



# Palm Beach County: Letters of Final Determination & Taking Action

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## Agenda

- OFM and Local Floodplain Management Ordinances
- Palm Beach County LFD and OFM Support
- Use of Preliminary/Pending Maps
- 8<sup>th</sup> Edition FBC and Changes to Flood Provisions
- Market Value Definition
- Refreshed OFM Guidance
- Florida Quick Guide for Floodplain Management

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# OFM and Local Floodplain Management Ordinances

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## The Big Picture for FPM Ordinances

- In 2011, FDEM started working with communities to transition to ordinances that rely on flood requirements in the FBC.
- 468 NFIP Florida communities participate in the NFIP.
- All but ten communities adopted based on the FBC-coordinated model ordinance, which we tailored to each community's needs.

[www.floridadisaster.org/dem/mitigation/floodplain/community-resources/](http://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/)

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## Significant FDEM Responsibility

- FEMA Region IV and CRS look to FDEM for ordinance approvals.
- We have about 80-100 communities working on ordinance at any given time.
- For ordinances, our responsibility is to ensure communities maintain consistency with the NFIP and the Florida Building Code.
- And we work with communities to consider and adopt higher standards.

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Palm Beach County Map Revisions,  
Letters of Final Determination (LFD),  
and OFM Support

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## FEMA periodically restudies and revises Flood Insurance Studies and Flood Insurance Rate Maps

- Letter of Final Determination is sent by FEMA to reestablish the effective date of the revised FIS/FIRM
- Palm Beach LFD expected June 19, 2024**




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## FEMA periodically restudies and revises Flood Insurance Studies and Flood Insurance Rate Maps


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- Palm Beach LFD expected in June 2024**



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- You'll have 6 months to respond to demonstrate your floodplain management ordinance is compliant
- LFD includes FDEM memo →

**STATE OF FLORIDA**  
**DIVISION OF EMERGENCY MANAGEMENT**

Ken Babbitt  
Director

**FLORIDA DEN SUPPORT FOR ORDINANCE REQUIREMENTS**  
(Per Letters of Final Determination Beginning 2023)

**TO:** CEOs of Florida Communities Receiving FEMA LFDs for Revised Maps

**FROM:** Ken Cole, State NFIP Coordinator/State Floodplain Manager, Florida Office of Floodplain Management (CFM)

**SUBJECT:** Adoption of NFIP-Compliant Flood Ordinances Coordinated with the FBC

FEMA has established the effective date for the revised Flood Insurance Study and Flood Insurance Rate Maps (FIRMs) for your community through the issuance of a Letter of Final Determination (LFD). The letter advises affected communities that they must adopt or show evidence of adoption of a National Flood Insurance Program (NFIP)-compliant flood ordinance before the FIRM is made effective.

The Division of Emergency Management (DEM) worked with your community in the past to adopt a floodplain management ordinance that is coordinated with the Florida Building Code. That ordinance and the flood provisions in the FBC satisfy the requirements of the NFIP.


Within a week or two after FEMA mails the Letter of Final Determination, the CFM will be in touch with your community's Floodplain Administrator. We will discuss options to respond to the LFD, including amending the ordinance to revise the FBC and FIRM data. If your community elects to amend the ordinance, the CFM must conduct a compliance review prior to adoption. After amendments are adopted, or if your community chooses not to amend the ordinance, we must submit your ordinance to FEMA in advance of the deadline established in the LFD.

We welcome the opportunity to work with your community to ensure that its flood ordinance is compliant with NFIP. If you have questions and wish to speak with our staff, please contact our helpline telephone number at (800) 815-4056 or email at [FDemo@den.state.fl.us](mailto:FDemo@den.state.fl.us).

CC/

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## How will FDEM help you?

**Explain your THREE options:**

➡

**1. Modify ordinance to update FIS to date set by LFD. We will send you a "mini-ordinance template."**

The Flood Insurance Study for Palm Beach County, Florida, and Incorporated Areas dated October 5, 2017 [INSERT], and ....

➡

**2. Modify ordinance to update the date and make other changes. We'll work with you to prepare the draft.**

**\*\*** We are reviewing all and have found a number that must make some changes and several that should make changes. We will prepare the first drafts for those communities. This really is the "only" option for almost all PBC communities.

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### ➡ 3. Rely on “auto-adopt” \*\*\*\*

(C) ***Basis for establishing flood hazard areas.*** The Flood Insurance Study for Palm Beach County, Florida, and Incorporated Areas dated October 5, 2017, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the \_\_\_\_.

\*\*\*\* This option is only available if NO OTHER changes are necessary.

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## Other Ordinance Amendments

- Check if any amendments were adopted without FDEM review.
- Check if any other amendments are necessary.
- Modify the definition for “Market Value” (explain later).
- Simplify FBC amendments (explain later).

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## Other Ordinance Amendments

- Several Palm Beach communities adopted **floodway** requirements, but do not have floodways. That means those requirements can be removed. We will do that for you (it is more than a search and delete).
- Many Palm Beach communities will get a Limit of Moderate Wave Action (LiMWA) on the FIRM. The area between LiMWA and Zone V is **Coastal A Zone (CAZ)**:
  - FBC treats buildings almost like Zone V
  - Must make amendments to regulate CAZ fully like Zone V

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## CRS Class 8 Prerequisite

Most Palm Beach communities that are in CRS have made—or have drafts to make—amendments to satisfy the CRS Class 8 Prerequisite for manufactured homes, EXCEPT:

Cloud Lake	Ocean Ridge
Hypoluxo	Palm Springs
Lake Clarke Shores	South Palm Beach
Lantana	Tequesta
Manalapan	Wellington
North Palm Beach	

In May, we will send these communities draft amendments to satisfy the Class 8 Prerequisite AND update the FIS effective date.  
We will also begin to send drafts to those we identify must amend.

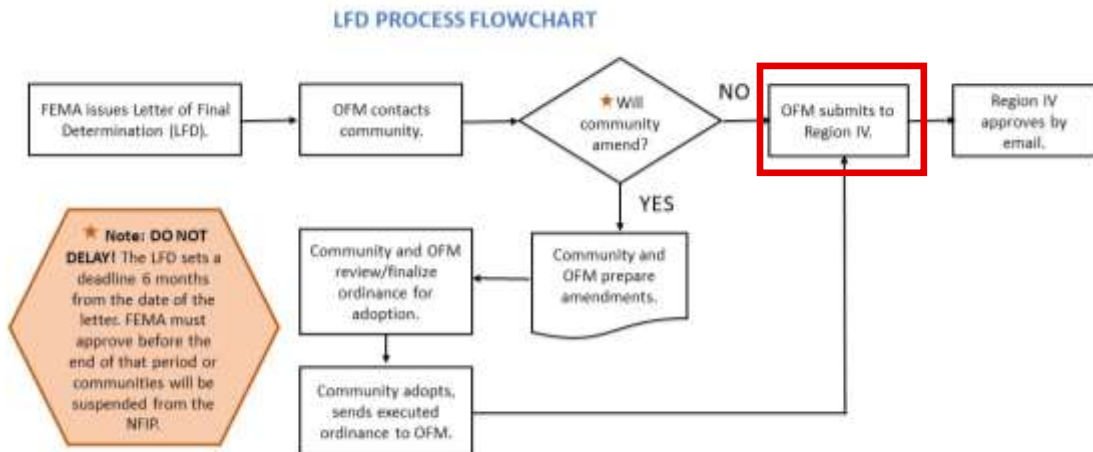
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## LFD Process Chart



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### Importance of the deadline set in the LFD:

- 90-day letter
- 30-day letter (notice of suspension)

FEMA must **automatically suspend** your community from the NFIP if your ordinance is not compliant or not approved.

We keep close tabs on status. In the 14 years we've provided LFD support, no community has been suspended.

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## Your Next Steps Before LFD is Issued

Review your flood ordinance

1. Think about changing the FIS date.
2. Think about other changes you would like to propose (review the OFM site for guidance and explanations).
3. Please be prepared to respond **quickly** when we get in touch.

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## Use of Preliminary Maps and Pending Maps

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2021 statute change ...communities "may not use preliminary maps issued by" FEMA (sec. 552.73(5), F.S.).

**TERMINOLOGY:** At issue is the term "preliminary map." At different points during the study revision process, FEMA produces different products with different names:

FEMA Flood Map Service Center: Products and Tools Overview/Regulatory Product Status, access at <https://msc.fema.gov/portal/resources/productsandtools>.

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**Preliminary Products:** Preliminary flood hazard data (including preliminary FIRMs) provide the public with an early look at the projected risk identified by an in-progress flood hazard study.


**Preliminary Products are not final, but are considered the best information available at the time of release.** Therefore, preliminary products are subject to revision prior to final issuance. Preliminary data include new and revised FIRMs, FIS reports, and FIRM databases.



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**Pending Products:** Products with this status are released when FEMA issues a Letter of Final Determination (LFD) at the conclusion of a regulatory flood mapping project.

**Pending Products** have an effective date on which they will become official—effective—for the purposes of legal determinations in fulfillment of the National Flood Insurance Program (NFIP) requirements.




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**Effective Products:** Regulatory products with effective status are authorized by law to be used in making determinations under the NFIP. The set of Effective FIRM, FIS, and National Flood Hazard Layer data, as well as any Effective LOMCs that have been issued to modify those products, collectively comprise FEMA's official, effective flood hazard determination for a given area. The effective date is established in the LFD.



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**FDEM CONCLUSION:** FIS and FIRMs stamped “Preliminary” by FEMA become “Pending” upon issuance of LFDs, and then those products become “Effective Products” on the effective date established in the LFD. **Therefore, the 2021 statute does not constrain the use of Pending Products after FEMA issues the LFD.**

However....see guidance as to when the Pending Products must not be used (i.e., when BFEs go down!)

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8<sup>th</sup> Edition Florida Building Code  
and Flood Provisions

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The FBC is amended every three years through a formal process managed by the Florida Building Commission.

- The FDEM/OFM website posts excerpts of the flood provisions of the FBC
- 8<sup>th</sup> Edition (and summary of changes since the 7<sup>th</sup> Edition)
- 7<sup>th</sup> Edition (and summary of changes since the 6<sup>th</sup> Edition)

Changes to the flood provisions in the FBC do **NOT** require changes to floodplain management ordinances.

[www.floridadisaster.org/dem/mitigation/floodplain/community-resources/](http://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/)  
look in Florida Building Code Resources.

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## FBC Amendments and Statutory Requirements

- Authority for local amendments
- Must not weaken the FBC
- Flood amendments do not sunset if adopted per statute
- Caution about properly adopted, or may subject to challenge

Most common higher flood standards:

- ~129 "enclosure limits" (several permutations)
- ~120 Cumulative Sub Imp (5-year most common)
- ~85 Freeboard more than +1 ft
- ~60 Critical facilities
- ~ 45 Nonconversion Agreement
- ~30 CAZ like Zone V

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## Other Higher Standards for FBC

[Guidance for “Plain Language” Local Amendments to the FBC](#) (2024) includes guidance the ones listed on the previous slide and for:

- Lower SI & SD Percentages
- Dwellings: Foundations in Zone A/AE designed by RDP
- Dwellings: Open foundations in Zone A/AE (limit the use of fill)
- Repetitive Flood Damage as part of Substantial Damage

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## Example: Enclosure Limits

PREVIOUS APPROACH: apply underline/strike-thru

**Sec. R322.2.2. Enclosed areas below design flood elevation** Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

1. Be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. The limitation on partitions does not apply to load bearing walls interior to perimeter wall (crawl space) foundations. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator). *Remainder unchanged*

This is now  
R322.3.6!

**R322.3.5 Enclosed areas below the design flood elevation.** Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

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## Example: Enclosure Limits

### NEW APPROACH:

**XX. – Florida Building Code technical amendments; enclosures below required elevations for (buildings / dwellings) in flood hazard areas.** Enclosed areas below the required elevation for (buildings / dwellings) in flood hazard areas shall be limited as follows:

(1) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code.

(2) Where perimeter walls are permitted, the limitation on partitions does not apply to load bearing walls interior to perimeter wall (crawl space) foundations.

(3) Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

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## Example: Cumulative Substantial Improvement

### PREVIOUS APPROACH: apply underline/strike-thru

(3) **Cumulative substantial improvement.** In the Florida Building Code, Building and the Florida Building Code, Existing Building, definitions for the term "Substantial Improvement" shall be as follows:

**SUBSTANTIAL IMPROVEMENT.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to the date of permit issuance. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

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## Example: Cumulative Substantial Improvement

### NEW APPROACH:

**XX. – Florida Building Code technical amendment: cumulative substantial improvement.** In the Florida Building Code, Building, and Florida Building Code, Existing Building, definitions for the term "Substantial Improvement" shall be as defined in Section (insert flood ordinance section number for definitions).

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## Market Value Definition

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## Modify Definition of Market Value: ACV

- Emphasize Actual Cash Value (replacement cost depreciated), and modify to be consistent with FEMA guidance.
- ACV starts with “in-kind” replacement cost, which means exactly as the building looks today. And that cost is then depreciated.
- ACV has less opportunity for “bias” and “opinion” which can lead to inflated values produced by traditional assessments.

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## Modify Definition of Market Value: Adjusted Tax

- Some independent appraisers struggle with “building only” when using the traditional appraisal as starting point.
- Clarify tax assessment value adjusted by a factor provided by the County Property Appraiser.
- FEMA and FDEM guidance:
  - MUST not adopt fixed multiplier
  - SMALL NUMBER of communities must eliminate codified fixed multiplier applied to tax assessment value.

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# Refreshed FDEM OFM Guidance

(posted early January)

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- Accessory structures & FBC
- Agricultural structures
- Approximate Zone A & FBC
- CCCL compared to FBC Flood
- "Coastal high hazard area" definition: Flood vs Comp Planning
- Letter of Final Determination and FDEM assistance
- Manufactured Home: Limitations on location; Not permitted; Satisfy CRS Class 8
- Market Value: Actual Cash Value; remove fixed factor
- Slabs/floors below freeboard and flood openings
- Swimming pools
- Use of preliminary maps (constrained by statute)

[www.floridadisaster.org/dem/mitigation/floodplain/community-resources/](http://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/)

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# Florida Quick Guide for Floodplain Management

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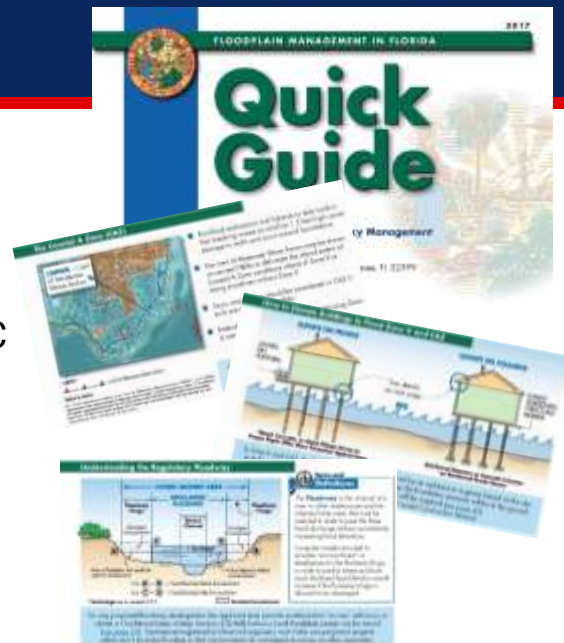
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## Floodplain management in the spotlight?

- Check out the Quick Guide – a handy way to learn the fundamentals and what’s in the FBC
- Share with elected and appointed officials, colleagues, the public

[www.floridadisaster.org/dem/mitigation/floodplain/community-resources/](http://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/)



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# Questions?

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## Thanks!

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