



# FLORIDA DIVISION OF EMERGENCY MANAGEMENT

## Office of Floodplain Management

### **GUIDANCE FOR TEMPORARY SHELTERS (section 166.0335, Florida Statutes)**

*Office of Floodplain Management*

*Florida Division of Emergency Management*

*Helpline: 850-815-4556 and [floods@em.myflorida.com](mailto:floods@em.myflorida.com)*

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**OBJECTIVE:** Respond to the statutory provision in section 166.0335, Florida Statutes, adopted in 2023 (see page 2), related to placement of **temporary shelters** under specific circumstances following the declaration of a state of emergency issued by the Governor for a natural emergency.

**DESCRIPTION:** Communities that participate in the National Flood Insurance Program agree to regulate **development** in mapped floodplains. Local floodplain management regulations define the term development (see side box). Broadly speaking, the objectives of floodplain management are to reduce damage to buildings and structures, and to reduce the impact of development on flood hazards.

The statute authorizes the placement of temporary shelters and establishes limitations and criteria for those shelters. What remains for communities to do is to determine how best to implement the statute.

The FDEM Office of Floodplain Management suggests that communities have two options to implement the statute. The options address the importance of having a mechanism to approve placement of temporary shelters and monitor that residents and owners comply with the criteria in the statute (e.g., do not present threats to health and safety, are occupied by the resident, removed after 36 months, etc.). In addition, the options allow community-wide application to residents whose homes are damaged by a natural emergency. Locating the provision in the floodplain management ordinance would restrict its application to only mapped floodplains. The two options are:

#### **FLOODPLAIN MANAGEMENT**

**DEFINITION: Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, **temporary structures**, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

1. **Formally adopt an implementation policy** (sample language on page 3).
2. **Adopt provisions in the local law** that establish emergency powers of the chief executive officer (sample language on page 4).

#### **NOTES FOR TAILORING THE OPTIONS SHOWN BELOW:**

**Note 1:** Insert title of pertinent position. For the policy option, the position may be a department manager or the building official. For the emergency powers option, the position may be the city manager or town manager.

**Note 2:** Insert the term the community uses for the approval instrument, such as a conditional use permit, temporary use permit, or temporary authorization.

**DISCLAIMERS:** This guidance is informational and should not be construed as legal advice. The FDEM Office of Floodplain Management staff are floodplain specialists, not licensed building officials, and thus are not authorized by statute to interpret the Florida Building Code.

166.0335 Temporary shelter prohibition.— [\*See footnote for link to statute.]

(1) For the purposes of this section, the term “temporary shelter” includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property. [\*\*See footnote for link to the statutory definitions.]

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, following the declaration of a state of emergency issued by the Governor for a natural emergency as defined in s. [252.34](#)(8) during which a permanent residential structure was damaged and rendered uninhabitable, a municipality may not prohibit the placement of one temporary shelter on the residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the municipality, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

\*[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0100-0199/0166/Sections/0166.0335.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0166/Sections/0166.0335.html)

\*\*[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0320/Sections/0320.01.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0320/Sections/0320.01.html)

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

## SAMPLE IMPLEMENTATION POLICY:

### A RESOLUTION OF THE *ELECTED BODY OF THE MUNICIPALITY*, FLORIDA, ADOPTING A POLICY TO IMPLEMENT THE TEMPORARY SHELTER PROVISIONS OF FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE.

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**WHEREAS**, the *elected body* has determined the need for a policy to implement the temporary shelter provisions of section 166.0335, Florida Statutes, and Chapter 252, Florida Statutes.

**NOW, THEREFORE**, the *elected body* of the *municipality* directs that the following policy shall be used by the *appropriate department/office* to implement and monitor temporary shelters in accordance with Florida Statutes.

When the Governor declares a state of emergency for a natural emergency as defined in section 252.34(8), Florida Statutes, during which a permanent residential structure was damaged and rendered uninhabitable, the [see Note 1 above] is authorized to issue to owners of residential properties, [see Note 2 above] for temporary shelters, as defined in section 166.0335, Florida Statutes, to be used on the residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, provided that all of the following circumstances apply:

- (a) The owner or owner's authorized agent makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design for review, or obtaining a construction loan.
- (b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.
- (c) The resident lives in the temporary shelter.

Temporary shelters must be fully licensed and ready for highway use, which means recreational vehicles or park models are on wheels or jacking systems and trailers are on wheels with the means for towing by motorized vehicles. Temporary shelters must be attached to sites only by quick-disconnect type utilities and security devices, and the temporary shelters must have no permanent attachments such as additions, rooms, stairs, decks and porches.

**EFFECTIVE DATE.** This Resolution shall take effect immediately upon adoption.

**SIGNATURE BLOCK.**

## SAMPLE EMERGENCY POWERS:

Your city or town code of ordinances may articulate powers, duties, and responsibilities of the municipality manager or emergency management director. Your code may be phrased differently than the example shown below. Some municipalities do not have a section that specifies emergency powers.

### XXX. – Power, duties, and responsibilities.

(xx) The **city/town manager/administrator** shall be the director of emergency management, and shall have the following powers, duties, and responsibilities:

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(xx) When the Governor declares a state of emergency for a natural emergency as defined in section 252.34(8), Florida Statutes, during which a permanent residential structure was damaged and rendered uninhabitable, to authorize issuance of a **[see Note 2 above]** to owners of residential properties for temporary shelters as defined in section 166.0335, Florida Statutes, to be used on a residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, provided that all of the following circumstances apply:

- (a) The owner makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design for review, or obtaining a construction loan.
- (b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.
- (c) The resident lives in the temporary shelter.

Temporary shelters must be fully licensed and ready for highway use, which means recreational vehicles or park models are on wheels or jacking systems and trailers are on wheels with the means for towing by motorized vehicles. Temporary shelters must be attached to sites only by quick-disconnect type utilities and security devices, and the temporary shelters must have no permanent attachments such as additions, rooms, stairs, decks and porches.