

DECLARATORY STATEMENT REPORT

Florida Building Commission

October 17, 2023

3435 NORTH ATLANTIC AVENUE
COCOA BEACH, FLORIDA

STRUCTURAL TECHNICAL ADVISORY COMMITTEE CONCURRENT WITH THE SPECIAL OCCUPANCY TECHNICAL ADVISORY COMMITTEE

[DS 2023-035 by George Merlin of George Merlin Associates, Inc.](#)

Question 1a: Is the DFE based on ASCE / FEMA FIRM maps and NOT based on FDEP's 100-year storm elevation?

Answer: The answer to the Petitioner's question is no. The DFE and FDEP 100-year storm elevation refer to the elevation of the water surface, and as per Section 3109.3.3 of the 7th Edition (2020) Florida Building Code (FBC), Building, the bottom of the horizontal member of the lowest floor for the project in question must be at or above the higher of the elevation specified in ASCE 24 and the Florida Department of Environmental Protection (FDEP) 100-year storm elevation.

Question 1b: Is the DFE based on the higher FDEP elevation?

Answer: See answer to question 1.

Question 2: Does the FBC allow an enclosed bathroom and snack bar to be provided at the ground level of this residence, if the bathroom and snack bar are above the +11.0 ASCE / FEMA FIRM map elevation and below the +18.3 NAVD FDEP elevation and their enclosure walls are breakaway with fixtures and utilities not attached to any breakaway walls?

Answer: The answer to the Petitioner's question is yes. As per Section 3109.3.4, Item 5, of the 7th Edition (2020) FBC, Building, an enclosed bathroom and snack bar are allowed to be provided at the ground level of the residence in question, if the said bathroom and snack bar are above the elevation specified by ASCE 24 and below the FDEP 100-year storm elevation.

Question 3: Are the pool bath and snack bar enclosures described above considered a non-habitable use and / or non-habitable structure?

Answer: The answer to the Petitioner's question is yes. As per the definitions of "Allowed Use" and "Habitable Space" of the 7th Edition (2020) FBC, Building, the pool bath and snack bar in question that are located above the elevation specified by ASCE 24 and below the FDEP 100-year storm elevation are considered non-habitable spaces.

CODE ADMINISTRATION TECHNICAL ADVISORY COMMITTEE

[DS 2023-037 by Jack Butler of Butler & Butler, LLC.](#)

1. Do the professional practice exemptions provided in §§471.003, 481.229, and 489.103, Fla. Stat., pre-empt local governments from requiring construction documents for building permits seeking to construct or modify one- and two-family residences, townhouses, and domestic outbuildings appurtenant to anyone- or two-family residence, regardless of cost, be prepared by registered design professionals?
2. Is the phrase “special conditions,” as used in the FBC-Building §107.1, limited to the specific elements of the planned construction or site characteristics included in the permit application?
3. Does the phrase “additional construction documents,” as used in FBC-Building §107.1, mean that the standard content and requirements for construction documents are unaffected by the special conditions, and that any such special conditions that may exist for the project or construction site are to be addressed in separate documents required solely due to those special conditions?
4. What is the definition of an administrative amendment to the FBC? In other words, what are the distinguishing characteristics that subdivide local amendments into the administrative and technical classes?
5. Are local administrative amendments to the FBC subject to the adoption process described in §553.73(4), Fla. Stat., except for those subsections specifically addressing local technical amendments? For example, are local administrative amendments subject to the requirement in §553.73(4)(h), Fla. Stat., which include producing a fiscal impact statement that documents the costs and benefits of each proposed amendment?
6. Were the subject Broward County amendments adopted in compliance with the requirements of §553.73, Fla. Stat.?
7. How does the Commission resolve the paradox between the statement in 2020 FBC Residential §R101.2.1 that says, “The provisions of Chapter 1, Florida Building Code, Building, shall govern the administration and enforcement of the Florida Building Code, Residential” and the statement in FBC-Building §101.2 that says the scope of that entire document (implicitly including Chapter 1) does not apply to “Detached one-and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress, and their accessory structures not more than three stories above grade plane in height”?

Motion: The Code Administration TAC recommends that the Commission adopt staff’s analysis and decline to answer the Petition on the grounds that the questions (Q1 – Q7) deal with subjects outside of the Commission’s authority, address actions taken by other entities, and are not the proper subject for a declaratory statement from the petitioner, given the facts presented.