

ORDINANCE NO. 08-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE FLOODPLAIN REGULATIONS AND REFERENCES TO THE FEDERAL FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRM) IN THE LAND DEVELOPMENT CODE (LDC); ADOPTING AMENDMENTS TO ARTICLE IV (FLOODPLAIN REGULATIONS) OF CHAPTER 6 OF THE LDC, TITLED "MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS," AND WHICH PROVIDES ARTICLE IV FLOODPLAIN REGULATIONS, DIVISION 1 GENERALLY; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapters 166 and 163 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The above "whereas" clauses are incorporated herein as though fully set forth.

SECTION 2. ADOPTION OF AMENDMENTS TO ARTICLE IV OF CHAPTER 6 OF THE LAND DEVELOPMENT CODE. Chapter 6 of the Town of Fort Myers Beach land development code is titled "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS." Article IV of this chapter, titled "FLOODPLAIN REGULATIONS," is hereby amended as shown in Exhibit A, which is hereby incorporated by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is neither underlined nor struck through. The amendment of Article IV of Chapter 6 amends the following division and sections:

ARTICLE IV. FLOODPLAIN REGULATIONS

Division 1. Generally

Section 6-405. Definitions

SECTION 3. CONFLICTS. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive shall apply.

SECTION 4. SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and shall in no way affect the validity of all other provisions of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect on August 28, 2008.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Shenko and seconded by Vice Mayor Kiker and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor	_____	Herb Acken, Vice Mayor	_____
Tom Babcock	_____	Jo List	_____
Bob Raymond	_____		

DULY PASSED AND ENACTED this ____ day of ____, 2008.

ATTEST: _____ TOWN OF FORT MYERS BEACH

Michelle D. Mayher, Town Clerk

BY: _____
Larry Kiker, Mayor

Approved as to legal sufficiency by:

Anne Dalton, Esquire
Town Attorney

EXHIBIT A

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 6 MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS¹

ARTICLE IV. FLOODPLAIN REGULATIONS

DIVISION 1. GENERALLY

Sec. 6-401. through Sec. 6-404. [No changes.]

Sec. 6-405. Definitions.²

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article shall be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.

Accessory structure means a building or structure which is customarily incidental and subordinate to a principal building or to the principal use of the premises, and located on the same premises.

¹*Cross reference(s)*--Development design standards, § 10-251 et seq.; design standards for utilities, § 10-351 et seq.; design standards for fire safety, § 10-381 et seq.; historic preservation, ch. 22; variances from building regulations for historic structures, § 22-175; zoning, ch. 34; permit for moving buildings, § 34-3103; nonconforming buildings, § 34-3231 et seq.

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

Addition means any walled and roofed expansion that increases the floor space of an existing building in which the addition is connected by a common loadbearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter loadbearing walls is considered new construction.

Appeal means a request for a review of the coordinator's interpretation of any provision of this article. A request for a variance from the precise terms of this article is not an appeal.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The entire Town of Fort Myers Beach has been designated an area of special flood hazard by the Federal Emergency Management Agency (see § 6-408).

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as determined by the maps described in § 6-408.

Breakaway walls means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building materials, which are not part of the structural support of the building and which are designed and constructed to collapse under specific lateral loading forces without causing damage to the elevated portion of the buildings or the supporting foundation system on which they are used.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Coastal high-hazard area means the area subject to high-velocity waters caused by wave action from storms or seismic sources. The coastal high-hazard area is designated identified as Zone V on the flood insurance rate maps zones V1-V30.

[No further changes to this Section.]

Sec. 6-406. through Sec. 6-407. [No changes.]

Sec. 6-408. Basis for establishing flood regulations.

The entire Town of Fort Myers Beach has been designated an area of special flood hazard by the Federal Emergency Management Agency (FEMA). ~~Their~~ FEMA maps illustrating the minimum federal floodplain regulations as adopted on ~~September 19, 1984~~ August 28, 2008, and all revisions thereto, are adopted by reference and declared to be a part of this article. These flood insurance rate maps show base flood elevations and coastal high-hazard areas (V zones) for the entire town and are available for inspection at town hall and at the Lee County Administration Department of Community Development Building, 2115 Second 1500 Monroe Street, Fort Myers, or can be viewed at www.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>	<i>Latest</i>
Bowditch – Donora	125124 0429D	9/20/96
Donora – Gulfview	125124 0433B	9/19/84
Gulfview – Flamingo	125124 0441B	9/19/84
Flamingo – Buccaneer	125124 0442C	7/20/98
Buccaneer – Big Carlos	125124 0444D	7/20/98
<u>Bowditch</u>	<u>120673 0553F</u>	<u>8/28/08</u>
<u>Bowditch – Lovers Ln.</u>	<u>120673 0554F</u>	<u>8/28/08</u>
<u>Lovers Ln. – Gulfview</u>	<u>120673 0558F</u>	<u>8/28/08</u>
<u>Gulfview – Mound Rd.</u>	<u>120673 0566F</u>	<u>8/28/08</u>
<u>Mound Rd. – Buccaneer</u>	<u>120673 0567F</u>	<u>8/28/08</u>
<u>Buccaneer – Big Carlos</u>	<u>120673 0569F</u>	<u>8/28/08</u>

Sec. 6-409. through Sec. 6-440. [No changes.]