

FORT MYERS BEACH LAND DEVELOPMENT CODE

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**ARTICLE I. PROPERTY
MAINTENANCE CODES**

**DIVISION 1.
MAINTENANCE CODE**

Sec. 6-1. Purpose.

(a) The purpose of this division is to protect the comfort, health, repose, safety, and general welfare of residents of the Town of Fort Myers Beach by:

- (1) establishing minimum property and building maintenance standards; and
- (2) providing for the abatement of nuisances affecting the general public.

(b) The maintenance and nuisance standards in this division are supplementary to standards that are found in other portions of this code and in other ordinances adopted by the Town of Fort Myers Beach.

Sec. 6-2. Exterior surfaces of buildings.

(a) All building walls and roofs shall be maintained in a secure and attractive manner. Deteriorated structural and decorative elements of any building wall or roof shall be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the building.

(b) All exterior surfaces other than decay-resistant wood and other weather durable finishes shall be protected from the elements by paint or other protective covering applied according to manufacturers' specifications. Loose material, including peeling paint, shall be removed and replaced.

(c) Doors and windows shall be maintained as follows:

- (1) All doors and windows shall be secured in a tight-fitting and weatherproof manner.
- (2) Sashes with rotten wood must be repaired or replaced.

(d) Ground level storefront windows facing a public right-of-way shall be maintained in an unbroken and clean state.

- (1) No window facing a public right-of-way shall be removed, enclosed, or covered, except that damaged windows may be boarded up for a reasonable temporary period while repairs are being arranged. Any building renovations approved under this code must treat such windows as an integral part of the building facade.
- (2) All awnings or canopies facing or visible from the public right-of-way shall be maintained in good condition. Torn or loose awnings shall be promptly repaired or replaced.

(e) All roofs shall be maintained in a secure and watertight condition.

(f) 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.

Sec. 6-3. Exterior storage.

(a) No temporary or permanent storage of materials or equipment shall be allowed on any vacant parcel except in compliance with the regulations for the use of such property as set forth in ch. 34 of this code, or in conjunction with an active building permit.

(b) Equipment, materials, and furnishing not designed for use outdoors, such as automotive parts and tires, building materials, and interior furniture, may not be stored outdoors.

(c) Nuisance accumulations of trash or abandoned property are regulated by Fort Myers Beach Ordinance No. 97-11.

Sec. 6-4. Public rights-of-way and sidewalks.

(a) Landowners shall maintain in a clean condition adjoining sidewalks and public rights-of-way that, because of their location and character, appear or are used as if they are an extension of the parcel of land. The landowner shall, at a minimum:

- (1) keep such sidewalks and rights-of-way clear of litter, debris, and weeds;

- (2) maintain trees and shrubs to allow a vertical clearance of at least 7 feet above any sidewalk; and
- (3) regularly mow or otherwise maintain unpaved areas in a neat and attractive condition.

(b) The display on public property of vehicles for sale, rent, or hire is regulated by Fort Myers Beach Ordinance No. 96-16.

(c) Parking on public rights-of way is regulated by Fort Myers Beach Ordinance No. 96-16.

Sec. 6-5. Nuisances.

(a) No person owning, leasing, operating, or having control of any premises with the town shall maintain, keep, or permit any nuisance as described in this section.

(b) The existence of any of the following conditions or conduct is hereby declared to constitute a public nuisance:

- (1) A condition or use that causes a substantial diminution of value of property in the vicinity of the condition or use.
- (2) Buildings that are abandoned.
- (3) Buildings that are boarded up, except when placed for temporary hurricane protection and removed within 30 days.
- (4) Buildings that are partially destroyed and not rebuilt within a reasonable temporary period while repairs are being arranged,
- (5) Partially constructed buildings that are not completed within a customary construction period or for which building permits have expired.
- (6) Any attractive nuisance dangerous to children such as excavations, untended and unfenced swimming pools, or abandoned or broken equipment or machinery.
- (7) Overt blocking of drainage swales or pipes so as to cause flooding or adversely affect surrounding property.
- (8) Excessive or untended accumulations of debris or trash, including scattered trash and litter that remains on commercial parking lots for a period longer than 24 hours. See also Fort Myers Beach Ordinance No. 97-11.

- (9) Outdoor storage on private property of boats or motor vehicles which are not affixed with a current registration decal.
- (10) Any other condition or use that constitutes a nuisance to the public which is continually or repeatedly maintained, the abatement of which would be in the best interest of the health, safety, and welfare of residents of the town.

Sec. 6-6. Inoperative vehicles on public property.

(a) The keeping, storing, or parking of an inoperative vehicle on any public property, including public streets and rights-of-way, is hereby declared to be a nuisance. It shall be unlawful for any person to allow any inoperative vehicle to remain on public property. The notice and removal procedures set forth in F.S. §§705.105 through 705.104 may be used by town and law enforcement personnel.

(b) If a vehicle becomes disabled while on public property, it shall be removed within 24 hours.

Sec. 6-7. Noise.

Unreasonable levels of noise are regulated by Fort Myers Beach Ordinance No. 96-24.

Sec. 6-8. Required landscaping, buffers, and native vegetation.

Any landscaping, buffers, and native vegetation planted or preserved in accordance with a development order or rezoning approval shall be maintained in at least the same condition as required for the original installation or preservation. Ch. 10 of this code describes the current plant maintenance standards.

Sec. 6-9. Lot mowing.

Grass and weeds in excess of 16 inches in height are regulated by Fort Myers Beach Ordinance No. 96-13.

Sec. 6-10. Building numbers.

(a) Every building in the town shall continuously display the building number assigned to it by Lee County so that the building can be readily identified from the street by emergency personnel.

(b) Posted building numbers shall be at least 3 inches high. Numbers on commercial, institutional, or multifamily buildings that are set back more than 50 feet from the street shall be at least 8 inches high. Building numbers shall be in a color that contrasts with the immediate background and must be clearly visible from the adjoining street.

Sec. 6-11. Refuse containers.

(a) Refuse containers shall not be moved to the street more than 24 hours prior to scheduled curbside collections nor remain there more than 24 hours after scheduled collections.

(b) Any refuse containers that are not movable in accordance with subsection (a) shall be opaquely screened from view from streets and adjoining properties, This screening may be achieved by landscaping or by virtue of the location of the container on the site. Screening may also be achieved by walls or opaque fencing provided the wall or fence does not exceed the maximum height permitted for that location (see § 34-1171 et seq.). If the nonmovable refuse container would be visible above the allowable height, it must be replaced with a shorter container.

Sec. 6-12–6-30. 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, referenced by the standard codes adopted herein, shall be appointed by the town manager. The designated officials shall carry out the duties enumerated in the standard 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 following chapters and sections of the 1997 Standard Building Code, as published by 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 104.1.1 is amended to read as follows:

104.1.1. When required.

Any owner, authorized agent, lessee, tenant or contractor or any other person using the land, building or premises who desires to construct, enlarge, alter, repair, move, demolish, change or upgrade the occupancy of a building or structure as per section 3401.2.1, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the technical codes, or to construct a sign of any description, or to install or alter fire extinguishing apparatus, elevators, engines, or to install a steam boiler, furnace, heater, incinerator or other heat-producing apparatus or other appurtenances, or to cause any such work to be done, shall first make application to the building official and obtain the required permit for the proposed work.

Exception: Permits shall not be required for the following mechanical work:

- (a) Any portable heating appliances;
- (b) Any portable ventilation equipment;
- (c) Any portable cooling unit;
- (d) Any steam, hot or chilled water piping within any heating or cooling equipment regulated by this code;
- (e) Replacement of any part which does not alter its approval or make it unsafe;
- (f) Any portable evaporative cooler;
- (g) Any self-contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

Section 104.1.4 is amended to add the following:

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 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:

The building official shall take all actions necessary to process an application for a permit with plans as filed, or as amended, without unreasonable or unnecessary delay. All plans reviewed which are approved by the building official or his designee are a best effort in good faith by the town in determining compliance of the plans with all applicable codes, ordinances, rules or regulations. Any failure on the part of the town to ascertain violations of any applicable codes, ordinances, rules or regulations on the approved plans shall not exonerate the contractor, builder and/or owner for their failure to comply with any and all codes, ordinances, rules or regulations.

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.

The first inspection required by the permit shall be made 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.

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 104.7.2, relating to work commencing before permit issuance, is amended to read as follows:

104.7.2. Work commencing before permit Issuance.

If any person commences any work on a building or structure before obtaining the necessary permit, he shall be subject to a penalty of double the permit fees, unless the work in question is emergency work, as defined herein.

Emergency work may be done without a permit and without penalty, provided that the necessary permits are obtained after the fact: (1) in a timely manner, (2) permit fees are paid, and (3) the work done meets all code requirements and passes inspection. For purposes of this section, emergency work shall be defined, from time to time hereafter, by the building official, who will also establish standards for determining the timeliness of after-the-fact permitting compliance. Emergency work which fails to pass inspection shall be corrected or removed immediately upon the direction of the building official.

Section 106.1.2, relating to issuing certificate of occupancy, is amended to read as follows:

Upon satisfactory completion of construction of a building or structure and installation of electrical, gas, mechanical and plumbing systems in accordance with the technical codes, approved plans and specifications; obtaining the certificate of completion as required by section 106, if applicable; and paying the garbage assessment if required by Lee County Ordinance No. 95-08 , as may be amended; and after the final inspection herein referred to, and upon application therefor, the building official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of this code.

Section 108, relating to the construction 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.

The following definitions are added:

Farm. For the purposes of this code, the term “farm” shall mean property on which crops are grown or livestock is raised for commercial purposes. A farm does not include the family garden or family pets.

Valid inspection. For the purposes of this code, the term “valid inspection” shall mean an inspection of the structural, roofing, mechanical, electrical or plumbing components of a building by a building department inspector and verification by the inspector that such components comply with the requirements of the applicable codes.

Chapter 3, Occupancy Classification.

Chapter 4, Special Occupancy.

Chapter 5, General Building Limitations.

Chapter 6, Construction Types.

Chapter 7, Fire Resistant Materials and Construction.

Chapter 8, Interior Finishes.

Chapter 9, Fire Protection Systems.

Chapter 10, Means of Egress.

Section 1005.2 is amended to read as follows:

1005.2. Dead-end pockets or hallways.

Exits and exit access will be so arranged that dead end pockets or hallways in excess of 20 feet long do not occur. An exception to this requirement may be administratively approved by the building official for group A, B, F, M and S building classifications to allow dead end pockets or hallways of up to 50 feet, if the facility is sprinklered and egress lighting that is no more than one foot above the floor, is provided. Such administrative approval will be granted when, in the opinion of the building official, deviation from the standard provides an equivalent degree of lifesafety and an equivalent method of construction.

For purposes of this section, “egress lighting” means and refers to lighting which will provide a visible delineation of the path of travel along the designated exit access in an essentially continuous manner, allowing for interruption by doorways, hallways, corridors and other similar architectural features. The lighting system must act continuously or at any time the building fire alarm system is activated. Egress lighting must provide illumination for a period of 1½ hours after failure of normal lighting. Initial emergency illumination must average no less than 1.0 footcandle and decline to no less than an average

of 0.6 footcandle at the end of the stated emergency period. See N.F.P.A. 101 chapter 5 for additional guidance.

Chapter 11, Accessibility for People With Physical Disabilities is deleted, and replaced by the 1997 Florida Accessibility Code for Building Construction (see F.S. ch. 553, pt. V, Accessibility By Handicapped Persons).

Chapter 12, Interior Environment.

Section 1203, relating to light and ventilation, is amended as follows:

1203.1. Minimum requirements.

1203.1.1 Every residential occupancy which is to be constructed, and which does not have a central air conditioning system, shall have screens on all exterior openable windows and shall have a screen door with a self-closing device on all exit doors except for the main entrance door.

Section 1203.6 is amended to add the following:

1203.6 Heating facilities.

- (1) Every residential occupancy which is to be constructed shall have heating facilities which are installed in accordance with these codes. Such heating facilities shall be maintained in safe and good working condition and shall be capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least 70 degrees at a distance of three feet above floor level under ordinary minimum winter conditions, or
- (2) Where a central heating system is not provided, each dwelling unit shall be provided with facilities whereby heating appliances may be connected.
- (3) Unvented fuel-burning heaters shall be prohibited except for gas heaters listed for unvented use and the total input rating of the unvented heater is less than 30 BTU’s per hour per cubic foot of room volume. Unvented fuel-burning heaters shall be prohibited in bedrooms and sleeping areas.

Chapter 13, Energy Conservation is deleted, and replaced by the 1997 Florida Energy Efficiency Code for Building Construction (see F.S. ch. 553, pt. VIII, Thermal Efficiency Standards).

Chapter 14, Exterior Wall Coverings.

Chapter 15, Roof and Roof Structures.

The following new subsections are hereby added:

1503.4.1.5 – Any sheathing exposed or replaced during reroofing will be fastened in

accordance with standard building code Table 2306.1, or verified by the owner or roofing contractor to be fastened in compliance already.

1504.1.7 – Use of square head caphead nails for underlayment is prohibited.

1504.1.8 – Other sections of this code notwithstanding, use of staples for asphalt shingle attachment is hereby prohibited.

Chapter 16, Structural Loads.

Section 1606, Wind loads: structures must be designed using a fastest-mile wind speed of 110 miles per hour.

Chapter 17, Structural Tests and Inspections.

Chapter 18, Foundations and Retaining Walls.

Chapter 19, Concrete.

Chapter 20, Light Metal Alloys.

Chapter 21, Masonry.

Chapter 22, Steel.

Chapter 23, Wood.

Chapter 24, Glass and Glazing.

Chapter 25, Gypsum Board and Plaster.

Chapter 26, Plastic.

Chapter 27, Electrical Systems.

Chapter 28, Mechanical Systems.

Chapter 29, Plumbing Systems.

Chapter 30, Elevators and Conveying Systems.

Chapter 31, Special Construction.

Chapter 32, Construction in the Public Right of Way.

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.

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.

Chapter 35, Reference Standards.

Appendix A, Weights of Building Materials.

Appendix B, Recommended Schedule of Permit

Fees, is deleted in its entirety and replaced with user fees and charges as referenced in Lee County Administrative Code 3-10, Appendix C (external fees and charges manual).

Appendix C, One and Two Family Dwellings is deleted in its entirety.

Appendix D, Standards for Demolition.

Appendix E, Energy Conservation is deleted, and replaced by the 1997 Florida Energy Efficiency Code for Building Construction (see F.S. ch. 553, pt. VIII, Thermal Efficiency Standards).

Appendix F, Fire District.

Appendix G, Adobe Construction.

Appendix H, Manufactured Homes Tie Down Standards.

Secs. 6-112--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 Standard 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--6-130. Reserved.

DIVISION 5. PLUMBING CODE

Sec. 6-131. Adoption; amendments.

The following chapters and sections of the 1994 Standard Plumbing 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 1, Administration.

Section 104.1.3, relating to minor repairs, is amended to read as follows:

104.1.3. Minor repairs.

Ordinary minor repairs or routine maintenance may be made without a permit, provided that such repairs shall not violate any of the provisions of this code. For purposes of this section, "ordinary minor repairs" include unstopping of sewers, repair of leaks, replacement of common household plumbing fixtures to existing supply lines and outlets, and any other repairs defined as such by the building official, but shall not include any alterations or extensions to existing supply, drain, vent or similar piping.

Section 104.7.2, relating to work commencing before permit issuance, is amended to read as follows:

104.7.2. Work commencing before permit issuance.

If any person commences any work on plumbing before obtaining the necessary permit, he shall be subject to a penalty of double the permit fees, unless the work in question is emergency work, as defined herein.

Emergency work may be done without a permit and without penalty, provided that the necessary permits are obtained after the fact: (1) in a timely manner, (2) permit fees are paid, and (3) the work done meets all code requirements and passes inspection. For purposes of this section, emergency work shall be defined, from time to time hereafter, by the building official, who will also establish standards for determining the timeliness of after-the-fact permitting compliance. Emergency work which fails to pass inspection shall be corrected or removed immediately upon direction of the building official.

Section 108, relating to the plumbing board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's plumbing board of adjustment and appeals found in division 2 of this chapter and article.

Chapter 2, Definitions.

Chapter 3, General Regulations.

Chapter 4, Plumbing Fixtures.

Chapter 5, Water Heaters.

Chapter 6, Water Supply and Distribution.

Section 611.2 relating to materials above ground is amended to read as follows:

611.2 Materials above ground.

Materials for water distribution pipes and tubing shall be brass, copper water tube minimum type L, stainless steel water tube minimum Grade H, cast iron pressure pipe, galvanized steel, chlorinated polyvinyl chloride (CPVC), polybutylene (PB) or cross-linked polyethylene (PEX) plastic pipe or tubing, all to be installed with approved fittings; except that changes in direction in copper tube (ASTM B 88) may be made with bends having a radius of not less than four diameters of the tube, providing that such bends are made by use of forming equipment which does not deform or create a loss in cross-sectional area of the tube.

Section 611.3 relating to materials below ground is amended to read as follows:

611.3 Materials below ground.

Inaccessible water distribution piping under slabs must be copper water tube minimum type L, brass, cast iron pressure pipe, galvanized steel pipe, chlorinated polyvinyl chloride (CPVC), polybutylene (PB) or cross-linked polyethylene (PEX) plastic pipe or tubing, all to be installed with approved fittings or bends. Any material subject to corrosion must be protected when used in corrosive soils.

Chapter 7, Sanitary Drainage.

Chapter 8, Indirect and Special Wastes.

Chapter 9, Vents.

Chapter 10, Traps.

Chapter 11, Storm Drainage.

Chapter 12, Fuel Piping.

Chapter 13, Special Piping and Storage Systems.

Chapter 14, Reference Standards.

Appendix A, Roof Drain Sizing Method.

Appendix B, Travel Trailers and Travel Trailer Parks.

- Appendix C, Manufactured Homes and Manufactured Home Parks.**
 - Appendix D, Cross Connection, Backflow and Back-Siphonage.**
 - Appendix E, Private Sewage Disposal.**
 - Appendix F, Sizing of Water Piping System.**
 - Appendix G, Hospital Plumbing Systems.**
 - Appendix H, Recommended Schedule of Permit Fees,** is deleted in its entirety and replaced with user fees and charges as referenced in Lee County Administrative Code 3-10, Appendix C (external fees and charges manual).
 - Appendix I, Installation of Building Sewers.**
 - Appendix J, Illustrations.**
- Secs. 6-132--6-150. Reserved.**

DIVISION 6. MECHANICAL CODE

Sec. 6-151. Adoption; amendments.

The following chapters and sections of the 1997 Standard Mechanical 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 1, Administration.

Section 104.1.3, relating to minor repairs, is amended to read as follows:

104.1.3. Minor repairs.

Ordinary minor repairs or routine maintenance may be made without a permit, provided that such repairs shall not violate any of the provisions of this code. For purposes of this section, "ordinary minor repairs" include installation or replacement of portable heating, ventilating, and cooling units; or any self-contained refrigeration system that is actuated by a motor of 1 horsepower or less; or any other repairs defined as such by the building official.

Section 104.7.2, relating to work commencing before permit issuance, is amended to read as follows:

Section 104.7.2. Work commencing before permit issuance.

If any person commences any work on a mechanical system before obtaining the necessary permit, he shall be subject to a penalty of double

the permit fees, unless the work in question is emergency work, as defined herein.

Emergency work may be done without a permit and without penalty, provided that the necessary permits are obtained after the fact: (1) in a timely manner, (2) permit fees are paid, and (3) the work done meets all code requirements and passes inspection. For purposes of this section, emergency work shall be defined, from time to time hereafter, by the building official, who will also establish standards for determining the timeliness of after-the-fact permitting compliance. Emergency work which fails to pass inspection shall be corrected or removed immediately upon direction of the building official.

Section 108, relating to the mechanical board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to Lee County's mechanical board of adjustment and appeals found in division 2 of this chapter and article.

Chapter 2, Definitions.

Chapter 3, General Requirements.

Chapter 4, Ventilation Air Supply.

Chapter 5, Exhaust Systems.

Chapter 6, Duct Systems.

Chapter 7, Combustion Air.

Chapter 8, Chimneys and Vents.

Chapter 9, Special Fuel-Burning Equipment

Chapter 10, Boilers/Water Heaters.

Chapter 11, Refrigeration.

Chapter 12, Hydronic Piping.

Chapter 13, Fuel Gas Piping.

Chapter 14, Special Piping and Storage Systems.

Chapter 15, Solar Systems.

Chapter 16, Reference Standards.

Appendix A, Guidelines for Estimating Heat

Loss and Gain, is deleted in its entirety.

Appendix B, Recommended Schedule of Permit

Fees, is deleted in its entirety and replaced with user fees and charges as referenced in Lee County Administrative Code 3-10, Appendix C (external fees and charges manual).

Appendix C, Procedures for Determining Thermal Resistance (R) Valves for Air

Distribution Ducts and Plenums, is deleted in its entirety.

Secs. 6-152--6-170. Reserved.

DIVISION 7. GAS CODE

Sec. 6-171. Adoption; amendments.

The following chapters and sections of the 1997 Standard Gas 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 1, Administration.

Section 104.1.3, relating to minor repairs, is amended to read as follows:

104.1.3. Minor repairs.

Ordinary minor repairs or routine maintenance may be made without a permit, provided that such repairs shall not violate any of the provisions of this code. For purposes of this section, "ordinary minor repairs" include installation and replacement of common household fixtures to existing supply lines and venting systems and any other repairs defined as such by the building official, but shall not include any alterations or extensions to existing supply lines and venting systems.

Section 104.7.2, relating to work commencing before permit issuance, is amended to read as follows:

Section 104.7.2. Work commencing before permit issuance.

If any person commences any work on a gas system before obtaining the necessary permit, he shall be subject to a penalty of double the permit fees, unless the work in question is emergency work, as defined herein.

Emergency work may be done without a permit and without penalty, provided that the necessary permits are obtained after the fact: (1) in a timely manner, (2) permit fees are paid, and (3) the work done meets all code requirements and passes inspection. For purposes of this section, emergency work shall be defined, from time to time hereafter, by the building official, who will also establish standards for determining the timeliness of after-the-fact permitting compliance. Emergency work which fails to pass inspection shall be corrected or removed immediately upon direction of the building official.

Section 108, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures

set forth for 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.

Chapter 3, Gas Piping Installations.

Chapter 4, Appliance Installation.

Chapter 5, Installation Requirements for Specific Appliances.

Chapter 6, Venting of Appliances.

Chapter 7, Placing Appliance in Operation.

Chapter 8, Gas Equipment in Unlisted Boilers.

Chapter 9, Installation Requirements for Undiluted Liquefied Petroleum Gases (Butane and Propane).

Chapter 10, 2-PSI Gas Piping.

Chapter 11, Reference Standards.

Appendix A, Flow of Gas Through Fixed Orifices.

Appendix B, Recommended Schedule of Permit Fees, is deleted in its entirety and replaced with user fees and charges as referenced in Lee County Administrative Code 3-10, Appendix C (external fees and charges manual).

Appendix C is deleted in its entirety.

Appendix D, Example Problems.

Appendix E, 5-PSI Gas Sizing.

Secs. 6-172--6-190. Reserved.

DIVISION 8. ELECTRICAL CODE**Sec. 6-191. Adoption; amendments.**

(a) The following chapters and sections of the 1999 National Electrical Code, NFPA 70, as published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, are hereby adopted by reference and made part of this article, with the exceptions set forth as follows:

Chapter 1, General.

Chapter 2, Wiring and Protection.

Chapter 3, Wiring Methods and Materials.

Chapter 4, Equipment for General Use.

Chapter 5, Special Occupancies.

Chapter 6, Special Equipment.

Chapter 7, Special Conditions.

Chapter 8, Communications Systems.

Chapter 9, Tables and Examples.

(b) The current editions of the following standards, as provided in F.S. § 553.19, are hereby adopted and made part of this division as follows:

- (1) Underwriters' Laboratories, Inc., standards:
 - a. Fluorescent Lighting Fixtures, UL 1570;
 - b. Incandescent Lighting Fixtures, UL 1571;
 - c. High-Intensity Discharge Lighting Fixtures, UL 1572; and
 - d. Electric Lamps, UL 153.
- (2) Underwriters' Laboratories, Inc., standard for Electric Signs, UL 48.
- (3) The provisions of NFPA No. 99, Health Care Facilities which prescribe minimum electrical standards.
- (4) Chapter 59A-4 of the rules and regulations of the state department of health, entitled "Minimum Standards for Nursing Homes."

Sec. 6-192. Appeals and variances.

Appeals and variances to this code shall be handled in accordance with the procedures set forth for delegation of authority to Lee County's construction board of adjustment and appeals found in division 2 of this chapter and article.

Secs. 6-193--6-210. Reserved.**DIVISION 9. FIRE CODES****Sec. 6-211. Applicability.**

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

Sec. 6-212. Purpose.

The purpose of this article is to provide regulations intended to act in conjunction with the Standard Building Code and to be consistent with nationally recognized practices for the reasonable protection of life and property from the hazards of fire and explosion due to storage, use or handling of hazardous materials, substances and devices, and to minimize hazards to life and property due to fire and panic.

Sec. 6-213. Uniform fire safety rules and standards.

All new, existing, and proposed hospitals, nursing homes, assisted living facilities, public schools, transient public lodging establishments, public food service establishments, elevators, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, and self-service gas stations are subject to Uniform Fire Safety Standards in accordance with F.S. § 633.022 and F.A.C. § 4A-1 et seq. and will be regulated as therein provided. For purposes of this section, the state fire marshal will be the final administrative authority. Uniform Fire Safety Rules and Standards are adopted by the division of the state fire marshal department of insurance from time to time. The rules and standards will be considered controlling for purposes of enforcement of this section.

Sec. 6-214. Standard fire prevention code.

The 1994 edition of the Standard Fire Prevention Code as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, is hereby adopted in its entirety by reference and incorporated herein, with the following specific exceptions:

(1) Exceptions to Chapter 1.

- a. Section 101.3.1 relating to applicability is amended as follows:
 The provisions of this code will apply to the repair, equipment, maintenance, use and occupancy of every new and existing building or structure or any new or existing appurtenances connected or attached to such buildings or structures. Any specific requirements will take precedence over the general provisions.
- b. Delete section 105, board of adjustment and appeals, and replace with 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.

(2) Exceptions to Chapter 3. Delete N.F.P.A. standards and replace with the following N.F.P.A. standards: The N.F.P.A. standards referenced below will be considered part of this section as though fully set forth herein. Compliance with these standards is required unless the fire official determines otherwise.

- N.F.P.A. 10-1990, Portable Fire Extinguishers.
- N.F.P.A. 11-1994, Low Expansion Foam.
- N.F.P.A. 11A-1994, Medium and High Expansion Foam Systems.
- N.F.P.A. 11C-1990, Mobile Foam Apparatus.
- N.F.P.A. 12-1993, Carbon Dioxide Extinguishing Systems.
- N.F.P.A. 12A-1992, Halon 1301 Fire Extinguishing Systems.
- N.F.P.A. 12B-1990, Halon 1211 Fire Extinguishing Systems.
- N.F.P.A. 13-1994, Installation of Sprinkler Systems.
- N.F.P.A. 13D-1994, Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes.
- N.F.P.A. 13R-1994, Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height.
- N.F.P.A. 14-1993, Installation of Standpipe and Hose Systems.
- N.F.P.A. 15-1990, Water Spray Fixed Systems.
- N.F.P.A. 16-1991, Installation of Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems.
- N.F.P.A. 16A-1994, Installation of Closed-Head Foam-Water Sprinkler Systems.
- N.F.P.A. 17-1990, Dry Chemical Extinguishing Systems.
- N.F.P.A. 17A-1990, Wet Chemical Extinguishing Systems.
- N.F.P.A. 18-1990, Wetting Agents.

- N.F.P.A. 20-1993, Installation of Centrifugal Fire Pumps.
- N.F.P.A. 22-1993, Water Tanks for Private Fire Protection.
- N.F.P.A. 24-1992, Installation of Private Fire Service Mains and Their Appurtenances.
- N.F.P.A. 25-1992, Water-Based Fire Protection Systems.
- N.F.P.A. 26-1988, Supervision of Valves Controlling Water Supplies.
- N.F.P.A. 30-1993, Flammable and Combustible Liquids Code.
- N.F.P.A. 30A-1993, Automotive and Marine Service Station Code.
- N.F.P.A. 33-1989, Spray Application Using Flammable and Combustible Materials.
- N.F.P.A. 43D-1986, Storage of Pesticides in Portable Containers.
- N.F.P.A. 49-1991, Hazardous Chemicals Data.
- N.F.P.A. 50-1990, Bulk Oxygen Systems at Consumer Sites.
- N.F.P.A. 52-1992, Compressed Natural Gas (CNG) Vehicular Fuel Systems.
- N.F.P.A. 53-1994, Fire Hazards in Oxygen Enriched Atmospheres.
- N.F.P.A. 54-1992, National Fuel Gas Code.
- N.F.P.A. 55-1993, Compressed and Liquefied Gases in Portable Cylinders.
- N.F.P.A. 58-1992, Storage and Handling of Liquefied Petroleum Gases.
- N.F.P.A. 59-1992, Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants.
- N.F.P.A. 59A-1994, Liquefied Natural Gas (LNG).
- N.F.P.A. 69-1992, Explosion Prevention Systems.
- N.F.P.A. 70-1993, National Electrical Code.
- N.F.P.A. 70B-1990, Electrical Equipment Maintenance.
- N.F.P.A. 70E-1988, Electrical Safety Requirements for Employee Workplaces.
- N.F.P.A. 72-1993, National Fire Alarm Code.
- N.F.P.A. 75-1992, Protection of Electronics Computer/Data Processing Equipment.
- N.F.P.A. 77-1993, Static Electricity.
- N.F.P.A. 79-1991, Electrical Standard for Industrial Machinery.
- N.F.P.A. 80-1992, Fire Doors and Windows.
- N.F.P.A. 80A-1993, Exterior Fire Exposure.
- N.F.P.A. 88A-1991, Parking Structures.
- N.F.P.A. 88B-1991, Repair Garages.
- N.F.P.A. 90A-1993, Installation of Air Conditioning and Ventilating Systems.
- N.F.P.A. 90B-1993, Installation of Warm Air Heating and Air Conditioning Systems.
- N.F.P.A. 91-1992, Installation of Exhaust Systems for Air Conveying of Materials.

- N.F.P.A. 92A-1993, Smoke-Control Systems.
- N.F.P.A. 92B-1991, Smoke Management Systems in Malls, Atria, Large Areas.
- N.F.P.A. 96-1994, Ventilation Control and Fire Protection of Commercial Cooking Operations.
- N.F.P.A. 99-1993, Health Care Facilities.
- N.F.P.A. 99B-1993, Hypobaric Facilities.
- N.F.P.A. 101M-1994, Alternative Approaches to Life Safety.
- N.F.P.A. 102-1992, Assembly Seating, Tents, and Membrane Structures.
- N.F.P.A. 105-1993, Smoke-Control Door Assemblies.
- N.F.P.A. 110-1993, Emergency and Standby Power Systems.
- N.F.P.A. 111-1993, Stored Electrical Energy Emergency and Standby Power Systems.
- N.F.P.A. 130-1993, Fixed Guideway Transit Systems.
- N.F.P.A. 170-1994, Fire Safety Symbols.
- N.F.P.A. 203-1992, Roof Coverings and Roof Deck Constructions.
- N.F.P.A. 204M-1991, Smoke and Heat Venting.
- N.F.P.A. 211-1992, Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances.
- N.F.P.A. 220-1992, Types of Building Construction.
- N.F.P.A. 231-1990, General Storage.
- N.F.P.A. 232-1991, Records, Protection of.
- N.F.P.A. 241-1993, Construction, Alteration and Demolition Operations.
- N.F.P.A. 291-1988, Fire Flow Testing and Marking of Hydrants.
- N.F.P.A. 302-1989, Pleasure and Commercial Motor Craft.
- N.F.P.A. 303-1990, Marinas and Boat Yards.
- N.F.P.A. 306-1993, Control of Gas Hazards on Vessels.
- N.F.P.A. 307-1990, Marine Terminals, Piers and Wharves.
- N.F.P.A. 312-1990, Fire Protection of Vessels During Construction, Repair and Lay-up.
- N.F.P.A. 321-1991, Basic Classification of Flammable and Combustible Liquids.
- N.F.P.A. 325M-1991, Fire Hazard Properties of Flammable Liquids, Gases, and Volatile Solids.
- N.F.P.A. 326-1993, Safe Entry of Underground Storage Tanks.
- N.F.P.A. 327-1993, Cleaning or Safeguarding Small Tanks and Containers Without Entry.
- N.F.P.A. 328-1992, Control of Flammable and Combustible Liquids and Gases in Manholes, Sewers, and Similar Underground Structures.
- N.F.P.A. 329-1992, Handling Underground Releases of Flammable and Combustible Liquids.
- N.F.P.A. 385-1990, Tank Vehicles for Flammable and Combustible Liquids.
- N.F.P.A. 386-1990, Portable Shipping Tanks for Flammable and Combustible Liquids.
- N.F.P.A. 418-1990, Roof-Top Heliport Construction and Protection.
- N.F.P.A. 495-1992, Explosive Materials Code.
- N.F.P.A. 496-1993, Purged and Pressurized Enclosures for Electrical Equipment in Hazardous (Classified) Locations.
- N.F.P.A. 501A-1992, Fire Safety Criteria for Manufactured Home Installations, Sites and Communities.
- N.F.P.A. 501D-1993, Fire Safety Criteria for Recreational Vehicle Parks and Campgrounds.
- N.F.P.A. 601-1992, Guard Service in Fire Loss Prevention.
- N.F.P.A. 664-1993, Fires and Explosions in Wood Processing and Woodworking Facilities.
- N.F.P.A. 703-1992, Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Material.
- N.F.P.A. 704-1990, Identification of the Fire Hazardous of Materials.
- N.F.P.A. 780-1992, Lighting Protection Code.
- N.F.P.A. 820-1992, Fire Protection in Wastewater Treatment and Collection Facilities.
- N.F.P.A. 901-1990, Uniform Coding for Fire Protection.
- N.F.P.A. 910-1991, Libraries and Library Collections.
- N.F.P.A. 911-1991, Museums and Museum Collections.
- N.F.P.A. 912-1993, Places of Worship.
- N.F.P.A. 1123-1990, Outdoor Display of Fireworks.
- N.F.P.A. 1124-1988, Manufacture, Transportation and Storage of Fireworks.
- N.F.P.A. 1126-1992, Use of Pyrotechnics Before a Proximate Audience.
- N.F.P.A. 1221-1991, Installation, Maintenance and Use of Public Fire Service Communications Systems.
- N.F.P.A. 1231-1993, Water Supplies for Suburban and Rural Fire Fighting.
- N.F.P.A. 1961-1992, Fire Hose.
- N.F.P.A. 1962-1993, Care, Use and Service Testing of Fire Hose Including Connections and Nozzles.
- N.F.P.A. 1963-1993, Fire Hose Connections.
- N.F.P.A. 1964-1993, Spray Nozzles (Shutoff and Tip).
- N.F.P.A. 2001-1994, Clean Agent Fire Extinguishing Systems.

(3) Exception to Chapter 20, fireworks. Delete in its entirety.

(4) Exception to Chapter 36, high piled combustible storage. The first sentence of section 3601 is amended to read as follows:

This Chapter will apply to the storage of high piled combustible materials and high-rack storage systems.

Sec. 6-215. Special application.

The following special application will apply throughout the town:

Every required fire sprinkler system or other form of fire identification or suppression system installed in conjunction with, or as an alternative to, a required fire sprinkler system, must have supervisory facilities as set forth in N.F.P.A. 72, as adopted pursuant to § 6-214. An exemption from this special application exists for sprinkler systems installed in one- and two-family homes or in manufactured homes.

Sec. 6-216. Life safety code, NFPA. #101.

(a) The 1994 edition of the N.F.P.A. 101 Life Safety Code, published by the National Fire Protection Association, Battery March Park, Quincy, Massachusetts, is hereby adopted in its entirety by reference and incorporated herein with the following specific exceptions.

(b) Revision to Chapter 5, section 5-2.2.4.6(b): Exception to No. 3 to (b): Guards in new and existing one and two family dwelling may not be less than 36" (91 cm) high.

(c) Exceptions to Chapter 19:

- (1) Section 19-3.4.1 will not apply to those structures three stories or less having access to the outside from each living unit.
- (2) Section 19-3.4.4.1 is amended in accordance with F.S. § 633.025(11) to provide that battery operated smoke detectors will be considered an approved detection device for structures three stories or less having direct access to the outside from each living unit.

Sec. 6-217. Minimum fire flows, hydrant spacing and water main size.

Requirements relating to minimum standards for fire flows, fire hydrant spacing, water main size and fire department access will be as established pursuant to ch. 10.

Sec. 6-218. Protection of penetration of fire-rated assemblies.

(a) All penetrations of fire rated assemblies must be protected by an approved device or by an approved system which has successfully performed under tests conducted by a recognized laboratory so as to maintain the fire resistance rating of the penetrated assembly.

(b) Compliance must be indicated by drawings or details on properly submitted plans that detail the following:

- (1) Type of penetration;
- (2) Means of protection for penetration; and
- (3) Any listing and reference numbers of systems, methods and assemblies, for protection of penetrations, tested by a recognized testing facility, or other documentation, subject to fire official determination.

(c) Existing installations may be exempt from this section and continue in use subject to fire official determination.

(d) The fire official may require any occupancy undergoing renovation, remodeling, repair or any other type of construction to comply with this section.

Secs. 6-219–6-220. Reserved.

Sec. 6-221. Appeals.

Any decision of the fire official rendered pursuant to this article may be appealed using 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.

Sec. 6-222. Reserved.

Sec. 6-223. Conflict.

Wherever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, code or town regulation, the provisions providing the greater degree of life safety will apply. In the event this article conflicts with the Standard Building Code, the provisions of F.S. § 553.73(9) will be applicable.

Secs. 6-224--6-230. Reserved.

DIVISION 10. 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) Gunite 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) Marciting 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

(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
- (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

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.). This article contains the requirements of that act, 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 section and other sections of this article, 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.

(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, seawalls, revetments, beach nourishment, inlet dredging, etc., are specifically exempt from the provisions of this article. In addition, this article does not apply to piers, pipelines or outfalls which

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.²

(a) 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:

Beach or shore means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.

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.

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.

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

Dune means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach, and deposited by any natural or artificial means.

Major structure includes, but is not limited to, residential, commercial, institutional, industrial or other public buildings and other construction having the potential for substantial impact (also see definition of *minor structures* 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 viewing platforms, gazebos and boardwalks; lifeguard support stands; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas; earth retaining walls; and ornamental garden structures, aviaries and other ornamental construction. Minor structures are those structures considered expendable under design wind, wave and storm forces.

Mobile home or manufactured home means housing which conforms to the Federal Manufactured Housing Construction and Safety Standards pursuant to F.S. § 320.823. However, a mobile home or manufactured home is not a manufactured building as defined in F.S. ch. 553, pt. IV.

NGVD means National Geodetic Vertical Datum, as corrected in 1929, a vertical control used to approximate mean sea level.

Nonhabitable major structure includes, but is not limited to, swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures and other water-retention structures; water and sewage treatment plants; electrical power plants, transmission and distribution lines, transformer pads, vaults and substations; roads, bridges, streets and highways; underground or aboveground storage tanks; communications buildings and towers; and flagpoles and signs over 15 feet in height.

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.

(b) Unless specifically defined in this article, the words or phrases used in this article and not defined in subsection (a) of this section will be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Sec. 6-334. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the most restrictive requirements shall apply.

Secs. 6-335--6-337. Reserved.

Sec. 6-338. Variances.

(a) 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. 6-339--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. Structural requirements for major structures.

(a) *Design and construction generally.* Major structures must conform to the minimum building code standards adopted in § 6-111.

(b) *Mobile homes and manufactured homes.* Mobile homes and manufactured homes must conform to the Federal Mobile Home Construction and Safety Standards pursuant to F.S. § 320.823, as well as the requirements of subsection (c) of this section.

(c) *Elevation, floodproofing and siting.* Structures must be designed, constructed and located in compliance with the floodplain regulations found in article IV of this chapter.

(d) *Velocity pressure.* Major structures, except mobile homes and manufactured homes, must, at a minimum be designated and constructed in accordance with chapter 16, section 1606 of the 1997 Standard Building Code using a fastest-mile wind speed of 110 miles per hour.

(e) *Foundation design.* Foundation design and construction of a major structure must consider all anticipated loads resulting from a 100-year storm event, including wave, hydrostatic, and hydrodynamic loads acting simultaneously with live and dead loads. Erosion computations for foundation design must account for all vertical and lateral erosion and scour-producing forces, including localized scour due to the presence of structural components. Foundation design and construction must provide for adequate bearing capacity taking into consideration the anticipated loss of soil above the design grade as a result of localized scour. The erosion computations required by this section do not apply landward of the 1991 coastal construction control line.

Sec. 6-363. Reserved.

Sec. 6-364. Structural requirements for nonhabitable major structures.

Nonhabitable major structures must satisfy the structural requirements of § 6-362(c) and the applicable provisions of the Standard Building Code as required by article II of this chapter. However, these structures are not required to meet the balance of specific structural requirements set out in § 6-362. Such structures must be designed to produce the minimum adverse impact on the beach and dune system. All sewage treatment and public water supply systems must be floodproofed to prevent infiltration of surface water anticipated from a 100-year storm event. 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.

Sec. 6-365. Structural requirements for minor structures.

Minor structures must satisfy the structural requirements of § 6-362(c) and the applicable provisions of the Standard Building Code as required by article II of this chapter. However, these structures are not required to meet the balance of the specific structural requirements set out in § 6-362. Such structures must be designed to produce the minimum adverse impact on the beach and dune

system and adjacent properties to reduce the potential water and wind blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure is not permitted.

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

(a) Except for minor structures such as elevated walkways, lifeguard support stands, piers, beach access ramps, and gazebos, and coastal or shore protection structures, construction must be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.

(b) At a minimum, major structures shall be built landward of the 1978 coastal construction control line, which is depicted on the Future Land Use Map as the seaward edge of land-use categories allowing urban development.

(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 walk-over structures at appropriate crossing points.

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.

Sec. 6-368. References.

Assistance in determining the design parameters and methodologies necessary to comply with the requirements of this article may be obtained from:

- (1) Shore Protection Manual, U.S. Army Corps of Engineers, fourth edition, 1984.
- (2) U.S. Department of the Army, Coastal Engineering Research Center's Technical Papers and Reports.
- (3) State department of environmental protection, division of beaches and shores, technical and design memoranda.
- (4) Naval Facilities Engineering Command Design Manual, NAVFACDM-26, U.S. Department of the Navy.

Secs. 6-369--6-400. Reserved.

**ARTICLE IV.
FLOODPLAIN REGULATIONS**

DIVISION 1. GENERALLY

Sec. 6-401. Reserved.

Sec. 6-402. Findings of fact.

(a) The Town of Fort Myers Beach is subject to periodic inundation which may result in the loss of life and property, as well as health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated or floodproofed or otherwise unprotected from flood damages.

Sec. 6-403. Purpose of article.

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion; and
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

Sec. 6-404. Objectives of article.

The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (3) Minimize prolonged business interruptions;

- (4) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains; and
- (5) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas.

Sec. 6-405. Definitions.³

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.

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).

³*Cross reference(s)--Definitions and rules of construction generally, § 1-2.*

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

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 storms. The coastal high-hazard area is designated on the flood insurance rate map as zones V1--V30.

Coordinator means Lee County's flood insurance coordinator, who has been designated by the Board of County Commissioners to implement, administer, and enforce the county's floodplain regulations.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

Elevated building means a building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Existing, when referring to a building or structure, means that construction had commenced on the building or structure, or portion thereof, prior to August 31, 1984.

Existing manufactured home park or manufactured home subdivision means a parcel or contiguous parcels of land divided into two or more manufactured home lots or sites for rent or sale for which the construction of facilities for servicing the lot or site on which the manufactured home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of

concrete pads, and the construction of streets, was completed prior to August 31, 1984.

Expansion to an existing manufactured home park or manufactured home subdivision means the preparation of additional sites by the construction of facilities for servicing the sites on which the manufactured homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.

Flood and flooding mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

Flood insurance rate map (FIRM) means the official map of Fort Myers Beach on file with the coordinator, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones for Fort Myers Beach, including base flood elevations and coastal high hazard areas (V zones).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and/or their contents. There are three major kinds of floodproofing in coastal areas:

- (1) Elevation of the lowest floor is the most common and economical method for floodproofing structures and is the only acceptable method under this code for floodproofing new or substantially improved residential structures.
- (2) For dry floodproofing, a commercial building is made watertight up to the base flood elevation and strengthened to resist all hydrostatic and hydrodynamic loads and to counter the effects of buoyancy. See § 6-472(4).
- (3) For wet floodproofing, damage to a building is avoided by allowing flood waters to temporarily fill the building to equalize loads and prevent buoyancy. See §§ 6-446(e) and 6-472(5)b.

Floor means the top surface of an enclosed area in a building, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used for parking vehicles.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of passengers. The term does not include longterm storage, manufacture, sales, or entertainment facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register of Historic Places; or
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; or
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior and also listed on a local inventory of historic places, either individually or as a contributing structure in a historic district, pursuant to ch. 22 of this code.

Lowest floor means the lowest floor of the lowest enclosed area, including any floors below grade. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the non-elevation design requirements of this article.

Mangrove stand means an assemblage of mangrove trees, which are mostly low trees noted for a copious development of interlacing adventitious roots above the ground, which contains

one or more of the following species: black mangrove (*Avicennia nitida*), red mangrove (*Rhizophora mangle*), white mangrove (*Languncularis racemosa*), and buttonwood (*Conocarpus erecta*).

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This definition includes mobile homes and most park trailers (those larger than 400 square feet and/or not towable by a light duty truck), as defined in F.S. § 320.01(2), but does not include other types of recreational vehicles, as defined in F.S. § 320.01(1). However, a manufactured building as defined in F.S. ch. 553, pt. IV is not considered a manufactured home.

Market value of the structure, depending on the context, means 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 will be as determined (for the structure only) by the Lee County Property Appraiser or by a private appraisal acceptable to the coordinator. 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 are completed. Any proposed value submitted via 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, to be commissioned by the coordinator, with the full cost of the review appraisal paid by the applicant to the town prior to initiation of the review process.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, to which base flood elevations shown on the flood insurance rate map are referenced.

National Geodetic Vertical Datum (NGVD), as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means structures for which the start of construction commenced on or after May 1, 1990, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means 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.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Reconstruction means an improvement to an existing building that substantially replaces all or a portion of an existing building with a new building, or physically moves an existing building to a different location.

Recreational vehicle means, for floodplain management purposes, a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred 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.

Registered architect means 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 means 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 means 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 means an improvement to an existing building that does not expand its external dimensions.

Repair means the replacement or renewal of nonstructural elements of an existing building.

Reinforced pier means 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 concrete 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 and wind standards are met.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during any ten-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. For the purposes of computing this 25 percent cost only, the cost of nonstructural interior finishings may be deducted from the cost of repairs, including, but not limited to, the cost of finish flooring and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling,

wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAC grills and decorative trim, freestanding metal fireplaces, appliances, water closets, tubs and shower enclosures, lavatories, and water heaters.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage

occurred. Actual repair work need not have been performed on flood-related damage.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds, over any five-year period, 50 percent of the market value of the structure either before the start of construction of the improvement 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” or “repetitive loss,” regardless of the actual repair work performed. The term “substantial improvement” does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) costs of alterations or improvements whose express purpose is the mitigation of future storm damage, provided they 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 shatterproof glass, strengthening of roof attachments, floors, or walls, and minor floodproofing.
 - 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 to any costs associated with a lateral or vertical addition to an existing structure or to the complete replacement of an existing structure; or
- (3) any alteration of a “historic structure” provided that the alteration would not preclude the structure’s continued designation as a “historic structure.”

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by

this article where specific enforcement would result in unnecessary hardship.

Sec. 6-406. Penalty for violation of article.

The director and the coordinator are 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 article.

Sec. 6-407. Applicability of article.

This article shall apply to the entire Town of Fort Myers Beach. No structure or land shall be located, extended, converted, or structurally altered without full compliance with the terms of this article.

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. Their maps illustrating the minimum federal floodplain regulations as adopted on September 19, 1984, 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 Building, 2115 Second 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

Sec. 6-409. Reserved.

Sec. 6-410. Conflicting provisions.

Where this article and any other part of this code conflict or overlap, whichever imposes the more stringent restriction shall prevail.

Sec. 6-411. Reserved.

Sec. 6-412. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article shall not create liability on the part of the town council, or by any officer or employee thereof, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Secs. 6-413--6-440. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 6-441. Designation of administrator.

Lee County’s flood insurance coordinator (“coordinator”) is hereby appointed to administer and implement the provisions of this article on behalf of the Town of Fort Myers Beach.

Secs. 6-442. Reserved.

Sec. 6-443. Permit required.

All land-disturbing activities and improvements to land that are defined in this article as “development” must comply with all provisions of this article and must obtain permits in accordance with the procedures in this division.

Sec. 6-444. Applications and certifications.

(a) The provisions of this article will be enforced concurrently with review of proposed building permits and development orders. No separate application is required. However, the following information is required on the plans submitted for review:

- (1) Elevation, in relation to mean sea level, of the proposed lowest floor of all structures;
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in § 6-472, when dry or wet floodproofing is proposed; and
- (4) 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 commitment for present and future owners to conduct a test installation annually of all flood barriers, with advance notice provided to the coordinator and the town manager to allow them to witness this test.

(b) Prior to issuance of approvals, applicants must supply evidence that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) A permit holder must submit to the coordinator a floor elevation or floodproofing certification after the lowest floor is completed, or, in instances where the structure is subject to the regulations applicable to coastal high-hazard areas, after placement of the horizontal structural members of the lowest floor:

- (1) Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the coordinator a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation

of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by a registered land surveyor or professional engineer.

- (2) When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by a registered professional engineer or architect.
- (3) Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk.

(d) The coordinator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required by this section shall be cause to issue a stop work order for the project.

Sec. 6-445. Appeals.

Any affected person may file an appeal alleging that there has been an error in any requirement, decision or determination made by the coordinator in the enforcement or administration of this article. Such appeals shall be processed and decided in the same manner as for appeals under ch. 34 of this code.

Sec. 6-446. Variances.

(a) Variances from base flood elevation requirements may only be granted upon a clear showing by the applicant that an exceptional hardship would result from compliance with the requirements. If a variance is granted, the coordinator shall notify the applicant, in writing, that:

- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

- (2) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

(b) Variances shall only be granted upon a determination, based upon competent substantial evidence presented by the applicant, that:

- (1) It will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing regulations or ordinances; and
- (2) The lot or parcel in question is so small or has such unusual characteristics that the prescribed standards cannot be met without some relief so as to allow a reasonable use of the property.

(c) Variances shall only be issued upon a determination that the variance being granted is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances may be issued for repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(e) Variances may be issued to allow non-residential buildings other than those already identified in § 6-472(5) to contain wet-floodproofed space below the base flood elevation, provided:

- (1) the building is not in the coastal high-hazard areas; and
- (2) such action is determined to be in the public interest.

Any such buildings must meet the technical standards for wet floodproofing found in § 6-472(5)b.

(f) A variance is a deviation from the exact terms and conditions of this article. Requests for variances shall be processed and decided in the same manner as for variances under ch. 34 of this code following public hearings before the local planning agency and town council.

(g) In passing upon variance applications, the town council shall consider all technical

evaluations, all relevant factors including local and federal policies on flood protection, all standards specified in this article, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and
- (11) 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, and streets and bridges.

(h) Upon consideration of the factors listed in subsection (g) of this section and purposes of this article, the town council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

Secs. 6-447--6-470. Reserved.

DIVISION 3. STANDARDS

Sec. 6-471. General standards.

The following general standards must be followed within the Town of Fort Myers Beach:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;
- (2) Manufactured homes shall be securely anchored to an adequately anchored foundation system to prevent flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding. Utility equipment shall be exempt from this requirement as long as the utility company which owns the equipment accepts the sole responsibility for any flood damage to the equipment by filing written acceptance of such responsibility with the local building director prior to claiming the exemption;
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and
- (8) Any alteration, repair, reconstruction, or improvement to a structure which is in compliance with the provisions of this article

shall meet the requirements of new construction as contained in this article.

Sec. 6-472. Specific standards.

The following specific standards must be followed within the Town of Fort Myers Beach:

- (1) **Conventional residential construction.** New construction or substantial improvement of any residential structure shall have the lowest floor elevated to or above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (5) of this section. (See subsection (7) for additional restrictions in V zones.)
 - a. When an improvement to an existing residential structure involves reconstruction or includes an addition, and the improvement's cost exceeds the 50 percent threshold in this article's definition of "substantial improvement," then the reconstruction or addition shall be elevated the same as new construction, with its lowest floor elevated to or above the base flood elevation.
 - b. Some partial reconstructions or additions to existing residential structures may fall below the 50 percent threshold and are therefore not considered to be "substantial improvements." In this situation:
 1. If the structure was approved **after** 1984 and thus was elevated in accordance with this code, the reconstructed or additional floor space shall also be elevated the same as new construction, with its lowest floor at or above the base flood elevation. Any enclosed space below the base flood elevation shall be subject to the same restrictions that apply to post-1984 structures as found in subsection (5) of this section.
 2. If the structure was approved **before** 1984, the reconstructed or additional floor space must be elevated to or above the

elevation of the structure's existing lowest floor. Any enclosed space below the structure's existing lowest floor shall be subject to the same restrictions that apply to post-1984 structures as found in subsection (5) of this section. For purposes of this subsection only, "existing lowest floor" does not include enclosed space of less than 500 square feet below an elevated structure and does not include any space that has been used to park vehicles.

- (2) **Manufactured homes.** New or expanded parks or subdivisions for manufactured homes are not allowed in the Town of Fort Myers Beach. Where zoning allows existing manufactured homes to be replaced or substantially improved:
 - a. on individual subdivision lots, replacement or substantially improved manufactured homes must be elevated so that the lowest floor of the manufactured home is at or above the base flood elevation in compliance with the anchoring requirements of § 6-471(2), or
 - b. on an existing site in a mobile home park, the manufactured home chassis must be supported by reinforced piers, or other foundation elements of at least equivalent strength, that are no less than 36 inches in height above grade, and the manufactured home shall comply with the anchoring requirements of § 6-471(2). However, the 36-inch alternative in subsection (2)b. may not be used if a manufactured home on that specific site has incurred "substantial damage" from flooding, as defined in this article; if "substantial damage" has occurred, the manufactured home or a replacement manufactured home on that site must be elevated so that the lowest floor is at or above the base flood elevation in compliance with the anchoring requirements of § 6-471(2).

- (3) **Recreational vehicles.** New parks or subdivisions for recreational vehicles are not allowed in the Town of Fort Myers Beach. Where zoning allows recreational vehicles to

be placed or substantially improved on a site located in an existing recreational vehicle park, they must be either:

- a. placed on the site for fewer than 180 consecutive days and fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions); or
- b. elevated so that the lowest floor of the recreational vehicle is at or above the base flood elevation in compliance with the anchoring requirements of § 6-471(2).

- (4) **Nonresidential construction.** New construction or substantial improvement of any commercial or other nonresidential structure shall either:
 - a. have the lowest floor elevated to or above the base flood elevation, or,
 - b. together with attendant utility and sanitary facilities, be dry-floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - 1. Dry-floodproofing up to the base flood elevation is the preferred alternative for providing sidewalk-level commercial space in the Future Land Use Map's Pedestrian Commercial category.
 - 2. A registered professional engineer or architect shall certify that the dry-floodproofing standards of this subsection are satisfied. Such certification shall be provided to the coordinator.
 - 3. An operation and maintenance plan must be submitted in accordance with § 6-444(a)(4). Failure to conduct the annual test installation required by this plan shall subject the owner to the code enforcement

mechanisms provided in this code (for example, § 1-5, or article V of ch. 2).

- c. No person may construct a series of improvements, additions, and/or demolitions that connects two or more existing structures in a manner that evades the requirement to either elevate or dry-floodproof new construction or substantial improvements to nonresidential structures.

(5) ***Space below elevated buildings (A zones).***

New construction or substantial improvements of elevated buildings, both residential and non-residential, may contain space below the base flood elevation that is usable solely for parking, building access, or storage (additional restrictions for coastal high-hazard areas are provided in subsection (7) below).

- a. The amount of such space is limited only by setback and other regulations of ch. 34 provided the space is not enclosed or is enclosed only by latticework or decorative screening with less than 50 percent solid surfaces. This 50 percent enclosure rule can also be met with full-height solid walls that enclose no more than 50 percent of the perimeter of the floor area, or with partial-height solid walls that extend less than 50 percent of the height of all walls, or any equivalent combination. For purposes of this rule, operable doors and windows shall be considered solid surfaces.
- b. In addition to the unenclosed or 50 percent enclosed space described in subsection a., space below the base flood elevation may include garages and fully enclosed areas formed by exterior walls provided that this space is wet-floodproofed, designed to preclude finished living space in the area below the base flood elevation, and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on such exterior walls below the base flood elevation. Fully enclosed areas must comply with all setback requirements for the zoning district in which located. Fully enclosed space below the base flood elevation

cannot extend beyond the perimeter of the elevated structure.

1. Designs for complying with this requirement must either be certified by a registered professional engineer or architect, or meet the following minimum criteria:
 - a- A minimum of two openings shall be provided having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b- The bottom of all openings shall be no higher than one foot above grade; and
 - c- Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
2. Electrical, plumbing, and other utility connections are prohibited below the base flood elevation.
3. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage or other overhead door), limited storage of maintenance equipment used in connection with the premises (standard exterior door with no more than a single door opening of up to 36 inches in any single wall segment, or windowless double exterior doors with no more than 72 inches of opening in any single wall segment), plus internal entry to the living area (stairway or elevator).
4. The interior portion of such enclosed area shall not be partitioned, temperature-controlled, or finished into separate rooms.
5. All structural and non-structural components must be constructed of materials that are durable, resistant to flood forces, and resistant to deterioration caused

- by repeated inundation by flood water.
- 6. These provisions apply to space below the base flood elevation to be used for parking, building access, or storage. Other uses proposed for wet-floodproofed space may be approved by variance as provided in § 6-446(e), and may include functionally dependent facilities, historic buildings, and utility structures.
- 7. Any application for a garage or other enclosed area formed by exterior walls below the base flood elevation must be accompanied by a signed and notarized acknowledgment of the limitations on allowable uses of the enclosed space, using a form provided by the coordinator. 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.

- (6) **Accessory structures.** Accessory structures may be exempted from meeting the elevation requirements only if:
- a. The structure is securely anchored to resist flotation or lateral movement and offers the minimum resistance to the flow of floodwaters; and
 - b. The total cost of the structure does not exceed \$16,000 or 10% of the market value of the principal building, whichever is greater; and
 - c. The structure is used exclusively for nonhabitable recreational, security, or storage purposes and not used as offices, kitchens, or living space; and
 - d. All electrical, air conditioning, or heating equipment is elevated above the base flood elevation or floodproofed; and
 - e. Openings to equalize hydrostatic pressure during a flood are provided in conformance with § 6-472(5)b.1; and
 - f. For accessory structures located in coastal high-hazard zones (V zones), the following additional requirements also apply:

- 1. Only breakaway walls may be used below the base flood elevation.
- 2. The structure must be constructed with a piling or column foundation system that is adequately embedded to resist scour and lateral deflection.
- 3. Floor slabs may not be structurally attached to pilings or columns and must be located at existing grade.
- 4. The lowest horizontal structural member of roof systems, including plates and beams connecting the pilings or columns, must be placed at or above the base flood elevation.

(7) **Coastal high-hazard areas (V zones).**

Certain areas of the town are designated as coastal high-hazard areas (V zones) because they have special flood hazards associated with wave wash. In V zones, the following additional provisions shall apply:

- a. All new construction shall be located landward of the reach of the mean high tide line.
- b. All new construction and substantial improvements shall be elevated so that the lowest supporting horizontal member, excluding pilings or columns, is located at or above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Breakaway walls may be permitted and must be designed to wash away in the event of abnormal wave action in accordance with the remainder of this subsection.
- c. Some partial reconstructions or additions may fall below the 50 percent threshold and are therefore not considered to be “substantial improvements” as defined by this chapter. In this situation:
 - 1. If the structure was approved after 1984 and thus was elevated in accordance with this code, the reconstructed or additional floor space shall also be elevated the same as new construction in V zones. Space

- below this elevation shall be subject to the same restrictions as for new structures.
2. If the structure was approved before 1984, the reconstructed or additional floor space shall be elevated to or above the elevation of the structure's existing lowest floor. Any enclosed space below the structure's existing lowest floor shall be subject to the same restrictions as for new structures in V zones. For purposes of this subsection only, "existing lowest floor" does not include enclosed space of less than 500 square feet below an elevated structure and does not include any space that has been used to park vehicles.
 - d. All new construction and substantial improvements shall be securely anchored on pilings or columns.
 - e. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values which equal or exceed the 100-year mean recurrence interval (one percent annual chance flood).
 - f. Compliance with the provisions contained in subsections (7)b, d, and e of this section shall be certified by a registered professional engineer or architect.
 - g. There shall be no fill used as structural support.
 - h. There shall be no man-made alteration to sand dunes and mangrove stands that would increase potential flood damage.
 - i. Nonsupporting breakaway walls, latticework or decorative screening shall be allowed below the base flood elevation provided it is not part of the structural support of the building and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which it is to be used, and provided the following design specifications are met:
 1. Design safe loading resistance of each wall shall be not less than ten and not more than 20 pounds per square foot; or
 2. If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval). Wind loading values shall be those required by local and state law.
 - j. If breakaway walls are utilized, such enclosed space shall not be used for human habitation, but shall be designed to be used only for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Space enclosed by latticework and breakaway walls in a V zone is subject to the same limitations as to size, usage, and formal acknowledgments that apply below base flood elevation in an A zone, as provided in subsection (5)a. and (5)b. above.
 - k. Prior to construction, plans for any structure that will have breakaway walls must be submitted to the coordinator for approval.
 - l. Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with breakaway walls, and except as provided for in the remainder of this subsection.

- m. The placement of manufactured homes is prohibited. A replacement recreational vehicle may be placed in an existing recreational vehicle park, provided the mobility standards of § 6-472(3)a. are met.

Sec. 6-473. Reserved.

Sec. 6-474. Standards for subdivision proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewers, electrical and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for all subdivision and development proposals.

CHAPTERS 7--9 RESERVED