

2946 Sec. 3-2-266. - Functionally dependent uses.

2947 A variance is authorized to be issued for the construction or substantial
2948 improvement necessary for the conduct of a functionally dependent use, as defined in
2949 this article, provided the variance meets the requirements of section 3-2-264, is the
2950 minimum necessary considering the flood hazard, and all due consideration has been
2951 given to use of methods and materials that minimize flood damage during occurrence of
2952 the base flood.

2953 (Ord. No. 2016-014, § 2, 3-8-16)

2954 Sec. 3-2-267. - Considerations for issuance of variances.

2955 In reviewing requests for variances, the CILB shall consider all technical
2956 evaluations, all relevant factors, all other applicable provisions of the Florida Building
2957 Code, this article, and the following:

2958 (1) The danger that materials and debris may be swept onto other lands resulting
2959 in further injury or damage;

- 2960 (2) The danger to life and property due to flooding or erosion damage;
- 2961 (3) The susceptibility of the proposed development, including contents, to flood
2962 damage and the effect of such damage on current and future owners;
- 2963 (4) The importance of the services provided by the proposed development to the
2964 community;
- 2965 (5) The availability of alternate locations for the proposed development that are
2966 subject to lower risk of flooding or erosion;
- 2967 (6) The compatibility of the proposed development with existing and anticipated
2968 development;
- 2969 (7) The relationship of the proposed development to the comprehensive plan and
2970 floodplain management program for the area;
- 2971 (8) The safety of access to the property in times of flooding for ordinary and
2972 emergency vehicles;
- 2973 (9) The expected heights, velocity, duration, rate of rise and debris and sediment
2974 transport of the floodwaters and the effects of wave action, if applicable,
2975 expected at the site; and
- 2976 (10) The costs of providing governmental services during and after flood
2977 conditions including maintenance and repair of public utilities and facilities such
2978 as sewer, gas, electrical and water systems, streets and bridges.

2979 (Ord. No. 2016-014, § 2, 3-8-16)

2980 Sec. 3-2-268. - Conditions for issuance of variances.

2981 Variances shall be issued only upon:

- 2982 (1) Submission by the applicant, of a showing of good and sufficient cause that
2983 the unique characteristics of the size, configuration, or topography of the site
2984 limit compliance with any provision of this article or the required elevation
2985 standards;
- 2986 (2) Determination by the CILB that:
- 2987 (a) Failure to grant the variance would result in exceptional hardship due to
2988 the physical characteristics of the land that render the lot undevelopable;
2989 increased costs to satisfy the requirements or inconvenience do not
2990 constitute hardship;
- 2991 (b) The granting of a variance will not result in increased flood heights,
2992 additional threats to public safety, extraordinary public expense, nor create
2993 nuisances, cause fraud on or victimization of the public or conflict with
2994 existing local laws and ordinances; and
- 2995 (c) The variance is the minimum necessary, considering the flood hazard, to
2996 afford relief;

2997 (3) Receipt of a signed statement by the applicant that the variance, if granted,
2998 shall be recorded in the office of the clerk of the court in such a manner that it
2999 appears in the chain of title of the affected parcel of land; and

3000 (4) If the request is for a variance to allow construction of the lowest floor of a new
3001 building, or substantial improvement of a building, below the required elevation,
3002 a copy in the record of a written notice from the floodplain administrator to the
3003 applicant for the variance, specifying the difference between the base flood
3004 elevation and the proposed elevation of the lowest floor, stating that the cost of
3005 federal flood insurance will be commensurate with the increased risk resulting
3006 from the reduced floor elevation (up to amounts as high as twenty-five dollars
3007 (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating
3008 that construction below the base flood elevation increases risks to life and
3009 property.

3010 (Ord. No. 2016-014, § 2, 3-8-16)

3011 Subdivision 8. - Violations

3012 Sec. 3-2-269. - Violations.

3013 Any development that is not within the scope of the Florida Building Code but that is
3014 regulated by this article that is performed without an issued permit, that is in conflict with
3015 an issued permit, or that does not fully comply with this article, shall be deemed a
3016 violation of this article. A building or structure without the documentation of elevation of
3017 the lowest floor, other required design certifications, or other evidence of compliance
3018 required by this article or the Florida Building Code is presumed to be a violation until
3019 such time as that documentation is provided.

3020 (Ord. No. 2016-014, § 2, 3-8-16)

3021 Sec. 3-2-270. - Authority.

3022 For development that is not within the scope of the Florida Building Code but that is
3023 regulated by this article and that is determined to be a violation, the floodplain
3024 administrator is authorized to serve notices of violation or stop work orders to owners of
3025 the property involved, to the owner's agent, or to the person or persons performing the
3026 work.

3027 (Ord. No. 2016-014, § 2, 3-8-16)

3028 Sec. 3-2-271. - Unlawful continuance.

3029 Any person who shall continue any work after having been served with a notice of
3030 violation or a stop work order, except such work as that person is directed to perform to
3031 remove or remedy a violation or unsafe condition, shall be subject to penalties as
3032 prescribed by law.

3033 (Ord. No. 2016-014, § 2, 3-8-16)

3034 DIVISION 2. - DEFINITIONS

3035 Subdivision 1. - General

3036 Sec. 3-2-272. - Scope.

3037 Unless otherwise expressly stated, the following words and terms shall, for the
3038 purposes of this article, have the meanings shown in this section.

3039 (Ord. No. 2016-014, § 2, 3-8-16)

3040 Sec. 3-2-273. - Terms defined in the Florida Building Code.

3041 Where terms are not defined in this article and are defined in the Florida Building
3042 Code, such terms shall have the meanings ascribed to them in that code.

3043 (Ord. No. 2016-014, § 2, 3-8-16)

3044 Sec. 3-2-274. - Terms not defined.

3045 Where terms are not defined in this article or the Florida Building Code, such terms
3046 shall have ordinarily accepted meanings such as the context implies.

3047 (Ord. No. 2016-014, § 2, 3-8-16)

3048 Subdivision 2. - Definitions

3049 Sec. 3-2-274.5. - Definitions.

3050 [The following words, terms and phrases, when used in this article, shall have the
3051 meanings ascribed to them in this section, except where the context clearly indicates a
3052 different meaning:]

3053 *Alteration of a watercourse.* A dam, impoundment, channel relocation, change in
3054 channel alignment, channelization, or change in cross-sectional area of the channel or
3055 the channel capacity, or any other form of modification which may alter, impede, retard
3056 or change the direction and/or velocity of the riverine flow of water during conditions of
3057 the base flood.

3058 *Appeal.* A request for a review of the floodplain administrator's interpretation of any
3059 provision of this article.

3060 *ASCE 24.* A standard titled flood resistant design and construction that is
3061 referenced by the Florida Building Code. ASCE 24 is developed and published by the
3062 American Society of Civil Engineers, Reston, VA.

3063 *Base flood.* A flood having a one-percent chance of being equaled or exceeded in
3064 any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly
3065 referred to as the "one-hundred-year flood" or the "one-percent-annual chance flood."

3066 *Base flood elevation.* The elevation of the base flood, including wave height, relative
3067 to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum
3068 (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined
3069 in FBC, B, Section 1612.2.]

3070 *Basement.* The portion of a building having its floor subgrade (below ground level)
3071 on all sides. [Also defined in FBC, B, Section 1612.2.]

3072 *Coastal construction control line.* The line established by the State of Florida
3073 pursuant to F.S. § 161.053, and recorded in the official records of the community, which
3074 defines that portion of the beach-dune system subject to severe fluctuations based on a
3075 one-hundred-year storm surge, storm waves or other predictable weather conditions.

3076 *Coastal high hazard area.* A special flood hazard area extending from offshore to
3077 the inland limit of a primary frontal dune along an open coast and any other area subject
3078 to high velocity wave action from storms or seismic sources. Coastal high hazard areas
3079 are also referred to as "high hazard areas subject to high velocity wave action" or "V
3080 zones" and are designated on flood insurance rate maps (FIRM) as zone V1-V30, VE,
3081 or V.

3082 *Declaration of land restriction (nonconversion agreement).* A form provided by the
3083 floodplain administrator to be signed by the owner and recorded in the Charlotte County
3084 Official Records, whereby the owner agrees not to convert or modify enclosures below
3085 elevated buildings in any manner that is inconsistent with the terms of the building
3086 permit and these regulations.

3087 *Design flood.* The flood associated with the greater of the following two (2) areas:
3088 [Also defined in FBC, B, Section 1612.2.]

3089 (1) Area with a floodplain subject to a one-percent or greater chance of flooding in
3090 any year; or

3091 (2) Area designated as a flood hazard area on the community's flood hazard map,
3092 or otherwise legally designated.

3093 *Design flood elevation.* The elevation of the "design flood," including wave height,
3094 relative to the datum specified on the community's legally designated flood hazard map.
3095 In areas designated as zone AO, the design flood elevation shall be the elevation of the
3096 highest existing grade of the building's perimeter plus the depth number (in feet)
3097 specified on the flood hazard map. In areas designated as zone AO where the depth
3098 number is not specified on the map, the depth number shall be taken as being equal to
3099 two (2) feet. [Also defined in FBC, B, Section 1612.2.]

3100 *Development.* Any manmade change to improved or unimproved real estate,
3101 including but not limited to, buildings or other structures, tanks, temporary structures,
3102 temporary or permanent storage of equipment or materials, mining, dredging, filling,
3103 grading, paving, excavations, drilling operations or any other land disturbing activities.

3104 *Encroachment.* The placement of fill, excavation, buildings, permanent structures or
3105 other development into a flood hazard area which may impede or alter the flow capacity
3106 of riverine flood hazard areas.

3107 *Existing building and existing structure.* Any buildings and structures for which the
3108 "start of construction" commenced before August 6, 1971. [Also defined in FBC, B,
3109 Section 1612.2.]

3110 ~~*Existing manufactured home park or subdivision.* A manufactured home park or~~
3111 ~~subdivision for which the construction of facilities for servicing the lots on which the~~
3112 ~~manufactured homes are to be affixed (including, at a minimum, the installation of~~
3113 ~~utilities, the construction of streets, and either final site grading or the pouring of~~
3114 ~~concrete pads) is completed before August 6, 1971.~~

3115 ~~*Expansion to an existing manufactured home park or subdivision.* The preparation~~
3116 ~~of additional sites by the construction of facilities for servicing the lots on which the~~
3117 ~~manufactured homes are to be affixed (including the installation of utilities, the~~
3118 ~~construction of streets, and either final site grading or the pouring of concrete pads).~~

3119 *Federal Emergency Management Agency (FEMA).* The federal agency that, in
3120 addition to carrying out other functions, administers the National Flood Insurance
3121 Program.

3122 *Flood or flooding.* A general and temporary condition of partial or complete
3123 inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

3124 (1) The overflow of inland or tidal waters.

3125 (2) The unusual and rapid accumulation or runoff of surface waters from any
3126 source.

3127 *Flood damage-resistant materials.* Any construction material capable of
3128 withstanding direct and prolonged contact with floodwaters without sustaining any
3129 damage that requires more than cosmetic repair. [Also defined in FBC, B, Section
3130 1612.2.]

3131 *Flood hazard area.* The greater of the following two (2) areas: [Also defined in FBC,
3132 B, Section 1612.2.]

3133 (1) The area within a floodplain subject to a one-percent or greater chance of
3134 flooding in any year.

3135 (2) The area designated as a flood hazard area on the community's flood hazard
3136 map, or otherwise legally designated.

3137 *Flood insurance rate map (FIRM).* The official map of the community on which the
3138 Federal Emergency Management Agency has delineated both special flood hazard
3139 areas and the risk premium zones applicable to the community. [Also defined in FBC, B,
3140 Section 1612.2.]

3141 *Flood insurance study (FIS).* The official report provided by the Federal Emergency
3142 Management Agency that contains the flood insurance rate map, the flood boundary
3143 and floodway map (if applicable), the water surface elevations of the base flood, and
3144 supporting technical data. [Also defined in FBC, B, Section 1612.2.]

3145 *Floodplain administrator.* The office or position designated and charged with the
3146 administration and enforcement of this article (may be referred to as the floodplain
3147 manager).

3148 *Floodplain development permit or approval.* An official document or certificate
3149 issued by the community, or other evidence of approval or concurrence, which
3150 authorizes performance of specific development activities that are located in flood
3151 hazard areas and that are determined to be compliant with this article.

3152 *Floodway.* The channel of a river or other riverine watercourse and the adjacent
3153 land areas that must be reserved in order to discharge the base flood without
3154 cumulatively increasing the water surface elevation more than one (1) foot. [Also
3155 defined in FBC, B, Section 1612.2.]

3156 *Floodway encroachment analysis.* An engineering analysis of the impact that a
3157 proposed encroachment into a floodway is expected to have on the floodway
3158 boundaries and base flood elevations; the evaluation shall be prepared by a qualified
3159 Florida licensed engineer using standard engineering methods and models.

3160 *Florida Building Code.* The family of codes adopted by the Florida Building
3161 Commission, including: Florida Building Code, Building; Florida Building Code,
3162 Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical;
3163 Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

3164 *Functionally dependent use.* A use which cannot perform its intended purpose
3165 unless it is located or carried out in close proximity to water, including only docking
3166 facilities, port facilities that are necessary for the loading and unloading of cargo or
3167 passengers, and ship building and ship repair facilities; the term does not include long-
3168 term storage or related manufacturing facilities.

3169 *Highest adjacent grade.* The highest natural elevation of the ground surface prior to
3170 construction next to the proposed walls or foundation of a structure.

3171 *Historic structure.* Any structure that is determined eligible for the exception to the
3172 flood hazard area requirements of the Florida Building Code, Existing Building, Chapter
3173 ~~4412~~ Historic Buildings.

3174 *Letter of map change (LOMC).* An official determination issued by FEMA that
3175 amends or revises an effective flood insurance rate map or flood insurance study.
3176 Letters of map change include:

3177 *Letter of map amendment (LOMA).* An amendment based on technical data
3178 showing that a property was incorrectly included in a designated special flood hazard
3179 area. A LOMA amends the current effective flood insurance rate map and establishes
3180 that a specific property, portion of a property, or structure is not located in a special
3181 flood hazard area.

3182 *Letter of map revision (LOMR).* A revision based on technical data that may show
3183 changes to flood zones, flood elevations, special flood hazard area boundaries and
3184 floodway delineations, and other planimetric features.

3185 *Letter of map revision based on fill (LOMR-F).* A determination that a structure or
3186 parcel of land has been elevated by fill above the base flood elevation and is, therefore,

3187 no longer located within the special flood hazard area. In order to qualify for this
3188 determination, the fill must have been permitted and placed in accordance with the
3189 community's floodplain management regulations.

3190 *Conditional letter of map revision (CLOMR).* A formal review and comment as to
3191 whether a proposed flood protection project or other project complies with the minimum
3192 NFIP requirements for such projects with respect to delineation of special flood hazard
3193 areas. A CLOMR does not revise the effective flood insurance rate map or flood
3194 insurance study; upon submission and approval of certified as-built documentation, a
3195 letter of map revision may be issued by FEMA to revise the effective FIRM.

3196 *Light-duty truck.* As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at eight
3197 thousand five hundred (8,500) pounds gross vehicular weight rating or less which has a
3198 vehicular curb weight of six thousand (6,000) pounds or less and which has a basic
3199 vehicle frontal area of forty-five (45) square feet or less, which is:

- 3200 (1) Designed primarily for purposes of transportation of property or is a derivation
3201 of such a vehicle, or
- 3202 (2) Designed primarily for transportation of persons and has a capacity of more
3203 than twelve (12) persons; or
- 3204 (3) Available with special features enabling off-street or off-highway operation and
3205 use.

3206 *Lowest floor.* The lowest floor of the lowest enclosed area of a building or structure,
3207 including basement, but excluding any unfinished or flood-resistant enclosure, other
3208 than a basement, usable solely for vehicle parking, building access or limited storage
3209 provided that such enclosure is not built so as to render the structure in violation of the
3210 non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in
3211 FBC, B, Section 1612.2.]

3212 *Manufactured home.* A structure, transportable in one (1) or more sections, which is
3213 eight (8) feet or more in width and greater than four hundred (400) square feet, and
3214 which is built on a permanent, integral chassis and is designed for use with or without a
3215 permanent foundation when attached to the required utilities. The term "manufactured
3216 home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-
3217 1.0101, F.A.C.]

3218 *Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land
3219 divided into two (2) or more manufactured home lots for rent or sale.

3220 *Market value.* The price at which a property will change hands between a willing
3221 buyer and a willing seller, neither party being under compulsion to buy or sell and both
3222 having reasonable knowledge of relevant facts. As used in this article, the term refers to
3223 the market value of buildings and structures, excluding the land and other
3224 improvements on the parcel. Market value may be established by a qualified
3225 independent appraiser, actual cash value (replacement cost depreciated for age and
3226 quality of construction), or tax assessment value adjusted to approximate market value
3227 by a factor provided by the property appraiser.

3228 *New construction.* For the purposes of administration of this article and the flood
3229 resistant construction requirements of the Florida Building Code, structures for which
3230 the "start of construction" commenced on or after August 6, 1971 and includes any
3231 subsequent improvements to such structures.

3232 ~~*New manufactured home park or subdivision.* A manufactured home park or
3233 subdivision for which the construction of facilities for servicing the lots on which the
3234 manufactured homes are to be affixed (including at a minimum, the installation of
3235 utilities, the construction of streets, and either final site grading or the pouring of
3236 concrete pads) is completed on or after August 6, 1971.~~

3237 *Park trailer.* A transportable unit which has a body width not exceeding fourteen (14)
3238 feet and which is built on a single chassis and is designed to provide seasonal or
3239 temporary living quarters when connected to utilities necessary for operation of installed
3240 fixtures and appliances. [Defined in F.S. § 320.01.]

3241 *Recreational vehicle.* A vehicle, including a park trailer, which is: [See F.S. §
3242 320.01.]

- 3243 (1) Built on a single chassis;
- 3244 (2) Four hundred (400) square feet or less when measured at the largest
3245 horizontal projection;
- 3246 (3) Designed to be self-propelled or permanently towable by a light-duty truck;
3247 and
- 3248 (4) Designed primarily not for use as a permanent dwelling but as temporary
3249 living quarters for recreational, camping, travel, or seasonal use.

3250 *Sand dunes.* Naturally occurring accumulations of sand in ridges or mounds
3251 landward of the beach.

3252 *Special flood hazard area.* An area in the floodplain subject to a one-percent or
3253 greater chance of flooding in any given year. Special flood hazard areas are shown on
3254 FIRMs as zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B
3255 Section 1612.2.]

3256 *Start of construction.* The date of issuance of permits for new construction and
3257 substantial improvements, provided the actual start of construction, repair,
3258 reconstruction, rehabilitation, addition, placement, or other improvement is within one
3259 hundred eighty (180) days of the date of the issuance. The actual start of construction
3260 means either the first placement of permanent construction of a building (including a
3261 manufactured home) on a site, such as the pouring of slab or footings, the installation of
3262 piles, the construction of columns.

3263 Permanent construction does not include land preparation (such as clearing,
3264 grading, or filling), the installation of streets or walkways, excavation for a basement,
3265 footings, piers, or foundations, the erection of temporary forms or the installation of
3266 accessory buildings such as garages or sheds not occupied as dwelling units or not part
3267 of the main buildings. For a substantial improvement, the actual "start of construction"
3268 means the first alteration of any wall, ceiling, floor or other structural part of a building,

3269 whether or not that alteration affects the external dimensions of the building. [Also
3270 defined in FBC, B Section 1612.2.]

3271 *Substantial damage.* Damage of any origin sustained by a building or structure
3272 whereby the cost of restoring the building or structure to its before-damaged condition
3273 would equal or exceed fifty (50) percent of the market value of the building or structure
3274 before the damage occurred. [Also defined in FBC, B Section 1612.2.]

3275 *Substantial improvement.* Any combination of repair, reconstruction, rehabilitation,
3276 addition, or other improvement of a building or structure taking place during a one-year
3277 period, the cumulative cost of which equals or exceeds fifty (50) percent of the market
3278 value of the building or structure before the improvement or repair is started. For each
3279 building or structure, the one-year period begins on the date of the first improvement or
3280 repair of that building or structure one-year prior to March 8, 2016. If the structure has
3281 incurred "substantial damage," any repairs are considered substantial improvement
3282 regardless of the actual repair work performed. The term does not, however, include
3283 either: [Also defined in FBC, B, Section 1612.2.]

3284 (1) Any project for improvement of a building required to correct existing health,
3285 sanitary, or safety code violations identified by the building official and that are
3286 the minimum necessary to assure safe living conditions.

3287 (2) Any alteration of a historic structure provided the alteration will not preclude
3288 the structure's continued designation as a historic structure.

3289 *Variance.* A grant of relief from the requirements of this article, or the flood resistant
3290 construction requirements of the Florida Building Code, which permits construction in a
3291 manner that would not otherwise be permitted by this article or the Florida Building
3292 Code.

3293 *Watercourse.* A river, creek, stream, channel or other topographic feature in, on,
3294 through, or over which water flows at least periodically.

3295 (Ord. No. 2016-014, § 2, 3-8-16)

3296 DIVISION 3. - FLOOD RESISTANT DEVELOPMENT

3297 Subdivision 1. - Buildings and Structures

3298 Sec. 3-2-275. - Design and construction of buildings, structures and facilities exempt
3299 from the Florida Building Code.

3300 Pursuant to section 3-2-245 of this article, buildings, structures, and facilities that
3301 are exempt from the Florida Building Code, including substantial improvement or repair
3302 of substantial damage of such buildings, structures and facilities, shall be designed and
3303 constructed in accordance with the flood load and flood resistant construction
3304 requirements of ASCE 24. Structures exempt from the Florida Building Code that are
3305 not walled and roofed buildings shall comply with the requirements of division 3,
3306 subdivision 7 of this article.

3307 (Ord. No. 2016-014, § 2, 3-8-16)

3308 Sec. 3-2-276. - Buildings and structures seaward of the coastal construction control line.

3309 If extending, in whole or in part, seaward of the coastal construction control line and
3310 also located, in whole or in part, in a flood hazard area:

3311 (1) Buildings and structures shall be designed and constructed to comply with the
3312 more restrictive applicable requirements of the Florida Building Code, Building
3313 Section 3109 and Section 1612 or Florida Building Code, Residential Section
3314 R322.

3315 (2) Minor structures and non-habitable major structures as defined in F.S. §
3316 161.54, shall be designed and constructed to comply with the intent and
3317 applicable provisions of this article and ASCE 24.

3318 (Ord. No. 2016-014, § 2, 3-8-16)

3319 Subdivision 2. - Subdivisions

3320 Sec. 3-2-277. - Minimum requirements.

3321 Subdivision proposals, including proposals for manufactured home parks and
3322 subdivisions, shall be reviewed to determine that:

3323 (1) Such proposals are consistent with the need to minimize flood damage and
3324 will be reasonably safe from flooding;

3325 (2) All public utilities and facilities such as sewer, gas, electric, communications,
3326 and water systems are located and constructed to minimize or eliminate flood
3327 damage; and

3328 (3) Adequate drainage is provided to reduce exposure to flood hazards; in zones
3329 AH and AO, adequate drainage paths shall be provided to guide floodwaters
3330 around and away from proposed structures.

3331 (Ord. No. 2016-014, § 2, 3-8-16)

3332 Sec. 3-2-278. - Subdivision plats.

3333 Where any portion of proposed subdivisions, including manufactured home parks
3334 and subdivisions, lies within a flood hazard area, the following shall be required:

3335 (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and
3336 design flood elevations, as appropriate, shall be shown on preliminary plats;

3337 (2) Where the subdivision has more than fifty (50) lots or is larger than five (5)
3338 acres and base flood elevations are not included on the FIRM, the base flood
3339 elevations determined in accordance with section 3-2-252(1) of this article; and

3340 (3) Compliance with the site improvement and utilities requirements of division 3,
3341 subdivision 3 of this article.

3342 (Ord. No. 2016-014, § 2, 3-8-16)

3343 Subdivision 3. - Site Improvements, Utilities and Limitations

3344 Sec. 3-2-279. - Minimum requirements.

3345 All proposed new development shall be reviewed to determine that:

3346 (1) Such proposals are consistent with the need to minimize flood damage and
3347 will be reasonably safe from flooding; and

3348 (2) All public utilities and facilities such as sewer, gas, electric, communications,
3349 and water systems are located and constructed to minimize or eliminate flood
3350 damage; and

3351 (3) Adequate drainage is provided to reduce exposure to flood hazards; in zones
3352 AH and AO, adequate drainage paths shall be provided to guide floodwaters
3353 around and away from proposed structures.

3354 (Ord. No. 2016-014, § 2, 3-8-16)

3355 Sec. 3-2-280. - Sanitary sewage facilities.

3356 All new and replacement sanitary sewage facilities, private sewage treatment plants
3357 (including all pumping stations and collector systems), and on-site waste disposal
3358 systems shall be designed in accordance with the standards for onsite sewage
3359 treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to
3360 minimize or eliminate infiltration of floodwaters into the facilities and discharge from the
3361 facilities into floodwaters, and impairment of the facilities and systems.

3362 (Ord. No. 2016-014, § 2, 3-8-16)

3363 Sec. 3-2-281. - Water supply facilities.

3364 All new and replacement water supply facilities shall be designed in accordance
3365 with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24
3366 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

3367 (Ord. No. 2016-014, § 2, 3-8-16)

3368 Sec. 3-2-282. - Limitations on sites in regulatory floodways.

3369 No development, including but not limited to site improvements, and land disturbing
3370 activity involving fill or regrading, shall be authorized in the regulatory floodway unless
3371 the floodway encroachment analysis required in section 3-2-253(1) of this article

3372 demonstrates that the proposed development or land disturbing activity will not result in
3373 any increase in the base flood elevation.

3374 (Ord. No. 2016-014, § 2, 3-8-16)

3375 Sec. 3-2-283. - Limitations on placement of fill.

3376 Subject to the limitations of this article, fill shall be designed to be stable under
3377 conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged
3378 inundation, and protection against flood-related erosion and scour. In addition to these
3379 requirements, if intended to support buildings and structures (zone A only), fill shall
3380 comply with the requirements of the Florida Building Code, fill shall be limited to the
3381 minimum amount necessary and must meet BOTH of the following two (2) provisions:

3382 (1) The maximum allowable slope from the structure to the property line shall be
3383 no greater than 6:1, and;

3384 (2) The maximum amount of fill added to a site shall be no more than four (4) feet
3385 measured from the average grade at the property line.

3386 The amount of fill and proposed slope shall be included in construction drawings
3387 and the applicant will be required to provide as built drawings confirming compliance
3388 with both provisions prior to final inspections.

3389 (Ord. No. 2016-014, § 2, 3-8-16)

3390 Sec. 3-2-284. - Limitations on sites in coastal high hazard areas (zone V).

3391 In coastal high hazard areas, alteration of sand dunes and mangrove stands shall
3392 be permitted only if such alteration is approved by the Florida Department of
3393 Environmental Protection and only if the engineering analysis required by section 3-2-
3394 253(4) of this article demonstrates that the proposed alteration will not increase the
3395 potential for flood damage. Construction or restoration of dunes under or around
3396 elevated buildings and structures shall comply with section 3-2-307(3) of this article.

3397 (Ord. No. 2016-014, § 2, 3-8-16)

3398 Subdivision 4. - Manufactured Homes

3399 Sec. 3-2-285. - General.

3400 All manufactured homes installed in flood hazard areas shall be installed by an
3401 installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the
3402 requirements of Chapter 15C-1, F.A.C. and the requirements of this article. If located
3403 seaward of the coastal construction control line, all manufactured homes shall comply
3404 with the more restrictive of the applicable requirements.

3405 (Ord. No. 2016-014, § 2, 3-8-16)

3406 ~~Sec. 3-2-286.— Limitations on installation in coastal high hazard areas (zone V).~~

3407 ~~New installations of manufactured homes shall not be permitted in coastal high~~
3408 ~~hazard areas (zone V) unless placed in an existing manufactured home park.~~

3409 ~~(Ord. No. 2016-014, § 2, 3-8-16)~~

3410 Sec. 3-2-28~~6~~7. - Foundations.

3411 All new manufactured homes and replacement manufactured homes installed in
3412 flood hazard areas shall be installed on permanent, reinforced foundations that:

3413 (1) In flood hazard areas (zone A) other than coastal high hazard areas are
3414 designed in accordance with the foundation requirements of the Florida Building
3415 Code, Residential Section R322.2 and this article. ~~Foundations for~~
3416 ~~manufactured homes subject to section 3-2-291 are permitted to be reinforced~~
3417 ~~piers or other foundation elements of at least equivalent strength.~~

3418 (2) In coastal high hazard areas (zone V) are designed in accordance with the
3419 foundation requirements of the Florida Building Code, Residential Section
3420 R322.3 and this article.

3421 (Ord. No. 2016-014, § 2, 3-8-16)

3422 Sec. 3-2-28~~7~~8. - Anchoring.

3423 All new manufactured homes and replacement manufactured homes shall be
3424 installed using methods and practices which minimize flood damage and shall be
3425 securely anchored to an adequately anchored foundation system to resist flotation,
3426 collapse or lateral movement. Methods of anchoring include, but are not limited to, use
3427 of over-the-top or frame ties to ground anchors. This anchoring requirement is in
3428 addition to applicable state and local anchoring requirements for wind resistance.

3429 (Ord. No. 2016-014, § 2, 3-8-16)

3430 Sec. 3-2-28~~8~~9. - Elevation.

3431 ~~All M~~All Manufactured homes that are placed, replaced, or substantially improved in
3432 flood hazard areas shall be elevated such that the bottom of the frame is at or above the
3433 elevation requirement, as applicable to the flood hazard area, in the Florida Building
3434 Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A
3435 Zone). comply with section 3-2-290 or 3-2-291 of this article, as applicable.

3436 (Ord. No. 2016-014, § 2, 3-8-16)

3437 ~~Sec. 3-2-290.— General elevation requirement.~~

3438 ~~Unless subject to the requirements of section 3-2-291 of this article, All~~
3439 ~~manufactured homes that are placed, replaced, or substantially improved on sites~~
3440 ~~located: (a) outside of a manufactured home park or subdivision; (b) in a new~~
3441 ~~manufactured home park or subdivision; (c) in an expansion to an existing~~
3442 ~~manufactured home park or subdivision; or (d) in an existing manufactured home park~~
3443 ~~or subdivision upon which a manufactured home has incurred "substantial damage" as~~
3444 ~~the result of a flood, shall be elevated such that the bottom of the frame is at or above~~
3445 ~~the elevation required, as applicable to the flood hazard area, in the Florida Building~~
3446 ~~Code, Residential Section R322.2 (zone A) or Section R322.3 (zone V).~~

3447 ~~(Ord. No. 2016-014, § 2, 3-8-16)~~

3448 ~~Sec. 3-2-291. — Elevation requirement for certain existing manufactured home parks and~~
3449 ~~subdivisions.~~

3450 ~~Manufactured homes that are not subject to section 3-2-290 of this article, including~~
3451 ~~manufactured homes that are placed, replaced, or substantially improved on sites~~
3452 ~~located in an existing manufactured home park or subdivision, unless on a site where~~
3453 ~~substantial damage as result of flooding has occurred, shall be elevated such that either~~
3454 ~~the:~~

3455 ~~(1) — Bottom of the frame of the manufactured home is at or above the elevation~~
3456 ~~required, as applicable to the flood hazard area, in the Florida Building Code,~~
3457 ~~Residential Section R322.2 (zone A) or Section R322.3 (zone V); or~~

3458 ~~(2) — Bottom of the frame is supported by reinforced piers or other foundation~~
3459 ~~elements of at least equivalent strength (zone A), or piling foundation as~~
3460 ~~detailed in Florida Building Code, Residential Section R322.3.3 (required in~~
3461 ~~zone V), and such foundations are not less than thirty-six (36) inches in height~~
3462 ~~above the grade.~~

3463 ~~(Ord. No. 2016-014, § 2, 3-8-16)~~

3464 ~~Sec. 3-2-28992. - Enclosures.~~

3465 Enclosed areas below elevated manufactured homes shall comply with the
3466 requirements of the Florida Building Code, Residential Section R322.2 or R322.3 for
3467 such enclosed areas, as applicable to the flood hazard area.

3468 (Ord. No. 2016-014, § 2, 3-8-16)

3469 ~~Sec. 3-2-2903. - Utility equipment.~~

3470 Utility equipment that serves manufactured homes, including electric, heating,
3471 ventilation, plumbing, and air conditioning equipment and other service facilities, shall
3472 comply with the requirements of the Florida Building Code, Residential Section R322,
3473 as applicable to the flood hazard area.

3474 (Ord. No. 2016-014, § 2, 3-8-16)

3475 Secs. 3-2-291—3-2-293. - Reserved.

3476 Subdivision 5. - Recreational Vehicles and Park Trailers

3477 Sec. 3-2-294 - Temporary placement.

3478 Recreational vehicles and park trailers placed temporarily in flood hazard areas
3479 shall:

3480 (1) Be on the site for fewer than one hundred eighty (180) consecutive days; or

3481 (2) Be fully licensed and ready for highway use, which means the recreational
3482 vehicle or park model is on wheels or jacking system, is attached to the site
3483 only by quick-disconnect type utilities and security devices, and has no
3484 permanent attachments such as additions, rooms, stairs, decks and porches.

3485 (Ord. No. 2016-014, § 2, 3-8-16)

3486 Sec. 3-2-295. - Permanent placement.

3487 Recreational vehicles and park trailers that do not meet the limitations in section 3-
3488 2-294 of this article for temporary placement shall meet the requirements of division 3,
3489 subdivision 4 of this article for manufactured homes.

3490 (Ord. No. 2016-014, § 2, 3-8-16)

3491 Subdivision 6. - Tanks

3492 Sec. 3-2-296. - Underground tanks.

3493 Underground tanks in flood hazard areas shall be anchored to prevent flotation,
3494 collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during
3495 conditions of the design flood, including the effects of buoyancy assuming the tank is
3496 empty.

3497 (Ord. No. 2016-014, § 2, 3-8-16)

3498 Sec. 3-2-297. - Above-ground tanks, not elevated.

3499 Above-ground tanks that do not meet the elevation requirements of section 3-2-298
3500 of this article shall:

3501 (1) Be permitted in flood hazard areas (zone A) other than coastal high hazard
3502 areas, provided the tanks are anchored or otherwise designed and constructed
3503 to prevent flotation, collapse or lateral movement resulting from hydrodynamic
3504 and hydrostatic loads during conditions of the design flood, including the effects
3505 of buoyancy assuming the tank is empty and the effects of flood-borne debris.

3506 (2) Not be permitted in coastal high hazard areas (zone V).

3507 (Ord. No. 2016-014, § 2, 3-8-16)

3508 Sec. 3-2-298. - Above-ground tanks, elevated.

3509 Above-ground tanks in flood hazard areas shall be attached to an elevated to or
3510 above the design flood elevation on a supporting structure that is designed to prevent
3511 flotation, collapse or lateral movement during conditions of the design flood. Tank-
3512 supporting structures shall meet the foundation requirements of the applicable flood
3513 hazard area.

3514 (Ord. No. 2016-014, § 2, 3-8-16)

3515 Sec. 3-2-299. - Tank inlets and vents.

3516 Tank inlets, fill openings, outlets and vents shall be:

3517 (1) At or above the design flood elevation or fitted with covers designed to prevent
3518 the inflow of floodwater or outflow of the contents of the tanks during conditions
3519 of the design flood; and

3520 (2) Anchored to prevent lateral movement resulting from hydrodynamic and
3521 hydrostatic loads, including the effects of buoyancy, during conditions of the
3522 design flood.

3523 (Ord. No. 2016-014, § 2, 3-8-16)

3524 Subdivision 7. - Other Development

3525 Sec. 3-2-300. - General requirements for other development.

3526 All development, including manmade changes to improved or unimproved real
3527 estate for which specific provisions are not specified in this article or the Florida Building
3528 Code, shall:

3529 (1) Be located and constructed to minimize flood damage;

3530 (2) Meet the limitations of section 3-2-282 of this article if located in a regulated
3531 floodway;

3532 (3) Be anchored to prevent flotation, collapse or lateral movement resulting from
3533 hydrostatic loads, including the effects of buoyancy, during conditions of the
3534 design flood;

3535 (4) Be constructed of flood damage-resistant materials; and

3536 (5) Have mechanical, plumbing, and electrical systems above the design flood
3537 elevation or meet the requirements of ASCE 24, except that minimum electric
3538 service required to address life safety and electric code requirements is

3539 permitted below the design flood elevation provided it conforms to the
3540 provisions of the electrical part of building code for wet locations.

3541 (Ord. No. 2016-014, § 2, 3-8-16)

3542 Sec. 3-2-301. - Fences in regulated floodways.

3543 Fences in regulated floodways that have the potential to block the passage of
3544 floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations
3545 of section 3-2-282 of this article.

3546 (Ord. No. 2016-014, § 2, 3-8-16)

3547 Sec. 3-2-302. - Retaining walls, sidewalks and driveways in regulated floodways.

3548 Retaining walls and sidewalks and driveways that involve the placement of fill in
3549 regulated floodways shall meet the limitations of section 3-2-282 of this article.

3550 (Ord. No. 2016-014, § 2, 3-8-16)

3551 Sec. 3-2-303. - Roads and watercourse crossings in regulated floodways.

3552 Roads and watercourse crossings, including roads, bridges, culverts, low-water
3553 crossings and similar means for vehicles or pedestrians to travel from one (1) side of a
3554 watercourse to the other side, that encroach into regulated floodways shall meet the
3555 limitations of section 3-2-282 of this article. Alteration of a watercourse that is part of a
3556 road or watercourse crossing shall meet the requirements of section 3-2-253 of this
3557 article.

3558 (Ord. No. 2016-014, § 2, 3-8-16)

3559 Sec. 3-2-304 - Concrete slabs used as parking pads, enclosure floors, landings, decks,
3560 walkways, patios and similar nonstructural uses in coastal high hazard areas (zone V).

3561 In coastal high hazard areas, concrete slabs used as parking pads, enclosure
3562 floors, landings, decks, walkways, patios and similar nonstructural uses are permitted
3563 beneath or adjacent to buildings and structures provided the concrete slabs are
3564 designed and constructed to be:

- 3565 (1) Structurally independent of the foundation system of the building or structure;
3566 (2) Frangible and not reinforced, so as to minimize debris during flooding that is
3567 capable of causing significant damage to any structure; and
3568 (3) Have a maximum slab thickness of not more than four (4) inches.

3569 (Ord. No. 2016-014, § 2, 3-8-16)

3570 Sec. 3-2-305. - Decks and patios in coastal high hazard areas (zone V).

3571 In addition to the requirements of the Florida Building Code, in coastal high hazard
3572 areas decks and patios shall be located, designed, and constructed in compliance with
3573 the following:

3574 (1) A deck that is structurally attached to a building or structure shall have the
3575 bottom of the lowest horizontal structural member at or above the design flood
3576 elevation and any supporting members that extend below the design flood
3577 elevation shall comply with the foundation requirements that apply to the
3578 building or structure, which shall be designed to accommodate any increased
3579 loads resulting from the attached deck.

3580 (2) A deck or patio that is located below the design flood elevation shall be
3581 structurally independent from buildings or structures and their foundation
3582 systems, and shall be designed and constructed either to remain intact and in
3583 place during design flood conditions or to break apart into small pieces to
3584 minimize debris during flooding that is capable of causing structural damage to
3585 the building or structure or to adjacent buildings and structures.

3586 (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or
3587 that is constructed with more than the minimum amount of fill necessary for site
3588 drainage shall not be approved unless an analysis prepared by a qualified
3589 registered design professional demonstrates no harmful diversion of
3590 floodwaters or wave runup and wave reflection that would increase damage to
3591 the building or structure or to adjacent buildings and structures.

3592 (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and
3593 that is at natural grade or on nonstructural fill material that is similar to and
3594 compatible with local soils and is the minimum amount necessary for site
3595 drainage may be approved without requiring analysis of the impact on diversion
3596 of floodwaters or wave runup and wave reflection.

3597 (Ord. No. 2016-014, § 2, 3-8-16)

3598 Sec. 3-2-306. - Other development in coastal high hazard areas (zone V).

3599 In coastal high hazard areas, development activities other than buildings and
3600 structures shall be permitted only if also authorized by the appropriate federal, state or
3601 local authority; if located outside the footprint of, and not structurally attached to,
3602 buildings and structures; and if analyses prepared by qualified registered design
3603 professionals demonstrate no harmful diversion of floodwaters or wave runup and wave
3604 reflection that would increase damage to adjacent buildings and structures. Such other
3605 development activities include but are not limited to:

3606 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control
3607 structures;

- 3608 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless
3609 designed and constructed to fail under flood conditions less than the design
3610 flood or otherwise function to avoid obstruction of floodwaters; and
- 3611 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C.,
3612 as filled systems or mound systems.

3613 (Ord. No. 2016-014, § 2, 3-8-16)

3614 Sec. 3-2-307. - Nonstructural fill in coastal high hazard areas (zone V).

3615 In coastal high hazard areas:

- 3616 (1) Minor grading and the placement of minor quantities of nonstructural fill shall
3617 be permitted for landscaping and for drainage purposes under and around
3618 buildings.
- 3619 (2) Nonstructural fill with finished slopes that are steeper than one (1) unit vertical
3620 to five (5) units horizontal shall be permitted only if an analysis prepared by a
3621 qualified registered design professional demonstrates no harmful diversion of
3622 floodwaters or wave runup and wave reflection that would increase damage to
3623 adjacent buildings and structures.
- 3624 (3) Where authorized by the Florida Department of Environmental Protection or
3625 applicable local approval, sand dune construction and restoration of sand dunes
3626 under or around elevated buildings are permitted without additional engineering
3627 analysis or certification of the diversion of floodwater or wave runup and wave
3628 reflection if the scale and location of the dune work is consistent with local
3629 beach-dune morphology and the vertical clearance is maintained between the
3630 top of the sand dune and the lowest horizontal structural member of the
3631 building.

3632 (Ord. No. 2016-014, § 2, 3-8-16)

3633 Section 2. Violations of this ordinance, and the penalties therefor, shall be as provided
3634 by general law.

3635 Section 3. Inclusion in the Charlotte County Code. It is the intention of the Board of
3636 County Commissioners of Charlotte County, Florida, and it is hereby provided that the
3637 provisions of this Ordinance shall become and be made a part of the Charlotte County,
3638 Florida, Code of Ordinances Chapter 3-2, that the sections of the ordinance may be
3639 renumbered or lettered to accomplish such intention, and that the word "ordinance" may
3640 be changed to "section" or "article" or other appropriate designation.

3641 Section 4. Severability. If any portion of the foregoing conflicts with any other Charlotte
3642 County Code or other applicable law, the more restrictive shall apply. If any subsection,
3643 sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or
3644 unconstitutional by any court of competent jurisdiction, such portion shall be deemed a

3645 separate, distinct, and independent provision and such holding shall not affect the
3646 validity of the remainder of this Ordinance.

3647 Section 5. Effective Date. The effective date shall be as provided by law.

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[SIGNATURE PAGE FOLLOWS]

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PASSED AND DULY ADOPTED this _____ day of _____,
2021.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: _____
William G. Truex, Chairman

ATTEST:
Roger D. Eaton, Clerk of the Circuit Court
and Ex-Officio Clerk of the
Board of County Commissioners

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



Janette S. Knowlton, County Attorney
LR 21-0189 RM