



FLORIDA DIVISION OF EMERGENCY MANAGEMENT

Office of Floodplain Management

GUIDANCE FOR DATES: EXISTING BUILDING AND NEW CONSTRUCTION

Office of Floodplain Management

Florida Division of Emergency Management

Helpline: 850-815-4556 and floods@em.myflorida.com

December 2024

OBJECTIVE: This guidance explains why the definitions for “existing building” and “existing structure” in the Florida Building Code, Existing Building, and the provisions of the FBC Existing Building, govern work proposed for existing buildings and structures in flood hazard areas. **The terms “existing building,” “existing structure,” and “new construction” that are adopted in local floodplain management regulations do not supersede the terms in the FBC Existing Building.** Local floodplain management regulations do not include requirements for the design and construction of buildings in flood hazard areas. See comparison of definitions on page 2.

ISSUE: The terms **pre-FIRM** and **post-FIRM** are NFIP insurance terms that are tied to the date of a community’s initial FIRM. Before FEMA implemented changes in 2020 that alter how buildings are rated for NFIP flood insurance purposes, the terms were used as one factor to determine flood insurance premiums. It is common—but misleading—for these terms to be used to distinguish between new construction and buildings that pre-date when a community adopted its first floodplain management requirements. Because FEMA periodically revises FIRMs, which sometimes change SFHAs, flood zones, and BFEs, reliance on the terms pre-FIRM and post-FIRM for compliance can lead to incorrect interpretations of the substantial improvement and substantial damage requirements.

FEMA publications issued in the past several years use the terms “new,” “existing,” and “legal non-conforming” to describe buildings as a function of when they were permitted or constructed. The term “legal non-conforming” is described as buildings that were constructed in compliance with a community’s floodplain management requirements that were in effect when the buildings were initially issued permits. These buildings do not conform to the community’s **current** floodplain management requirements or the **current** flood zone or Base Flood Elevation (BFE) or flood depth where the buildings are located.

CONCLUSION. Despite how the 2010 edition of the [Substantial Improvement / Substantial Damage Desk Reference](#) (FEMA P-758) is written, **the terms pre-FIRM and post-FIRM, with community-specific dates, must not be used to enforce the FBC Existing Building.**

By state law, all Florida communities must enforce the FBC. When work is proposed on SFHA buildings that are already built (i.e., “existing” as defined in the FBC Existing Building), whether alterations, additions, repairs, relocations, or any other improvements or combinations of types of work, the following apply:

1. Local officials must make determinations as to whether the proposed work constitutes Substantial Improvement or repair of Substantial Damage. If the results trigger the definitions of those terms, local officials must require the buildings to be brought into compliance with the current FBC rules for flood-resistant construction. All Florida communities adopt regulations that include sections outlining how SI/SD determinations are made.
2. Local officials must assure that any work on buildings that were constructed in compliance with floodplain management regulations does not alter the compliant characteristics of these buildings. SI/SD determinations are not required provided the buildings continue to comply or conform to the requirements in effect when they were constructed.

BACKGROUND: As part of approving the Florida Model Code-Coordinated Ordinance in 2013, FEMA Region 4 required FDEM to include the terms “existing building and existing structure” and “new construction.” At that time, FDEM argued the date-specific terms were superseded by the scope of the FBC, Existing Building. Both terms are unique to each NFIP-participating community because they require insertion of the “date the community’s first floodplain management ordinance was adopted.” A small number of communities inserted the date the communities were accepted for participation in the NFIP because they were unable to determine a precise date of adoption (which always pre-dates acceptance in the NFIP). Municipalities that incorporated after the unincorporated county joined the NFIP inserted the county’s date of adoption.

In floodplain management regulations, the dates in the terms “existing manufactured home park or subdivision”, “expansion to an existing manufactured home park or subdivision”, and “new manufactured home park or subdivision” are meaningful for those communities that retained the “36-inch option” for replacement manufactured homes in certain locations. CRS communities remove those terms as part of satisfying the CRS Class 8 prerequisite. See guidance at the link below the table (look for <Remove 36-inch option>).

COMPARISON OF DEFINITIONS		
44 CFR § 59.1 NFIP Definitions {emphasis added by bolding}	Model Ordinance Definitions {instruction in blue brackets}	FBC Existing Building Definitions
<p>Existing construction, means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”</p> <p>Existing structures see existing construction.</p>	<p>Existing building and existing structure. Any buildings and structures for which the “start of construction” commenced before {date the community’s first floodplain management ordinance was adopted}. [Also defined in FBC, B, Section 202.]</p>	<p>EXISTING BUILDING. A building erected prior to the date of adoption of the appropriate code, or one for which a legal building permit has been issued.</p> <p>EXISTING STRUCTURE. A structure erected prior to the date of adoption of the appropriate code, or one for which a legal building permit has been issued.</p>
<p>New construction means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.</p> <p>NOTE: “New construction” includes buildings that may be decades old because communities have joined the NFIP in the 1960s.</p>	<p>New construction. For the purposes of administration of this ordinance and the flood resistant construction requirements of the <i>Florida Building Code</i>, structures for which the “start of construction” commenced on or after {date the community’s first floodplain management ordinance was adopted} and includes any subsequent improvements to such structures.</p>	<p>Not defined (implicitly any building and structure that is not “existing”).</p>

<https://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/> (under Guidance, Ordinance Amendments, FBC Amendments, and Sample Forms).