
SPIKOWSKI PLANNING ASSOCIATES

1617 Hendry Street, Suite 416
Fort Myers, Florida 33901-2947

telephone: (239) 334-8866
fax: (239) 334-8878

e-mail: bill@spikowski.com
web site: www.spikowski.com

MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: November 3, 2003
SUBJECT: LAND DEVELOPMENT CODE, CH. 10 – LPA public hearing at noon on 11/18/03

SUMMARY OF CHAPTER 10

Chapter 10 is the final chapter of the Land Development Code to be updated to replace the code inherited from Lee County upon incorporation.

As with the previous chapters, these revisions include changes required by the comprehensive plan; editorial changes to make the text clearer and consistent with changes to other chapters; and other changes that have been adopted by Lee County since incorporation that are reasonable for the town. As before, the format is basically the same in order to make the code easy to use for those familiar with the existing code.

In the existing code, this chapter is called “Development Standards,” as its origin was in Lee County’s Development Standards Ordinance from 1982. That ordinance replaced the county’s previous subdivision regulations and added regulations for development of multifamily and commercial projects. Since that time, other regulations have been added to Chapter 10, mostly pertaining to land development that has already passed the rezoning stage and is now into the final stages of permitting.

The proposed revisions to Chapter 10, which are attached, would now be titled, "DEVELOPMENT ORDERS AND ENGINEERING STANDARDS" to more accurately describe the contents.

- Article I contains the definitions and general requirements for the entire chapter.
- Article II contains the procedures for obtaining development orders and plats (plats are required only when land is being subdivided). Development orders are the detailed approvals that authorize physical development of a site; they must be obtained prior to building permits for individual buildings. Some small development orders can be issued under a "limited review" process; at one time these were called "exemptions."
- Article III is called "Engineering and Environmental Standards" and contains the detailed standards that must be met in order to obtain a development order. The major divisions of Article III are as follows:
 - Division 2. **Transportation, Roadways, Streets, and Sidewalks.**
 - Division 3. **Surface Water Management.**
 - Division 4. **Utilities.**
 - Division 5. **Fire Safety.**
 - Division 6. **Open Space, Buffering, and Landscaping.** This division contains the most extensive revisions in Chapter 10; please review it carefully.
 - Division 7. **Public Transit.**
 - Division 8. **Protection of Habitat.**
 - Divisions 9 and 10, pertaining to the Six Mile Cypress Watershed and Lakes Regional Park Watershed, are being eliminated.
- Article IV is entirely new and contains the regulations required by the NPDES program (National Pollutant Discharge Elimination System). This program is organized like flood insurance, where local governments have to adopt the regulations but the content is dictated by the federal government. This program requires every local government to obtain a permit to operate its municipal drainage system, which at Fort Myers Beach means the system of roadside swales and their discharge points into tidal waters. In addition, local governments must adopt regulations governing stormwater discharges from certain types of private property including industrial operations and all construction sites.
- A final article in the existing code served as an appendix for detailed engineering standards. Many of these standards described the configuration of four and six lane highways and are obviously inapplicable to Fort Myers Beach. Other standards were for local streets, which are being deleted in favor of a reference to current standards for traditional neighborhood streets published by the Institute of Transportation Engineers. The remaining standards that are being retained have been moved to the appropriate sections of Chapter 10 rather than remaining at the end.

REVISIONS SINCE LPA WORKSHOP

Only minor changes have been made to Chapter 10 since the LPA held a workshop to review this chapter on September 16, 2003. The following chart identifies these changes.

| Page | Section | Summary of Change |
|-------------|----------------|--|
| 5 | § 10-1 | Reworded the definition of “cul-de-sac” |
| 11 | § 10-2(b) | Finalized the list of regulations in this chapter that also apply to activities that do not require a development order |
| 14 | § 10-8(9)c. | Added a new subsection on outdoor lighting that refers to the sea turtle lighting restrictions in Chapter 14 |
| 26 | § 10-154(6)f. | Revised the existing vegetation mapping requirement by adding a reference to “protected trees” |
| 29 | § 10-154(12) | Restored the requirement for a hazardous materials emergency plan for new and expanded marinas |
| 49 | § 10-296(k)(1) | Reworded the cul-de-sac requirement |
| 50/ 51 | § 10-296(o)(3) | Added language on driveway permits for private homes, delegating technical responsibility for the size and elevation of culverts in drainage swales to Lee County |
| 52 | § 10-321(a)(3) | Added a requirement to use porous paving materials for 50% of hard surfaces when small parcels are developed without on-site stormwater detention |
| 56 | § 10-353(b) | Added a new subsection establishing January 1, 2005, as the final date for removing all remaining septic tanks within the town |
| 75 | [footnote] | Updated cross-references in footnote |
| 79/ 83 | Table 10-10 | Added new references on sea turtles and bald eagles to Table 10–10; added additional plant species to Table 10-10 and corrected minor technical errors based on review by county environmental staff |

NEXT STEPS

After hearing from the public during the November 18 public hearing, the LPA will be asked to make a finding that this ordinance is consistent with the Fort Myers Beach Comprehensive Plan. The LPA can also make any other recommendations on its content to the Town Council.

The tentative schedule for adopting this ordinance is for it to be introduced to the Town Council on December 1, followed by two public hearings to be held on December 15 and January 5.

ORDINANCE No. 04-__

AN ORDINANCE AMENDING THE DEVELOPMENT STANDARDS CHAPTER (CHAPTER 10) OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; REPEALING CHAPTER 10 “DEVELOPMENT STANDARDS” OF THE TRANSITIONAL LAND DEVELOPMENT REGULATIONS; REPEALING APPENDIX H OF THE TRANSITIONAL LAND DEVELOPMENT REGULATIONS; ADOPTING A NEW CHAPTER 10 OF THE LAND DEVELOPMENT CODE ENTITLED “DEVELOPMENT ORDERS AND ENGINEERING STANDARDS” WHICH PROVIDES ARTICLE I IN GENERAL; ARTICLE II DEVELOPMENT ORDERS AND PLATS, DIVISION 1 GENERALLY, DIVISION 2 DEVELOPMENT ORDERS, DIVISION 3 LIMITED REVIEW PROCESS, DIVISION 4 INSPECTIONS AND CERTIFICATE OF COMPLIANCE, DIVISION 5 PLATS; ARTICLE III ENGINEERING AND ENVIRONMENTAL DESIGN STANDARDS, DIVISION 1 GENERALLY, DIVISION 2 TRANSPORTATION, ROADWAYS, STREETS, AND SIDEWALKS, DIVISION 3 SURFACE WATER MANAGEMENT, DIVISION 4 UTILITIES, DIVISION 5 FIRE SAFETY, DIVISION 6 OPEN SPACE, BUFFERING, AND LANDSCAPING, DIVISION 7 PUBLIC TRANSIT, DIVISION 8 PROTECTION OF HABITAT; ARTICLE IV STORMWATER DISCHARGES AND EROSION CONTROL (NPDES REQUIREMENTS); PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. REPEAL OF CHAPTER 10 “DEVELOPMENT STANDARDS” OF THE TRANSITIONAL LAND DEVELOPMENT REGULATIONS. By the authority of Section 15.08 (c) of the Town Charter, Chapters 10 of the transitional land development regulations are hereby repealed. Transitional Chapter 10 is entitled DEVELOPMENT STANDARDS and contains the following articles: Article I In General, Article II Administration, Article III Design Standards and Requirements, Article IV Illustrations, Tables, and Diagrams.

SECTION 3. REPEAL OF APPENDIX H OF THE TRANSITIONAL LAND DEVELOPMENT REGULATIONS. By the authority of Section 15.08 (c) of the Town Charter, APPENDIX H of the transitional land development regulations is hereby repealed. Transitional Appendix H was adopted by Fort Myers Beach Ordinance 96-20 as the Protected Species List.

SECTION 4. ADOPTION OF NEW CHAPTER 10 OF THE LAND DEVELOPMENT CODE. The new Chapter 10 of the Town of Fort Myers Beach land development code entitled “DEVELOPMENT ORDERS AND ENGINEERING STANDARDS” shall be as contained in the attached Exhibit A. Entirely new language is indicated with underlining. Language being repealed from the transitional land development regulations is indicated with strike-throughs. Language being readopted by this ordinance is neither underlined nor struck through. The new Chapter 10 contains the following articles, divisions, subdivisions, and sections:

ARTICLE I. IN GENERAL

- Sec. 10-1. Definitions and rules of construction.
- Sec. 10-2. Purpose of chapter.
- Sec. 10-3. Interpretation of chapter.
- Sec. 10-6. Enforcement of chapter; penalty.
- Sec. 10-7. General requirements.
- Sec. 10-8. Design goals.
- Sec. 10-9. Specific requirements.

ARTICLE II. DEVELOPMENT ORDERS AND PLATS

Division 1. Generally

Division 2. Development Orders

Subdivision I. In General

Subdivision II. Procedures

- Sec. 10-101. Applicability of requirements.
- Sec. 10-102. Employment of engineers and design consultants.
- Sec. 10-103. Prior zoning approvals for development order submittals.
- Sec. 10-104. Deviations and variances.
- Sec. 10-105. Preapplication meeting.
- Sec. 10-106. Revocation of existing development orders on granting of new development order.
- Sec. 10-107. Initiation of application; designation of representative.
- Sec. 10-108. Application procedure.
- Sec. 10-108.1 Payment of taxes.
- Sec. 10-109. Review procedure; action by director.
- Sec. 10-110. Resubmittal of application following denial.
- Sec. 10-111. Issuance of order; approval letter and stamping of drawings.
- Sec. 10-112. Appeals.
- Sec. 10-113. Recording of notice of development order.
- Sec. 10-114. Contents of development order.
- Sec. 10-115. Duration of development order.
- Sec. 10-116. Effect of approval of development order.
- Sec. 10-117. Phased projects.
- Sec. 10-118. Amendments generally.
- Sec. 10-119. Amendment to correct error or omission.
- Sec. 10-120. Minor changes.
- Sec. 10-121. Transfer.
- Sec. 10-122. Violation of development order.
- Sec. 10-123. Extensions.
- Sec. 10-124. Coordination of review.

Subdivision III. Submittals

- Sec. 10-151. Generally.
- Sec. 10-152. Requirement waiver.
- Sec. 10-153. Application form and contents.
- Sec. 10-154. Additional required submittals.

Division 3. Limited Review Process

- Sec. 10-171. Generally.
- Sec. 10-172. Legal effect of approval
- Sec. 10-173. General requirements for limited review process.
- Sec. 10-174. Types of development entitled to limited review.
- Sec. 10-175. Required submittals.
- Sec. 10-176. Appeals.

Division 4. Inspections and Certificate of Compliance

- Sec. 10-181. Inspection of improvements generally.
- Sec. 10-182. Inspection of work during construction.
- Sec. 10-183. Final inspection and certificate of compliance.

Division 5. Plats

- Sec. 10-211. Required.
- Sec. 10-212. Preparation and submission.
- Sec. 10-213. Technical requirements.
- Sec. 10-214. Contents.
- Sec. 10-215. Waiver of requirements.
- Sec. 10-216. Monuments.
- Sec. 10-217. Lot recombinations.
- Sec. 10-218. Noncompliance of individual lots.

ARTICLE III. ENGINEERING AND ENVIRONMENTAL DESIGN STANDARDS

Division 1. Generally

- Sec. 10-251. Applicability.
- Sec. 10-252. General design standards.
- Sec. 10-253. Consideration of flood hazards.
- Sec. 10-254. Street names.
- Sec. 10-255. Placement of structures in easements.
- Sec. 10-256. Off-street parking and loading requirements.
- Sec. 10-257. Refuse disposal facilities.

Division 2. Transportation, Roadways, Streets, and Sidewalks

- Sec. 10-285. Connection separation.
- Sec. 10-286. Traffic impact statements.
- Sec. 10-287. Traffic impact mitigation plan.
- Sec. 10-288. Turn lanes.
- Sec. 10-289. Sidewalks.
- Sec. 10-290. Local streets.
- Sec. 10-291. Access to street required.
- Sec. 10-292. Public streets to connect to existing public street.
- Sec. 10-293. Private streets.
- Sec. 10-294. Continuation of existing street pattern.
- Sec. 10-295. Street stubs to adjoining property.
- Sec. 10-296. Street design and construction standards.

Division 3. Surface Water Management

- Sec. 10-321. Generally.
- Sec. 10-322. Roadside swales.
- Sec. 10-323. Rear lot line swales and ditches.
- Sec. 10-324. Open channels and outfall ditches.
- Sec. 10-325. Reserved.

- Sec. 10-326. Inlet spacing.
- Sec. 10-327. Dedication of drainage system; maintenance covenant.
- Sec. 10-329. Excavations.

Division 4. Utilities

- Sec. 10-351. Generally.
- Sec. 10-352. Connection to potable water system.
- Sec. 10-353. Connection to sanitary sewer system.
- Sec. 10-354. Connection to reuse water system.
- Sec. 10-355. Easements; location of water and sewer lines.
- Sec. 10-357. Inspection of water and sewer systems; piping materials.

Division 5. Fire Safety

- Sec. 10-381. Generally.
- Sec. 10-383. Variances.
- Sec. 10-384. Minimum standards for all developments.
- Sec. 10-385. Design standards.

Division 6. Open Space, Buffering, and Landscaping

- Sec. 10-412. Definitions.
- Sec. 10-413. Major indigenous plant communities of the town.
- Sec. 10-414. Landscape and irrigation submittals.
- Sec. 10-415. Open space .
- Sec. 10-416. Landscaping standards.
- Sec. 10-417. Irrigation standards.
- Sec. 10-419. Alternate landscape betterment plans.
- Sec. 10-420. Plant material standards.
- Sec. 10-421. Plant installation and maintenance standards.
- Sec. 10-422. Landscape certificate of compliance.
- Sec. 10-423. Restoration standards for native vegetation removed without approval.

Division 7. Public Transit

- Sec. 10-441. Applicability of division.
- Sec. 10-442. Required facilities.
- Sec. 10-443. Exceptions.

Division 8. Protection of Habitat

- Sec. 10-471. Purpose of division.
- Sec. 10-472. Definitions.
- Sec. 10-473. Development application requirements.
- Sec. 10-474. Management plan.
- Sec. 10-475. Off-site mitigation.

ARTICLE IV. STORMWATER DISCHARGES AND EROSION CONTROL (NPDES REQUIREMENTS)

- Sec. 10-601. Purpose and intent.
- Sec. 10-602. Applicability.
- Sec. 10-603. Prohibitions.
- Sec. 10-604. Exemptions.
- Sec. 10-605. Definitions.
- Sec. 10-606. Construction sites.
- Sec. 10-607. Stormwater pollution prevention plan (SWP3) criteria.
- Sec. 10-608. Enforcement.

SECTION 5. 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 for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way shall affect the validity of all other provisions of this ordinance.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

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

| | |
|------------------------|-------|
| Howard Rynearson | _____ |
| Daniel Hughes | _____ |
| Bill Thomas | _____ |
| W. H. "Bill" Van Duzer | _____ |
| Terry Cain | _____ |

DULY PASSED AND ENACTED this ____ day of _____, 2004.

ATTEST:

TOWN OF FORT MYERS BEACH

By: _____
Marsha Segal-George, Town Clerk

By: _____
Daniel Hughes, Mayor

Approved as to form by:

Richard V.S. Roosa, Town Attorney