

GOVERNMENT OF PUERTO RICO  
PLANNING BOARD  
SAN JUAN, PUERTO RICO

October 2, 2024

JP-ABFE-03

**RESOLUTION NUNC PRO TUNC ON THE REVIEW PROCESS FOR AMENDING THE RECOMMENDED BASE FLOOD ELEVATION MAPS (ABFE) IN PANELS 72000C0390J, 72000C0395J, 72000C0755J, AND 72000C0760J FOR THE RÍO GRANDE DE LOÍZA WATERSHED CONDUCTED BY THE CAROLINA PARTICIPATING COMMUNITY OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP)**

Puerto Rico Planning Board, is authorized by Act No. 75 of June 24, 1975, as amended, to adopt planning regulations, as well as any other regulations necessary to fulfill its purposes, including promulgating those regulations authorized by other legal provisions. In this regard, Act No. 3 of September 27, 1961, as amended, better known as the **Flood Zone Buildings Control Act**, provides that the Puerto Rico Planning Board is the agency authorized to adopt regulations and maps for adopting regulations and maps for controlling construction in flood-prone areas in Puerto Rico. Since 1978, Puerto Rico has been designated as the instrumentality of the National Flood Insurance Program (NFIP), created by the the United States Congress through the Flood Insurance Act of August 1, 1968. The NFIP is administered by the Federal Emergency Management Agency (FEMA). On December 4, 2020, the Government of Puerto Rico approved Planning Regulation No. 13 (eighth revision), effective January 9, 2021.

On Tuesday, July 2, 2024, the Autonomous Municipal Government of Carolina, as a participating community in FEMA's NFIP, published a public notice in *El Vocero* newspaper, a widely circulated publication, regarding the review of the Recommended Base Flood Elevation (ABFE) Maps for the Río Grande de Loíza watershed in Carolina. The notice indicated that the review of the ABFE map panels 72000C0390J, 72000C0395J, 72000C0755J, and 72000C0760J along with changes to the base flood elevations and their impact on surrounding communities, would be discussed. FEMA electronically provided updated geospatial data for ABFE map panels 72000C0390J, 72000C0395J, 72000C0755J, and 72000C0760J, which were presented during the public hearing

The public hearing on the topic was held on Tuesday, August 6, 2024, at the Municipal Legislature of Carolina, beginning at 5:50 p.m. and concluding at 6:51 p.m. During the public hearing, the participating community of Carolina presented the historical and regulatory context of the project, project details, and a presentation of the maps, showing a comparison between the previous state and the result, highlighting the modifications implemented.

At the end of this session, it was announced that those wishing to submit comments on the project would have a 30-day period after the hearing, ending on September 5, 2024. After receiving and evaluating the comments from the public hearing held on August 6, 2024, by the Participating Community of Carolina, the Municipality of Carolina prepared a detailed draft report on the project, its impact on surrounding communities, and the comments received during the hearing that compiles detailed information about the project, its impact on surrounding communities, and the comments received after the public hearing. The report was submitted to the Planning Board, which proceeded to review it to assess the comments made by the participating communities during the public

hearing. This process validated the observations and suggestions received, which were later communicated to the relevant authorities. The purpose of this review was to take note of the proposed amendments to the ABFE maps for panels 72000C0390J, 72000C0395J, 72000C0755J, and 72000C0760J. Through this process, the goal was to ensure that the modifications addressed the needs and concerns of the affected communities, ensuring a transparent and informed decision-making process.

With the new geospatial data available, along with the detailed report prepared by the Municipality of Carolina, the members of the Planning Board, in their meeting on October 9, 2024, proceeded to review the received documentation. This analysis was key in defining the next steps in the process of implementing the amended maps, ensuring that the decisions made were transparent and based on the most up-to-date and accurate information available.

Since these maps have been amended and validated by both FEMA and the Participating Community of Carolina, this honorable Board requests that the Geographic Information Systems (GIS) Office of the Planning Board proceed with incorporating and updating these maps into the corresponding GIS platform. This update is crucial to ensure that decisions regarding flood risk management, Land-use planning, and development in the region are based on the most accurate and current information available.

For these purposes, the amendment of the ABFE maps by the Participating Community of Carolina is governed by Section 5.4 of the LPAU, 3 L.P.R.A. § 9601. However, the processes for obtaining the amendment of the ABFE maps are governed by the applicable federal law and regulations, and it is not appropriate to speak of an adjudicative procedure initiated by third parties in this context. This is not because federal law supersedes the LPAU, but because the LPAU itself specifies this. In this regard, Section 2.17 of the LPAU provides the following:

Regulations approved by any agency under a federal law or by delegation of authority from a federal official shall, in all matters relating to their approval, procedure, promulgation, and implementation, be governed by the provisions of the applicable federal legislation. 3 L.P.R.A. § 9627 (emphasis added).

Any person requesting an amendment to a flood panel of the ABFE maps before a federal agency must obtain approval from both the Participating Community and FEMA, in accordance with the requirements established in the Code of Federal Regulations (CFR), Part 44, Subpart A, specifically Sections §§ 65.3 to 65.9.

The Puerto Rico Planning Board is responsible for evaluating amendments to the ABFE map panels, following the process established in Sections §§ 65.3 to 65.9 of CFR Part 44, in accordance with the applicable federal regulations. Specifically, Section §§ 65.6, Subpart (i) of CFR Part 44 states that the agency responsible for implementing flood control programs oversees reviewing and approving the proposed changes. In this case, the Participating Community of Carolina was responsible for reviewing and approving the changes to the panels, and the Planning Board takes note of the evaluation carried out by the community. Part 44 of the Code of Federal Regulations (CFR) sets forth the standards and procedures to be followed for the administration of the NFIP program. It grants authority to states and territories to establish their own procedures for conducting public hearings related to the review and evaluation of flood maps, including amendments to the ABFE map panels. However, while states and territories have the authority to define the process, they must ensure compliance with FEMA's federal regulations, which include the public evaluation of the ABFE maps, proper notification to the community, and opportunities for the local community to review the data.

Therefore, since the amendment of the ABFE map panels the ABFE map panels was approved by the federal government under federal laws and regulations, the LPAU requires that all related procedures and implementation be governed by the applicable federal legislation, in accordance with Section 2.17 of the LPAU.

The Board, as the State Floodplain Administrator and the State Coordinating Agency for the NFIP, and in accordance with Act No. 3 of September 27, 1961, known as the Flood Zone Buildings Control Act, as amended, as amended, Act No. 75 of June 24, 1975, known as the Organic Act of the Puerto Rico Planning Board, Act No. 38 of June 30, 2017, as amended, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico, and in harmony with the regulations of the National Flood Insurance Program of FEMA, as stipulated in Title 44 of the Code of Federal Regulations, Part 60.0, 65.7, and 72.2, adopt the amendment for the following panels: 72000C0390J, 72000C0395J, 72000C0755J, and 72000C0760J of the ABFE maps, carried out by the Participating Community of Carolina.

ADOPTED in San Juan, Puerto Rico, today, October 2, 2024.



**JULIO LASSÚS RUIZ, LLM, MP, PPL**  
President



**JOSÉ DÍAZ DÍAZ, MEM, BSIE**  
Associate Member




**LEMUEL RIVERA RIVERA, BSEE, CAPM**  
Associate Member



**REBECCA RIVERA TORRES, MRP, PPL**  
Alternate Member

I CERTIFY: That the above is a true and exact copy of the Non Put Tuc Resolution adopted by the Puerto Rico Planning Board at its meeting held on October 2, 2024, and for the record, I sign this document.



**EDGARDO VÁZQUEZ RIVERA**  
Secretary