

**Build-Back of Non-Conforming Structures—LDC Section 34-3241(b)(2)b.**

What's Allowed: Structures damaged by natural forces may be rebuilt or replaced to allow for actual use, density and intensity existing at the time of destruction. This allows for structures to be rebuilt or replaced to the size, style and type of their original construction, including their original square footage.

What's Required: Structures, as rebuilt or replaced, must comply with all applicable federal and state regulations, local building and life safety regulations, and other local regulations. This includes compliance with current minimum base flood elevation and building code requirements.

Note: As applied in practice, LDC Section 34-3241(b)(2)b. allows for structures to be rebuilt or replaced with the same legally documented height that existed at the time of destruction. The amendments to LDC Section 34-2171 clarify how height is measured and accommodates additional elevation required for resiliency and insurability.

**Measuring Height**

The proposed amendments provide for height to be measured as follows:

- **Starting point:** The lowest minimum habitable floor elevation for which a building permit may be issued.
- **Finishing Point:** (1) the highest point of the roof surface of a flat roof; (2) the deck line of a mansard roof; or (3) the mean height level between the eaves and ridge of gable, hip, shed and gambrel roofs.

Resiliency Cushion: Allowance for additional 4 foot elevation, while maintaining allowable height, in areas subject to wave action.

Note: Only parking, access and storage are permissible below the required design flood elevation.

**Density vs. Intensity**

Density: Number of residential dwelling or housing units per gross acre (du/acre). Maximum densities are established in the Lee Plan.

Intensity: Measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation or floor area ratios.

Hotels approved as part of a planned development are not subject to density limitations (except in Captiva) provided all other aspects of the development (height, traffic, intensity of use, etc.) are compatible with the surrounding area and otherwise consistent with the Lee Plan.

Outstanding Issues:

- Should height be limited to 28 feet on Captiva Island?
- Should deviations/variances to allow increased height be prohibited on barrier islands?
- Should amendments related to South Seas be included in the proposed Ordinance?