

# FORT MYERS BEACH LAND DEVELOPMENT CODE

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## CHAPTER 6 MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS<sup>1</sup>

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**ARTICLE I. PROPERTY MAINTENANCE CODES**

**DIVISION 1. INTERNATIONAL PROPERTY MAINTENANCE CODE**

**Sec. 6-1. Adoption of International Property Maintenance Code.**

Except as amended or modified in the sections below, the 2009 edition of the International Property Maintenance Code, published by the International Code Council, is hereby adopted as the Town of Fort Myers Beach Property Maintenance Code and shall be the governing law with respect to all structures and premises in the Town of Fort Myers Beach. A complete copy of this code shall be maintained on file in the office of the town clerk.

**Sec. 6-2. Amendments.**

The 2009 Edition of the International Property Maintenance Code is hereby amended as follows:

(a) Wherever the term “*code official*” appears in the International Property Maintenance Code, that term shall be interpreted to mean the Director of the Department of Community Development or his or her designee. Wherever the term “*department*” appears in this code, it shall be interpreted to mean the Department of Community Development. Wherever the terms “International Building Code” or “International Existing Building Code” appear in this code, the term “Florida Building Code” shall be substituted for such terms.

(b) **Section 101.1 Title**, is amended to read as follows:

These regulations shall be known as the International Property Maintenance Code of the Town of Fort Myers Beach, Florida, hereinafter referred to as “this code.”

(c) **Section 102.3 Application of other codes**, is amended to read as follows:

Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Florida Building Code, as amended.

(d) **Section 102.6 Historic Buildings**, is amended to read as follows:

The provisions of this code shall not be mandatory for existing buildings or structures formally or officially designated as historic buildings by either the federal government, the state, or the town, provided such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare.

(e) **Section 102.7 Referenced Codes and Standards**, is amended to read as follows:

The codes and standards referenced in this code shall be the Florida Building Code, the Florida Fire Prevention Code, the Life Safety Code, and any other code or standard contained in articles II, III and IV in chapter 6 of the Land Development Code. Where there are differences between provisions of this code, the Florida Building Code, and any other code or standard contained in articles II, III and IV in chapter 6 of the Land Development Code, the Florida Building Code, the Florida Fire Prevention Code, the Life Safety Code, and any other code or standard contained in articles II, III, and IV in chapter 6 of the Land Development Code shall prevail.

(f) **Section 103 Department of Property Maintenance Inspection** is hereby deleted in its entirety.

(g) **Section 104.4 Right of Entry** is hereby deleted in its entirety.

(h) **Section 106.3 Prosecution of Violation**, is hereby amended to read as follows:

Any person who fails to comply with a notice of violation or order served in accordance with Section 107 shall be adjudicated in accordance with the provisions of Chapter 162 of the Florida Statutes or any other method allowed by Florida law.

(i) **Section 107.2 Form**, is hereby amended to read as follows:

The notice prescribed in Section 107.1 shall comply with the requirements of Chapter 162, Florida Statutes.

(j) **Section 107.3 Method of Service**, is hereby amended to read as follows:

All notices shall be deemed to have been properly served if the service requirements contained in Chapter 162, Florida Statutes have been met.

(k) **Section 107.5 Penalties**, is hereby amended to read as follows:

Penalties for noncompliance with orders and notices shall be as set forth in Chapter 162, Florida Statutes, and the codes and ordinances of the Town of Fort Myers Beach.

(l) **Section 107.6 Transfer of Ownership**, is hereby amended to read as follows:

If the owner of property that is subject to a code enforcement proceeding before the special magistrate or a court transfers ownership of such property between the time the notice of violation was served and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
- (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
- (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
- (4) File a notice with the code official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.
- (5) A failure to make the disclosures described in paragraphs (1), (2), and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

(m) **Section 108.2 Closing of Vacant Structures**, is hereby amended to read as follows:

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the

premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or person creating the need for closing or securing the premises fails and refuses to pay or reimburse the town for the costs, the town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(n) **Section 108.7 Record**, is hereby amended to read as follows:

The code official shall prepare a report on an unsafe condition. In addition, a written notice of the unsafe condition shall be recorded in the public records for Lee County. The notice shall state the occupancy of the structure and the nature of the unsafe condition.

(o) **Section 109.5 Costs of Emergency Repairs**, is hereby amended to read as follows:

Costs incurred in the performance of emergency work shall be paid by the town. All costs incurred by the town in the performance of emergency work shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments, and only inferior to liens for taxes. In the event the owner or person creating the need for emergency repairs fails and refuses to pay or reimburse the town for the costs, the town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(p) **Section 109.6 Hearing**, is hereby amended to read as follows:

Any person ordered to take emergency measures shall comply with such order forthwith.

Any affected person shall thereafter, upon appeal to the town council, be afforded a hearing as described in this code.

(q) **Section 110.1 General**, is hereby amended to read as follows:

The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction in accordance with the Florida Building Code, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

(r) **Section 110.3 Failure To Comply**, is hereby amended as follows:

If the owner of a premises fails to comply with a demolition order within the time prescribed, the town shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate for said costs. In the event the owner or person creating the need for demolition and removal fails and refuses to pay or reimburse the town for the costs, the town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(s) **Section 111.1 Application For Appeal**, is hereby amended to read as follows:

Any person directly affected by a decision of the code official or a notice or order issued pursuant to this code shall have the right to appeal to the town council, provided that a

written application for appeal is filed within 20 days after the day the decision, notice, or order was served on the affected person or from the date of posting on the property. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. This section shall not apply to orders issued by the town special magistrate in connection with a code enforcement special magistrate hearing.

(t) **Sections 111.2 through Section 111.8** are hereby deleted in their entirety.

(u) **Section 112.4 Failure To Comply**, is hereby amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a code violation and shall be subject to a fine as determined by the town special magistrate.

(v) **Section 302.3 Sidewalks and Driveways**, is hereby amended to read as follows:

**Section 302.3. Sidewalks, driveways and rights-of-way.**

All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Trees and shrubs shall be maintained to provide for horizontal clearance of at least three (3) feet from and vertical clearance of at least eight (8) feet above any sidewalk, bike path, or street right-of-way. Unpaved areas shall be regularly mowed or otherwise maintained in a neat and attractive condition.

(w) **Section 302.4 Weeds**, is hereby amended to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens and native beach vegetation such as sea oats. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of

a notice of violation and having been given a reasonable time to cut and destroy the weeds, any duly authorized employee of the town or contractor hired by the town shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. All costs incurred by the town to cut and destroy the weeds shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments, and only inferior to liens for taxes. In the event the owner or agent fails and refuses to pay or reimburse the town for its costs, the town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(x) **Section 302.8 Motor Vehicles**, is hereby amended to read as follows:

**Section 302.8 Motor Vehicles and Boats.** Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept, or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassemble, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

**Exception:** A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(y) A new **Section 302.10** is hereby added as follows:

**Section 302.10 Exterior Storage.**

- (1) No temporary or permanent storage of materials or equipment is permitted on any vacant parcel, unless in conjunction with an active building permit or where such storage is specifically permitted by chapter 34 of the Land Development Code.
- (2) Equipment, materials, and furnishings not designed for use outdoors, such as automotive parts and tires, building materials, and interior furniture, may not be stored outdoors.

(z) **Section 303.2 Enclosures**, is hereby amended to read as follows:

Public swimming pools, hot tubs and spas shall include all safety features specified by Section 514.0315, Florida Statutes, including any subsequent amendments thereto. Residential swimming pools shall be maintained in compliance with the State Residential Swimming Pool Safety Act, as contained in Chapter 515 of the Florida Statutes.

(aa) A new **Section 303.3** is hereby added as follows:

**303.3 Disposal of swimming pool water.**

Prior to disposing of any swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for a least five (5) days or until levels are below 0.1 mg per liter. One of the following methods of disposal shall be utilized:

- (1) Discharge of the water into roadside swales to allow for percolation of the water into the ground without any runoff to canals, beaches, wetlands, other tidal waters, or onto adjoining properties. This shall be the preferred method of disposal.
- (2) Discharge of the water into the sanitary sewer system operated by Lee County Utilities is also permitted, but is not the preferred method. Under no circumstances shall any swimming pool water be discharged either directly or indirectly onto the beach, or into canals, wetlands, or any other tidal waters.

(bb) **Section 304.3 Premises Identification**, is hereby amended to read as follows:

All buildings shall have address numbers that have been assigned by Lee County placed in a position to be plainly legible and visible by emergency personnel from the street or road fronting the property. All address numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 3 inches high. Numbers on all commercial, institutional, or multifamily buildings that are set back more than fifty (50) feet from the street shall be at least eight (8) inches high.

(cc) **Section 304.14 Insect Screens**, is hereby amended to read as follows:

Every window in a residential structure that is capable of being opened and every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Screens shall not, however, be required where other approved means, such as air curtains or insect repellent fans, are employed.

(dd) A new **Section 308.4** is hereby added as follows:

**308.4 Additional regulations for rubbish and garbage containers.**

- (1) Rubbish and Garbage containers shall not be moved to the street more than twenty-four (24) hours prior to scheduled curbside collection, nor remain there more than twenty-four hours after scheduled collection.
- (2) Each refuse container that is not movable shall be opaquely screened from view from streets and adjoining properties and such screening shall be of sufficient height to entirely screen the container. Screening may be achieved by landscaping, wall, or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the property.
- (3) Any rubbish or garbage container not located within a roofed enclosure must have a cover or lid that renders the interior of the container inaccessible to animals.

(ee) **Section 402.2 Common Halls and Stairways**, is hereby amended to read as follows:

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at

all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings, and treads, provided, however, that during sea turtle nesting season (May 1 through October 31), the provisions of Chapter 14, Article IV of this code shall supersede the foregoing requirements.

(ff) **Section 507 Storm Drainage**, is hereby amended to read as follows:

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. Point sources of stormwater discharge from private property directly onto the beach are prohibited. This prohibition includes drainage collected from parking lots or other paved surfaces and stormwater from roofs of buildings.

(gg) A new **Section 602.7** is hereby added as follows:

**602.7 Screening of Mechanical Equipment.**

Any new mechanical equipment placed on a roof shall be screened from view from ground level of adjoining properties and public rights-of-way. When mechanical equipment is being replaced on a roof of a building that is not undergoing structural alterations, such equipment shall be screened to the same standard using non-structural materials such as ornamental latticework.

(hh) **Section 701.1 Scope**, is hereby amended to read as follows:

The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided. All references to the "International Fire Code" in this Chapter 7 shall be replaced with the "Florida Fire Prevention Code."

**Sec. 6-3-6-30. Reserved.**



## DIVISION 2. HOUSING CODE

### Sec. 6-31. Adoption; amendments.

The following chapters and sections of the 1997 Standard Housing Code, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213-1206, are hereby adopted by reference and made a part of this article, with the exceptions set forth as follows:

#### Chapter 1, Administration.

**Exception: Section 103.2.2(4)** is deleted and replaced with new section 103.2.2(4) as follows:

4. State that, if such repairs, reconstruction, alterations, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the housing official shall institute such legal and/or administrative proceeding as may be appropriate.

**Exception: Section 103.4** is deleted and replaced with new section 103.4 as follows:

An officer or employee, or member of any board, charged with the enforcement of this code, in the discharge of his duties, shall not thereby render himself liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

**Exception: Section 103.5** is deleted.

**Exception: Section 104** is deleted and replaced with new section 104 as follows:

#### 104 Inspections

The housing official shall make, or cause to be made, inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public. For the purpose of making such inspections, the housing official, or his designee, is hereby authorized to enter, examine, and survey, at all reasonable times, any residential building or premises. If the owner, agent, tenant or other person in charge thereof refuses to allow the housing official, or his designee, free access to such building or premises, the housing official may obtain a duly issued search or administrative warrant, pursuant to F.S. ch. 933, as from time to time amended, or any other applicable law which

may be in effect at the time such warrant is sought.

**Exception: Sections 105, 106, and 107**, relating to the housing board of adjustment and appeals, are deleted. Appeals and variances shall be processed and decided in the same manner as for variances under ch. 34 of this code. Enforcement of this code shall be in accordance with ch. 1.

#### Chapter 2, Definitions.

**Exception:** Delete the definition of “building” and “housing official” found in section 202 and replace with a new definition of “building” and “housing official” to be used when construing minimum housing provisions, as follows:

*Building*--Any structure built or used for shelter or enclosure of persons which has enclosing walls sheltering 50 percent or more of its perimeter. The term “building” shall be construed as if followed by the words “or part thereof” and shall include mobile homes, manufactured homes and all recreational vehicles which have been established as units for permanent living by the filing of a declaration of domicile with the clerk of the circuit court on or before October 21, 1985; provided, however, that the foregoing definition specifically excludes hotels and motels.

*Housing official*—the officer, or his duly authorized representative charged with the administration and enforcement of this code, which shall be the town manager or designee.

#### Chapter 3, Minimum Standards for Basic Equipment and Facilities.

**Exception:** Delete section 302.2 and replace with new section 302.2 as follows:

All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower, and lavatory shall be located in a room affording privacy to the user. Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas.

**Exception:** The following language shall be added to section 302.5:

This section and its subsections shall only apply if the Standard Building Code (as published by the Southern Building Code Congress) and any local amendments thereto, required heating facilities at the time the building was constructed.

**Exception:** Delete section 302.5.3 and replace with new section 302.5.3 as follows:

Unvented fuel burning heaters shall be prohibited except for gas heaters listed for unvented use where the total input rating of the unvented heater is less than 30 BTU per hour per cubic foot of room content and provided that the gas heater is installed pursuant to the Gas Code as adopted herein at section 6-171. Notwithstanding the above, all unvented fuel-burning heaters shall be prohibited in bedrooms and sleeping areas.

**Secs. 6-32--6-35. Reserved.**

**DIVISION 3. UNSAFE BUILDING ABATEMENT CODE**

**Sec. 6-36. Adoption; amendments.**

The following chapters and sections of the 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, are hereby adopted by reference and made part of this article, with the exceptions set forth as follows:

**Chapter I, Administration.**

*Section 105*, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County’s construction board of adjustment and appeals found in division 2 of article II of this chapter.

**Chapter II, Definitions.**

**Chapter III, Inspection and Notice of Noncompliance.**

**Chapter IV, Appeals.**

**Chapter V, Rules of Procedure for Hearing Appeals.**

**Chapter VI, Implementation.**

**Chapter VII, Recovery of Cost of Repair or Demolition.**

Exception: If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal against the real property upon which such cost was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an

accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum. If the resulting lien is not satisfied within two years after the date it is filed, then the town may:

- (1) file suit to foreclose on the lien property as provided by law in suits to foreclose mortgages; or,
- (2) follow any other lawful process or procedure available for enforcement of the lien in accordance with any general law of the state relating to the enforcement of municipal liens.

**Secs. 6-37--6-40. Reserved.**

**ARTICLE II.  
BUILDING CODES**

**DIVISION 1. GENERALLY**

**Sec. 6-41. Applicability of article.**

This article applies to the incorporated area of the Town of Fort Myers Beach.

**Sec. 6-42. Penalty for violation of article; additional remedies.**

Any person, or any agent or representative thereof, who violates any provision of this article shall, upon conviction, be subject to the following penalties:

- (1) *Criminal penalties.* Such person shall be subject to punishment as provided in § 1-5.
- (2) *Civil penalties.* The town council may institute in any court, or before any administrative board of competent jurisdiction, action to prevent, restrain, correct or abate any violation of this article or of any order or regulations made in connection with its administration or enforcement, and the court or administrative board shall adjudge such relief by way of injunction, or any other remedy allowed by law, or otherwise, to include mandatory injunction as may be proper under all the facts and circumstances of the case in order to fully effectuate the regulations adopted under this article, or any amendment thereto, and any orders and rulings made pursuant thereto.

**Sec. 6-43. Conflicting provisions.**

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, code or regulation, the provisions providing the greater degree of lifesafety will apply. Any conflict between the building code and applicable fire safety codes will be resolved by agreement between the building official and the fire official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternative which would

provide an equivalent degree of lifesafety and an equivalent method of construction.

**Sec. 6-44. Enforcing officers.**

Designated officials such as the building official referenced by the codes adopted in this chapter shall be appointed by the town manager. The designated officials shall carry out the duties enumerated in these codes and shall be deemed the responsible officials with respect to enforcement of the provisions of these codes.

**Sec. 6-45. Permit fees.**

The town council has the power to determine and set reasonable permit fees. Unless a different fee schedule is set, permits fees shall be as referenced in Lee County Administrative Code 3-10, Appendix C (external fees and charges manual).

**Secs. 6-46--6-70. Reserved.**

**DIVISION 2. LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS**

**Sec. 6-71. Applicability of division.**

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

**Sec. 6-72. Intent of division.**

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing, and fire. This division is intended to be construed in conjunction with these codes.

**Sec. 6-73. Boards established; jurisdiction.**

Lee County has established a construction board of adjustment and appeals known as the Lee County board of adjustment and appeals through chapter 6, article 2, division 2 of the Lee County Land Development Code. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their

designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.

**Sec. 6-74. Delegation of authority to Lee County's boards of adjustment and appeals.**

(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County boards of adjustment and appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.

(b) The town attorney will provide legal advice to each of the three Lee County boards of adjustment and appeals when warranted.

**Secs. 6-75--6-79. Reserved.**

**Sec. 6-80. Right of appeal; notice of appeal.**

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to Lee County's appropriate board of adjustment and appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

**Sec. 6-81. Variations and modifications.**

(a) Lee County's boards of adjustment and appeals, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of Lee County boards of adjustment and appeals to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

**Sec. 6-82. Decisions.**

(a) Every decision of Lee County's boards of adjustment and appeals shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing and shall indicate the vote upon the decision. Every decision of Lee County's boards of adjustment and appeals shall be signed and attested to by the chairman of the board.

(b) Lee County's boards of adjustment and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of Lee County's boards of adjustment and appeals reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of Lee County's boards of adjustment and appeals by filing a petition for writ

of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the board of adjustment and appeals' decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

**Secs. 6-83--6-110. Reserved.**

**DIVISION 3. BUILDING CODE**

**Sec. 6-111. Adoption; amendments.**

The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law, with the exceptions set forth as follows:

**Chapter 1, Administration.**

**Sections 103.1 through 103.6** relating to powers and duties of the building official are added as follows:

**103.1 General.** The building official is hereby authorized and directed to enforce the provisions of this code. The building official has the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures must be in compliance with the intent and purpose of this code, and may not have the effect of waiving requirements specifically provided for in this code.

**103.2 Right of entry.**

**103.2.1** Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical, or plumbing systems unsafe, dangerous, or hazardous, the building official may enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he must

first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he must first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official has recourse to every remedy provided by law to secure entry.

**103.2.2** When the building official has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building, structure, or premises may fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

**103.3 Stop work orders.** Upon notice from the building official, work on any building, structure, electrical, gas, mechanical, or plumbing system that is being done contrary to the provisions of this code, or in a dangerous or unsafe manner, must immediately cease. Such notice must be in writing and posted on the permit board, stating the reasons for the order. Work may only resume after lifting of the stop work order by the building official.

**103.4 Revocation of permits.** The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any provision of this code.

**103.4.1 Misrepresentation of application.** The building official may revoke a permit or approval issued under the provisions of this code if there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

**103.4.2 Violation of code provisions.** The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical, or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

**103.5 Unsafe buildings or systems.** All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and must be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Unsafe Building Abatement Code (see article I of this chapter).

**103.6 Requirements not covered by code.** Any requirements necessary for the strength, stability, or proper operation of an existing or proposed building, structure, electrical, gas, mechanical, or plumbing system, or for the public safety, health, and general welfare, not specifically covered by this or the other technical codes, will be determined by the building official.

**Section 104.1.4** is amended to read as follows:

**104.1.4. Minor repairs.**

Ordinary minor repairs, routine maintenance, or incidental work of a nonstructural nature may be made without a permit, provided that such repair shall not violate any of the provisions of the technical codes. For purposes of this section, "ordinary minor repairs" include the replacement of damaged or worn materials by similar new materials and any other repairs defined as such by the building official. Ordinary minor repairs under this section may not involve the cutting of any structural beam or supporting member or include any alterations that would increase habitable floor area, change the use of any portion of the building, remove or change any required means of egress or exit access, or affect the structural integrity or fire rating of the building.

**Section 104.1.6**, relating to time limitations, is amended to add the following:

**104.1.6.1** A permit issued shall be construed to be a license to proceed with the work but shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this code, nor shall such issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans or in construction or of violations of this code. Although a permit

issued to an owner is transferable to another owner, actual notice of the transfer of permit shall be given to the building official prior to the transfer. Building permits shall be issued following the approval of site and construction plans. Building permits on multifamily projects shall be issued on each individual building or structure. Multitenant occupancies, including but not limited to shopping malls, may be permitted on an individual building or structure (shell); however, individual permits shall be used separately for tenant spaces.

**104.1.6.2** The first inspection required by the permit must be successfully completed within a six-month period of issuance or the permit shall be deemed invalid. All subsequent inspections shall be made within a six-month period of the most recent inspection until completion of work or the permit shall become invalid. For purposes of this section, the foundation inspection will be considered the first inspection.

**104.1.6.3** The entire foundation must be completed within the first six months from the issuance of the permit. Partial inspections due to complexity of the foundation may be made with building inspector's approval, and job site plans shall be initialed by the inspector only on that portion of the plans that is inspected, and these inspections are for compliance to plans and specifications and are in no way to be construed as the first inspection. Subsequent inspections may be made until the entire foundation is completed. At that time, the foundation will be signed off as the first inspection. One or more extensions of the building permit for good cause may be granted by the building official on a project for a period not exceeding 90 days each. The request shall be made by written notice to the building official at least 30 days prior to expiration of the building permit. The building official may require compliance with any revised building code, mechanical code, plumbing code, electrical code, gas code, swimming pool code or fire code requirements in effect at the time of granting any extension to the building permit. Any extension request denied may be appealed to the town council by the applicant on a form provided by the building official. The council shall grant or deny the extension upon a finding of good cause or lack thereof. If granted, the extension or extensions shall not exceed a period of 90 days each.

**Section 106.1.4** relating to new or changed land uses is added as follows:

**106.1.4 New or changed land use.** A certificate of occupancy will only be granted for a new or changed use of land if that use is allowable under ch. 34 of this code.

**Section 107.6.1** relating to the National Flood Insurance Program is added as follows:

**107.6.1 Building permits issued on the basis of an affidavit.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the *Florida Building Code*.

**Section 117.1** relating to variances in flood hazard areas is added as follows:

**117.1 Flood hazard areas.** Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the *Florida Building Code, Building* or, as applicable, the provisions of R322 of the *Florida Building Code, Residential*. This section shall not apply to Section 3109 of the *Florida Building Code, Building*.

**Chapter 16, Structural Design.**

**Section 1612.2** contains definitions relating to flood loads; the following two definitions are redefined as follows:

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the costs of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 5-year period begins on the date of the first improvement or repair of that building or structure subsequent to February 4, 2002. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Chapter 33, Site Work, Demolition and Construction.**

**Section 3311.5** is added, to read as follows:

**3311.5 Trash containers.**

It shall be unlawful to bury construction debris on the construction site or on any other public or private property not specifically approved for such use. A suitable trash container and adequate collection service shall be provided for each construction site. For purposes of this requirement, a suitable container is any structure, device, receptacle, designated location or combination thereof which holds construction debris on the construction site in a central location long enough for it to be removed from the site by means of whatever collection service the contractor chooses to use or may be required to use pursuant to other applicable laws before such debris is (1) washed or blown off-site, (2) contaminates subsurface elements, (3) becomes volatile or malodorous, (4) makes an attractive nuisance, or (5) otherwise becomes a threat to the public health, safety, and welfare.

**Chapter 34, Existing Buildings.**

**Section 3401.1**, relating to scope, is modified to read as follows:

**3401.1 Scope.** Provisions of this chapter and of division 4 of this article shall govern the application of this code to existing buildings. In interpreting this code, the building official may be guided by the *Nationally Applicable Recommended Rehabilitation Provisions*, published in 1997 by the U.S. Department of Housing and Urban Development.

Exception: Buildings and structures located within the High Velocity Hurricane Zone shall comply with the provisions of sections 3401.5, 3401.8, and 3401.2.2.1.

**Section 3401.2.2.1**, relating to change of occupancy, is deleted, and replaced with a new section 3401.2.2.1, to read as follows:

**3401.2.2.1** If the occupancy classification or any occupancy subclassifications of any existing building or structure is changed to a more hazardous occupancy, the building, electrical, gas, mechanical, and plumbing systems shall be made to conform to the intent of the technical codes as required by the building official.

**Section 3401.5**, relating to special historic buildings, is deleted, and replaced with a new section 3401.5, to read as follows:

**3401.5 Special historic buildings**

**3401.5.1** The provisions of the technical codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for an existing building or structure identified and classified by the federal, state, county, or town government as a historic structure, or as a contributing structure in a historic district, when such building or structure is judged by the building official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving.

**3401.5.2** If it is proposed that a historic building that is undergoing repair, renovation, alternation, reconstruction, or change of occupancy not comply literally with certain technical standards of this code, the building official may require the building to be investigated and evaluated by a registered design professional. Such evaluation shall identify each required feature of the building not in technical compliance and shall demonstrate how the intent of these

provisions is to be complied with in providing an equivalent level of safety.

**Florida Building Code, Existing Building, Chapter 2.**

**Section 202** contains general definitions; the definition of “substantial improvement” is redefined as follows:

**Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 5-year period begins on the date of the first improvement or repair of that building or structure subsequent to February 4, 2002. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

**Florida Building Code, Residential, Section R322.**

**Sections R322.1.11 and R322.1.12** regarding enclosed areas and accessory buildings below the base flood elevation are added, to read as follows:

**R322.1.11 Enclosed areas below design flood elevation.** Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

- (1) Be permitted to enclose up to 100 percent of the area below an elevated building and shall not extend beyond the perimeter of the building.
- (2) Have the interior portion of any enclosed area:
  - a. Partitioned only to separate parking areas from building access or storage areas;
  - b. The minimum number of interior doors necessary for access to the stairway or



elevator to the elevated buildings from areas used for parking or storage.

- c. Not temperature-controlled.
- (3) Have access to enclosed areas intended for building access or storage by no more than one standard 36-inch exterior door, or one windowless 72-inch double exterior door, in any exterior wall.
- (4) Have access to enclosed areas intended for parking of vehicles by no more than one standard two-car garage door.
- (5) Have construction documents include an agreement, signed by the owner, acknowledging the limitations on allowable uses of the enclosed areas and the conditions of the building permit, using a form provided by the Floodplain Administrator. This agreement shall be recorded in the official record books in the office of the clerk of the circuit court to provide additional notice of these limitations to future purchasers.

**R322.1.12 Accessory structures.** Accessory structures used for parking and storage shall be permitted below the base flood if designed and constructed in compliance with Section R322 and the total cost of an accessory structure does not exceed 10% of the market value of the building or \$17,500 per dwelling unit, whichever is greater. The dollar amount specified may be increased each year beginning in 2014 by the percentage increase of the Consumer Price Index – All Urban Consumers (CUP-U), All Items, U.S. City Average maintained by the federal Bureau of Labor Statistics.

**Sec. 6-112. Wind-borne debris region and basic wind speed map.**

The entire incorporated area of the Town of Fort Myers Beach lies within the wind-borne debris region and the 130 mph basic wind speed zone as established by section 1606.1.6 and figure 1606 of the Florida Building Code.

**Sec. 6-113. Compliance with outdoor lighting standards.**

All building permits must comply with the outdoor lighting standards in §§ 34-1831–1860 of this code.

**Sec. 6-114. Compliance with NPDES erosion control standards.**

Stormwater runoff from construction sites must be managed in compliance with §§ 10-606–607 of this land development code.

**Secs. 6-115--6-120. Reserved.**

**DIVISION 4.  
EXISTING BUILDINGS CODE**

**Sec. 6-121. Purpose.**

The purpose of this code is to encourage the continued use or reuse of existing buildings. This code is designed to supplement the other codes adopted in this article. In interpreting this code, the building official may be guided by the *Nationally Applicable Recommended Rehabilitation Provisions*, published in 1997 by the U.S. Department of Housing and Urban Development.

**Sec. 6-122. Adoption; amendments.**

The following chapters and sections of the 1997 Standard Existing Buildings Code, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213-1206, are hereby adopted by reference and made a part of this article, with the exceptions set forth as follows:

**Chapter 1, Administration.**

**Section 101.7.1**, relating to a change of occupancy, is deleted, and replaced with a new section 101.7.1 to read as follows:

If the occupancy classification or any occupancy subclassifications of any existing building is changed to a more hazardous occupancy, the building shall be made to conform to the intent of the Florida Building Code for new construction as required by the building official.

**Section 105**, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County’s construction board of adjustment and appeals found in division 2 of this chapter and article.

**Chapter 2, Definitions and Abbreviations.**

**Chapter 3, Historic Structures**, is hereby amended to read as follows:

The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or

structures shall not be mandatory for an existing building or structure identified and classified by the federal, state, county, or town government as a historic structure, or as a contributing structure in a historic district, when such building or structure is judged by the building official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving.

If it is proposed that a historic building that is undergoing repair, renovation, alternation, reconstruction, or change of occupancy not comply literally with certain technical standards, the building official may require the building to be investigated and evaluated by a registered design professional. Such evaluation shall identify each required feature of the building not in technical compliance and shall demonstrate how the intent of these provisions is to be complied with in providing an equivalent level of safety.

**Chapter 4, Means of Egress.**

**Chapter 5, Fire Protection.**

**Chapter 6, Light, Ventilation and Sanitation.**

**Chapter 7, Building Services.**

**Chapter 8, Maintenance.**

**Appendix A, Rehabilitation Guidelines.**

**Secs. 6-123--6-230. Reserved.**

## DIVISION 5. CONTRACTOR LICENSING

### Sec. 6-231. Contractor licenses required.

Lee County authorizes the issuance of contractor licenses, as authorized by F.S. ch. 489 and Lee County Ordinance No. 96-20, granting the privilege of engaging in the contracting business within the jurisdiction of Lee County. The Town of Fort Myers Beach desires to restrict those engaging in the contracting business to those holding the same categories of licensure as required by Lee County:

- (1) state-certified contractors holding an active state certificate of competency;
- (2) state-registered contractors holding an active state registration and Lee County certificate of competency. A Lee County certificate of competency alone is not sufficient if state statute requires that the contractor also hold a state certificate or registration;

- (3) Locally licensed contractors holding an active Lee County certificate of competency; or
- (4) Restricted specialty contractors holding an active Lee County restricted certificate of competency.

### Sec. 6-232. Contractors required to be state-certified.

In accordance with F.S. ch. 489, the following types of contractors must hold a valid state certification in order to contract in the Town of Fort Myers Beach:

- (1) General contractor
- (2) Building contractor
- (3) Residential contractor
- (4) Class A air conditioning contractor
- (5) Class B air conditioning contractor
- (6) Commercial pool/spa contractor
- (7) Residential pool/spa contractor
- (8) Swimming pool servicing contractor
- (9) Sheet metal contractor
- (10) Mechanical contractor
- (11) Plumbing contractor
- (12) Residential solar water heating contractor
- (13) Underground utilities and excavation contractor
- (14) Asbestos abatement contractor
- (15) Roofing contractor
- (16) Pollutant storage system contractor

### Sec. 6-233. Contractor categories licensed by Lee County.

(a) The Town of Fort Myers Beach accepts Lee County certificates of competency in the following specialty categories:

- (1) Alarm system contractor I
- (2) Alarm system contractor II
- (3) Aluminum specialty structures contractor
- (4) Aluminum (without concrete) contractor
- (5) Aluminum (non-structural) contractor
- (6) Asphalt sealing and coating contractor
- (7) Awning contractor
- (8) Cabinet and millwork contractor
- (9) Carpentry contractor
- (10) Concrete coatings contractor
- (11) Concrete forming and placing contractor
- (12) Concrete placing and finishing (flatwork) contractor
- (13) Court (outdoor) contractor
- (14) Demolition contractor

- (15) Dredging contractor
- (16) Drywall contractor
- (17) Excavation contractor
- (18) Fence erection contractor
- (19) Finish carpentry contractor
- (20) Garage door contractor
- (21) Glass and glazing contractor
- (22) Guniting contractor
- (23) Gutter and downspout contractor
- (24) Insulation (building) contractor
- (25) Insulation (all types) contractor
- (26) Irrigation sprinkler contractor
- (27) Journeyman air conditioning
- (28) Journeyman electrician
- (29) Journeyman mechanical
- (30) Journeyman plumber
- (31) Mariciting contractor
- (32) Marine contractor
- (33) Masonry contractor
- (34) Master electrical contractor
- (35) Painting contractor
- (36) Paver block contractor
- (37) Paving contractor
- (38) Pile driving contractor
- (39) Plastering/stucco contractor
- (40) Reinforcing steel contractor
- (41) River rock contractor
- (42) Sandblasting contractor
- (43) Sign contractor – limited
- (44) Sign contractor – restricted
- (45) Structural steel erection contractor
- (46) Terrazo contractor
- (47) Tile and marble contractor

- (13) Glazing and window installation contractor
- (14) Mechanical contractor
- (15) Mobile home alteration and repair (including aluminum work) contractor
- (16) Paint and roof painting contractor
- (17) Paving and sealing contractor
- (18) Plastering, lathing, stucco, and drywall contractor
- (19) Plumbing contractor
- (20) Pool contractor – Class A
- (21) Pool contractor – Class C
- (22) Remodeling contractor
- (23) Residential contractor
- (24) Roofing contractor
- (25) Roof painting contractor
- (26) Roof spraying contractor
- (27) Seawall and dock contractor
- (28) Sign contractor – electrical
- (29) Sign contractor – non-electrical
- (30) Solar water heating contractor
- (31) Tile contractor
- (32) Tile, terrazo, river rock, and marble contractor
- (33) Waterproofing contractor
- (34) Underground utility contractor

(b) The Town of Fort Myers Beach also accepts certain older Lee County certificates of competency that the county has determined to be vested with respect to the scope of work allowed under the certificate category. These certificates may be in the following categories:

- (1) Air conditioning contractor – Class A
- (2) Air conditioning contractor – Class B
- (3) Air conditioning contractor – Class C
- (4) Alteration and repair (non-structural) contractor
- (5) Building contractor
- (6) Cement, concrete and masonry contractor
- (7) Cement finishing contractor
- (8) Demolition contractor
- (9) Dredging and landfilling contractor
- (10) Exposed aggregate contractor
- (11) Flooring contractor
- (12) General contractor

**Sec. 6-234. Delegation of authority to the Lee County Construction Licensing Board.**

(a) The Town of Fort Myers Beach hereby delegates to Lee County and the Lee County Construction Licensing Board the authority to make decisions regarding:

- (1) The categories of certificates of competency that Lee County may require or issue;
- (2) The requirements for obtaining and retaining Lee County certificates of competency;
- (3) The issuance, revocation, and cancellation of Lee County certificates of competency;
- (4) Disciplinary actions concerning activities within the town by holders of a Lee County certificate of competency or by state certified or registered contractors; and
- (5) Any other matter within the authority of the Lee County Construction Licensing Board.

(b) The policies, procedures, and safeguards applicable to the Lee County Construction Licensing Board according to Lee County Ordinance No. 96-20 are hereby adopted by the Town of Fort Myers Beach for all actions of the Board regarding violations alleged to have occurred within the town.

(c) The town attorney will provide legal advice to the Lee County Construction Licensing Board when warranted.

**Sec. 6-235. Owner-builder exemption.**

(a) Owners of property may act as their own contractor and provide direct on-site supervision themselves of all work not performed by licensed contractors when building or improving:

- (1) One-family or two-family residences on the owner’s property for the occupancy or use of the owners and not offered for sale or lease; and
- (2) Commercial buildings on the owner’s property at a cost not to exceed \$25,000 for the occupancy or use of the owners and not offered for sale or lease.

(b) If, within one year of completion, an owner-builder sells, leases, or offers for sale or lease any building constructed or improved under an owner-builder exemption, the town can presume the construction or improvement was undertaken for the purposes of sale or lease.

(c) This section does not exempt any person the owner-builder employs, or has a contract with, to act in the capacity of a contractor. The owner cannot delegate the owner’s responsibility to directly supervise all work to any other person unless that person is duly licensed in accordance with this ordinance and the work performed is within the scope of that contractor’s license.

(d) To qualify for exemption under this section, an owner must personally appear and sign the building permit application. The owner must also execute a disclosure statement prepared by the building official acknowledging compliance with all applicable regulations.

**Sec. 6-236. Other exemptions.**

The licensing provisions of this article do not apply to:

- (1) Any employee of a duly licensed contractor who is acting within the scope of the employer’s license or with the employer’s knowledge and permission. However, if the employer is not licensed to perform the type of services the employee is contracting to

perform, then the employee is not exempt if the employee:

- a. Holds himself or his employer out to be licensed or qualified by a licensee to perform services outside the scope of the employer’s license;
- b. Leads the consumer to believe that the employee has an ownership or management interest in the company; or
- c. Performs any of the acts which constitute contracting for services outside the scope of the employer’s license.

The intent of this subsection is to place equal responsibility on the unlicensed business and its employees for the protection of the consumers in contracting transactions.

- (2) An authorized employee of the United States, the state, the county, the town, or any political subdivision of the state, if the employee does not hold himself out for hire or otherwise engage in contracting except in accordance with his employment.
- (3) Contractors and employees working on bridges, roads, streets, highways, or railroads, including services incidental thereto, that are under the responsible charge of a professional engineer, duly licensed general contractor, the county, or the state.
- (4) A registered professional engineer or architect acting within the scope of his practice or any person exempted by the law regulating engineers and architects, including a person doing design work as specified in F.S. § 481.229(1)(b). However, an engineer or architect cannot act as a contractor unless properly licensed in accordance with this article.
- (5) An architect or landscape architect licensed under F.S. ch. 481 or a professional engineer licensed under F.S. ch. 471 who offers or renders design-build services. However, a state-certified general contractor must perform the construction services under the design-build contract.

**Sec. 6-237. Penalties.**

Penalties for violations of this article shall be as authorized by Lee County through its Ordinance 96-20, as may be amended from time to time.

**Secs. 6-238--6-330. Reserved.**

## ARTICLE III. COASTAL CONSTRUCTION CODE

### DIVISION 1. GENERALLY

#### Sec. 6-331. Origin.

The Florida legislature adopted a Coastal Zone Protection Act in 1985 (F.S. § 161.52 et seq.), as later amended by Laws of Florida 2000-141, with requirements for enforcement by local governments. This article contains relevant requirements of that act plus other local regulations, which will reduce the harmful consequences of natural disasters on sensitive coastal areas including the entire Town of Fort Myers Beach.

#### Sec. 6-332. Intent of article; applicability of article.

The purpose of this article is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other natural disasters throughout the town. These standards are intended to specifically address design features which affect the structural stability of the beach, dunes, and topography of adjacent properties. In the event of a conflict between this article and other portions of this code, the requirements resulting in the more restrictive design will apply. No provisions in this article will be construed to permit any construction in any area where prohibited by state or federal regulation.

(a) **Applicability generally.** The requirements of this article will apply to the following types of construction:

- (1) New construction as defined herein;
- (2) Substantial improvements to existing structures as defined in § 6-405 of this code; and
- (3) Any construction which would change or alter the character of the shoreline, e.g., excavation, grading, or paving. This article does not apply to minor work in the nature of normal beach cleaning or debris removal, which is regulated by article I of ch. 14.

(b) **Construction seaward of mean high water.** Structures or construction extending seaward of the mean high-water line which are regulated by F.S. § 161.041, e.g. groins, jetties, moles, breakwaters, beach nourishment, inlet dredging, etc., are specifically exempt from the provisions of this article. In addition, this article does not apply to those portions of piers, pipelines, or outfalls which are located seaward of the mean high-water line and are regulated pursuant to the provisions of F.S. § 161.053.

(c) **Certification of compliance.** All plans for buildings must be signed and sealed by an architect or engineer registered in the state. Upon completion of the building and prior to the issuance of a certificate of occupancy, a statement must be filed with the director signed and sealed by an architect or engineer registered in the state in substantially the following form: "To the best of my knowledge and belief the above-described construction of all structural loadbearing components complies with the permitted documents and plans submitted to the Town of Fort Myers Beach."

#### Sec. 6-333. Definitions.<sup>2</sup>

The following words, terms, and phrases, when used in this article, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words or phrases not defined will be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

**Beach** or **shore** has the same meaning given the word "beach" in § 14-1.

**Coastal construction control lines** have been established by the state department of environmental protection in accordance with F.S. § 161.053. The most recent lines at Fort Myers Beach were established in 1991, and a copy of the aerials depicting these coastal construction lines are recorded in the public records at Plat Book 48, Pages 15-34. These and the previous (1978) coastal construction control lines may also be reviewed at town hall.

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<sup>2</sup>**Cross reference(s)--Definitions and rules of construction generally, § 1-2.**

**Construction** means the carrying out of any building, clearing, filling, excavation. When appropriate to the context, the term “construction” refers to the act of construction or the result of construction. Construction also includes substantial improvements to existing structures as defined in § 6-405 of this code.

**Director** means the person to whom the town council has delegated authority for enforcing this article.

**Dune** has the same meaning given it in § 14-1.

**Major structure** includes, but is not limited to, residential, commercial, institutional, or other public buildings and other construction having the potential for substantial impact on coastal zones (also see definitions of *minor structure* and *minor habitable structure* below).

**Mean high-water line** means the intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period. (See F.S. § 177.27(15).)

**Minor structure** includes, but is not limited to, pile-supported elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be characteristic of minor structures that they are considered expendable under design wind, wave, and storm forces.

**Nonhabitable major structure** includes, but is not limited to, swimming pools and public piers.

**100-year storm** means a shore-incident hurricane or any other storm with accompanying wind, wave and storm surge intensity having a one percent chance of being equaled or exceeded in any given year, during any 100-year interval.

**Sec. 6-334. Variances.**

Requests for variances from the provisions of this article shall be processed and decided in the same manner as for variances under ch. 34 of this code.

**Secs. 6-335--6-360. Reserved.**

**DIVISION 2.  
COASTAL CONSTRUCTION STANDARDS**

**Sec. 6-361. Generally.**

The following minimum standards will apply to all construction in the Town of Fort Myers Beach.

**Sec. 6-362. Reserved.**

**Sec. 6-363. Reserved.**

**Sec. 6-364. Special requirements near beaches.**

(a) **Major structures.** Nonhabitable major structures must be designed to produce the minimum adverse impact on the beach and dune system.

- (1) Locational criteria for major structures are found in § 6-366(b).
- (2) Structural and permitting criteria for major structures are found in ch. 31 of the Florida Building Code and in ch. 62B of the Florida Administrative Code.
- (3) All sewage treatment and public water supply systems must be floodproofed to prevent infiltration of surface water anticipated from a 100-year storm event.
- (4) Underground utilities, excluding pad transformers and vaults, must be floodproofed to prevent infiltration of surface water expected from a 100-year storm event, or must otherwise be designed to function when submerged under such storm conditions.

(b) **Minor structures.** Minor structures must be designed to produce the minimum adverse impact on the beach and dune system and adjacent properties and to reduce the potential for water and wind blown material.

- (1) Locational criteria for minor structures are found in § 6-366(b).

- (2) Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure is not permitted; see article II of ch. 26 for detailed regulations.

**Sec. 6-365. Reserved.**

**Sec. 6-366. Location of construction near beaches.**

(a) Except for beach renourishment and for minor structures such as lifeguard support stands and beach access ramps, all construction must be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability. In addition to complying with all other provisions of this code, major structures must be built landward of the 1978 coastal construction control line except where a major structure may be specifically allowed by this code to extend across this line. The 1978 coastal construction control line is depicted on the Future Land Use Map as the seaward edge of land-use categories allowing urban development and as the landward edge of the Recreation land-use category. This line is also the landward edge of the EC (Environmentally Critical) zoning district.

(b) Occasional minor structures are permitted by right in the EC zoning district if they are placed on private property and do not alter the natural landscape or obstruct pedestrian traffic (examples are mono-post shade structures, movable picnic tables, beach volleyball courts, and similar recreational equipment, see § 34-652). Artificial lighting and signs may not be installed in the EC zoning district unless approved by special exception or as a deviation in the planned development rezoning process or unless explicitly permitted by §§ 14-5 or 27-51.

- (1) Other provisions of this code provide for certain other minor structures in the EC zoning district:
  - a. Perpendicular dune walkovers are permitted by right in accordance with § 10-415(b) and subsection (d) below.
  - b. Some temporary structures such as tents may be permitted through a temporary use permit for special events held on the beach, in accordance with § 14-11.
  - c. Licensed beach vendors may place rental equipment and/or a temporary movable

structure in accordance with § 14-5, ch. 27, and § 34-3151 of this code.

- (2) Minor structures that are not permitted by right may be approved in the EC zoning district through the special exception process or as deviations in the planned development rezoning process. Such minor structures may include stairways, walkways, ramps, fences, walls, decks, bathhouses, viewing platforms, gazebos, chickees, patios, and other paved areas. These structures should be located as close to the landward edge of the EC zoning district as possible and must minimize adverse effects on the beach and dune system. See §§ 34-88, 34-932(b), and 34-652 for details.
- (3) Minor structures not qualifying by right, by special exception, or through another provision of this code are not permitted in the EC zoning district. See § 34-652 for details.

(c) When existing major structures that were built partially or fully seaward of the 1978 coastal construction control line are reconstructed, they shall be rebuilt landward of this line. Exceptions to this rule may be permitted through the planned development zoning process only where it can be scientifically demonstrated that the 1978 coastal construction control line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. Exceptions must also comply all state laws and regulations regarding coastal construction.

(d) New and expanded beachfront development must construct state-approved dune walkover structures at appropriate crossing points (see § 10-415(b)). All walkovers must meet these criteria in addition to state approval:

- (1) Walkovers must be placed perpendicular to the dune or no more than 30 degrees from perpendicular. New walkovers cannot be placed closer than 150 feet to the nearest walkover.
- (2) Walkovers must be supported on posts embedded to a sufficient depth to provide structural stability. These posts may not be encased in concrete.
- (3) Walkovers cannot exceed 4 feet in width when serving single-family homes or 6 feet in width otherwise.

- (4) Walkovers must be elevated at least 2 feet above the highest point of the dune and dune vegetation and must extend to the seaward toe of any existing dune and dune vegetation.
- (5) Walkovers must be constructed in a manner that minimizes short-term disturbance of the dune system. Any dune vegetation destroyed during construction must be replaced with similar native vegetation that is suitable for beach and dune stabilization.
- (6) Walkovers may not be constructed during the sea turtle nesting season (May 1 through October 31).

(e) For newly created lots and parcels, a 50-foot separation between structures and dunes is required by § 10-415(b).

**Sec. 6-367. Public access.**

Development or construction activity may not interfere with accessways established by the public through private lands to lands seaward of mean high tide line or mean high-water line by prescription, prescriptive easement or any other legal means, unless the developer provides a comparable alternative accessway. The developer has the right to improve, consolidate or relocate such public accessways if the accessways provided are:

- (1) Of substantially similar quality and convenience to the public;
- (2) Approved by the town council;
- (3) Consistent with the Fort Myers Beach Comprehensive Plan; and
- (4) Approved by the Florida Department of Environmental Protection whenever changes are proposed seaward of the 1991 coastal construction control line.

**Secs. 6-368--6-400. Reserved.**



## ARTICLE IV. FLOODPLAIN REGULATIONS

### DIVISION 1. GENERALLY

#### Sec. 6-401. Title.

This article shall be known as the *Floodplain Management Regulations* of Fort Myers Beach, hereinafter referred to as “these regulations” or as article IV of chapter 6 of this code.

#### Sec. 6-402. Scope.

The provisions of these regulations shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

#### Sec. 6-403. Intent.

The purposes of these regulations and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

#### Sec. 6-404. Coordination with the *Florida Building Code*.

These regulations are intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

#### Sec. 6-405. Warning.

The degree of flood protection required by these regulations and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring the town to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with these regulations.

**Sec. 6-406. Disclaimer of Liability.**

These regulations shall not create liability on the part of the Town Council of Fort Myers Beach or by any officer or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

**Secs. 6-407—6-410. Reserved.**

**DIVISION 2. APPLICABILITY**

**Sec. 6-411. General.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**Sec. 6-412. Areas to which these regulations apply.**

These regulations shall apply to all flood hazard areas within the Town of Fort Myers Beach, as established in § 6-413 of these regulations.

**Sec. 6-413. Basis for establishing flood hazard areas.**

The Flood Insurance Study for Lee County, Florida and Incorporated Areas dated August 28, 2008, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of these regulations and shall serve as the minimum basis for establishing flood hazard areas. There are no designated or undesignated Floodways within the town limits. The Flood Insurance Study and Flood Insurance Rate Maps that establish flood hazard areas are on file at Town Hall. These flood insurance rate maps show base flood elevations and coastal high-hazard areas (Zone V) for the entire town and are available for inspection at town hall and at the Lee County Department of Community Development office, 1500 Monroe Street, Fort Myers, or can be viewed online at the FEMA Map Service Center [msc.fema.gov](http://msc.fema.gov), or can be purchased by calling 1-800-358-9616. The individual map panels are numbered as follows:

<i>General area shown</i>	<i>Panel number</i>
Bowditch	120673 0553F
Bowditch – Lovers Lane	120673 0554F
Lovers Lane – Gulfview Avenue	120673 0558F
Gulfview Avenue – Mound Road	120673 0566F
Mound Road – Buccaneer Drive	120673 0567F
Buccaneer Drive – Big Carlos Pass	120673 0569F

**Sec. 6-414. Submission of additional data to establish flood hazard areas.**

To establish flood hazard areas and base flood elevations, pursuant to division 5 of these regulations, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the town indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of these regulations and, as applicable, the requirements of the *Florida Building Code*.
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**Sec. 6-415. Other laws.**

The provisions of these regulations shall not be deemed to nullify any provisions of local, state or federal law.

**Sec. 6-416. Abrogation and greater restrictions.**

These regulations supersede any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or

easement, but any land that is subject to such interests shall also be governed by these regulations.

**Sec. 6-417. Interpretation.**

In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Secs. 6-418—6-420. Reserved.**

**DIVISION 3. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**Sec. 6-421. Designation.**

The town’s Planning Coordinator is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**Sec. 6-422. General.**

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in these regulations without the granting of a variance pursuant to division 7 of these regulations.

**Sec. 6-423. Guidance documents.**

Technical guidance for meeting the requirements of these regulations and the flood provisions of the *Florida Building Code* is contained in FEMA publications, including but not limited to the following:

- (1) Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*
- (2) Technical Bulletin 2, *Flood Damage-Resistant Materials*

- (3) Technical Bulletin 3, *Non-Residential Floodproofing – Requirements and Certification*
- (4) Technical Bulletin 4, *Elevator Installation*
- (5) Technical Bulletin 5, *Free-of-Obstruction Requirements*
- (6) Technical Bulletin 6, *Below-Grade Parking Requirements*
- (7) Technical Bulletin 7, *Wet Floodproofing Requirements*
- (8) Technical Bulletin 8, *Corrosion Protection for Metal Connectors in Coastal Areas*
- (9) Technical Bulletin 9, *Design and Construction Guidance for Breakaway Walls*
- (10) Technical Bulletin 10, *Ensuring that Structures Built on Fill in or Near Special Flood Hazard Areas are Reasonably Safe from Flooding*
- (11) FEMA 348, *Protecting Building Utilities from Flood Damage*

**Sec. 6-424. Applications and permits.**

The Floodplain Administrator, in coordination with other pertinent offices of the town, shall:

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of these regulations;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with these regulations is demonstrated, or

disapprove the same in the event of noncompliance; and

- (8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of these regulations.

**Sec. 6-425. Substantial improvement and substantial damage determinations.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by an MAI-certified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made; any appraisal used for purposes of substantial improvement/substantial damage determinations must be current to within one year of the work commencing;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of “substantial improvement”; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida*

*Building Code* and these regulations is required.

**Sec. 6-426. Modifications of the strict application of the requirements of the *Florida Building Code*.**

The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to division 7 of these regulations.

**Sec. 6-427. Notices and orders.**

The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with these regulations.

**Sec. 6-428. Inspections.**

The Floodplain Administrator shall make the required inspections as specified in division 6 of these regulations for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**Sec. 6-429. Other duties of the Floodplain Administrator.**

The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to § 6-424 of these regulations;
- (2) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

- (3) Review required design certifications and documentation of elevations specified by these regulations and the *Florida Building Code* and these regulations to determine that such certifications and documentations are complete;
- (4) Notify the Federal Emergency Management Agency when the corporate boundaries of Fort Myers Beach are modified; and
- (5) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as “Coastal Barrier Resource System Areas” and “Otherwise Protected Areas.”

**Sec. 6-430. Floodplain management records.**

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and these regulations; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at Town Hall.

**Secs. 6-431—6-440. Reserved.**

**DIVISION 4. PERMITS**

**Sec. 6-441. Permits required.**

Any owner or owner’s authorized agent (hereinafter “applicant”) who intends to undertake any development activity within the scope of these regulations, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area, shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of these regulations and all other applicable codes and regulations has been satisfied. No person may undertake a series of any improvements, additions, and/or demolitions that connect two or more existing structures in a manner that evades the requirements of these regulations and the *Florida Building Code*.

**Sec. 6-442. Floodplain development permits or approvals.**

Floodplain development permits or approvals shall be issued pursuant to these regulations for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**Sec. 6-443. Buildings, structures and facilities exempt from the *Florida Building Code*.**

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of these regulations:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

**Sec. 6-444. Application for a permit or approval.**

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the town. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in division 5 of these regulations.

- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the Floodplain Administrator.

**Sec. 6-445. Validity of permit or approval.**

The issuance of a floodplain development permit or approval pursuant to these regulations shall not be construed to be a permit for, or approval of, any violation of these regulations, the *Florida Building Codes*, or any other ordinance of the town. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**Sec. 6-446. Expiration.**

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**Sec. 6-447. Suspension or revocation.**

The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of these regulations or any other ordinance, regulation or requirement of the town.

**Sec. 6-448. Other permits required.**

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The South Florida Water Management District; section 373.036, F.S.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

- (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.
- (4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (6) Federal permits and approvals.

- (5) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
- (6) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
- (7) Existing and proposed alignment of any proposed alteration of a watercourse.

**Secs. 6-449—6-450. Reserved.**

**DIVISION 5. SITE PLANS AND CONSTRUCTION DOCUMENTS**

**Sec. 6-451. Information for development in flood hazard areas.**

The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide or the 1978 Coastal Construction Control Line, whichever is further inland.
- (3) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (4) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with these regulations.

**Sec. 6-452. Additional analyses and certifications.**

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) An operation and maintenance plan when dry floodproofing is proposed:
  - a. At a minimum this plan must identify who is responsible for maintenance and installation of the flood barriers that will protect wall and door openings and where the flood barriers will be stored when not in use.
  - b. This plan must also provide a realistic estimate of the manpower, time, and equipment required for installation.
  - c. This plan must also include a binding requirement for present and future owners to conduct a test installation before May 31 of each year of all flood barriers, with 10 days' advance written notice provided to the town manager to allow the manager or Floodplain Administrator to witness this test.
  - d. The plan must also include a binding requirement that upon completion of each annual test, a written report will be submitted by the owners to the Floodplain Administrator within 30 days to document the results of the test and set

forth any corrective measures that may be necessary, including proposed revisions to the operation and maintenance plan as to responsibility for maintenance, installation, and storage of flood barriers.

- (2) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

**Sec. 6-453. Submission of additional data.**

When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

**Secs. 6-454—6-460. Reserved.**

**DIVISION 6. INSPECTIONS**

**Sec. 6-461. General.**

Development for which a floodplain development permit or approval is required shall be subject to inspection.

**Sec. 6-462. Development other than buildings and structures.**

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of these regulations and the conditions of issued floodplain development permits or approvals.

**Sec. 6-463. Buildings, structures and facilities exempt from the *Florida Building Code*.**

The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance

with the requirements of these regulations and the conditions of issued floodplain development permits or approvals.

**Sec. 6-464. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.**

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner’s authorized agent, shall submit to the Floodplain Administrator the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor.

**Sec. 6-465. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.**

As part of the final inspection, the owner or owner’s authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in § 6-464 of these regulations.

**Sec. 6-466. Manufactured homes.**

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

**Secs. 6-467—6-470. Reserved.**

**DIVISION 7. VARIANCES AND APPEALS**

**Sec. 6-471. General.**

The Town Council shall hear and decide on requests for appeals and requests for variances from the strict application of these regulations. Pursuant to section 553.73(5), F.S., the Town Council shall



hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building*.

**Sec. 6-472. Appeals.**

The Town Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of these regulations. Any person aggrieved by the decision of Town Council may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**Sec. 6-473. Limitations on authority to grant variances.**

The Town Council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in § 6-476 of these regulations, the conditions of issuance set forth in § 6-477 of these regulations, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Town Council has the right to attach such conditions as it deems necessary to further the purposes and objectives of these regulations.

**Sec. 6-474. Historic buildings.**

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

**Sec. 6-475. Functionally dependent uses.**

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in these regulations, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**Sec. 6-476. Considerations for issuance of variances.**

In reviewing requests for variances, the Town Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, these regulations, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the town;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

**Sec. 6-477. Conditions for issuance of variances.**

Variances shall be issued only upon:

- (1) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of these regulations or the required elevation standards;
- (2) Determination by the Town Council that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

**Secs. 6-478—6-480. Reserved.**

**DIVISION 8. VIOLATIONS**

**Sec. 6-481. Violations.**

Any development that is not within the scope of the *Florida Building Code* but that is regulated by these regulations that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with these regulations, shall be deemed a violation of these regulations. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by these regulations or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

**Sec. 6-482. Authority.**

For development that is not within the scope of the *Florida Building Code* but that is regulated by these regulations and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner’s agent, or to the person or persons performing the work.

**Sec. 6-483. Unlawful continuance.**

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

**Secs. 6-484—6-490. Reserved.**

**DIVISION 9. DEFINITIONS**

**Sec. 6-491. Scope.**

Unless otherwise expressly stated, the following words and terms shall, for the purposes of these regulations, have the meanings shown in this section.

**Sec. 6-492. Terms defined in the *Florida Building Code*.**

Where terms are not defined in these regulations and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

**Sec. 6-493. Terms not defined.**

Where terms are not defined in these regulations or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

**Sec. 6-494. Definitions.**

*Alteration of a watercourse.* A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

*Appeal.* A request for a review of the Floodplain Administrator's interpretation of any provision of these regulations. A request for a variance from the terms of these regulations is not an appeal.

*ASCE 24.* A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Base flood.* A flood having a 1-percent chance of being equaled or exceeded in any given year. The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

*Base flood elevation.* The elevation of the base flood, including wave height, relative to the North American Vertical Datum (NAVD) as specified on the Flood Insurance Rate Map (FIRM).

*Basement.* The portion of a building having its floor subgrade (below ground level) on all sides.

*Coastal construction control line.* The line established by the State of Florida pursuant to section 161.053, F.S., and recorded in the official records of the community, which defines that

portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.

*Coastal high hazard area.* A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

*Design flood.* The flood associated with the greater of the following two areas:

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Design flood elevation.* The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map.

*Development.* Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations, or any other land disturbing activities.

*Existing building and existing structure.* Any buildings and structures for which the "start of construction" commenced before August 31, 1984.

*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed prior to August 31, 1984.

*Expansion to an existing manufactured home park or subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the

construction of streets, and either final site grading or the pouring of concrete pads).

*Federal Emergency Management Agency (FEMA).* The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood damage-resistant materials.* Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

*Flood hazard area.* The greater of the following two areas:

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Flood Insurance Rate Map (FIRM).* The official map of Fort Myers Beach on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones for Fort Myers Beach, including base flood elevations and coastal high hazard areas (V zones).

*Flood Insurance Study (FIS).* The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the water surface elevations of the base flood, and supporting technical data.

*Floodplain Administrator.* The town's Planning Coordinator who has been designated by the town manager to implement, administer, and enforce these floodplain regulations.

*Floodplain development permit or approval.* An official document or certificate issued by the town, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and

that are determined to be compliant with these regulations.

*Florida Building Code.* The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

*Functionally dependent use.* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade.* The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

*Historic structure.* Any structure that is:

- (1) Individually listed in the National Register of Historic Places; or
- (2) A contributing resource within a National Register of Historic Places listed district; or
- (3) Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district, provided the local program making the designation is approved by the Department of the Interior (the Florida state historic preservation officer maintains a list of approved local programs); or
- (4) Determined eligible by the Florida State Historic Preservation Officer for listing in the National Register of Historic Places, either individually or as a contributing property in a district.

*Letter of Map Change (LOMC).* An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

*Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a

designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

*Light-duty truck*. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

*Lowest floor*. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-

elevation requirements of the *Florida Building Code* or ASCE 24.

*Mangrove stand*. An assemblage of mangrove trees, which are mostly low trees noted for copious development of interlacing adventitious roots above the ground, which contains one or more of the following species: black mangrove (*Avicennia germinans*), red mangrove (*Rhizophora mangle*), white mangrove (*Languncularis racemosa*), and buttonwood (*Conocarpus erecta*).

*Manufactured home*. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle” or “park trailer.”

*Manufactured home park or subdivision*. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Market value*. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to either:

- (1) The value of the structure prior to the start of the improvement, or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

Value of the structure will be determined (for the structure only) by the Lee County Property Appraiser, by a private appraisal acceptable to the Floodplain Administrator, or by an independent appraisal commissioned by the Floodplain Administrator. This value shall not include the value of the land on which the structure is located, nor the value of other structures or site improvements on the site, nor the value of the structure after the proposed improvements or repairs are completed. Any proposed value submitted via a private appraisal that exceeds the Property Appraiser’s valuation by more than 35 percent shall be subject to peer review by a qualified local appraiser or a new independent appraisal, to be commissioned by the Floodplain Administrator, with the full cost of the review or

new appraisal paid by the applicant to the town prior to initiation of the process. In lieu of submitting a private appraisal, an applicant may obtain an independent appraisal through the Floodplain Administrator, with the full cost paid to the town prior to initiation of the process.

*National Geodetic Vertical Datum (NGVD).* Corrected in 1929, NGVD is a vertical control that was previously used as a reference for establishing varying elevations within the floodplain. The use of NGVD 29 on FEMA maps and in these floodplain regulations was discontinued as of August 28, 2008. To convert a known elevation in Fort Myers Beach that had been measured relative to NGVD 29, subtract 1.18 feet to determine its elevation relative to NAVD 88 (NGVD – 1.18 feet = NAVD 88).

*New construction.* For the purposes of administration of these regulations and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “start of construction” commenced on or after August 31, 1984 and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 31, 1984.

*North American Vertical Datum of 1988 (NAVD 88).* A vertical control datum used as a reference for establishing varying elevations within the floodplain. For purposes of this chapter, NAVD 88 replaced NGVD 29 on August 28, 2008. To convert a known elevation in Fort Myers Beach that has been measured relative to NGVD 29, subtract 1.18 feet to determine its elevation relative to NAVD 88 (NGVD – 1.18 feet = NAVD 88).

*Park trailer.* A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

*Recreational vehicle.* A vehicle, including a park trailer, which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Reinforced pier.* A system designed and sealed by a state-registered architect or engineer which is an integral part of a foundation and anchoring system for the permanent installation of a manufactured home or recreational vehicle, as applicable, so as to prevent flotation, collapse or lateral movement of the manufactured home or recreational vehicle due to flood forces. At a minimum, a reinforced pier would have a footing adequate to support the weight of the manufactured home or recreational vehicle under saturated soil conditions such as occur during a flood. In areas subject to high-velocity floodwaters and debris impact, cast-in-place reinforced piers may be appropriate. Nothing in this division shall prevent a design which uses pilings, compacted fill or any other method, as long as the minimum flood standards are met.

*Registered architect.* An architect registered or licensed by the state of Florida to practice architecture, or who is authorized to practice architecture in Florida under a reciprocal registration or licensing agreement with another state.

*Registered professional engineer.* An engineer registered or licensed by the state of Florida to practice engineering, or who is authorized to practice engineering in Florida under a reciprocal registration or licensing agreement with another state.

*Registered land surveyor.* A land surveyor registered or licensed by the state of Florida to practice land surveying, or who is authorized to practice surveying in Florida under a reciprocal registration or licensing agreement with another state. This term includes professional surveyors and mappers registered by the state of Florida.

*Rehabilitation.* Any work, as described by the categories of work defined herein, undertaken in an existing building.

*Repair.* The patching, restoration and/or minor replacement of materials, elements, components, equipment and/or fixtures for the purposes of maintaining such materials, elements, components, equipment and/or fixtures in good or sound condition.

*Repetitive loss structure.* Buildings and structures that have sustained flood-related damage on two or more separate occasions during any five-year period, for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

*Sand dunes.* Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*Special flood hazard area.* An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone AE or VE. The entire Town of Fort Myers Beach has been designated a special flood hazard area by the Federal Emergency Management Agency.

*Start of construction.* The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Substantial damage.* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50

percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the costs of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

*Substantial improvement.* Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term “substantial improvement” includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. For each building or structure, the 5-year period begins on the date of the first improvement or repair of that building or structure. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Costs of alterations or improvements whose express purpose is the mitigation of future storm damage, provided the costs of such measures, plus the costs of any other improvements, do not exceed 50 percent of the market value of the structure over any one-year period; examples of such mitigation include the installation of storm shutters or impact resistant glass, strengthening of roof attachments, floors, or walls, and minor measures to reduce flood damage.
  - a. Storm mitigation improvements may be made during the same year as other improvements, but the total cost of improvements of both types that are made over any one-year period may not exceed 50% of the market value of the structure.
  - b. The annual allowance for storm mitigation improvements is not applicable towards any costs associated with a lateral or vertical addition to an existing structure or to the complete replacement of an existing structure.

*Variance.* A grant of relief from the requirements of these regulations, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by these regulations or the *Florida Building Code*.

*Watercourse.* A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

**Secs. 6-495—6-500. Reserved.**

**DIVISION 10.  
FLOOD RESISTANT DEVELOPMENT**

***Subdivision I.  
Buildings and Structures***

**Sec. 6-501. Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.**

Pursuant to § 6-443 of these regulations, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of subdivision VII of this division.

**Sec. 6-502. Buildings and structures seaward of the coastal construction control line.**

If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

- (1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the *Florida Building Code*, Building Section 3109 and Section 1612 or *Florida Building Code*, Residential Section R322.
- (2) Minor structures and non-habitable major structures as defined in section 161.54, F.S., shall be designed and constructed to comply

with the intent and applicable provisions of these regulations and ASCE 24.

***Subdivision II. Subdivisions***

**Sec. 6-503. Minimum requirements.**

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards.

**Sec. 6-504. Subdivision plats.**

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats ;
- (2) Compliance with the site improvement and utilities requirements of subdivision III of this division.

***Subdivision III.  
Site Improvements,  
Utilities and Limitations***

**Sec. 6-505. Minimum requirements.**

All proposed new development shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and



- (3) Adequate drainage is provided to reduce exposure to flood hazards.

**Sec. 6-506. Sanitary sewage facilities.**

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**Sec. 6-507. Water supply facilities.**

All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**Sec. 6-508. Limitations on placement of fill.**

Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

**Sec. 6-509. Limitations on sites in coastal high hazard areas (Zone V).**

In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by § 6-452(3) of these regulations demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Sec. § 6-527(3) of these regulations.

***Subdivision IV.  
Manufactured Homes***

**Sec. 6-510. General.**

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of these regulations.

- (1) If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.
- (2) New installations of manufactured homes shall not be permitted in coastal high hazard areas (Zone V).

**Sec. 6-511. Foundations.**

All new manufactured homes, if permitted, and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

- (1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.2 and these regulations.
- (2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.3 and these regulations.

**Sec. 6-512. Anchoring.**

All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

**Sec. 6-513. Elevation.**

Manufactured homes that are placed, replaced, or substantially improved shall comply with §§ 6-514 or 6-515 of these regulations, as applicable.

**Sec. 6-514. General elevation requirement.**

Unless subject to the requirements of § 6-515 of these regulations, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; or (b) in an existing manufactured home park or subdivision upon which a manufactured home has incurred “substantial damage” as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V).

**Sec. 6-515. Elevation requirement for certain existing manufactured home parks and subdivisions.**

Manufactured homes that are not subject to § 6-514 of these regulations, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- (1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

**Sec. 6-516. Enclosures.**

Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas, as applicable to the flood hazard area.

**Sec. 6-517. Utility equipment.**

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code, Residential* Section R322, as applicable to the flood hazard area.

***Subdivision V.  
Recreational Vehicles  
and Park Trailers***

**Sec. 6-518. Temporary placement.**

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**Sec. 6-519. Permanent placement.**

Recreational vehicles and park trailers that do not meet the limitations in § 6-518 of these regulations for temporary placement shall meet the requirements of §§ 6-510 through 6-517 of these regulations for manufactured homes.

***Subdivision VI. Tanks***

**Sec. 6-520. Underground tanks.**

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**Sec. 6-521. Above-ground tanks, not elevated.**

Above-ground tanks that do not meet the elevation requirements of § 6-522 of these regulations shall:

- (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (2) Not be permitted in coastal high hazard areas (Zone V).

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**Sec. 6-522. Above-ground tanks, elevated.**

Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

**Sec. 6-525. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).**

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

**Sec. 6-523. Tank inlets and vents.**

Tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four (4) inches.

**Sec. 6-526. Decks and patios in coastal high hazard areas (Zone V).**

In addition to the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

**Sec. 6-524. General requirements for other development.**

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the *Florida Building Code*, shall:

***Subdivision VII.  
Other Development***

- (2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

**Sec. 6-527. Other development in coastal high hazard areas (Zone V).**

In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less

- than the design flood or otherwise function to avoid obstruction of floodwaters; and
- (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

**Sec. 6-528. Nonstructural fill in coastal high hazard areas (Zone V).**

In coastal high hazard areas:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- (3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

**CHAPTERS 7--9 RESERVED**