



ADVISORY NOTICE TO INDUSTRY

06/26/2026

HB 803 – Clarification Regarding Temporary Hurricane and Flood Protection Walls & Barrier Permit Exemptions

Single-Family Dwelling, Two-Family Dwelling, Or Townhouse Property

Effective: 7/01/2026

The City of Cape Coral Building Division has received questions regarding the permit exemption established under HB 803 for certain temporary hurricane and flood protection walls and barriers.

The legislation establishes a limited exemption from permitting requirements when all statutory conditions are satisfied. Among other requirements, the proposed system must be:

- Non-habitable;
- Non-load-bearing;
- Installed on a single-family dwelling, two-family dwelling, or townhouse property;
- Intended to mitigate storm surge or floodwaters;
- Installed by a contractor licensed under Chapter 489, Part I, Florida Statutes;
- In compliance with applicable zoning, drainage, easement, and setback requirements; and
- Submitted to the local enforcement agency with a written exemption request together with a copy of the contract or other documentation demonstrating the nature and value of the work. CSS Portal

The legislation expressly states that the exemption does not apply to property located within a Special Flood Hazard Area (SFHA). Property owners and contractors should verify flood zone designations before relying upon the exemption.

Link to verify flood zone determination: [Forerunner Dashboard](#)

Interpretation of "Non-habitable" and "Non-Load-Bearing"



The legislation does not define the terms "non-habitable" or "non-load-bearing." Accordingly, the Building Division has reviewed these terms based upon their plain meaning, accepted engineering principles, and the overall context of the legislation.

The Building Division interprets the term "non-habitable" as applying to the proposed barrier system itself and not the dwelling being protected. However, systems that create occupiable spaces, enclosed areas, additions, or other habitable structures would not qualify for exemption consideration.

The Building Division further notes that systems designed to resist floodwaters, storm surge, wind forces, debris impact, hydrostatic pressure, hydrodynamic pressure, overturning forces, or sliding forces are subject to structural loading considerations.

As a result, proposed systems that transfer loads into a building, foundation, structural wall, anchorage system, or other structural component may not satisfy the statutory requirement of being "non-load bearing."

Examples of systems that may require additional evaluation include, but are not limited to:

- Flood panels attached to exterior walls or structural openings;
- Systems utilizing permanent tracks, anchors, or structural attachments;
- Masonry flood walls;
- Reinforced concrete flood walls;
- Engineered floodwall systems;
- Systems requiring structural anchorage into a building or foundation.

The Building Division recognizes that temporary flood panel systems may themselves be non-habitable; however, where such systems are attached to a structure and are intended to resist flood forces, questions arise regarding whether the system transfers structural loads into the building and therefore does not satisfy the statutory requirement of being non-load bearing.

Engineering Considerations

The Building Division further notes that flood protection systems are typically required to resist both flood loads and wind loads. Depending upon the design, such systems may require engineering analysis to evaluate structural performance, anchorage, overturning resistance, sliding resistance, and load transfer.

Based upon the statutory limitations requiring systems to be both non-habitable and non-load bearing, the Building Division's preliminary interpretation is that freestanding temporary systems



not structurally attached to a building may be more consistent with the legislative exemption than systems relying upon structural attachment to a dwelling.

Examples may include certain removable or water-filled barrier systems that do not transfer loads into a structure and do not create habitable or occupiable spaces.

Exemption Request Requirements

To qualify for exemption consideration, the owner or the owner's contractor must submit through the CSS portal, specific to the permit type, a written request for exemption to the local enforcement agency together with a copy of the contract or other documentation demonstrating the nature and value of the work to be performed.

Exemption eligibility is not automatic and remains subject to review and determination by the local enforcement agency.

A local government has no legal duty to the owner, contractor, or successors or assigns thereof for exempted work performed under Fs. 553.79(1)(h)

Property owners and contractors are strongly encouraged to contact the Building Division prior to commencing work if there are questions regarding permit applicability or exemption eligibility.

Regards,

Shane Kittendorf
Building Official