

Sec. 62-3724. Development regulations.

(1) There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.

- (a) Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation).
 - (i) Residential density shall be limited to no more than two dwelling units per acre.
 - (ii) Commercial, institutional, and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre, except for redevelopment as specified in Section 62-3724(1)(f).
 - (iii) Density may be transferred from areas within the 25-year to 100-year riverine floodplain to areas above the riverine 100-year floodplain at a density consistent with the service sector.
 - (iv) Any expansion of commercial and industrial structures, including parking areas, within the 100-year to 25-year riverine floodplain greater than 25 percent of the earliest permitted development footprint size shall be reviewed by the Natural Resources Management Department for compliance.
 - (v) Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except that undeveloped parcels created prior to February 17, 2011, may fill up to 1/3 acre for development without providing compensatory storage. For other parcels, compensatory storage shall be required for all fill within the floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).
 - (vi) Development of a lot or parcel within the 100-year to 25-year riverine floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated

to or above the 100-year base flood elevation (BFE). All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins). All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.

- (vii) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (b) Within the 25-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation).
 - (i) Residential density shall be limited to not more than one dwelling unit per two and one-half acres.
 - (ii) Commercial and institutional land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre. Commercial uses shall be no greater than one acre, except for redevelopment as specified in Section 62-3724(1)(f).
 - (iii) Within the same project, the following transfer of densities may occur consistent with the service sector:
 - 1. Development densities of one dwelling unit per acre may be transferred out of areas in the ten-year to 25-year floodplain to areas in the 25-year to 100-year riverine floodplain.
 - 2. Development densities consistent with the service sector may be transferred out of the ten-year to 25-year floodplain to areas above the riverine 100-year floodplain.
 - (iv) Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.

- (v) Any expansion of commercial structures, including parking areas, greater than 25 percent of the earliest permitted development footprint size shall be reviewed by the Natural Resources Management Department for compliance.
 - (vi) Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).
 - (vii) Development requiring a land alteration permit, if subsequently required by ordinance, shall not cause a net loss in flood storage capacity within the floodplain.
 - (viii) Development of a lot or parcel within the 10-year to 25-year floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
 - (ix) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (c) Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation).
- (i) Residential density shall be limited to not more than one dwelling unit per ten acres.

- (ii) Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.
- (iii) Within the same project, the following transfer of densities may occur consistent with the service sector:
 - 1. Development densities of one dwelling unit per five acres may be transferred out of areas below the ten-year floodplain to areas in the ten-year to 25-year riverine floodplain.
 - 2. Development densities of one dwelling unit per acre may be transferred out of areas below the ten-year floodplain to areas in the 25-year to 100-year riverine floodplain.
 - 3. Development densities consistent with the service sector may be transferred out of the ten-year floodplain to areas above the riverine 100-year floodplain.
- (iv) Development, except for permitted uses, shall be transferred out of the ten-year floodplain unless the project has a special reason or need to locate below the ten-year floodplain and is found to be in the overriding public interest.
- (v) Any expansion of commercial structures, including parking areas, greater than 25 percent of the earliest permitted development footprint size shall be reviewed by the Natural Resources Management Department for compliance.
- (vi) Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).
- (vii) Development requiring a land alteration permit, if subsequently required by ordinance, shall not cause a net loss in flood storage capacity within the floodplain.

- (viii) Development of a lot or parcel within the 10-year to mean annual floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
- (ix) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (d) Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.
- (e) To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be exceeded if compensatory storage is provided. If on-site storage is not feasible, non-contiguous compensatory storage, hydrologically connected to the impacted floodplain may be considered. Off-site compensatory storage shall require an easement that secures perpetual off-site drainage.
- (f) Basins historically separated from the riverine floodplain by berms, dikes, pumps, or other man-made methods shall be considered connected to the floodplain unless such flood control measures are accredited by FEMA. The filled footprint restrictions for commercial and industrial development on a parcel may be exceeded if all of the following criteria are met:
 - (i) The basin was established and continuously maintained prior to September 9, 1988.
 - (ii) The parcel shall have had a commercial or industrial zoning classification prior to and since September 9, 1988; and its current commercial or industrial zoning classification and FLU designation are

consistent pursuant to Section 62-1255.

- (iii) Historical flow of water is maintained or rerouted in such a way as the upstream and downstream property owners are not negatively impacted.
 - (iv) Where the basin is managed through the operation of pump(s), the applicant shall provide flood management independent of any off-site flood control measures. Where off-site pumping controls or assists removal of stormwater from the basin a pumping agreement detailing pumping elevations, rates, and cost sharing shall be created which is binding on all parties and transfers with the properties and any subdivisions there-of until or unless a property is removed from the basin.
 - (v) A flood study of the basin shall be completed by a Professional Engineer registered in the State of Florida. The flood study shall affirmatively demonstrate that the modified filled footprint restrictions shall not adversely impact the drainage of adjoining properties, both internal and external to the basin. The flood study shall include the 24- and 96-hour storms for critical floods including, but not limited to, the mean-annual, 10-year, 25-year, and 100-year storm events.
 - (vi) A subsequent conversion to a non-commercial or non-industrial Future Land Use shall require a retrofit of compensatory storage.
- (2) Estuarine floodplain.
- (a) Development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality.
 - (b) Development of a lot or parcel within an estuarine floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
 - (c) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may developed at the elevation

of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

(3) Isolated floodplain.

- (a) Development within an isolated floodplain shall not negatively impact adjacent properties or receiving water body quality.
- (b) Development of a lot or parcel within an isolated floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
- (c) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (d) Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the floodplain greater than one third (1/3) acre in size regardless of the date the lot was created. Compensatory storage for lots within a platted subdivision created after the effective date of this ordinance shall be provided. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).

(4) Development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, excluding federally owned lands, herein after referred to as "Area," are subject to the following requirements:

- (a) Compensatory storage; and
- (b) Written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Written certification shall be required prior to issuance of a land alteration permit, building permit, site plan, preliminary plat approval, or any other authorization for grading or drainage modifications. The engineer of record shall certify that the proposed development will not increase flood stages, and will not increase the duration of the peak flood stages within the Area. Such certification shall be accompanied by a report supporting the certification. This report shall include full engineering data and analysis, in compliance with good engineering practices, and any and all applicable standards, criteria, and regulatory requirements, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact; and
- (c) Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. Delineation of floodplains shall use best available pre-alteration ground elevation data.
- (d) A waiver from the compensatory storage requirement may be granted by the county manager or designee where the engineer of record certifies that the proposed design does not increase peak flood stage or duration, based on a stormwater model accepted by the board of county commissioners. Any such stormwater model shall be based on best available data addressing, at minimum; water storage, water volume, groundwater elevations, peak stages, and peak rates for the Area.
- (e) Compensatory storage for fill in the Area shall be required for single family parcels created prior to the effective date of this ordinance. However, written certification in (b) shall not be required. If compensatory storage is not available as a result of insufficient depth to groundwater, a compensatory storage waiver must be obtained from the county manager or designee by property owner or designee. The amount of fill for which a waiver may be granted shall be limited to the volume necessary to construct no more than the minimum floor area designated by the applicable zoning classification, plus on-site disposal system and necessary ingress and egress. Accessory structures requiring fill are not permitted. Compensatory storage waivers shall not be granted for accessory structures requiring fill in the floodplain.

- (f) Properties, including portion thereof, demonstrating discharge of site runoff directly to the Indian River Lagoon - through sheet flow, channels, and/or stormwater systems, without reliance on other conveyances and/or stormwater systems serving other properties, and without impeding flows from other properties to the Indian River Lagoon - are exempt from the compensatory storage requirement.
- (g) An as-built survey shall be submitted to the County within 60 days of project completion.
- (h) Any engineered compensatory storage approved by the county shall be maintained by the owner in perpetuity. Any modifications to the system require approval under this section.
- (i) Land alteration and grading in the Area are prohibited unless reviewed and approved under this subsection and Sec. 62-4421(a)(5).