

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 26 MARINE FACILITIES¹

ARTICLE I. IN GENERAL

Sec. 26-1. Enforcement and penalties.
Secs. 26-2--26-40. Reserved.

ARTICLE II. SEAWALLS, DOCKS, AND OTHER SHORELINE STRUCTURES

Division 1. Generally

Sec. 26-41. Definitions.
Sec. 26-42. Reserved.
Sec. 26-43. Applicability.
Sec. 26-44. Compliance with other applicable regulations.
Sec. 26-45. Permits required.
Sec. 26-46. Variances.
Sec. 26-47. Exemption from setback requirement.
Sec. 26-48. Nonconforming marine structures.
Secs. 26-49--26-70. Reserved.

Division 2. Location and Design

Sec. 26-71. Docks and boat ramps.
Sec. 26-72. Dock boxes.
Sec. 26-73. Fishing piers or observation decks.
Sec. 26-74. Boathouses.
Sec. 26-75. Seawalls and retaining walls generally.
Sec. 26-76. Seawalls and retaining walls along artificial water bodies.
Sec. 26-77. Seawalls and retaining walls along natural water bodies.
Sec. 26-78. Riprap revetment.
Sec. 26-79. Protection of vegetation during construction.
Sec. 26-80. Turbidity.
Sec. 26-81. Marina design and location.

¹*Cross reference(s)—Coastal construction code, § 6-331 et seq.; marina design, § 10-257; wetlands protection, § 14-291 et seq; mangrove enforcement, § 14-451 et seq.; zoning regulations pertaining to marine facilities, § 34-1861 et seq.*

Sec. 26-82. Dredging, new and maintenance.
Secs. 26-83--26-110. Reserved.

ARTICLE III. MARINE SANITATION

Sec. 26-111. Purpose.
Sec. 26-112. Reserved.
Sec. 26-113. Reserved.
Sec. 26-114. Applicability.
Sec. 26-115. Discharge of waste material prohibited.
Sec. 26-116. Marina sanitation facilities.

ARTICLE I. IN GENERAL

Sec. 26-1. Enforcement and penalties.

The director is authorized to pursue any one or combination of the enforcement mechanisms provided in this code (for example, § 1-5, or article V of ch. 2) for any violation of this chapter.

Secs. 26-2--26-40. Reserved.

ARTICLE II. SEAWALLS, DOCKS, AND OTHER SHORELINE STRUCTURES

DIVISION 1. GENERALLY

Sec. 26-41. Definitions.

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:

Access walkway means the portion of a structure that allows access to a dock or terminal platform.

Boathouse means a roofed structure constructed over or adjacent to water to provide a covered mooring or storage place for watercraft.

Boat ramp means an inclined and stabilized surface that extends into the water from the shore and upon which trailerable watercraft can be launched and retrieved.

Director means the person to whom the town manager has delegated the authority to administer this chapter, or that person's designee.

Dock means a structure designed primarily for the launching, retrieval, storage, or mooring of watercraft.

Exterior property line means the side lot line or riparian property line separating two or more lots or parcels under common ownership from the adjoining lots or parcels under separate ownership.

Finger pier means a dock landing that branches from an access walkway or terminal platform to form a slip and provides direct access to watercraft moored in the slip.

Hazard to navigation means a structure erected or under construction, or a moored watercraft, which obstructs the navigation of watercraft proceeding along a navigable channel or canal, or which obstructs reasonable riparian access to adjacent properties.

Invasive exotic vegetation means Australian pine (*Casuarina spp.*), Brazilian pepper (*Schinus terebinthifolius*), paper or punk tree (*Melaleuca quinquenervia*), and earleaf acacia (*Acacia auriculiformis*).

Mangrove means any specimen of the species black mangrove (*Avicennia germinans*), white mangrove (*Laguncularia racemosa*), or red mangrove (*Rhizophora mangle*).

Marginal dock means a dock that runs parallel and adjacent to the shoreline. This term includes docks with a maximum access walkway length of 25

feet to a dock running parallel to the shoreline and adjacent to wetland vegetation.

Marina has the meaning provided in § 34-2.

Mean high water means the average height of the high waters over a nineteen-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean nineteen-year value.

Mean high-water line means the intersection of the tidal plane of mean high water with the shore.

Mean low water means the average height of the low waters over a nineteen year period. For shorter periods of observation, "mean low water" means the average height of the low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean nineteen-year value.

Multi-slip dock has the meaning provided in § 34-2.

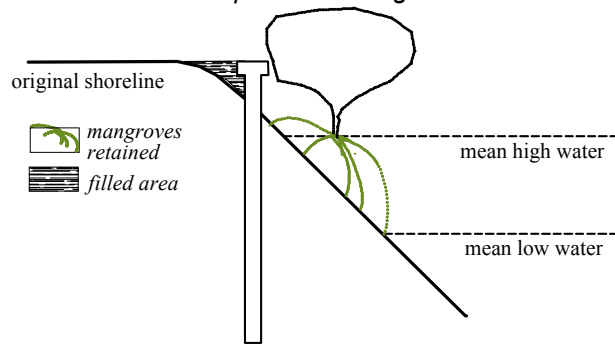
Navigable channel means the area within a natural or artificial water body that will allow passage of a watercraft drawing three feet of water at mean low water.

Nonconforming marine structure means any type of structure permitted by this chapter which was lawful prior to the adoption of any ordinance from which this chapter is derived, or the adoption of any revision or amendment to this chapter, but which fails, by reason of such adoption, revision, or amendment, to conform to specific requirements of this chapter.

Private single-family dock means a dock designed and intended to serve as an accessory use to an existing or proposed single-family dwelling unit.

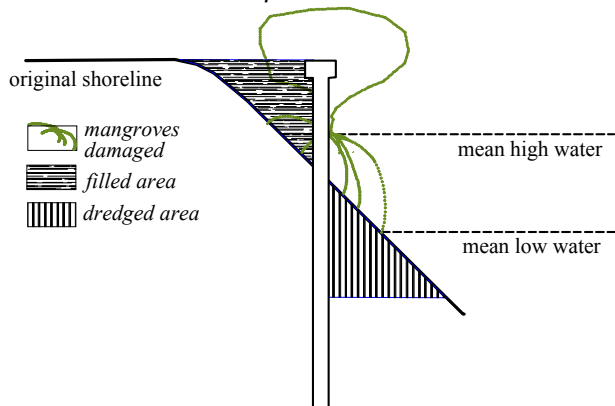
Retaining wall means a vertical bulkhead constructed landward of the mean high-water line and landward of wetland vegetation.

Example of retaining wall:



Seawall means a vertical bulkhead constructed seaward of the mean high-water line or seaward of the upper reaches of wetland vegetation.

Example of seawall:



Slip means that part of a structure and adjoining tie-up area designed to moor a single watercraft.

Structure refers to a water-oriented facility and includes any dock, boardwalk, floating dock, fishing pier, pier, wharf, observation deck, deck, platform, boathouse, mooring piling, riprap, revetment, seawall, bulkhead, retaining wall, jetty, platform, boat lift, davit, or boatramp, or any other obstacle, obstruction, or protrusion used primarily for the landing, launching, or mooring of watercraft, erosion control and shoreline stabilization, or for water-oriented activities.

Terminal platform means the part of a dock connected to and generally wider than the access

walkway that is used both for securing and loading a vessel.

Tie-up area means the water adjacent to a dock designed to be occupied by moored watercraft.

Water body means any artificial or natural depression in the surface of the earth that is inundated with daily tidal flows, and all adjacent wetlands as defined in § 14-293.

- (1) *Artificial water bodies* are man-made canals and similar water bodies that extend natural water bodies into uplands.
- (2) *Natural water bodies* include the Gulf of Mexico, Matanzas Pass, Estero Bay, Ostego Bay, Buccaneer Lagoon, and similar water bodies that were created by natural geophysical forces.

Watercraft means any vehicle designed for transporting persons or property on, in or through water.

Work includes, but is not limited to, all dredging or disposal of dredge material, excavation, filling, construction, erection, or installation, or any addition to or modification of a structure on a water body.

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

Sec. 26-42. Reserved.

Sec. 26-43. Applicability.

(a) This article describes the only non-governmental marine structures that may be constructed within the “Tidal Waters” designation on the comprehensive plan’s future land use map.

- (1) The marine structures described in this article may be permitted only within riparian extensions of property lines or on owned or leased submerged lands.
- (2) These marine structures must be related to accessory uses that are allowed in conjunction with a permitted principal use on the adjoining land. See § 34-1171 through 34-1174 for general regulations on accessory uses.

(b) The terms and provisions of this article shall apply to the incorporated area of the Town of Fort Myers Beach.

Sec. 26-44. Compliance with other applicable regulations.

Permits issued in accordance with this chapter, or development orders for work in the town, do not eliminate the need to obtain all applicable state and federal agency permits.

Sec. 26-45. Permits required.

(a) A permit is required prior to starting any work addressed by this article, except where explicitly stated otherwise.

(b) Permit applications must be submitted to the director on an appropriate form containing the following:

- (1) The names, addresses, and telephone numbers of the property owner(s);
- (2) The name, address, and telephone number of the property owner's agent, if applicable;
- (3) Written authorization from the property owner to the agent, if applicable;
- (4) The property street address;
- (5) The property STRAP number;
- (6) A site plan, showing the following:
 - a. the proposed location of the work relative to riparian property lines; and
 - b. dimensions and side setbacks of all proposed structures or work.
- (7) Copies of all necessary state and federal agency approvals; and
- (8) The appropriate fee.

(c) Work relating to commercial or multi-slip docks may require a development order in accordance with ch. 10 and construction drawings sealed by a professional engineer or registered architect. All development order applications will be reviewed for compliance with this article.

(d) The director has the discretion to require construction drawings sealed by a professional engineer or registered architect and a sealed boundary or record survey identifying the property boundary or riparian extensions into the water body in relation to construction or work. The director also has the discretion to require submission of a sealed post-construction as-built survey certified to the town prior to issuance of a certificate of completion for any permit under this section.

(e) The director may conduct on-site inspections to determine if the proposed work or structure meets the required minimum standards.

(f) A permit is required to replace an existing structure; however, ordinary minor repairs may be made without a permit to the extent allowed by § 6-111 of this code.

(g) The director can authorize minor design alterations necessary to comply with the Americans with Disabilities Act.

(h) Permit approvals granted under this section will be based upon the information submitted by the applicant. An approval under this section does not constitute a legal opinion regarding the riparian rights boundaries of the subject property or adjacent property and may not be used to substantiate a claim of right to encroach into another property owner's riparian rights area.

Sec. 26-46. Variances.

Requests for variances from the terms of this article shall be administered and decided in conformance with the requirements for variances which are set forth in ch. 34.

Sec. 26-47. Exemption from setback requirement.

Any structure permitted under this article shall not be subject to the water body setback requirements from a bay, canal or other water body set out in ch. 34.

Sec. 26-48. Nonconforming marine structures.

Except where prohibited for boathouses by § 26-74(d) and for seawalls by § 26-77, a nonconforming marine structure may be repaired, replaced, or altered if:

- (1) the size, dimensions, design, and location of the structure is and will remain otherwise in compliance with all existing regulations; or
- (2) the proposed work will not cause an increase in the nonconformity, in the opinion of the director.

Secs. 26-49--26-70. Reserved.

DIVISION 2. LOCATION AND DESIGN

Sec. 26-71. Docks and boat ramps.

Docks and boat ramps will be permitted only in accordance with the following regulations:

(a) **Number of docks and slips.**

- (1) No more than one two-slip private single-family dock is permitted to extend from each lot into a natural water body, except that a shared property line dock can be approved for up to four slips.
- (2) Handrails may be required to prohibit the mooring of watercraft in any area not designated as a slip. Handrails must be permanently maintained.

(b) **Length of docks.** No private single-family dock, including its tie-up area, may be permitted or constructed in a natural or artificial water body exceeding the following lengths:

- (1) 25% of the navigable channel width, up to a maximum of 200 feet in length; or up to a maximum of 300 feet in length if the director, in his sole discretion, finds that:
 - a. The proposed dock has been approved by all applicable state and federal agencies;
 - b. The increased length will not result in a hazard to navigation;
 - c. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and
 - d. The increase in length will lessen the dock's impacts on seagrass beds or other marine resources.
- (2) All measurements are from the mean high-water line seaward. Tie-up areas that are waterward of the dock will be deemed 10 feet in width.

(c) **Maximum dimensions of docks.**

- (1) Private single-family docks in natural water bodies must comply with the following maximum dimensional requirements:
 - a. Access walkway – 4 feet wide
 - b. Terminal platform – 160 square feet
 - c. Finger piers – 3 feet wide
 The application of these regulations is illustrated in Figure 26-1.

- (2) Single-family residential boat ramps can not exceed 15 feet in width.

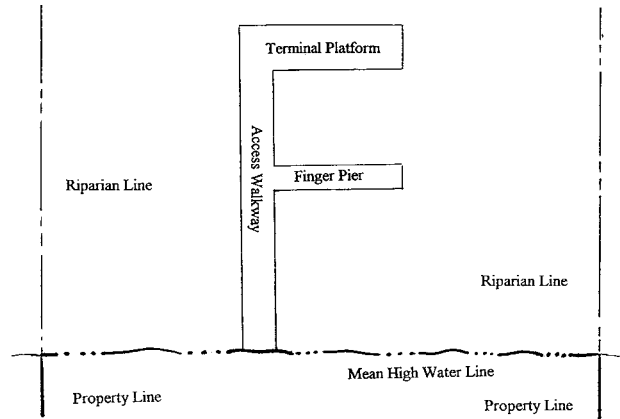


Figure 26-1
Private Single-Family Structure Plan View

(d) **Setbacks.**

- (1) Multi-slip and marina docks, except boat davits, in or adjacent to natural water bodies must be set back a minimum of 25 feet from all adjoining side lot lines.
- (2) Private single-family docks in natural water bodies must be set back from all adjoining side lot and side riparian lines as follows:
 - a. Marginal docks – at least 10 feet.
 - b. All other docks – at least 25 feet.
- (3) Private single-family docks in artificial water bodies must be set back at least 5 feet from all adjoining side lot and side riparian lines.
- (4) Side setback requirements for docks can be reduced if:
 - a. Adjoining property owners propose a single dock for their joint use, or if they execute a written agreement in recordable form agreeing to a setback less than that required; and
 - b. Placement of such dock(s) will not result in greater environmental impacts than compliance with the regulations set forth in this subsection.
- (5) The director, in his discretion, may permit administrative deviations from the dock setbacks required by this subsection if the structure is located as close to the required setback as possible and:
 - a. The width of the subject parcel is not wide enough to permit construction of a single-family dock perpendicular to the

- shoreline at the midpoint of the shoreline property line without a deviation; or
- b. If moving the structure closer to a property line than normally allowed would minimize damage to wetland vegetation or other environmental resources.

The director’s decision under this subsection can be appealed through the procedure set forth in § 34-86 or the applicant may seek a variance in accordance with § 34-87.

- (6) All boat ramps must set back at least 10 feet from all adjoining side lot and side riparian lines.

(e) **Location.**

- (1) Docks, tie-up areas, and moored watercraft cannot be located in a manner that will create a hazard to navigation in natural or artificial water bodies.
- (2) Boat ramps cannot be located in a manner that will result in a horizontal change in the mean high-water line.
- (3) The director has the discretion to require reconfiguration of a proposed dock or boat ramp to reduce impacts to the riparian rights of adjacent properties.

(f) **Minimum water depths.**

- (1) There must be a minimum depth of three feet below mean low water for all slips on private single-family docks in natural water bodies.
- (2) Water depths adjacent to and within a multi-slip dock or a marina must ensure that a minimum one foot clearance is provided between the deepest draft of a vessel and the bottom at mean low water or the top of marine resources (e.g. seagrasses).

Sec. 26-72. Dock boxes

Dock boxes on private single-family docks may not exceed three feet in height and 100 cubic feet in volume. Such dock boxes do not require building or marine facility permits.

Sec. 26-73. Fishing piers or observation decks.

Fishing piers or observation decks may be permitted in areas where water depth is insufficient for mooring. Fishing piers and observation decks must:

- (a) be designed to prohibit watercraft mooring;

- (b) be constructed to provide access walkways and terminal platforms at 5 feet above mean high water;
- (c) have fixed handrails, including intermediate rails, installed around the perimeter of the structure; and
- (d) have a “no boat mooring” sign placed facing the water on the terminal platform of the structure.

Sec. 26-74. Boathouses.

The following regulations apply to boathouses associated with a private single-family residence. Only a single boathouse may be associated with each single-family residence.

(a) **Location.**

- (1) Boathouses must be constructed adjacent to or over a water body. Any boathouse constructed over land must be located, in its entirety, within 25 feet of the mean high-water line.
- (2) Boathouses may not be built over submerged bottoms containing areas of dense seagrasses or shellfish beds.
- (3) Boathouses, boat lifts, and davits designed with mooring inside the structure may not extend beyond 25% of the width of a navigable channel.

(b) **Setbacks.** The minimum setbacks between boathouse pilings and side lot lines and riparian lot lines are as follows:

- (1) Natural water bodies -- 25 feet.
- (2) Artificial water bodies -- 10 feet.

When a boathouse is constructed on or adjacent to two or more adjoining lots under common ownership and control, the setbacks will be measured from the exterior property lines.

(c) **Design criteria.**

- (1) **Maximum area.** A boathouse may not encompass more than 500 square feet of roofed area.
- (2) **Height.** The maximum height of a boathouse is 20 feet above mean high water, as measured from mean high water to the highest point of the boathouse.
- (3) **Permitted uses.**
 - a. Use of a boathouse for living or fueling facilities is prohibited.

- b. Up to 25% of the total roofed area of a boathouse can be used for storage of items that relate directly to the use and maintenance of watercraft. Items that do not relate directly to the use and maintenance of watercraft may not be stored in a boathouse.
- (4) **Decking.** Access walkways not exceeding four feet in width are permitted in the area under the roof of a boathouse located over water. Additional decking in the area under the roof of a boathouse is prohibited.
- (5) **Enclosure.**
 - a. Boathouses located over a water body or adjacent to a natural water body must be open-sided. Safety rails 42 inches high or less are permitted.
 - b. Boathouses located adjacent to an artificial water body must meet the following requirements:
 - 1. The boathouse must be open-sided if the proposed side setback is between ten and 25 feet.
 - 2. The boathouse may be open-sided or enclosed with wood lattice or similar fencing materials if the side setback is 25 feet or more.
- (6) **Roof.** Boathouses shall have pitched roofs with a minimum slope of 2 vertical to 12 horizontal. Sundecks shall not be permitted on the roof of any boathouse.
- (7) **Wind load standards.** All boathouses must comply with the building code wind load standards as adopted in ch. 6.

(d) **Amortization of certain nonconforming boathouses.** The size and location of boathouses have been regulated since the adoption of Lee County Ordinance No. 88-56. Some boathouses built prior to 1988 or expanded in violation of Ordinance No. 88-56 remain in existence. Such boathouses cannot be modified or rebuilt except when brought into compliance with current regulations, and all such boathouses must be modified into compliance with this section by January 1, 2004.

The application of these regulations is illustrated in Figure 26-2 below:

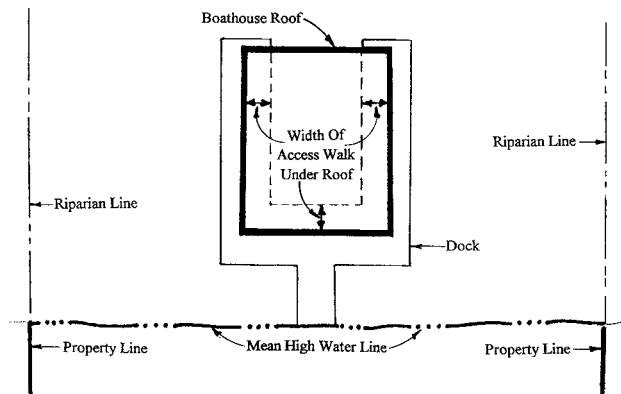


Figure 26-2 – Boathouse Plan Review

Sec. 26-75. Seawalls and retaining walls generally.

(a) See the definitions in § 26-41 to understand the important distinctions between seawalls and retaining walls, and between natural and artificial water bodies.

(b) The town encourages owners of existing seawalls to replace them with riprap revetment and/or the planting of mangroves.

(c) Except as provided in this division, and where the director determines there is no reasonable alternative, seawalls and retaining walls must be placed landward of the mean high-water line and landward of all wetland vegetation, including mangrove prop roots and pneumatophores.

(d) Ordinary minor repairs to seawalls and retaining walls may be made in accordance with § 26-45(f). Replacement of seawall caps or repairs to seawall seams shall require the installation of a shallow swale or linear drain in accordance with § 26-76(a), but shall not require the installation of shallow-water habitats in accordance with § 26-76(b). Replacement of more than 25% of vertical seawall slabs shall require the installation of shallow-water habitats in accordance with § 26-76(b) for the entire length of the seawall or retaining wall.

Sec. 26-76. Seawalls and retaining walls along artificial water bodies.

(a) When a landowner wishes to build a new or replacement seawall or retaining wall along an artificial water body, it shall be constructed with a shallow swale or linear drain immediately landward of the wall's cap.

- (1) The purpose of this swale or drain is to direct surface water runoff underground rather than directly into the water body.
- (2) Figures 26-3, 26-4, and 26-5 show acceptable configurations for this swale or drain, and each also shows how it could be built in front of an existing failing seawall.
- (3) Each figure shows coarse aggregate forming a chamber to hold stormwater before it flows through weep holes in the seawall or retaining wall.
- (4) The director may accept an alternate configuration proposed by an applicant if it provides equivalent water quality protection.

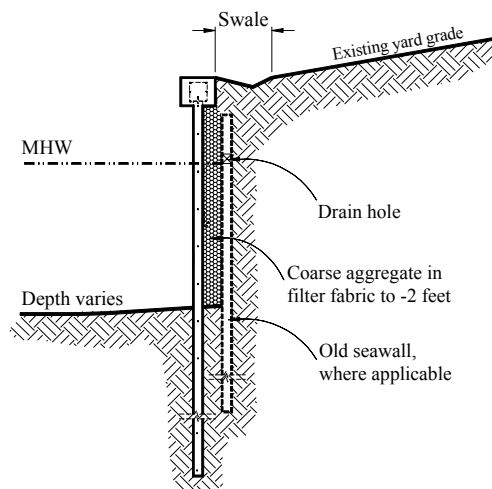


Figure 26-3

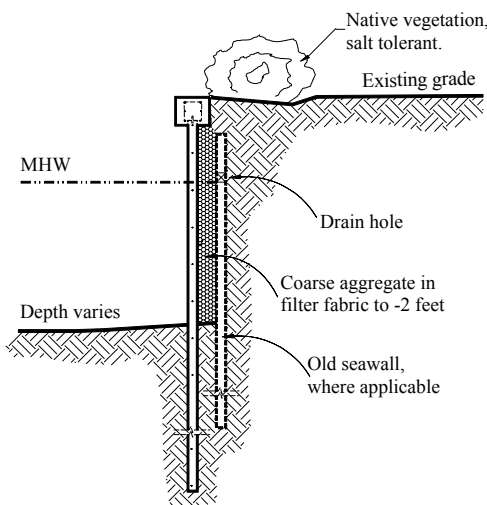


Figure 26-4

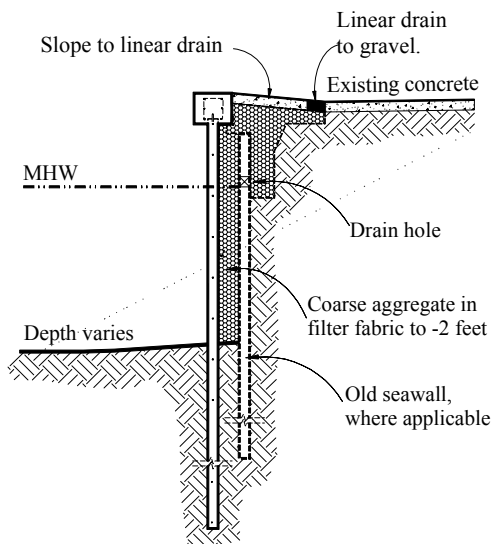


Figure 26-5

(b) When new or replacement seawalls are permitted in an artificial water body below the mean high-water line in accordance with § 26-75(c), shallow-water habitats must be created immediately seaward of the seawall.

- (1) Desirable foundations for shallow-water habitats are illustrated in Figures 26-6, 26-7, 26-8, 26-9, and 26-10.
- (2) Shallow-water habitats need not be created where they would interfere with identified watercraft tie-up areas but otherwise shall be placed along the entire length of seawalls including *underneath* docks.
- (3) The director may accept an alternate configuration proposed by an applicant provided that it provides equivalent habitat.

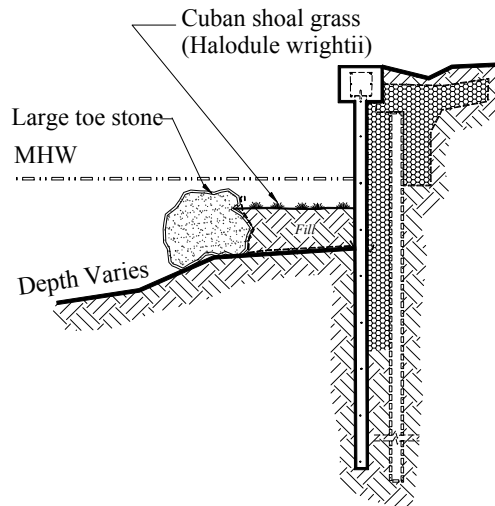


Figure 26-8

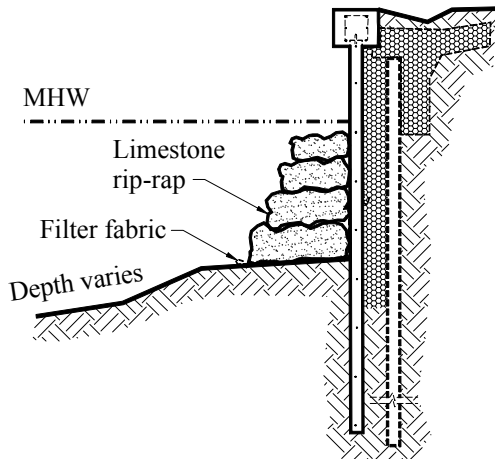


Figure 26-6

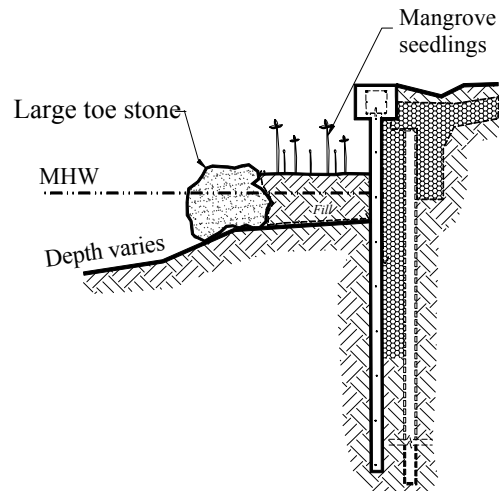


Figure 26-9

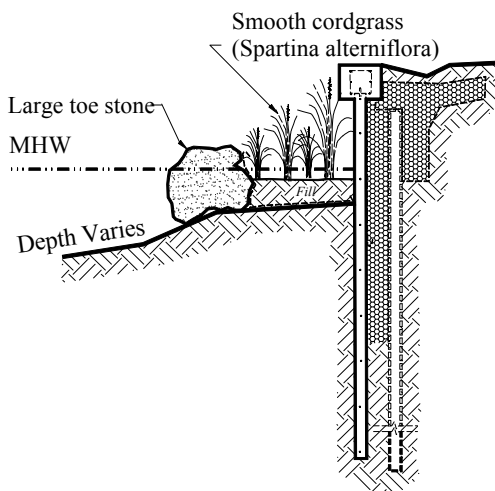


Figure 26-7

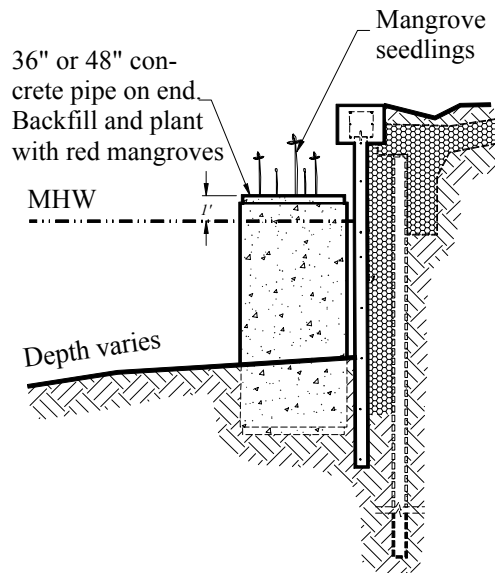


Figure 26-10

Sec. 26-77. Seawalls and retaining walls along natural water bodies.

(a) The Fort Myers Beach Comprehensive Plan, primarily through Policy 5-D-1, strictly regulates hardened structures along the natural shoreline.

(b) New or expanded seawalls are not allowed along natural water bodies. Retaining walls are permitted along natural water bodies, except along the Gulf of Mexico.

(c) Existing seawalls along natural water bodies other than the Gulf of Mexico may be maintained, but may not be rebuilt if one or more of the following conditions exists:

- (1) if buildback could cause excessive shoreline erosion or endanger shorelines of surrounding properties; or
- (2) if buildback could be a threat to public safety or could block access to state-owned land or beaches; or
- (3) if buildback would threaten wetlands; or
- (4) if buildback would be more than one foot waterward of the existing seawall alignment on adjacent shorelines.

If none of these four conditions exist and a replacement seawall is permitted, the replacement seawall must be constructed in the same manner as specified in § 26-76(a) and (b).

(d) Existing seawalls and retaining walls along the Gulf of Mexico may be maintained, but may not be rebuilt.

- (1) The town has established the following priorities to protect buildings along the Gulf of Mexico prior to publicly sponsored beach renourishment:
 - a. first, allow the building to be moved away from the shoreline;
 - b. second, allow emergency renourishment (including the use of trucked-in sand on the beach);
 - c. third, allow a temporary riprap revetment if the first two priorities are not possible.
- (2) Any use of other hardened surfaces or structures along the Gulf of Mexico is strongly discouraged by the Fort Myers Beach Comprehensive Plan and would require a specific variance from this article.

Sec. 26-78. Riprap revetment.

- (1) Riprap must be located and placed so as not to damage or interfere with the growth of wetland vegetation.
- (2) Material used for riprap should be sized properly for intended use and installed on top of filter fabric or equivalent material to prevent erosion of the subgrade.
- (3) Mangroves or other approved wetland vegetation must be planted 3 feet on center in compliance with § 26-76(c) for added shoreline stabilization and ecological benefit within the riprap. Other wetland mitigation techniques may be considered in lieu of vegetation planting. However, no vegetation planting is required for riprap revetments constructed in an artificial water body surrounded by uplands when the canal has a minimum of 50% of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls.

Sec. 26-79. Protection of vegetation during construction.

(a) *Specific permit conditions.* Conditions for the protection of shoreline vegetation can be placed on permits issued in accordance with this article. The conditions can include the method of designating and protecting mangroves to remain after construction, replacement planting for mangroves removed due to construction, and required removal of invasive exotic vegetation.

(b) *Mangrove removal.*

- (1) *Docks, fishing piers, and observation decks.* Mangrove removal necessary for access walkway construction is limited to the minimum extent necessary to gain access to the structure. To the greatest extent possible, the access must be located to:
 - a. use existing natural openings;
 - b. use areas infested with invasive exotic vegetation;
 - c. avoid larger mangroves; and
 - d. provide a maximum width of four feet and a maximum height of eight feet above the level of the walkway base.

(2) ***Seawalls, retaining walls, and riprap revetment.***

- a. Mangrove removal along natural water bodies is prohibited.
- b. Mangrove removal in artificial water bodies is prohibited for retaining walls and riprap revetments.
- c. Mangrove removal in artificial water bodies is permitted when such removal is unavoidable due to authorization of a seawall in accordance with § 26-75(c), and then only to the extent specifically indicated on the permit.

(c) ***Mangrove replacement and plantings.***

- (1) For each mangrove removed due to lawful construction, three mangroves must be replanted at an alternate location on the subject property. If planting on the subject property is not appropriate, alternative forms of mitigation, such as payment into a mitigation bank, may be allowed.
- (2) Mangrove plantings must be container grown, no less than one year old, eight inches in height, and have a guaranteed 80% survivability rate for at least a 5-year period. Mangrove plantings must be planted 3 feet on center. Mangrove replanting is required if the 80% survivability rate is not attained.

(d) ***Damage to vegetation.*** If there is damage to wetlands vegetation beyond that authorized by the permit within one year of the installation of a seawall, retaining wall, or revetment, the dead vegetation must be replaced at the property owner's expense with the double the plantings that would have been required in accordance with subsection (c).

Sec. 26-80. Turbidity.

(a) All structures must be placed so as to provide the least possible impact to aquatic or wetland vegetation.

(b) During work that will generate turbidity, turbidity screens must be installed and properly maintained until turbidity levels are reduced to normal (ambient) levels.

Sec. 26-81. Marina design and location

(a) Marina design, uses, and locations must be consistent with Policies 4-B-6, 4-B-7, and 5-E-7 of the Fort Myers Beach Comprehensive Plan and all portions of this code.

(b) Refer to ch. 10 and 34 for more detailed design, use, and locational requirements for marinas.

Sec. 26-82. Dredging, new and maintenance.

(a) ***Incidental dredging.*** Dredging that is incidental to construction allowed by this article may be approved on the same permit, provided that:

- (1) All dredging limits must be clearly defined;
- (2) Methods to control turbidity and dispose of dredging spoil must be indicated; and
- (3) The proposed dredging is determined by the director to be the minimum necessary to accommodate construction and reasonable use of the permitted structure.

(b) ***Channel dredging and beach renourishment.*** Town-sponsored projects involving maintenance dredging of canals or beach renourishment do not require a permit under this article, but must be approved in accordance with ch. 2, article VI. Privately sponsored dredging projects other than those specified in subsection (a) must obtain a permit under this article and a development order pursuant to ch. 10, and must be fully consistent with this code and the Fort Myers Beach Comprehensive Plan, including the habitat protection requirements of the conservation element.

Secs. 26-83--26-110. Reserved.

**ARTICLE III.
MARINE SANITATION ²**

Sec. 26-111. Purpose.

The purpose of this article is to protect the water quality and the health of the citizens of the town and county from pollution resulting from sewage and other waste or discharges from marine-related activities.

Sec. 26-112. Reserved.

Sec. 26-113. Reserved.

Sec. 26-114. Applicability of article.

(a) This article shall apply to waters of the incorporated area of the Town of Fort Myers Beach.

(b) This article shall be operative to the extent that it is not in conflict with F.S. ch. 327 or any other state or federal regulation.

Sec. 26-115. Discharge of waste material prohibited.

(a) It is unlawful for any person to discharge or permit or control or command to discharge any raw sewage, garbage, trash, or other waste material into the waters of the Town of Fort Myers Beach.

(b) Every vessel owner, operator, and occupant shall comply with United States Coast Guard regulations pertaining to marine sanitation devices and with United States Environmental Protection Agency regulations pertaining to areas in which the discharge of sewage, treated or untreated, is prohibited.

(c) The marine sanitation provisions found in F.S. § 327.53 apply to the waters of the Town of Fort Myers Beach and may be enforced through any of the methods provided by this code.

Sec. 26-116. Marina sanitation facilities.

(a) Any marina which provides mooring for boats for live-aboard purposes with installed onboard sewer systems which are not designed and approved for overboard discharge must have:

- (1) Public restrooms with facilities for sewage disposal and bathing; and
- (2) A sewage disposal system to which all live-aboard vessels can pump out, and such system must be approved by the county.

(b) All garbage shall be collected at least once a week and transported in covered vehicles or covered containers. Burning of refuse in the marina is prohibited.

² *Cross reference(s)*—Zoning regulations pertaining to marine facilities, § 34-1861 et seq.