In February 2020, FEMA released FEMA Policy #104-008-03, a policy defining agricultural structures and accessory structures and specifying conditions and limitations that must be imposed when communities allow property owners to build those structures using wet floodproofing techniques instead of complying with the NFIP requirements to elevate or dry floodproof nonresidential structures. In August 2020, FEMA published FEMA P-2140, *Floodplain Management Bulletin: Requirements for Agricultural Structures and Accessory Structures*. The Bulletin and Policy are available here: https://www.fema.gov/media-collection/floodplain-management-requirements-agricultural-and-accessory-structures

The DEM State Floodplain Management Office (SFMO) developed this guidance for accessory structures based on the Policy and Bulletin. It was reviewed by floodplain management specialists with FEMA Region IV. The SFMO prepared separate guidance for agricultural structures.

**Accessory structures may be elevated or dry floodproofed to or above the Base Flood Elevation plus one foot.**

**Florida communities are encouraged to modify local floodplain management regulations to incorporate requirements for at-grade (non-elevated) wet floodproofed accessory structures that are smaller than the size limits established in the Policy and described below.**

**Communities should modify regulations in order to process variances to approve larger wet floodproofed accessory structures.**

The NFIP Community Rating System advises that adopting these provisions will not adversely impact credit points. Communities are not required to submit Elevation Certificates for wet floodproofed accessory structures (see NFIP/CRS Update February/March 2021).
This guidance describes and includes model language for three ways communities can respond to the Policy to allow at-grade wet floodproofed accessory structures.

**Version A.** Modify floodplain management regulations to allow permits to be issued for at-grade wet floodproofed accessory structures that are not larger than the size limits specified in the Policy. See Attachment A.

**Version B.** Modify floodplain management regulations to specifically provide criteria for variances to allow at-grade wet floodproofed accessory structures that are larger than the size limits specified in the Policy, with an option to have requests considered as “administrative variances” for accessory structures up to a specified size limit only in A Zones. This version requires changing regulations. See Attachment B.

**Version C.** Rely on existing regulations, combined with a written administrative policy that is consistent with the FEMA Policy, to issue permits for at-grade wet floodproofed accessory structures that are not larger than the size limits specified in the Policy. This version does not require changing regulations. The SFMO considers this approach more difficult to enforce because the public is not informed of the size limits. The administrative policy approach is not applicable to wet floodproofed agricultural structures. See Attachment C.

Revised May 19, 2021
Issued January 20, 2021
Version A. Modify floodplain management regulations to provide criteria for permits to be issued for at-grade wet floodproofed accessory structures that are not larger than the size limits specified in the Policy.

Florida communities that anticipate many requests for accessory structures in SFHAs should modify existing regulations to adopt explicit requirements to allow issuance of permits for at-grade wet floodproofed accessory structures. Florida communities that already have specific provisions should replace or modify those provisions to be consistent with this language Policy.

ORDINANCE NO. XX-XX

AN ORDINANCE BY THE {community’s governing body} AMENDING THE {name of community} LAND DEVELOPMENT CODE TO AMEND {insert appropriate chapter/section numbers} TO PROVIDE CRITERIA FOR ACCESSORY STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in {Chapter 125 – County Government or Chapter 166 – Municipalities}, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

WHEREAS, the {community’s governing body} has determined it appropriate to adopt regulations that are consistent with the FEMA Policy to allow issuance of permits for at-grade wet floodproofed accessory structures that are not larger than the sizes specified in the FEMA Policy.

NOW, THEREFORE, BE IT ORDAINED by the {community’s governing body} of the {name of community} that the {insert appropriate chapter/section numbers} is amended as set forth in the following amendments, as shown in strikethrough and underline format in Section 1.

SECTION 1. This ordinance specifically amends the {insert chapter/section}:

{Add a new definition / Modify a definition} as follows:

Accessory structure. A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain
management purposes, the term includes only accessory structures used for parking and storage.

In Section XXX Building and Structures, add a new Section XXX.X as follows:

Section XXX.X. At-grade accessory structures. At-grade accessory structures are permitted provided the accessory structures are used only for parking or storage and:

1. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

2. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft. [DELETE (2) IF COMMUNITY HAS ONLY ZONE A/AE and renumber remaining items]

3. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

4. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

5. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

SECTION 2. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in {insert name of community or all unincorporated areas of the county}. This ordinance shall apply to all applications for accessory structures in special flood hazard areas submitted on or after the effective date of this ordinance.

SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the {community’s governing body} that the provisions of this ordinance shall become and be made a part of the {name of community’s} Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect on {insert date}.

Use community’s standard signature block
Version B. Modify floodplain management regulations to specifically provide criteria for variances to allow at-grade wet floodproofed accessory structures that are larger than the size limits specified in the Policy, with an option to have requests considered as “administrative” variances for accessory structures up to a specified size limit only in A Zones. Administrative variances are subject to the same evaluation, considerations, and conditions as standard variances – the only difference is who makes the decision. The position designated to decide requests for administrative variances must not be the same person who makes decisions to issue permits. Designating a committee of manager is acceptable.

Florida communities that anticipate requests for accessory structures in SFHA that are larger than the size limits specified in the policy should adopt both the provisions shown in Attachment A and at least one of the explicit variance provisions shown in this Attachment.

ORDINANCE NO. XX-XX

AN ORDINANCE BY THE {community’s governing body} AMENDING THE {name of community} LAND DEVELOPMENT CODE TO AMEND {insert appropriate chapter/section numbers} TO PROVIDE CRITERIA FOR ACCESSORY STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in {Chapter 125 – County Government or Chapter 166 – Municipalities}, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

WHEREAS, the {community’s governing body} has determined it appropriate to adopt variance provisions that are consistent with the FEMA Policy to consider variances for at-grade wet floodproofed accessory structures that are larger than the sizes specified in the FEMA Policy.

NOW, THEREFORE, BE IT ORDAINED by the {community’s governing body} of the {name of community} that the {insert appropriate chapter/section numbers} is amended as set forth in the following amendments, as shown in strikethrough and underline format in Section 1.

SECTION 1. This ordinance specifically amends the {insert chapter/section}:

Please Note! All communities that elect to modify regulations must submit draft ordinances to the SFMO at least 30 days before the first reading.

Please put the community name in the subject line and send to floods@em.myflorida.com.

Or send a request for the SFMO to prepare a draft for you.
Accessory structure. A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

In Section XXX Variances and Appeals, at the end add a new Section XXX.X as follows:

OPTION FOR STANDARD VARIANCE by the entity identified to hear and decide on variance requests:

Section XXX.X. At-grade accessory structures. A variance is authorized to be issued for the construction or substantial improvement of at-grade accessory structures provided the requirements of this section are satisfied, the accessory structures are used only for parking or storage, and the accessory structures:

1. Represent minimal investment and has low damage potential.

2. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one story and larger than the size limits specified in Section XXX.X but not larger than [insert size], square feet in size, and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

3. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings, are larger than the 100 square foot size limit specified in Section XXX.X, but not larger than [insert size], and have walls designed to break away in accordance with Section R322.3 of the Florida Building Code, Residential. [DELETE (3) IF COMMUNITY HAS ONLY ZONE A/AE and renumber remaining items]

4. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

5. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

6. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

[Insert size]
While FEMA’s guidance describes granting variances for accessory structures that are larger than the size limits for which permits may be issued (see Attachment A), communities are cautioned to specify an upper limit that can be justified based on knowledge of the community. An arbitrarily high square footage must not be used, especially in Zone V/VE. Factors to consider include whether larger accessory structures are likely to be used for more than parking and storage or illegally converted to other occupancies.
OPTION FOR ADMINISTRATIVE VARIANCE by the city/county manager or department head:

Section XXX.X. Certain at-grade accessory structures. A request for a variance is authorized to be heard and decided by [insert position] for the construction or substantial improvement of at-grade accessory structures located in special flood hazard areas (zone A/AE) other than coastal high hazard areas that are larger than the size limits specified in Section XXX.X, provided the requirements of this section are satisfied, the accessory structures are used only for parking or storage, and the accessory structures:

(1) Represent minimal investment and has low damage potential.

(2) Are one story and not larger than 1,200 square feet in size, and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

(3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

(4) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

(5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

SECTION 2. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in {insert name of community or all unincorporated areas of the county}. This ordinance shall apply to all applications for accessory structures in special flood hazard areas submitted on or after the effective date of this ordinance.

SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the {community's governing body} that the provisions of this ordinance shall become and be made a part of the {name of community's} Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect on {insert date}. 

[insert position] The person who has authority to hear and decide administrative variances must be a manager or department head. The designated person must not be the same person who makes permit decisions under the floodplain regulations.
Use community’s standard signature block
Version C. Rely on existing regulations, combined with a written administrative policy that is consistent with the FEMA Policy, to issue permits for at-grade wet floodproofed accessory structures that are not larger than the size limits specified in the Policy. The SFMO considers this approach more difficult to enforce because the public is not informed of the size limits. The administrative policy must be signed by someone who has the authority to establish (and enforce) the criteria in the policy. The administrative policy approach is not applicable to larger accessory structures or wet floodproofed agricultural structures.

Most local floodplain management regulations adopted or amended before 2021 do not have explicit requirements for accessory structures in SFHAs. Some Florida communities added specific provisions which now must be checked for consistency with the FEMA Policy, especially the specific size limits (see Version A).

Local regulations have a section titled “Other Development” (below, copied from the Model Ordinance). This section applies to everything not specified in the regulations or within the scope of the FBC, including accessory structures. Note that this section does not include size or use limits and does not explicitly require flood openings (flood openings are part of resisting hydrostatic loads, item #3).

SECTION 307 OTHER DEVELOPMENT

307.1 General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the Florida Building Code, shall:

(1) Be located and constructed to minimize flood damage;
(2) Meet the limitations of Section 303.4 of this ordinance if located in a regulated floodway;
(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
(4) Be constructed of flood damage-resistant materials; and
(5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

Local floodplain management regulations authorize the Floodplain Administrator to render interpretations and “establish policies and procedures in order to clarify the application of the provisions.” Communities that make interpretations, policies, and procedures that are consistent with FEMA policies and published guidance will maintain good standing in the NFIP. The following model administrative policy language is consistent with FEMA Policy #104-008-03.

Please Note! Send a copy of the administrative policy to the SFMO. Put the community name in the subject line and send to floods@em.myflorida.com.
COMMUNITY NAME ADMINISTRATIVE POLICY FOR APPROVAL OF ACCESSORY STRUCTURES IN SPECIAL FLOOD HAZARD AREAS

The purpose of this policy is to maintain consistency with FEMA Policy #104-008-03 (February 2020) and FEMA P-2140, Floodplain Management Bulletin: Requirements for Agricultural Structures and Accessory Structures to allow issuance of permits for at-grade wet floodproofed, small accessory structures in special flood hazard areas (SFHAs). The {County/City/Town} floodplain management regulations {insert citation} authorize the Floodplain Administrator to render interpretations and “establish policies and procedures in order to clarify the application of the provisions.”

For floodplain management purposes and for application of this policy:

**Accessory structure** means a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

Requirements for at-grade wet floodproofing outlined in the FEMA Policy and guidance documents are equivalent to the requirements in {insert citation} titled “Other Development.”

Permits may be issued for at-grade wet floodproofed accessory structures that:

1. Meet the requirements for “Other Development” in {insert citation to LDC or Code of Ordinances}.
2. Are used only for parking or storage.
3. In Zone A/AE, are one-story and not larger than 600 square feet and have flood openings in accordance with the flood opening requirements in Section R322 of the Florida Building Code, Residential.
4. In Zone V/VE, are not located below elevated buildings and are not larger than 100 square feet. [DELETE (4) IF COMMUNITY HAS ONLY ZONE A/AE]

Applicants seeking approval of at-grade wet floodproofed accessory structures that are larger than the specified sizes may request individual variances in accordance with the variance provisions of the local floodplain management regulations.

Approved By: _____ {signature, title}_______

Date Adopted: ____________________________