

**PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA BUILDING COMMISSION**

Agency Clerk No. _____

DS 2023-053

I. PETITIONER

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II. PETITIONER'S ATTORNEY

Petitioner is not represented by counsel and files this Petition *pro se*.

**III. STATUTORY PROVISION(S), AGENCY RULE(S), AGENCY ORDER(S),
AND/OR CODE SECTION(S) ON WHICH DECLARATORY STATEMENT IS
SOUGHT**

2020 Florida Building Code, 7th Edition – Building: §107. The subject language is repeated in the 2023 version (8th Edition).

IV. HOW THE RULE SUBSTANTIALLY AFFECTS PETITIONER

Petitioner is motivated to file this Petition by his uncertainty regarding a key requirement in the Florida Building Code (FBC) related to construction documents. As a residential designer and contractor, Petitioner is affected by the language of the FBC and how that language is interpreted. This Petition is not prompted by the actions or code interpretations of any specific jurisdiction, but by Petitioner's overall knowledge of multiple jurisdictions that apply differing interpretations to the meaning of §107.1 in Florida Building Code – Building (FBC-Building) as it relates to special conditions and additional construction documents.

Petitioner has designed a single-family home containing 5,350 square feet of living space. Florida provides exemptions from licensure for residential structures of the type designed by Petitioner. The set of construction documents provided by Petitioner include all the standard construction documents needed to secure a residential building permit, as described in Chapters 107 and 1603 in FBC-Building. There are additional potentially

required construction documents found in FBC-Building §105.3.1.2, but they are for conditions not found in the subject design. Wind load calculations are performed directly by a Florida-licensed professional engineer, who signs and seals this portion of the plans. Truss suppliers typically want their products to be designed by their own licensed engineers, so Petitioner's plans just show a typical configuration for contractor pricing purposes and include a note that the final truss design must be supplied by others. Any other specialized structural elements, such as the foundation design and anchor bolt spacing, are similarly prepared and/or reviewed by a Florida-licensed engineer, who signs and seals that information. The plans fully meet the requirements for registered design professionals contained in Ch. 471, Fla. Stat.

Petitioner believes the construction documents meet all code requirements while also conforming to the professional practice mandates of Chapters 471 and 481, Fla. Stat. However, Petitioner has become aware of multiple jurisdictions that have adopted either local code amendments or are enforcing local policies that require construction documents of the type produced by Petitioner to be prepared by registered design professionals. For example, one jurisdiction interprets the phrase "special conditions" in §107.1 to include a residential structure that exceeds 5,000 square feet of living space. Another jurisdiction interprets the phrase to mean any residential project costing more than \$30,000. One jurisdiction contends that it was sufficient for a project to be located within its jurisdiction for the special conditions trigger to be activated. The subsequent new requirements imposed by this trigger phrase often exceed a straight reading of the text. All these jurisdictions interpret the phrase "additional construction documents" to include *all* construction documents.

V. QUESTIONS POSED

The questions posed by this petition relate to the follow sections of FBC-Building:

107.1 General.

Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by Chapter 471, Florida Statutes or Chapter 481, Florida Statutes. **Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.** [*emphasis added*]

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

107.2 Construction documents.

Construction documents shall be in accordance with Sections 107.2.1 through 107.2.6.

The last sentence of the main portion of §107.1 has been highlighted by using a bold underlined font. This is the sentence central to the two questions posed by this Petition, which are:

1. Does the phrase “special conditions,” as used in FBC-Building §107.1, refer to a residential structure larger than 5,000 square feet?
2. Does the phrase “special conditions,” as used in FBC-Building §107.1, refer to a residential structure that costs more than \$30,000 to build?
3. Does the phrase “special conditions,” as used in FBC-Building §107.1, refer to a residential structure that is located within a high-velocity hurricane zone that conforms to the regional design parameters addressed in the FBC?
4. Are the “additional construction documents” referenced in FBC-Building §107.1 limited to documents that only address any such special conditions that may exist for the project or construction site and do not include the standard construction documents that are to be submitted with a building permit application, as contained in FBC-Building §§107.2.1 through 107.2.7?

VI. PROPOSED ANSWERS

Petitioner proposes the following answers to the questions posed by this Petition:

1. No. “Special conditions” are not established by the size of a proposed detached single-family residence. The term means the presence of an element of the construction site and/or design that is outside the parameters upon which the Florida Building Code is based or exceed the prescriptive guidance found in the code, and that are unique to the proposed construction rather than generally applicable within a local jurisdiction. There is no component of the FBC that is dependent on the livable space and there is no limitation based on the size of the structure found in §481.229(1)(b), Fla. Stat., which includes the exemption from licensure for residential home design.
2. No. “Special conditions” are not established by the construction cost of a proposed detached single-family residence. There is no component of the FBC or Florida Statutes that is dependent on the cost of construction except for exemptions from permitting based on a low cost of construction. In addition, §481.229(1)(b), Fla. Stat., specifically says the exemption from licensure as an architect for designing a detached single-family home is “regardless of cost.”
3. No. “Special conditions” are not established by the permitting jurisdiction’s being located within a high-velocity hurricane zone, as the construction requirements for such a single-family house are contained in the FBC’s regional guidance that is specific to such a location.

4. Yes. The standard construction documents required for all detached single-family home construction do not include those referenced in §107.1 as “additional construction documents.” Such additional documents include one or more documents beyond those standard documents that are needed to address the special conditions related to the particular project.

VII. DISCUSSION

The Commission appears to have used the 2018 edition of the International Building Code (IBC) developed by the International Code Counsel (ICC) as its foundation for constructing FBC-Building in accordance with §553.73(3), Fla. Stat. The following language is found in that source document:

107.1 General.

Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by [the statutes of the jurisdiction in which the project is to be constructed]. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

107.2 Construction documents.

Construction documents shall be in accordance with Sections 107.2.1 through [107.2.8].

The text shown above in brackets was modified by the Commission when it adopted the language found in the same sections of FBC-Building. The Commission made two changes in this part of the code. In §107.1, the bracketed text was replaced by “Chapter 471, Florida Statutes or Chapter 481, Florida Statutes.” These are the two chapters of Florida Statutes that govern registered design professionals.

Secondly, the bracketed text found in IBC §107.2 of “107.2.8” was replaced with “107.2.6” in FBC-Building. The difference in range comes from two edits. First, the 2018 IBC includes §107.2.7 (construction documents must include information contained in §1603) and §107.2.8 (relocatable buildings) in the list of construction documents required under §107.2. The 2020 and 2023 editions of FBC-Building include the text of §107.2.7, but does not list it within the list found in §107.2. Second, §107.2.8 is not included in either edition of the FBC. Even though it is not included in the range contained in §107.2, §102.2.7 and its referenced §1603 are still required standard construction documents as a standalone element given the language of the code. Thus, §102.2.7 was likely omitted from the range

of subsections in FBC-Building §102.2 as being redundant and has no impact on what actually is included in the list of standard construction documents.

Except for these two differences, which do not impact the meaning or interpretation of these subsections, the language in FBC-Building is the same as that of the source IBC document. Although the 2021 edition of IBC substantially expanded the language of these subsections, the FBC-Building text found in the 2023 edition remains unchanged and continues to be based on the 2018 edition.

As given in FBC-Building, the standard construction documents are:

- Dimensioned plans [§107.2.1]
- Fire protection system shop drawings, where applicable [§107.2.2]
- Location, construction, size and character of all portions of the means of egress [§107.2.3]
- Exterior wall envelope description [§107.2.4]
- Details of the impervious moisture barrier system for exterior balcony and elevated walking surfaces, if any [§107.2.5]
- Site plan [§107.2.6]
- Size, section, and relative locations of structural members with floor levels, column centers, and offsets dimensioned [§1603.1]
- Design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.9 [§1603.1]

Additional construction documents would be supplemental to these minimal, standard requirements. For residential projects, such documents could be one or more of those listed in §105.3.1.2. They could also include design requirements imposed by the construction site or a particular element of the design. In addition to requiring supplemental construction documents, the building official, acting under the authority granted in the exception found in §107.1, may remove the requirement for some of the standard documents. For example, the site plan and exterior wall section may be omitted for interior construction projects.

Because of the language continuity from the 2018 IBC, Petitioner first sought an informal interpretation from the ICC. That agency assigned the task of responding to Christopher R. Reeves, P.E., Director, Architectural & Engineering Services. His answer was provided in an email to Petitioner on November 27, 2023:

This email is in response to your email correspondence regarding “special conditions” and the need for “additional construction documents”. All comments are based on the 2018 International Building Code (IBC) unless noted otherwise.

As noted in Section 107.1, the building official is authorized to require “additional construction documents” to be prepared by a registered design professional where “special conditions” exist. Admittedly, while the code doesn’t define what constitutes “special conditions”, such conditions are typically matters not provided for or addressed by the code or proposed design alternatives to the basic provisions in the code as regulated by Section 104.11. For example, the code does not specifically address how to construct a chemical refinery or other special hazardous occupancies which may require unusual height or area limitations due to a specific process or equipment. Extremely large

buildings may also warrant a specific egress design study to justify an additional exit access travel distance beyond basic code limitations. “Special conditions”, as alluded to in your correspondence, is not, in my opinion, necessarily related to the cost of the project or other local amendments.


As noted, “additional construction documents” could include drawings, structural calculations, research reports, test data or additional studies, prepared by a registered design professional, to substantiate equivalent compliance with the intent of the code with final approval subject to the building official.

The ICC staff’s understanding of the phrase “special conditions” is consistent with Petitioner’s contention that such a condition must be one arising from either a specific characteristic of the construction site, such as poor soils or steep slopes, or the particular design elements of the proposed structure, such as a fenestration that exceeds the proscriptive provisions of a header table in the FBC or its referenced standards. In other words, a special condition is one that is not directly addressed by prescriptive guidance found in the code. The ICC staff response directly says that the term does not include such generic measures as the “cost of the project or other local amendments.”

The ICC staff’s interpretation of the phrase “additional construction documents” is also consistent with Petitioner’s contention that such documents are appended to the standard construction documents in order to say how the proposed structure will accommodate the special conditions. Such documents are not a wholesale replacement for the regular set of construction documents described in the FBC and which, for specified structures, may be prepared by design professionals or owner/builders who are not registered. These additional construction documents could be as complex as a set of foundation plans prepared by a professional engineer to address unfavorable soil conditions or as simple as a professional engineer’s letter stating that the proposed design for headers supporting openings that exceed the lengths addressed in FBC load tables are adequate for the intended purpose.

CERTIFICATE OF SERVICE

This Petition for Declaratory Statement is hereby submitted on December 13, 2023, via email to Mo Madani, Technical Director, Building Codes & Standards Office, 2601 Blair Stone Road, Tallahassee, Florida 32399, Mo.Madani@myfloridalicense.com for consideration of a response by the Florida Building Commission.



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