

## FREQUENTLY ASKED QUESTIONS ON THE FLOOD RESISTANT PROVISIONS OF THE 2010 FLORIDA BUILDING CODE

The 2010 Florida Building Code (FBC) will include flood resistant provisions that apply to buildings and structures in flood hazard areas. This is a change from previous editions. In 2009, at the request of the Florida Division of Emergency Management (DEM), the Florida Building Commission appointed the Flood Resistant Standards Workgroup to develop recommendations for integrating the flood provisions of the 2009 International Code Series (I-Codes) in the 2010 Florida Building Code (including Building, Residential, Existing Building, Mechanical, Plumbing and Fuel Gas). DEM submitted code change proposals to implement the Workgroup's recommendations for Florida-specific amendments. The 2010 FBC is scheduled to become effective on March 15, 2012.

### **1. Why did the Division of Emergency Management and the Florida Building Commission decide to retain the flood provisions of the I-Codes into the 2010 Florida Building Code?**

When the 2001 Florida Building Code was developed, the Commission made an administrative decision to remove the flood provisions from the model I-Codes that are the basis for the FBC. Instead, the code referred to local floodplain management ordinances. At DEM's request, that decision was reconsidered because it is appropriate that the codes address all hazards that may affect Florida's communities so that all environmental conditions and loads are accounted for when buildings are planned, designed, constructed, and inspected.

### **2. What is FEMA's position on the flood provisions that will be in the 2010 FBC?**

In 1998, the Federal Emergency Management Agency (FEMA) began working to include flood provisions into the I-Codes. Since the 2006 edition of the I-Codes, FEMA has deemed those provisions consistent with the National Flood Insurance Program (NFIP) requirements for buildings and structures. FEMA endorses enforcement of the flood provisions of the codes as a significant part of a community's commitment to regulate development in flood hazard areas. FEMA Region 4 was represented on the Commission's Workgroup that developed Florida-specific amendments. The flood provisions of the 2010 FBC are consistent the I-Codes, and thus are consistent with the NFIP minimum requirements for buildings and structures.

If you are familiar with the NFIP requirements for buildings or the requirements of local flood damage reduction regulations, you will see familiar requirements in the FBC, Residential (primarily in Sec. 322). The FBC, Building (Sec. 1612) refers to ASCE 24, *Flood Resistant Design and Construction*, where the detailed requirements are specified. The FBC, Existing Building also includes flood provisions. FEMA prepared "Highlights of ASCE 24" which is available for download (see link to FEMA Building Science on page 5).

FEMA prepared a comparison of the flood provisions of the 2009 International Code Series, ASCE 24, and the NFIP requirements (see link on page 5). The comparison illustrates how the I-Codes and ASCE 24 exceed the NFIP minimums in some ways and also how they provide more specific requirements for designers.

**3. Are the draft flood provisions of the 2010 Florida Building Code available for preview?**

Yes. Pre-publication extracts of the flood provisions are available on the State Floodplain Management Office's website (see link on page 5). As of August 2011, the excerpts are marked "pre-publication" because they will be proofed and marked "final" after the code is published later this year.

**4. Our local regulations have all the requirements we need to participate in the NFIP. How will having flood provisions in the FBC change things?**

The flood provisions in the 2010 FBC apply only to buildings and structures in flood hazard areas. Communities must continue to have local regulations that apply to other development activities in flood hazard areas. DEM is developing a "code companion" ordinance for this purpose (see Question 7). In terms of specific provisions that apply to buildings and structures, communities must ensure that the FBC requirements are met and that any local requirement that is more restrictive is adopted as a local code amendment in accordance with Section 553.73, F. S. (see page 5). This should be done to coincide with the effective date of the 2010 FBC. More guidance on this will be issued later this year.

**5. Does incorporation of the flood provisions in the 2010 Florida Building Code mean the community's Building Official must also be the designated Floodplain Administrator?**

No. Communities should designate qualified code officials and other staff who are knowledgeable about floodplain management to fulfill the broad range responsibilities of Floodplain Administrator (see Question 11 which refers to a handout summarizing these responsibilities). By law, the building official is responsible for enforcing the building code. However, nothing prevents communities from having more than one office involved in and responsible for the other aspects that are required for participation in the NFIP. In fact, a statutory change enacted in 2010 explicitly allows for adoption of administrative amendments that "may assign the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government" (see Section 553.73(5), F.S., shown on page 5).

Communities are encouraged to perform a systematic review of their programs to ensure that all requirements of the NFIP, including those not typically performed by the code official, are accounted for. Worksheets A, B, and C in the publication *Reducing Flood Losses Through the International Codes* are designed to facilitate this review (see link on page 5).

## **6. Will communities still be able to adopt higher standards?**

Yes. The Commission's Workgroup recognized that the ability to adopt and enforce standards that exceed the minimum NFIP requirements is important to the State and to many Florida communities. As a result of higher standards, hundreds of thousands of property owners are better protected from flood damage. Nearly half of Florida's 458 communities that participate in the NFIP are in the NFIP's Community Rating System (CRS). Florida's CRS communities gain recognition of various activities that reduce damage, including higher standards for buildings, yielding discounts on NFIP flood insurance premiums that range from 5% to 25%.

To allow communities the ability to retain higher standards already adopted, the Workgroup recommended that the Commission seek a statutory change so that local code amendments for floodplain management will not sunset every three years when a new edition of the FBC is adopted by the State. This change was enacted in 2010 (see Section 553.73(5), F.S., on page 5). In addition, the 2010 FBC refers to local floodplain management ordinances for adoption of flood hazard maps and to give communities the opportunity to adopt higher standards. Local code amendments adopted pursuant to Section 553.73(5) must be transmitted to the Commission within 30 days after adoption.

## **7. How is DEM's new "code companion" floodplain management ordinance different than our current flood damage reduction regulations?**

DEM is developing a new "code companion" model ordinance that is designed to complement the 2010 Florida Building Code, ensuring that communities have all requirements necessary to satisfy the NFIP's minimum requirements. DEM expects to make it available in early December and will notify communities when it is posted on the State Floodplain Management Office webpage.

Among other provisions, the new model ordinance includes: (a) administrative provisions not covered by the code (such as making substantial improvement/substantial damage determinations and processing variances, as provided by the NFIP); (b) suggested language for involving local agencies other than the building department; (c) requirements for development other than buildings (such as recreational vehicles, manufactured homes, subdivisions, fill, channel alterations, drainage structures, pools, and temporary structures); (d) requirements for buildings and structures that are exempt from the code (such as nonresidential farm buildings on farms); and (e) sample language for the more common higher standards enforced by many Florida communities, including additional freeboard and cumulative substantial improvement

## **8. Will having flood provisions in the 2010 Florida Building Code change the requirements that apply seaward of the Coastal Construction Control Line?**

Currently, communities with Coastal Construction Control Lines (CCCL) enforce both Sec. 3109 of the FBC and local floodplain management regulations in areas seaward of the CCCL that are also mapped as Special Flood Hazard Areas. If there are differences between the two sets of requirements, the community is responsible for resolving the differences and ensuring that the more restrictive requirements are enforced. With the 2010 FBC, communities will continue to resolve differences between Sec. 1612 (flood provisions) and

Sec. 3109. In recognition of this situation, the Commission's Workgroup recommended that State develop a strategy to further minimize the differences between the CCCL and flood requirements. This will be done in the coming year in order to submit proposals for the next code change cycle.

One change to Sec. 3109 is effective with the 2010 code. The NFIP-consistent definitions of "substantial improvement" and "substantial damage" in the new Sec. 1612 (flood resistant standards) apply in flood hazard areas seaward of the CCCL, rather than the definition in Section 161.54(12), F.S. Prior to this change, communities had to make one determination based on the code definition of "substantial improvement," and another determination based on the definition in their local flood damage reduction regulations. The change means communities will only need to make one determination when improvements or repairs are proposed for existing buildings.

#### **9. Will the State provide training on the new flood provisions of the codes?**

Yes. The State Floodplain Management Office will develop training with the goal of having it deployed early in 2012. DEM will seek continuing education credits for Certified Floodplain Managers, local code officials, plan reviewers and inspectors.

Because the flood provisions in the 2010 FBC are consistent with minimum NFIP requirements, the provisions will not be new to local officials who are currently involved in floodplain management or to architects, engineers and builders who have designed buildings in flood hazard areas. Designers who regularly work on buildings in flood hazard areas and building departments that regularly receive permit applications for buildings in flood hazard areas (especially non-residential buildings) should obtain a copy of ASCE 24 (see "Highlights of ASCE 24" link for FEMA Building Science on page 5 ).

#### **10. Which agency has the authority to provide guidance and binding and non-binding interpretations of the flood provisions of the 2010 Florida Building Code?**

Building officials are responsible for interpretation of the 2010 FBC as part of their day-to-day responsibilities. The Florida Building Commission is responsible for formal, "binding" interpretations (Section 553.775(3)(c)(5), F.S.) and declaratory statements regarding the FBC (Section 553.775(3), F.S.). Under agreement with the Commission, the Building Officials Association of Florida issues non-binding interpretations (Section 553.775(3)(h)). DEM is designated by the Governor as the State Coordinating Agency for the National Flood Insurance Program to serve as a link between Florida's communities and citizens and the NFIP. In this role, DEM is charged with providing guidance and helping communities to fulfill their responsibilities under the NFIP. DEM will continue in this role when the 2010 FBC is effective, in part by providing input to the Florida Building Commission when formal binding interpretations and declaratory statements are requested. DEM will also participate on the Building Officials Association of Florida's Code Development Committee to review requests for non-binding interpretations.

**11. Some communities, especially smaller towns, have arrangements with other jurisdictions (or private companies) to perform some or all of their building permit and floodplain management responsibilities. Will those arrangements be affected?**

No. Florida Statute Chapter 163, Intergovernmental Programs, authorizes local governments to enter into inter-local agreements to have one jurisdiction perform some functions for another jurisdiction. The State Floodplain Management Office encourages communities that exercise joint authority through such arrangements to develop and adopt agreements that specifically address floodplain management. A model inter-local agreement that is designed to help communities adopt acceptable formal agreements and a handout that summarizes community responsibilities under the NFIP are available on the State Floodplain Management Office website (see links below).

**Links:**

- State Floodplain Management Office (scroll down to “Building Code Resources”) [www.floridadisaster.org/Mitigation/SFMP/Index.htm](http://www.floridadisaster.org/Mitigation/SFMP/Index.htm)
- FEMA Building Science webpage (click on “Building Code Resources”) <http://www.fema.gov/rebuild/buildingscience/index.shtm>
- FEMA Reducing Flood Losses Through the International Codes [www.fema.gov/library/viewRecord.do?id=2094](http://www.fema.gov/library/viewRecord.do?id=2094)

**Contact the DEM State Floodplain Management Office:**

- [floods@em.myflorida.com](mailto:floods@em.myflorida.com)
- Florida NFIP Helpline 850-413-9960

**Contact the FBC Building Codes and Standards Office:**

- [www.floridabuilding.org](http://www.floridabuilding.org)
- 850-487-1824

**Florida Statute Authorizing Local Higher Standards and Other Provisions:**

**553.73, Florida Statutes**

(5) Notwithstanding subsection (4), counties and municipalities may adopt by ordinance an administrative or technical amendment to the Florida Building Code relating to flood resistance in order to implement the National Flood Insurance Program or incentives. Specifically, an administrative amendment may assign the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government and adopt procedures for variances and exceptions from flood-related code provisions other than provisions for structures seaward of the coastal construction control line consistent with the requirements in 44 C.F.R. s. 60.6. A technical amendment is authorized to the extent it is more stringent than the code. A technical amendment is not subject to the requirements of subsection (4) and may not be rendered void when the code is updated if the amendment is adopted for the purpose of participating in the Community Rating System promulgated pursuant to 42 U.S.C. s. 4022, the amendment had already been adopted by local ordinance prior to July 1, 2010, or the amendment requires a design flood elevation above the base flood elevation. Any amendment adopted pursuant to this subsection shall be transmitted to the commission within 30 days after being adopted.