



**City of Key West**  
**PLANNING DEPARTMENT**

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## **WRITTEN PROCEDURES FOR “FEMA LIST” FLOODPLAIN DEVELOPMENT REVIEW**

The following written procedures are established in accordance with paragraph 5 of the Reasonable and Prudence Alternatives (RPA), referenced in the U.S. Fish and Wildlife Service’s (FWS) Biological Opinion dated April 30, 2010 and modified on December 14, 2010. These written procedures outline the City’s process for referring development permit applications to FWS, inclusion of any requirements or modifications required by FWS into the development permits involved, and enforcement of those requirements or modifications. For more information, see Chapter 110, Section 467 of the Key West Code of Ordinances or Ordinance No. XX, which amended the City’s Land Development Regulations and became effective July 17, 2012.

### ***Prior to Permit Application:***

- The City shall educate the public on the new floodplain development criteria and procedures—including the Species Focus Area Maps (SFAMs), Real Estate parcel list (RE List), Species Assessment Guides (SAGs), free-roaming cat brochure, and these written procedures—by making the information available on the Internet and at the Planning and Development Services Department (Department) per RPA paragraph 11.
- The City shall encourage Applicants to review the information available on the Internet and at the Department, prior to submitting an application for a building permit.
- The City shall encourage Applicants to consult with FWS early in the development process if it appears there would be a “May Affect” outcome, based on the SFAMs, RE List and SAGs.

### ***Permit Review Procedures:***

- 1) The City’s FEMA Coordinator identifies within the computer system, properties subject to the FEMA List review.
- 2) The Applicant submits a complete building permit application to the Permit Clerk in the Building Department.
- 3) Upon entering the application into the computer system, the Permit Clerk receives a critical warning note, completes the entries and refers the application directly to the FEMA Coordinator **without** further approvals.
- 4) The FEMA Coordinator starts a new Special Focus Area Assessment Form (Assessment Form). The FEMA Coordinator determines whether the subject property is within a Species Focus Area on the SFAMs or is on the RE List. Initially, paper or electronic PDF copies of the SFAMs, RE List and Assessment Form will be available for staff to use. Eventually, the SFAMs, RE List and Assessment Form may be incorporated into Naviline, which is the City’s development permit database.
- 5) For permit applications on property that is not located within a Species Focus Area on the SFAMs and is not identified on the RE List (in other words, a “No Effect” determination), the FEMA Coordinator places an Assessment Form in the permit file per RPA paragraph 3 indicating the following:
  - a) the individual that made the determination;
  - b) the date of the determination; and
  - c) the date of the SFAMs and RE List used to make the determination.

After the Assessment Form is completed, the FEMA Coordinator may take action on the permit without further concerns for threatened and endangered species (or their critical habitat) per RPA paragraph 3. The Permit Clerk provides the Applicant with a cat brochure at permit issuance per RPA paragraph 6. The permit may be issued.

- 6) For permit applications on property that is located within a Species Focus Area on the SFAMs or is identified

on the RE List as containing potentially suitable habitat, the FEMA Coordinator uses the SAGs to determine whether the proposed development would result in No Effect, Not Likely to Adversely Affect (NLAA), or "May Affect" determination per Chapter 110, Sec. 467(D)(1). The determination is made by the FEMA Coordinator through a sequence of steps referenced in the SAGs and documented on the Assessment Form, which must be signed by the Applicant per Chapter 110, Sec. 467(D)(2)(ii).

- a) If the determination reached through use of the SAGs is No Effect or NLAA, then the FEMA Coordinator documents this conclusion on the Assessment Form. If the determination includes any conditions (i.e., eastern indigo snake protection measures, habitat compensation), then the FEMA Coordinator includes these conditions as part of the permit conditions. The FEMA Coordinator completes and signs the Assessment Form per Chapter 110, Sec. 467(D). When the permit returns to the Permit Clerk, the Permit Clerk ensures that the Applicant signs the Assessment Form, as acknowledgement of the conditions per Chapter 110, Sec. 467(D). The Permit Clerk provides the Applicant a cat brochure at permit issuance. The permit may then be issued. No referral is made to WFS/FEMA.
  - b) If the determination reached through use of the SAGs is "May Affect," then the FEMA Coordinator forwards "May Affect" applications/permits to FWS on a weekly basis per Chapter 110, Sec. 467(D)(2).
- 7) After review of the permit, if FWS determines the proposed development may adversely affect threatened or endangered species or designated critical habitat, then FWS notifies FEMA, the City, and the Applicant in writing of the "May Affect" determination and the need for any conditions, modifications, or other additional actions to ensure the protection required pursuant to Sections 7 or 10 of the Endangered Species Act per RPA paragraph 4b. The FEMA Coordinator incorporates FWS's "May Affect" determination letter and any conditions, modifications, or other additional actions into the permit conditions per RPA paragraph 4b. When the permit returns to the Permit Clerk, the Permit Clerk ensures that the Applicant signs the Assessment Form, as acknowledgement of the conditions per RPA paragraph 4a. The Permit Clerk provides the Applicant a cat brochure at permit issuance per RPA paragraph 6. The permit may be issued.
  - 8) Final inspections shall include certification by the FEMA Coordinator that any and all RPA requirements as set out by FWS have been adhered to, **BEFORE** any final inspections or certificates of completion/occupancy may be issued. In the event of non-compliance with any conditions, modifications, or other additional actions requested by FWS, then the FEMA Coordinator shall refer the matter to FWS/FEMA.
  - 9) The FEMA Coordinator or other appropriate City staff reserves the right to refer any permit application to FWS for consultation.

***After Permit Issuance:***

- The FEMA Coordinator and the Code Compliance Officers shall enforce all FWS conditions that are incorporated as conditions of the building permit. In the event of non-compliance with any permit conditions by the Applicant, the City shall enforce the provisions per Chapter 110, Sec. 467(D)(3).
- The FEMA Coordinator shall maintain the City's permit records, containing Assessment Forms and permit conditions. The FEMA Coordinator shall make the City's permit records available for review by FEMA during community assistance visits every six months per RPA paragraph 7.