



# *City of Tarpon Springs, Florida*

Building Development Department  
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## **Building Official Interpretation**

Florida Building Code-Existing Building 2023 8th Edition Section/s 1103.5 1.3, 1.3.1, 1.3.2

The referenced code sections have been added to the 2023 8th Edition of the Florida Building Code/Existing Building. This has raised questions as to how and when it should be applied to construction in the special flood hazard areas (SFHA) in our jurisdiction (A/E, V/E Coastal A) due to the use of terms in these sections. This interpretation is not valid in any SFHA that would not otherwise allow construction activities. Furthermore, this interpretation is only applicable to addition projects that do not rise to the level of substantial improvement as defined by FEMA (Federal Emergency Management Agency), i.e. 50% rule. In these instances, until such time that a formal interpretation is provided by the Florida Building Commission (FBC), it is left to the local building official for an interpretation.

The following is my interpretation of how these sections should be applied in the City of Tarpon Springs. This interpretation may be amended or rescinded at any time with or without cause or by an overriding FBC interpretation if one should be provided.

Any permit that has been issued using the relief granted by this interpretation shall have that relief honored until the completion of the project. The relief (if any) granted by this interpretation shall not revert to the time of submission of plans or permit application, only upon the issuance of a building permit. For clarification, if a formal interpretation is provided by the FBC during the time of plan review but prior to permit issuance and that formal interpretation is more restrictive than this building official interpretation, the more restrictive interpretation will be in effect immediately. This may cause a dramatic change in plans, and any person pursuing the relief granted by this interpretation accepts this potential change and any costs associated with said change, should it be required.

Due to the nature of this code section and the far-reaching effects it may have on the FEMA and CRS (Community Rating System) regulations in addition to the subtleties of the balance of the FEMA regulations, this interpretation only applies to the aforementioned code section. Any restrictions provided in FBC-Building 2023/8th Edition may also be more restrictive and must also be adhered to. All decisions are made on a case-by-case basis and are considered final without additional appeal, except those provided by the FBC through a formal interpretation.



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## Analysis

Section 1103.5, 1.3.1 clearly uses the term “*addition*”. Section two of the FBC/Existing Building defines “*addition*” as “extension or increase in floor area, number of stories, or height of a building or structure.” Because the term “*addition*” is used in 1.3.1 and is seemingly in direct opposition to the definition contained in the same publication, I have determined that when the code section uses the verbiage “*shall not create or extend any non-conformity of the existing building.*” This should be construed to be more accurately stated as,

**“*Shall not create or extend any (less conforming) non-conformity....*”**

By using editorial assessment and adding the verbiage “less conforming”, this would clarify the meaning of the code section to not allow any construction that would be considered less conforming than the existing structure. By using this new understanding of the code section, it would more closely align with the general understanding of the FEMA “50% rule”. As delineated in “FEMA P758 Table 6-1b “Lateral Addition, not SI” - any lateral addition does not have to comply”. The only substantive change from that long standing rule would be that the addition would be at or above the existing elevation of the lowest floor in the existing structure regardless of the original build date or pre/post firm as per FEMA. (please see examples contained herein).

### Example 1

An existing structure has a lowest finished floor elevation (habitable area, not parking, storage, entry, etc.) at 6’ above sea level as determined by FEMA. The current BFE (base flood elevation) as defined by FEMA is 9’, plus 1’ as required by FBC-Residential R322 for a total of 10’ DFE (design flood elevation). The addition must be at or above the 6’ BFE. There can be no scenario that allows the addition to be below the lowest floor level except those portions considered to be storage, parking or entry. The exceptions mentioned will still need to meet or exceed the current FEMA rules in place at time of construction for those portions as if it were to be considered new construction.

### Example 2

Occasionally an existing structure may have the lowest finished floor (as defined above) that is at or above the current FEMA determined BFE plus 1’ but is otherwise non-conforming for other reasons. In this instance, the addition must be at or above the lowest finished floor elevation, regardless of the current BFE as defined by FEMA and the FBC-Residential. In this instance, another option would be to improve the existing structure to comply with the current FEMA requirements which may in-turn allow the addition to be built at the current (lower) FEMA defined BFE plus 1’.