

AGENDA ITEM REPORT

MEETING DATE: 11/8/22

DEPARTMENT: Community Development

REQUESTER: David Loveland, Director

TITLE: Conduct Public Hearing to Adopt an Ordinance Amending LDC Chapter 6 – Building Regulations

I. MOTION REQUESTED

- A) Conduct a public hearing to adopt an ordinance to amend the Lee County Land Development Code Chapter 6 (Buildings and Building Regulations) to:
1. Reference the newest version of FEMA's Flood Insurance Rate Maps for Lee County that take effect Nov. 17, 2022;
 2. Update the elevation requirements for manufactured homes in special flood hazard areas and coastal high hazard areas consistent with FEMA requirements;
 3. Amend the definition of "Substantial improvement" to remove references to a cumulative determination of improvement costs over the prior 5-year period for purposes of the 50% rule calculation for non-repetitive loss properties.
 4. Amend the cumulative period for repetitive loss properties from five years to one year for purposes of the 50% calculation.

B) Adopt a Resolution to establish an adjustment factor to be applied to a property's assessed value as an alternative method of calculating a property's market value for purposes of determining the relative cost of substantial improvements needed as a result of Hurricane Ian.

II. ITEM SUMMARY

The BOCC on Nov. 1, 2022 authorized a set of amendments to the Lee County Land Development Code (LDC) to proceed through an expedited committee review process, only going to the Local Planning Agency (LPA) rather than through 3 committees. The LPA held a special meeting on Monday, Nov. 7, 2022 at 9:00 am, and their recommendations regarding the amendments are being reported to the Board for the Nov. 8 Special BOCC meeting.

The amendments being recommended for Board consideration would do the following:

1. Reference the newest version of FEMA's Flood Insurance Rate Maps for Lee County that take effect Nov. 17, 2022;
2. Update the elevation requirements for manufactured homes in special flood hazard areas and coastal high hazard areas consistent with FEMA requirements;
3. Amend the definition of "Substantial improvement" to remove references to a cumulative determination of improvement costs over the prior 5-year period for purposes of the 50% rule calculation.
4. Amend the cumulative period for repetitive loss properties from five years to one year for purposes of the 50% calculation.

Amendment #3 is the most significant, essentially going to a permit-by-permit approach to costs used in the 50% rule determination for a non-repetitive loss property. While the change will result in a minimal loss of points in the National Flood Insurance Program's Community Rating System scoring

process, the County will remain well over the 2500-point threshold to achieve a Class 5 rating, which entitles Lee County property owners to a 25% discount on flood insurance premiums, estimated to save \$13.8 million annually. Going to a permit-by-permit approach eliminates the need to back out any prior expenditures on a building, including expenditures related to hardening of the structure against wind threat like roof or window replacements.

For repetitive loss properties, however, Lee Plan Policy 59.1.11 requires maintaining a cumulative look back period. A repetitive loss property is defined by FEMA as a property for which two or more National Flood Insurance Program losses of at least \$1000.00 each have been paid out within any 10-year period. Staff is recommending going from a five year look back to a one year look back.

Regarding determining market value of a structure in relation to the 50% rule calculation, the Lee County Property Appraiser's office now provides a letter for most buildings identifying "Just Value" to get closer to market value, but the Board felt an additional percentage adjustment was necessary to better represent market value and to expedite the permitting process without the need for independent appraisals. Therefore a 15% adjustment factor to the Property Appraiser value is proposed to be adopted by Board Resolution for substantial improvements related to Hurricane Ian. Property owners also have the option of having a licensed appraiser do an appraisal for them.

III. BACKGROUND AND IMPLICATIONS OF ACTION

A) Board Action and Other History

The BOCC in June had previously authorized staff to take two proposed amendments to the County's flood regulations forward through the normal committee review process, involving three committees. The two changes were necessary to ensure our flood regulations remain compliant with FEMA's National Flood Insurance Program Community Rating System requirements, to protect our current Class 5 rating and the resultant flood insurance discount. However, the impact of Hurricane Ian raised some questions about further amendments to our flood regulations and created a sense of urgency to get any changes in place as people contemplate repairs or replacements for damaged structures. On Nov. 1, 2022 the BOCC approved an expedited committee review process, only taking the changes through one required committee, the Local Planning Agency (LPA). The LPA will hold a special meeting on Monday, Nov. 7, 2022 at 9:00 am to consider the amendments and will provide recommendations.

The two amendments previously discussed with the Board are:

- Reference the newest version of FEMA's Flood Insurance Rate Maps for Lee County that take effect Nov. 17, 2022.
- Update the elevation requirements for manufactured homes in special flood hazard areas and coastal high hazard areas consistent with FEMA requirements.

The Lee Building Industry Association (BIA) suggested that the County consider three additional amendments to our flood regulations, namely:

- Reduce the cumulative assessment of improvement costs used in the 50% rule application from 5 years to either 1 year or eliminated altogether.
- Exclude hardening costs such as window and roof replacements from the cumulative assessment of costs used in the 50% rule application.
- Allow for an automatic increase of 30-40% to the structure value derived from the Property Appraiser's website.

B) Policy Issues (Discuss policy considerations.)

C) BoCC Goals

D) Analysis

Lee County currently participates in the National Flood Insurance Program's Community Rating System (CRS), a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements. Based on a recently-completed audit of the County's regulations and enforcement efforts to minimize risk in flood hazard areas, we received a CRS score of 2,797 points, well within the CRS Class Rating of 5 (the threshold is 2,500 points). This translates to a 25% discount on the cost of flood insurance for unincorporated Lee County policy holder, which saves an estimated \$13.8 million annually.

In 2020 the CRS established certain minimum actions as prerequisites for communities to qualify for or maintain class ratings of 8 or better. The two initial amendments discussed with the Board in June were essentially necessary to meeting the prerequisites for a Class 5 rating.

The National Flood Insurance Program requires that for buildings located in Special Flood Hazard Zones (zones beginning with A or V), when the cost of proposed improvements or repairs equals or exceeds 50% of the value of the building, then the building must be brought into full compliance with current flood damage prevention regulations (including elevations). On the cost side of the equation, the County's current regulations indicate the cumulative costs for the prior five years of any improvements to the building be included with the costs of needed repairs (found in the definition of Substantial Improvement). On the value side of the equation, the County's current definition of "market value" defers to the Property Appraiser's tax assessment value with an adjustment deemed appropriate by the Property Appraiser, or the property owner can have an appraisal done by a qualified independent appraiser.

E) Options

IV. FINANCIAL INFORMATION

A)	Current year dollar amount of item: No funding required.
B)	Is this item approved in the current budget?
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
C)	Is this a revenue or expense item?
	<input type="checkbox"/> Revenue <input type="checkbox"/> Expense <input checked="" type="checkbox"/> N/A
D)	Discretionary or Mandatory
	<input type="checkbox"/> Discretionary <input type="checkbox"/> Mandatory <input checked="" type="checkbox"/> N/A
	If Mandatory, Required by
E)	Will this item impact future budget? If yes, include reasons in III. D) Analysis above.
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

F)	Fund: Program: Project: Account Strings:
G)	<input type="checkbox"/> General Fund <input type="checkbox"/> Enterprise <input type="checkbox"/> Unincorporated <input type="checkbox"/> MSTU <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Other _____
H)	Comments:

V. RECOMMENDATION

- Approve
- Decline
- Modify
- Other

If other, please enter here:

VI. TIMING/IMPLEMENTATION

VII. FOLLOW UP